

Indiana Election Commission  
Minutes  
February 21, 2011

**Members Present:** Daniel A. Dumezich, Chairman of the Indiana Election Commission ("Commission"); S. Anthony Long, Vice Chairman of the Commission; Sarah Steele Riordan, member; Barbara McClellan (proxy for Jonathan J. Myers); Sandi Huddleston (proxy for Daniel A. Dumezich).

**Members Absent:** Jonathan J. Myers

**Staff Attending:** Trent Deckard, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); J. Bradley King, Co-Director of the Election Division; Leslie Barnes, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division; Abbey Taylor, Campaign Finance Election Division staff; Michelle Thompson, Campaign Finance Election Division staff.

**Also Attending:** Dr. Jay Bagga; Mr. Michael Biberstine; Mr. Dan Bortner; Mr. Steve Buschmann; Mr. Thomas DeLuca; Mr. Wayne Flick; Ms. Vicky Gadd; Mr. Bob Gillaspay; Mr. Gary Green; Mr. Donnie Harold Harris; Mr. Robert Hicks; Mr. Chaim Julian; Mr. Vis Kupsis; Dr. Joseph Losco; Mr. Matt Mayol; Ms. Linda Metzger; Mr. Mervin Miller; Mr. Jeff Miner; Mr. Gene Moncel; Ms. Deb Murray; Mr. Steve Pearson; Mr. Rick Runestad; Dr. Raymond Scheele; Mr. Robert K. Service; Ms. Connie Smith; Mr. Mark Warner; Mr. Daniel Weiss; Mr. Michael Womack.

## 1. Call to Order

The Chair called the February 21, 2011 meeting of the Commission to order at 1:08 p.m. in the Indiana Government Center South Conference Center, Conference Room 22, at 402 West Washington Street, Indianapolis, Indiana.

The Chair noted that proper notice of the meeting had been given, as required by state law. A copy of the meeting notice, agenda, and designations of proxy are incorporated by reference in these minutes. *[Copies of all documents incorporated by reference are available for public inspection and copying at the Election Division Office.]*

## 2. Transaction of Business

The Commission transacted the business set forth in the Transcript of Proceedings prepared by Ms. Julie M. Morgan, of Connor Reporting, Inc. A copy of this document is incorporated by reference in these minutes.

The following corrections of scrivener's errors in this document are approved by the Commission:

Page 25, line 22, replace "conscious" with "conscience".

Page 40, line 12, replace "3952" with "3-9-5-2".

Page 40, line 12, replace "3954" with "3-9-5-4".

Page 117, line 18, replace "bullet" with "bulletin".

### 3. Adjournment

There being no further items on the Commission's agenda, the Chair entertained a motion to adjourn. Ms. Riordan moved, seconded by Mr. Long, that the Commission do now adjourn. The Chair called the question, and declared that with four members voting "aye" (Mr. Dumezich, Mr. Long, Ms. Riordan, and Ms. McClellan, and no Commission member voting "no," the motion was adopted. The Commission then adjourned at 4:15 p.m.

Respectfully submitted,

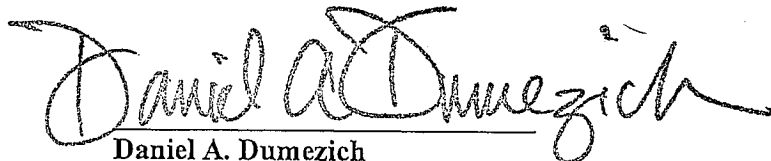


Trent DeCard  
Co-Director



J. Bradley King  
Co-Director

APPROVED:



Daniel A. Dumezich  
Chairman

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INDIANA ELECTION COMMISSION

PUBLIC SESSION

TAKEN ON: MONDAY, FEBRUARY, 21, 2001, 1:00 P.M.

AT: INDIANA GOVERNMENT CENTER SOUTH  
CONFERENCE CENTER ROOM 22  
401 WEST WASHINGTON STREET  
INDIANAPOLIS, INDIANA 46204

A STENOGRAPHIC RECORD BY:  
Julie M. Morgan, RPR  
Notary Public  
Stenographic Reporter

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Connor Reporting, Inc.  
1650 One American Square  
Indianapolis, IN 46282  
(317) 236-6022

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INDIANA ELECTION COMMISSION

Mr. Daniel A. Dumezich, Chairman  
Mr. S. Anthony Long, Vice Chairman  
Ms. Sarah Steele Riordan, Commission Member  
Ms. Barbara McClellan, Proxy for John Myers  
Ms. Sandi Huddleston, Proxy for Daniel A. Dumezich

INDIANA ELECTION DIVISION

Mr. Dale Simmons - Co-General Counsel  
Ms. Leslie Barnes - Co-General Counsel  
Mr. Bradley King - Co-Director  
Mr. Trent Deckard - Co-Director

1                   CHAIRMAN D. DUMEZICH: This meeting of the  
2                   Indiana Election Commission is called to order.  
3                   Three commission members are personally present,  
4                   and one, Mr. Myers, has a proxy; so there is a  
5                   quorum under the law to do business.

6                   I have also appointed a proxy to serve on  
7                   my behalf during certain campaign finance  
8                   matters. The appointment of these proxy members  
9                   have been filed with the Election Division.

10                  My name is Dan Dumezich; I am the chairman.  
11                  To my left is Vice Chairman Anthony Long. To  
12                  his left is member Sarah Riordan, and to my  
13                  right is Barbara McClellan, who is a proxy for  
14                  John Myers, and Sandi Huddleston will be the  
15                  proxy for me during these hearings where I have  
16                  excused myself.

17                  And the first thing I'm going to do is turn  
18                  my cell phone off.

19                  I would request Mr. Deckard and Mr. King to  
20                  confirm that the Commission has a meeting  
21                  properly noticed as required under the Open Door  
22                  Law.

23                  MR. B. KING: Mr. Chairman and members of  
24                  the Commission, notice of this meeting was  
25                  posted at least 48 hours prior and copies of the

1 agenda have been made available.

2 CHAIRMAN D. DUMEZICH: Okay. I would  
3 recognize Mr. Deckard and Mr. King to present  
4 minutes of past commission meetings.

5 MR. B. KING: Mr. Chairman and members of  
6 the Commission, there are three sets of minutes,  
7 that of March 5, 2010; September 2, 2010; and  
8 December 2, 2010. These were lengthy documents.  
9 They were scanned and e-mailed to commission  
10 members to save paper. We do have the originals  
11 present if there is a question, and I would be  
12 able to answer any further questions the  
13 Commission members may have.

14 CHAIRMAN D. DUMEZICH: Is there a motion to  
15 approve these minutes as presented?

16 THE REPORTER: Excuse me.

17 CHAIRMAN D. DUMEZICH: Is there a second?

18 THE REPORTER: I can't hear who's talking  
19 down there.

20 MR. A. LONG: Me, Anthony Long.

21 THE REPORTER: Thank you.

22 MR. A. LONG: I made the motion to approve  
23 the minutes.

24 CHAIRMAN D. DUMEZICH: Is there a second?

25 MS. B. McCLELLAN: Second.

1 CHAIRMAN D. DUMEZICH: Any discussion?

2 (No response.)

3 CHAIRMAN D. DUMEZICH: Hearing none, all in  
4 favor say aye.

5 THE COMMISSIONERS: Aye.

6 CHAIRMAN D. DUMEZICH: All opposed say nay.  
7 (No response.)

8 CHAIRMAN D. DUMEZICH: The ayes have it,  
9 and the motion to approve the minutes is  
10 adopted.

11 Campaign finance. I recognize Mr. Deckard  
12 and Mr. King to present Order 2011-45 for the  
13 approval of election forms.

14 MR. B. KING: Thank you, Mr. Chairman,  
15 members of the Commission. A copy of this order  
16 is in your packet under the first tab designated  
17 "Forms." It concerns updating two forms  
18 previously approved by the Election Commission.  
19 The first is the CAN-19, which is the Petition  
20 of Nomination for Federal, State Legislature,  
21 State and Local Office for independent and minor  
22 party political candidates. The only change  
23 that's been made is updating the reference in  
24 the instruction in the form to 2012 dates. The  
25 Commission may recall that at the last meeting

1 other petition forms for 2012 for major party...  
2 candidates were approved.

3 I will be happy to answer questions.

4 CHAIRMAN D. DUMEZICH: For purposes of  
5 discussion, is there a motion to approve the  
6 order as presented?

7 MR. A. LONG: So moved.

8 MS. B. McCLELLAN: Second.

9 CHAIRMAN D. DUMEZICH: Is there a second?

10 MS. B. McCLELLAN: Second.

11 CHAIRMAN D. DUMEZICH: And do we have any  
12 discussion relative to the forms?

13 MR. A. LONG: As to Form 19 --

14 CHAIRMAN D. DUMEZICH: Yeah.

15 MR. A. LONG: -- CAN-19?

16 CHAIRMAN D. DUMEZICH: Yeah.

17 Yes?

18 MR. B. KING: Excuse me. I realize I did  
19 not describe the second form in the order, if I  
20 may take a moment to do that.

21 CHAIRMAN D. DUMEZICH: Yes.

22 MR. B. KING: The VRG-7 form is also  
23 revised. This is the Spanish Language Voter  
24 Registration Form. This was reviewed by the  
25 State Forms Management Office who suggested



1. ... changes in grammar and also assigned a new form  
2 number. A copy indicating the changes is  
3 attached to the order that's in the Commission  
4 members' packets.

5 CHAIRMAN D. DUMEZICH: Because of this  
6 explanation what I would like to do is I would  
7 like to do the motions again.

8 For the purposes of discussion, is there a  
9 motion to approve the order as presented and the  
10 forms.

11 MR. A. LONG: Yes, I will make that motion.  
12 As I understand, the only difference is it  
13 covers both forms; is that correct?

14 CHAIRMAN D. DUMEZICH: Yes, it is.

15 Is there a second?

16 MS. B. McCLELLAN: Second.

17 MR. T. DECKARD: Mr. Chairman, if we may  
18 just a moment, I want to verify a technical  
19 matter on one of the forms.

20 Mr. Chairman, I appreciate the time and  
21 consideration of the Commission, and my  
22 technical concern has been addressed. Thank  
23 you.

24 CHAIRMAN D. DUMEZICH: If there is no other  
25 discussion, the question is on the adoption of

1 Order 2011-45. All in favor say aye.....

2 THE COMMISSIONERS: Aye.

3 CHAIRMAN D. DUMEZICH: All opposed say nay.

4 (No response.)

5 CHAIRMAN D. DUMEZICH: The ayes have it,  
6 and the order is approved.

7 Campaign finance, the thing that brings  
8 everybody here today. At this time, I recognize  
9 Michelle Thompson and Abbey Taylor to present  
10 information regarding campaign finance  
11 settlement agreements.

12 MS. M. THOMPSON: Mr. Chairman, your purple  
13 tab in your blue book there, the purple tab is a  
14 list of committees ready to ratify that have  
15 agreed to pay the settlement agreement and waive  
16 the hearing.

17 MR. A. LONG: These are for existing  
18 violations that would have otherwise been before  
19 us today?

20 MS. M. THOMPSON: Correct.

21 MR. A. LONG: And these followed our  
22 traditional findings scheme that we use based on  
23 the number of violations that previously  
24 existed?

25 MS. M. THOMPSON: No. This is a list

1 that -- this was the proposed fine, and they  
2 agreed to go ahead and pay the fine and waive  
3 the hearing and not come before the Commission.

4 CHAIRMAN D. DUMEZICH: And not show up, to  
5 throw themselves on the mercy of this  
6 commission.

7 MS. M. THOMPSON: Yes.

8 CHAIRMAN D. DUMEZICH: Okay. Don't worry.  
9 There's going to be mercy.

10 Is there a motion to ratify campaign  
11 finance settlement agreements as presented?

12 MS. S. RIORDAN: So moved.

13 CHAIRMAN D. DUMEZICH: Is there a second?

14 MR. A. LONG: I'll second.

15 CHAIRMAN D. DUMEZICH: Any discussion?

16 (No response.)

17 CHAIRMAN D. DUMEZICH: If there is no  
18 further discussion, all in favor say aye.

19 THE COMMISSIONERS: Aye.

20 CHAIRMAN D. DUMEZICH: Any opposed say nay.

21 (No response.)

22 CHAIRMAN D. DUMEZICH: The ayes have it,  
23 and the motion is approved.

24 At this time I would like to recognize  
25 Michelle Thompson and Abbey Taylor to present

1 information regarding Orders 2011-01 through ...  
2 2011-44, which adopts campaign finance orders in  
3 accordance with the enforcement actions approved  
4 at the September 2, 2010, Commission meeting.

5 MS. M. THOMPSON: Mr. Chairman, these  
6 orders are not in your book, but I have them  
7 here. They are Orders 2011-01 through 2011-44,  
8 have been prepared from the actions taken at the  
9 September 2nd meeting, 2010, and they are ready  
10 for adoption.

11 MR. A. LONG: I agree with them. I move  
12 they be adopted. Well, I have two motions.  
13 That will be the first one. Is it 1 through --

14 MS. M. THOMPSON: 44.

15 MR. A. LONG: -- 44?

16 CHAIRMAN D. DUMEZICH: I hear a motion. Is  
17 there a second?

18 MS. S. RIORDAN: Second.

19 CHAIRMAN D. DUMEZICH: Any discussion?

20 (No response.)

21 CHAIRMAN D. DUMEZICH: If there's no  
22 further discussion, all in favor say aye.

23 THE COMMISSIONERS: Aye.

24 CHAIRMAN D. DUMEZICH: All opposed say nay.

25 (No response.)

1           CHAIRMAN D. DUMEZICH: The ayes have it,  
2           and the order is adopted.

3           MR. A. LONG: I have one more motion. I  
4           would move that the staff be authorized on  
5           Orders 1 through 44 that we just approved to  
6           affix our signatures by stamps or at least as  
7           to -- or if you want to do it collective or  
8           individual, whichever --

9           CHAIRMAN D. DUMEZICH: Collectively works  
10          for me.

11          I hear a motion to have the staff affix our  
12          signatures by stamp. Do I hear a second?

13          MS. S. RIORDAN: Second.

14          CHAIRMAN D. DUMEZICH: Any discussion?

15          (No response.)

16          CHAIRMAN D. DUMEZICH: If there is no  
17          further discussion, all in favor say aye.

18          THE COMMISSIONERS: Aye.

19          CHAIRMAN D. DUMEZICH: All opposed say nay.

20          (No response.)

21          CHAIRMAN D. DUMEZICH: The ayes have it,  
22          and the motion is approved.

23          Okay. I would like to recognize Michelle  
24          Thompson and Abbey Taylor to present information  
25          regarding the referrals to the Attorney General.

1 MS. M. THOMPSON: Mr. Chairman, that would  
2 be your green little tab in your book there.  
3 This is just a list that we are turning over to  
4 the Attorney General who has not paid their  
5 fines, and so we're turning them over to the  
6 Attorney General for collection. That's to let  
7 you know.

8 MR. A. LONG: Good luck to them.

9 CHAIRMAN D. DUMEZICH: I have noticed there  
10 are some of the same names in here that we have  
11 on our --

12 MS. M. THOMPSON: Correct, yes.

13 CHAIRMAN D. DUMEZICH: Are those additional  
14 violations, or are those violations that have  
15 occurred here?

16 MS. A. TAYLOR: Additional.

17 MS. M. THOMPSON: Additional.

18 THE REPORTER: I can't hear down here at  
19 all.

20 CHAIRMAN D. DUMEZICH: Can we move you down  
21 here?

22 THE REPORTER: Yeah.

23 (A recess was taken.)

24 CHAIRMAN D. DUMEZICH: We're back on the  
25 record.

1 Note that in the past the Commission has  
2 followed certain procedures for conducting  
3 campaign finance hearings, and we're going to  
4 use those procedures today.

5 When each campaign finance matter is  
6 called -- and we're doing it this time in order  
7 based on the rows, for first violators, for  
8 example, the hearing will begin with you saying  
9 your name and saying the campaign, organization  
10 that you represent, saying that you understand  
11 that you are taking a reduction in the fine.

12 For first violations that reduction will be  
13 only 25 percent of the fine. So for those of  
14 you who are not math majors, if it's a thousand,  
15 you are agreeing to twenty-five -- \$250. I  
16 should be more careful. That is the vast  
17 majority of the fines that I have seen.

18 So if you have any question about the  
19 amount of the fine at 25 percent, please  
20 indicate your question. Okay?

21 MS. S. RIORDAN: Mr. Chairman --

22 CHAIRMAN D. DUMEZICH: Yes.

23 MS. S. RIORDAN: -- if I may, of course, if  
24 you want to contest the whole thing and you want  
25 to maintain you are not in violation, you get to

1 do that, too....

2 CHAIRMAN D. DUMEZICH: But you will not be  
3 in the first cattle call. You will have to wait  
4 until everybody else is taken care of to hear  
5 your case, because we want to get people that  
6 are acknowledging their error and paying the  
7 fine out of here quickly. But we want to make  
8 sure that everybody that wants to have their say  
9 or believes the fine is not warranted that you  
10 have your time to speak to that. Okay?

11 Unless there's objection, documents will be  
12 provided to the Commission by the Election  
13 Division are going to be entered into a record  
14 of this meeting. After the finance -- that  
15 doesn't apply.

16 Commission members may ask questions during  
17 a presentation, but the time spent answering  
18 each question will not count against your time.  
19 See, none of this applies to these people. If  
20 the presenter offers additional documents -- you  
21 know what? I will read these when we go to the  
22 individual people who wish to contest.

23 So with that in mind, anyone who is going  
24 to testify or plans to come up here and speak, I  
25 would like you to raise your right hand and have



1 an oath administered by -- please stand and have  
2 an oath administered by Dale.

3 MR. D. SIMMONS: Please stand, raise your  
4 right hand, and say, "I do," after the  
5 administration of the oath.

6 Do you swear or affirm under the penalties  
7 of perjury that the testimony you are about to  
8 give today at the Commission's meeting --  
9 Indiana Election Commission's meeting is the  
10 truth, the whole truth, and nothing but the  
11 truth? Say, "I do."

12 THE AUDIENCE: I do.

13 MR. D. SIMMONS: Thank you.

14 CHAIRMAN D. DUMEZICH: Sir, please come up.  
15 Tell us who you are and we can tell you what the  
16 fine is and apply the appropriate percentage.

17 Your name, sir?

18 MR. D. WEISS: My name is Daniel Weiss,  
19 W-E-I-S-S, as in Sam, and I represent the  
20 Community Homeowners and University Neighbors  
21 Committee Political Action Committee.

22 CHAIRMAN D. DUMEZICH: Can you tell me the  
23 cause number, sir.

24 MR. D. WEISS: Cause No. 2011-5837-16.

25 MS. A. TAYLOR: We're on page 16.

1           CHAIRMAN D. DUMEZICH: Can you tell us the  
2 violation amount.

3           MS. M. THOMPSON: Community Homeowners and  
4 University Neighbors Committee Political Action  
5 Committee, Cause No. 2011-5837-16, has never  
6 been before the Commission before, has a  
7 proposed fine of \$1,004.02.

8           CHAIRMAN D. DUMEZICH: Sir, do you  
9 understand that by agreeing to this that you  
10 accept 25 percent of that fine plus mailing  
11 costs.

12           MR. D. WEISS: I do.

13           CHAIRMAN D. DUMEZICH: Excellent.

14           MR. D. WEISS: May I also plead for mercy?

15           CHAIRMAN D. DUMEZICH: You're getting  
16 mercy. You're in the group. Okay?

17           MR. D. WEISS: Yes, I understand.

18           CHAIRMAN D. DUMEZICH: Here's the deal.  
19 Here's the deal. Okay?

20           MR. D. WEISS: I understand.

21           CHAIRMAN D. DUMEZICH: If you're going to  
22 take it, take the deal, get out. If you want to  
23 contest it, we would love to hear that and that  
24 would be perfect.

25           MR. D. WEISS: I accept my --

1 CHAIRMAN D. DUMEZICH: Thank you. . . .

2 MR. A. LONG: Make a community motion that  
3 they end on the ones that -- once they get  
4 through all of them --

5 MR. D. WEISS: May I leave now?

6 CHAIRMAN D. DUMEZICH: Yes, sir.

7 MR. A. LONG: You will be contacted and --

8 MR. D. WEISS: Thank you.

9 MR. A. LONG: You all will send him a  
10 letter and --

11 MS. M. THOMPSON: And orders.

12 MR. A. LONG: And orders, yeah.

13 MS. M. THOMPSON: Uh-huh.

14 CHAIRMAN D. DUMEZICH: Identify yourself  
15 and give us your cause number, sir.

16 MR. J. MINER: Jeff Miner, M-I-N-E-R. Two  
17 cause numbers, 2009-5482-196 and 122.

18 MR. A. LONG: The first one is on page 7.

19 MR. J. MINER: ICON PAC, Interfaith  
20 Coalition on Nondiscrimination PAC.

21 MS. A. TAYLOR: Page 6 and page 7.

22 MS. M. THOMPSON: Interfaith Coalition on  
23 Nondiscrimination Political Action Committee.  
24 Cause -- the first one is Cause

25 No. 2009-5482-122. Their fine is -- never been

1 before the Commission on this one... Their fine .....  
2 is \$1,003.53.

3 They also have another one on the following  
4 page, Cause No. 2009-5482-196. Their proposed  
5 civil penalty is \$53.53.

6 CHAIRMAN D. DUMEZICH: Do you accept  
7 25 percent of the fine and mailing costs  
8 associated with these violations, sir?

9 MR. J. MINER: I do. So 25 percent of the  
10 amount she just said is --

11 CHAIRMAN D. DUMEZICH: Yes.

12 MR. J. MINER: Yes, sir, I do.

13 CHAIRMAN D. DUMEZICH: Okay. Great.

14 MR. J. MINER: Thank you.

15 CHAIRMAN D. DUMEZICH: Next?

16 Can I have your name and cause number,  
17 please.

18 MS. L. METZGER: Linda Metzger. I'm here  
19 for the Indiana School Counselors. Cause number  
20 is 2011-6134-52.

21 MS. A. TAYLOR: On page 49.

22 MS. M. THOMPSON: Indiana School Counselors  
23 Political Action Committee, Cause  
24 No. 2011-6134-52, never been before the  
25 Commission. Has a proposed civil penalty of

1           \$3.04 -- \$304.36.

2           MS. L. METZGER: I was going to say, it's  
3           not \$3.

4           CHAIRMAN D. DUMEZICH: Do you accept  
5           25 percent of the fine?

6           MS. L. METZGER: Yes.

7           CHAIRMAN D. DUMEZICH: And you understand  
8           you will have mailing costs associated with it,  
9           as well.

10          MS. L. METZGER: Yes.

11          CHAIRMAN D. DUMEZICH: Thank you very much.

12          MS. L. METZGER: Thank you.

13          CHAIRMAN D. DUMEZICH: Next?

14          You're up, sir. Are you making sure  
15          Bloomington is straight, sir? Not in an  
16          official capacity?

17          MR. G. MONCEL: You do give senior citizen  
18          discounts?

19          CHAIRMAN D. DUMEZICH: Gene, identify  
20          yourself.

21          MR. G. MONCEL: The file number is 99-5106.

22          CHAIRMAN D. DUMEZICH: And you are?

23          MR. G. MONCEL: I am Gene Moncel.

24          MS. A. TAYLOR: We're on page 19.

25          MS. M. THOMPSON: This is Monroe County

1 Republican Central Committee, Cause No.....  
2 2011-5106-5, never been before the Commission,  
3 and it has a proposed civil penalty of \$204.02.

4 CHAIRMAN D. DUMEZICH: Gene, do you accept  
5 25 percent of that penalty?

6 MR. G. MONCEL: With a discount.

7 CHAIRMAN D. DUMEZICH: You're getting a  
8 discount.

9 MR. G. MONCEL: We file locally. It was a  
10 mistake they didn't file up here, so --

11 CHAIRMAN D. DUMEZICH: And mailing costs.

12 MR. A. LONG: Fifty-four dollars and --

13 MR. G. MONCEL: We're not going to win it,  
14 are we?

15 CHAIRMAN D. DUMEZICH: No, sir.

16 MR. G. MONCEL: I didn't catch who it was.  
17 You can wait until the party sends you a check?

18 CHAIRMAN D. DUMEZICH: Yes. They'll mail  
19 out a bill to you. We're full service here.

20 MR. G. MONCEL: Huh?

21 CHAIRMAN D. DUMEZICH: We're full service.

22 MR. G. MONCEL: We will accept it.

23 CHAIRMAN D. DUMEZICH: Thank you. Gene, a  
24 pleasure to see you.

25 THE REPORTER: Can I have the spelling of

1 his last name, please.

2 CHAIRMAN D. DUMEZICH: Moncel, M-O-N-C-E-L.

3 MR. G. MONCEL: M-O-N-C-E-L. Former  
4 chairman.

5 CHAIRMAN D. DUMEZICH: That's right.

6 Hello. Identify yourself and cause number,  
7 please.

8 MS. D. MURRAY: My name is Deb Murray,  
9 Cause No. 2011-39-55-29.

10 MS. A. TAYLOR: Page 37.

11 MS. M. THOMPSON: This is Architects for  
12 Indiana Political Action Committee cause --

13 MR. A. LONG: She's not a first-timer,  
14 Architects --

15 CHAIRMAN D. DUMEZICH: You're not a  
16 first-timer?

17 MS. D. MURRAY: I thought I was. We are  
18 with me as treasurer.

19 MR. A. LONG: Architects for Indiana?

20 MS. D. MURRAY: Yes, sir. I was unaware  
21 of --

22 CHAIRMAN D. DUMEZICH: You have three  
23 violations, three prior violations, so please  
24 have a seat. Or wait. You know what?  
25 Actually, three violations, we can do this. The

1 way it works is first time 25 percent, second  
2 time 50 percent, third time 100 percent,  
3 100 percent and mailing costs.

4 Do you accept it?

5 MS. S. RIORDAN: You have the option, if  
6 you wish, to come back when we finish the  
7 uncontested and put on evidence about why the  
8 filings weren't made. You get a chance to do  
9 that and have it all be on the record.

10 MS. D. MURRAY: Yeah, I would like to do  
11 that.

12 CHAIRMAN D. DUMEZICH: Okay.

13 MR. A. LONG: We don't take any different  
14 position, even if you would be found to be in  
15 violation. Because you've had -- you've taken  
16 the opportunity for an evidentiary hearing and  
17 explain it, it doesn't -- the penalty could be  
18 and would be no greater than what it would be if  
19 you had uncontested it. Do you understand?  
20 There's no --

21 CHAIRMAN D. DUMEZICH: There's no  
22 disadvantage for offering evidence.

23 MS. D. MURRAY: Okay. Thank you.

24 CHAIRMAN D. DUMEZICH: Name and cause  
25 number, please.



1 MS. C. SMITH: Hi.. I'm Connie Smith. . Our  
2 cause number is 2011-5881-69.

3 MS. M. THOMPSON: That would be on page 57.  
4 Rebuild Anderson?

5 MS. C. SMITH: Correct.

6 MS. M. THOMPSON: Okay. 2011-5881-69,  
7 never been before the Commission before, and  
8 their proposed civil penalty is \$354.02.

9 MS. C. SMITH: I thought it was \$150. I  
10 didn't bring the other letter I had.

11 CHAIRMAN D. DUMEZICH: Can you tell  
12 her what the -- obviously multiple violations?

13 MS. M. THOMPSON: Never been before the  
14 Commission before. She filed on April the 23rd  
15 and it was due on April 16th.

16 MS. C. SMITH: That was last year.

17 MS. M. THOMPSON: Yeah.

18 MS. C. SMITH: But this year's is on time.

19 MS. M. THOMPSON: Yes.

20 MS. A. TAYLOR: Everything else has been on  
21 time.

22 CHAIRMAN D. DUMEZICH: So it's three --

23 MS. M. THOMPSON: \$354.02.

24 MS. C. SMITH: How much are the mailing  
25 costs?

1 MR. A. LONG: \$4.09.

2 MS. C. SMITH: Okay. I guess we have a  
3 balance of \$65, but I can kick in \$10 to pay our  
4 debt.

5 CHAIRMAN D. DUMEZICH: You might have to  
6 kick in \$16.

7 MS. C. SMITH: I'll try.

8 CHAIRMAN D. DUMEZICH: There you go. Thank  
9 you.

10 MS. C. SMITH: We'll accept that. Thank  
11 you.

12 CHAIRMAN D. DUMEZICH: Next?  
13 Sir, can you identify yourself and read  
14 your cause number, please.

15 MR. D. BORTNER: Yes. My name is Dan  
16 Bortner, treasurer of Fourth Congressional  
17 District, Cause No. 2011-4698-56.

18 MS. A. TAYLOR: Page 51.

19 MS. M. THOMPSON: This is Fourth District  
20 Republican Congressional Committee, Cause  
21 No. 2011-4698-56, has never been before the  
22 Commission, and has a proposed civil penalty  
23 \$154.02.

24 MR. D. BORTNER: I accept.

25 CHAIRMAN D. DUMEZICH: Very good, sir.

1 Thank you. And mailing costs.

2 MR. D. BORTNER: And mailing costs. All  
3 right.

4 CHAIRMAN D. DUMEZICH: Next?

5 MR. R. HICKS: Can I have her tell me what  
6 my fine is?

7 CHAIRMAN D. DUMEZICH: Sure.

8 MR. R. HICKS: It's cause -- just because I  
9 have a question about -- I don't want to not  
10 take your offer and I don't want to waste your  
11 time by coming up there.

12 CHAIRMAN D. DUMEZICH: That's fine. Just  
13 read your cause number.

14 MR. R. HICKS: 2009-5527-242.

15 THE REPORTER: Can we have a name?

16 CHAIRMAN D. DUMEZICH: Your name, sir?

17 MR. R. HICKS: Bob Hicks, Tippecanoe County  
18 Republican Chair.

19 MS. M. THOMPSON: Proposed civil penalty is  
20 \$553.45.

21 MR. R. HICKS: And see, I would question  
22 that. I can't, in good conscious, accept that,  
23 because if you have a letter in your stuff --

24 CHAIRMAN D. DUMEZICH: You're not taking  
25 it? Come back later.

1                   Next? First-timers? First-timer, next  
2                   row, starting brown jacket, what did you do?  
3                   Next over? That's my son.

4                   Sir, your name and cause number, please.

5                   MR. C. JULIAN: My name is Chaim Julian.  
6                   I'm with the Democracy for Monroe County.  
7                   Cause No. is 2011-5865-68.

8                   MS. A. TAYLOR: Page 57.

9                   MS. M. THOMPSON: Democracy for Monroe  
10                  County Political Action Committee, Cause  
11                  No. 2011-5865-68, never been before the  
12                  Commission, proposed civil penalty is \$604.02.

13                  CHAIRMAN D. DUMEZICH: Sir, do you accept  
14                  the penalty --

15                  MR. C. JULIAN: Yeah.

16                  CHAIRMAN D. DUMEZICH: -- and mailing  
17                  costs?

18                  MR. C. JULIAN: Yeah.

19                  CHAIRMAN D. DUMEZICH: Thank you very much.

20                  Next?

21                  THE REPORTER: Can I have your name  
22                  spelled, please.

23                  MR. C. JULIAN: C-H-A-I-M.

24                  THE REPORTER: Julian?

25                  MR. C. JULIAN: Julian, J-U-L-I-A-N.

1 CHAIRMAN D. DUMEZICH: Can I have your  
2 name, sir, and cause number.

3 MR. M. WARNER: It's Mark Warner. Cause  
4 No. is 2011-6123-51.

5 MS. A. TAYLOR: Page 48.

6 MS. M. THOMPSON: Hoosier Heartland PAC,  
7 Cause No. 2011-6123-51, never been before the  
8 Commission. Proposed civil penalty is \$504.36.

9 CHAIRMAN D. DUMEZICH: Do you accept that  
10 sir --

11 MR. M. WARNER: Yes.

12 CHAIRMAN D. DUMEZICH: -- 25 percent of  
13 that and mailing costs.

14 MR. M. WARNER: Yes, sir.

15 CHAIRMAN D. DUMEZICH: Next, please.

16 MR. A. LONG: Thank you for coming in.

17 MR. M. WARNER: Thank you.

18 MR. M. BIBERSTINE: Mike Biberstine,  
19 B-I-B-E-R-S-T-I-N-E -- did I spell that too  
20 quick? -- Capital PAC of Indiana.

21 CHAIRMAN D. DUMEZICH: Did you get his  
22 spelling?

23 THE REPORTER: It's on there.

24 MR. M. BIBERSTINE: I went pretty quick.  
25 How are you, sir?

1 CHAIRMAN D. DUMEZICH: Cause number?

2 MR. M. BIBERSTINE: 2011-4701-57.

3 MS. A. TAYLOR: Page 51.

4 MS. M. THOMPSON: Capital PAC of Indiana,  
5 Cause No. 2011-4701-57, has settlement  
6 agreements of six, has a proposed civil penalty  
7 of \$1,004.02.

8 CHAIRMAN D. DUMEZICH: First time before  
9 the Committee?

10 MR. M. BIBERSTINE: I've never been in  
11 front of it. I apologize if --

12 MS. M. THOMPSON: They have settled with  
13 waiving the hearing.

14 MR. A. LONG: Not the first time here.

15 CHAIRMAN D. DUMEZICH: Yeah. That's not  
16 their first violation.

17 MR. M. BIBERSTINE: Okay. I apologize.

18 CHAIRMAN D. DUMEZICH: That's quite all  
19 right. You didn't know.

20 MR. M. BIBERSTINE: Admission just to  
21 100 percent at this point in time?

22 CHAIRMAN D. DUMEZICH: Uh-huh.

23 MR. M. BIBERSTINE: That's fine.

24 CHAIRMAN D. DUMEZICH: One hundred percent?

25 MR. M. BIBERSTINE: Yeah. Thank you, sir.

1 CHAIRMAN D. DUMEZICH: Sure. And mailing  
2 costs.

3 Next?

4 MR. R. RUNESTAD : Case No. 2011-5920-70,  
5 Rick Runestad. Yes, I accept. My only question  
6 is, can I just write the check now?

7 CHAIRMAN D. DUMEZICH: No.

8 MS. M. THOMPSON: We will have to prepare  
9 the orders, and we'll send it to you.

10 CHAIRMAN D. DUMEZICH: If you want to give  
11 me a blank check, though, to me personally, and  
12 I will forward it along.

13 MS. M. THOMPSON: This is Allen County  
14 Conservative PAC, 2011-5920-70, never been  
15 before the Commission and has a proposed civil  
16 penalty of three dollars and -- \$304.02.

17 CHAIRMAN D. DUMEZICH: So it's going to be  
18 25 percent of that and mailing costs.

19 MR. R. RUNESTAD: Okay. All right.

20 CHAIRMAN D. DUMEZICH: Thank you.

21 MR. M. WOMACK: Our cause number is  
22 2011-4579-33. My name is Mike Womack.

23 CHAIRMAN D. DUMEZICH: Can you spell it,  
24 Mr. Womack.

25 MR. M. WOMACK: W-O-M-A-C-K.

1 MS. M. THOMPSON: Now, this one has been  
2 before the Commission, page 39.

3 CHAIRMAN D. DUMEZICH: You've been before  
4 the Commission?

5 MR. M. WOMACK: It wasn't me. I'm sorry.  
6 I didn't know the history.

7 MS. M. THOMPSON: Is this Indiana  
8 Foresters?

9 MR. M. WOMACK: Yes.

10 MS. M. THOMPSON: Okay. Yes, it has been  
11 before the Commission.

12 CHAIRMAN D. DUMEZICH: How many times, so  
13 he knows?

14 MS. M. THOMPSON: One.

15 CHAIRMAN D. DUMEZICH: You can come up on  
16 the seconds.

17 Any more firsts?

18 MR. M. MILLER: Mervin Miller, cause number  
19 is 2011-5577-13, Goshen Professional  
20 Firefighters Union Local PAC 1443.

21 MS. A. TAYLOR: Page 14.

22 MS. M. THOMPSON: Goshen Professional  
23 Firefighters Union Local 1443 PAC, Cause  
24 No. 2011-5577-13, never been before the  
25 Commission. Proposed civil penalty is \$504.02.



1 MR. M. MILLER: Yes.

2 CHAIRMAN D. DUMEZICH: Twenty-five percent  
3 and mailing costs?

4 MR. M. MILLER: Yes.

5 CHAIRMAN D. DUMEZICH: Very good. Thank  
6 you, sir.

7 MR. M. MILLER: Thank you.

8 CHAIRMAN D. DUMEZICH: Any more  
9 first-timers? Come on down, first-timers.

10 MR. D. HARRIS: If you want to talk about  
11 it or just --

12 CHAIRMAN D. DUMEZICH: No, just if you're  
13 going to take the plea. Take the deal, I should  
14 say.

15 THE REPORTER: Could I have his name,  
16 please.

17 CHAIRMAN D. DUMEZICH: Oh. Sir, since you  
18 spoke, she needs your name for the record.

19 MR. D. HARRIS: Donnie Harold Harris.

20 THE REPORTER: Thank you.

21 CHAIRMAN D. DUMEZICH: Any other  
22 first-timers?

23 (No response.)

24 CHAIRMAN D. DUMEZICH: Anybody that's a  
25 second-timer that wants to take the plea?

1 Second-timer?

2 MR. M. WOMACK: I will give evidence, I  
3 guess.

4 CHAIRMAN D. DUMEZICH: Oh, you will give  
5 evidence?

6 MR. M. WOMACK: I'll wait.

7 CHAIRMAN D. DUMEZICH: This is the  
8 opportunity to take the 50 percent.

9 So everybody knows, if this is your second  
10 time before the Committee -- or the Commission,  
11 excuse me, you have the opportunity to take a  
12 50 percent reduction.

13 Anybody that is a third-timer that wants to  
14 accept the full amount of the --

15 MR. A. LONG: Third or greater.

16 CHAIRMAN D. DUMEZICH: What's that?

17 MR. A. LONG: Third or greater.

18 CHAIRMAN D. DUMEZICH: Third or greater.

19 Third or greater going once, twice, three times.

20 (No response.)

21 CHAIRMAN D. DUMEZICH: Okay. With that,  
22 let's -- so you can go. I will excuse myself at  
23 this point in time.

24 MS. S. HUDDLESTON: My name is Sandi  
25 Huddleston. I am serving as a proxy for the

1 ... chairman for this one particular issue.... It is  
2 the Crossroads Political Action Committee, Cause  
3 No. 2011-6151-101.

4 Would you state your name, sir.

5 MR. V. KUPSIS: Vis Kupsis on behalf of  
6 Crossroads PAC.

7 MS. S. HUDDLESTON: Have they been before  
8 the Commission before?

9 MS. M. THOMPSON: They've never been before  
10 the Commission, and this is for a Statement of  
11 Organization that was due 10/20/2010. They have  
12 a proposed civil penalty of \$1,004.36.

13 MR. A. LONG: And they have filed?

14 MS. M. THOMPSON: And they have filed a  
15 Statement of Organization, correct.

16 MR. V. KUPSIS: And just for the record, we  
17 did file a written notice that we waived the  
18 noticing period. We would waive the five-day  
19 noticing period for the purposes of this  
20 hearing, and we do accept the penalty.

21 MS. M. THOMPSON: The 25 percent penalty?

22 MR. V. KUPSIS: Correct.

23 MS. A. TAYLOR: And I would like to add,  
24 they notified us that they filed the Statement  
25 of Organization late. Otherwise, we may not

1        have caught it.

2                MR. A. LONG: I appreciate that.

3                MR. V. KUPSIS: Sorry for the mistake.

4                MR. A. LONG: That happens. That's why we  
5 recognize and we take this position on  
6 first-time offenders. As they have always said,  
7 but for the grace of God, a lot of us have been  
8 there.

9                MR. V. KUPSIS: A lesson learned. Thank  
10 you.

11                MS. S. HUDDLESTON: So 25 percent fine plus  
12 the mailing costs. Thank you very much.

13                THE REPORTER: Can i have your name  
14 spelled, please.

15                MR. V. KUPSIS: V-I-S, K-U-P-S-I-S.

16                THE REPORTER: Thank you.

17                MR. A. LONG: I will make a motion on the  
18 ones that we've had and without going through  
19 60-some-odd pages, the ones that we've had that  
20 accepted the proposed reduced fine, that we  
21 impose a fine at the 25 percent level plus the  
22 costs of mailing as indicated in the agenda.

23                MS. B. McCLELLAN: I will second the  
24 motion.

25                MS. S. HUDDLESTON: Okay. We have a

1 motion. Is there any further discussion? ---

2 (No response.)

3 MS. S. HUDDLESTON: All those in favor of  
4 accepting the motion that we fine all of these  
5 people 25 percent plus the mailing costs, please  
6 signify by saying aye.

7 THE COMMISSIONERS: Aye.

8 MS. S. HUDDLESTON: All those opposed, same  
9 sign.

10 (No response.)

11 MR. A. LONG: And I think the minutes must  
12 show this is a unanimous vote. This requires  
13 unanimous assent for reduction.

14 MS. S. HUDDLESTON: Thank you.

15 CHAIRMAN D. DUMEZICH: Thank you, Sandi.

16 MS. S. HUDDLESTON: You're welcome.

17 Anytime.

18 MR. A. LONG: I think we've got a couple in  
19 here for continuance.

20 CHAIRMAN D. DUMEZICH: Okay. Dale's swore  
21 everybody in; right?

22 MR. B. KING: Uh-huh.

23 CHAIRMAN D. DUMEZICH: Now I've got to read  
24 this.

25 Note that in the past the Commission -- my

1 name is Dan Dumezich, Chairman, returning.

2 Note that in the past the Commission has  
3 followed certain procedures for conducting  
4 campaign finance hearings and suggests that the  
5 Commission use the following procedures today.  
6 One, or A, when each campaign finance matter is  
7 called, a hearing will begin with recognizing  
8 campaign finance staff to provide information  
9 about the documents in this matter provided to  
10 the Commission members, including letters from  
11 the committees and the notice given to the  
12 campaign committee.

13 B, unless there is an objection the  
14 documents provided to the Commission by the  
15 Election Division are entered into the record of  
16 this meeting.

17 C, after the campaign finance staff  
18 completes the presentation, a representative of  
19 the Committee will be recognized first and may  
20 present their case for no more than five  
21 minutes.

22 D, Commission members may ask questions  
23 during the presentation, but the time spent  
24 answering the questions will not be counted  
25 against the presenter's time. The Election

1 Division may signal the chair when the  
2 presenter's time is up.

3 E, if the presenter offers additional  
4 documents or other physical evidence not  
5 previously received by the Commission, then the  
6 original must be provided to the Election  
7 Division and provide that to Dale to be  
8 preserved for the record.

9 F, if the Commission finds that a committee  
10 has violated the campaign finance statutes,  
11 state law requires a unanimous vote of all four  
12 Commission members to waive or reduce the amount  
13 of the penalty set by state law.

14 G, if the Commission makes a decision at  
15 this meeting to either fine a committee or  
16 dismiss the case against the committee, then the  
17 Election Division will prepare a final order for  
18 the Commission to approve at a later meeting.  
19 If a committee is fined today, the committee  
20 will receive a notice from the Election Division  
21 to pay off the fine after the Commission adopts  
22 the final order. So it may be some time after  
23 today before a committee will be required to pay  
24 a fine. Got to wait until the next hearing when  
25 we approve. Okay?

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

10           Ask if there are any -- are there any  
11           questions or objections from Commission members  
12           or anyone on the Committee?

13           MR. A. LONG: I believe that's the  
14           procedure we follow.

15           CHAIRMAN D. DUMEZICH: So let's start at  
16           the front.

17           Sir, come on down. Cause number and name,  
18           sir.

19           MR. R. SERVICE: Cause number is  
20           2011-5517-10. My name is Robert K. Service.  
21           I'm the treasurer for the Johnson County  
22           Democratic Central Committee.

23           MS. A. TAYLOR: Page 19.

24           MS. M. THOMPSON: Cause No. 2011-5517-10,  
25           has been before the Commission one other time.



1 Has a proposed civil penalty of \$154.02.

2 MR. A. LONG: Is this based on which  
3 report? The annual for 2009?

4 MS. M. THOMPSON: Yes.

5 MS. A. TAYLOR: Yeah.

6 CHAIRMAN D. DUMEZICH: They had a  
7 delinquent report? That's it?

8 MS. M. THOMPSON: Delinquent report.

9 CHAIRMAN D. DUMEZICH: Do you have anything  
10 else you would like to say with respect to this  
11 alleged violation?

12 MS. M. THOMPSON: No.

13 CHAIRMAN D. DUMEZICH: Sir?

14 MR. R. SERVICE: Thank you. I'm going to  
15 read our statement and our position from the  
16 committee.

17 Reference: Johnson County Democratic  
18 Central Committee 2009 Campaign Finance Report.

19 THE REPORTER: Excuse me. Slow down,  
20 please.

21 MR. R. SERVICE: Ladies and gentlemen, we  
22 recently received the notice concerning the  
23 Campaign Finance Report that was due on March 1,  
24 2010, and the hearing that is set for  
25 February 21, 2011, at 1 p.m. The Johnson County

1 Democratic Central Committee respectfully  
2 disputes the allegations contained in the notice  
3 and requests that no fine be assessed.

4 The Johnson County Democratic Central  
5 Committee filed its Campaign Finance Report with  
6 the Johnson County Election Board on  
7 February 26th of 2010. A copy of the  
8 file-marked report is enclosed with my  
9 statement. A copy was sent to the Indiana  
10 Election Division on March 3, 2010, upon request  
11 from the State.

12 Indiana Code 3952, Section 3, requires  
13 regular party committees that propose to  
14 influence the election of a candidate for state  
15 or legislative office or the outcome of a public  
16 question to file it with the Election Division.

17 IC-3954, Section 2, requires a regular  
18 party committee that is not required to file its  
19 report with the Election Division to file its  
20 report with the county election board.

21 The Johnson County Democratic Central  
22 Committee did not propose to influence the  
23 election of a candidate for state or legislative  
24 office or the outcome of a public question in  
25 2009, and its report was filed with the county

1 . election board prior to the March 1, 2010,  
2 deadline.

3 The Indiana Campaign Finance Manual issued  
4 by the Indiana Election Division states on  
5 page 5 that a county central committee is  
6 required to file with the Indiana Election  
7 Division only in certain circumstances.

8 That's the end of my statement.

9 During this time period -- I've had this  
10 position for several years. The other violation  
11 was when I first took this position, and it was  
12 somewhat of a misunderstanding, because I just  
13 stepped into the position and it was not  
14 questioned.

15 During the reporting -- during the  
16 reporting period of this violation, I was away  
17 from this position, I was on active duty in  
18 Baghdad, Iraq, for a year, there was another  
19 committee person handling the reporting by power  
20 of attorney, which was set up that way through  
21 the committee at the state office that approved  
22 and recommended it be handled that way, so I was  
23 not present.

24 I normally just file both reports, whether  
25 I'm obligated or not. I send it in because it's

1 much easier to do it that way. But our position  
2 was we were not obligated to file a report  
3 during this reporting period to the State, and  
4 it was filed on time with the county as  
5 required.

6 MR. A. LONG: Can we agree, first of all,  
7 that if it was filed on February 26, 2010, it  
8 would be timely?

9 MS. M. THOMPSON: When we received it is  
10 when --

11 MR. A. LONG: No. I didn't ask when we  
12 received it. I said, if it were filed --

13 MS. A. TAYLOR: Then it would have been on  
14 time.

15 MR. A. LONG: On February 26th it would  
16 have been --

17 MS. M. THOMPSON: Yes.

18 MR. A. LONG: So the issue is -- the only  
19 issue we have to deal with is whether or not it  
20 needed to be filed here as a matter of law as  
21 opposed to a matter of convenience is what the  
22 witness has indicated.

23 You referred -- I think he referred to some  
24 exhibits. He may want to present those.

25 CHAIRMAN D. DUMEZICH: Do you want to

1 present these, I would assume?

2 MR. A. LONG: I didn't see any in the back  
3 here.

4 CHAIRMAN D. DUMEZICH: Is it just your  
5 statement or --

6 MR. R. SERVICE: It's just my statement  
7 plus -- it is the original statement and then a  
8 copy of the report we filed with the County,  
9 which the State does have on file here now with  
10 the time stamp from the County.

11 CHAIRMAN D. DUMEZICH: Yeah. May I see  
12 that?

13 MR. R. SERVICE: Yes, sir.

14 MR. A. LONG: We have one in our file. I  
15 think we asked our attorney to --

16 CHAIRMAN D. DUMEZICH: Dale, do you know  
17 what the law is on this?

18 MR. D. SIMMONS: Well, yeah, and he has  
19 correctly stated it. It's just that when  
20 committees open up with us, we take that they  
21 open a committee with the State. Whether or not  
22 they're giving any particular time to a  
23 candidate that would trigger that requirement,  
24 we take their Statement of Organization filing  
25 with us as their statement that that is what

1           they intend to do, propose to influence the  
2           election of a state/legislative office or a  
3           statewide office.

4           So, you know, you open up a committee with  
5           us. We look at it as you're required to file  
6           the filings on the date required by the election  
7           code.

8           CHAIRMAN D. DUMEZICH: So in this instance,  
9           the original filing of organization indicated  
10          that they planned on influencing state races?

11          MR. D. SIMMONS: Right.

12          CHAIRMAN D. DUMEZICH: They had, in fact,  
13          filed that based on those prior filings.

14          Which was your custom and practice?

15          MR. R. SERVICE: (Nodding head.)

16          CHAIRMAN D. DUMEZICH: In this particular  
17          instance, though, you were not present in the  
18          country; is that correct?

19          MR. R. SERVICE: Correct, sir.

20          CHAIRMAN D. DUMEZICH: And so it was given  
21          to -- you delegated your authority to Kathy --

22          MR. R. SERVICE: Stolz.

23          CHAIRMAN D. DUMEZICH: -- Stolz.

24          In light of practice, I think there is, in  
25          fact, a violation; but with the extenuating

1 circumstances, do I hear a motion to --

2 MS. S. RIORDAN: I would be inclined to  
3 find that, as well, because the argument that  
4 the county committee formed to influence  
5 elections -- generally, you've got to file it  
6 every year, but given that the person in charge  
7 was out of the country for reasons that, you  
8 know, don't need explanation and should be  
9 applauded and you delegated it to somebody else,  
10 I would formulate a motion that we actually find  
11 a violation but that we waive the financial  
12 penalty.

13 MR. A. LONG: I would second that.

14 CHAIRMAN D. DUMEZICH: Hearing a motion on  
15 the floor to second. Any discussion?

16 (No response.)

17 CHAIRMAN D. DUMEZICH: No discussion.  
18 Anybody in favor say aye.

19 THE COMMISSIONERS: Aye.

20 CHAIRMAN D. DUMEZICH: Opposed, say nay.

21 (No response.)

22 CHAIRMAN D. DUMEZICH: The ayes have it.

23 MR. A. LONG: This is I think -- the reason  
24 I voted for this was this is our message that we  
25 believe that once an organization has been filed

1 with this body, the filing requirement is there,  
2 and so I think that had they not filed a  
3 Statement of Organization but had sent a  
4 courtesy copy of their county filing, I would  
5 have voted otherwise. But that's why I asked  
6 for the file and you did file a Statement of  
7 Organization with the State and -- but that's  
8 the position I take. And thank you for your  
9 service.

10 CHAIRMAN D. DUMEZICH: Thank you for your  
11 service.

12 You understand, we do believe that there is  
13 a technical violation of the law here, but the  
14 circumstances indicate that we're not going to  
15 charge a fine.

16 MR. R. SERVICE: Okay. I accept that.

17 CHAIRMAN D. DUMEZICH: And so I think you  
18 said you wanted to give me a fine?

19 MS. S. RIORDAN: My motion included we were  
20 finding a violation but waiver of a fine.

21 MR. A. LONG: And the mailing costs. You  
22 included that, didn't you?

23 MS. S. RIORDAN: Yes.

24 CHAIRMAN D. DUMEZICH: Okay. The record is  
25 clear that we've got it, sir.



1           Okay. Thank you very much.

2           MR. R. SERVICE: Thank you.

3           CHAIRMAN D. DUMEZICH: Next person, please.

4           Sir, can you state your name and your  
5           number, violation number.

6           MR. B. GILLASPY: Yes. My name is Bob  
7           Gillaspy -- that's G-I-L-L-A-S-P-Y --  
8           Cause No. 2009-5553-65. It's Jackson-Jennings  
9           Builders Association.

10          MS. A. TAYLOR: We're on page 4.

11          MR. B. GILLASPY: Pardon me?

12          CHAIRMAN D. DUMEZICH: She said it's on  
13          page 4.

14          MR. A. LONG: Of our list.

15          MR. B. GILLASPY: Oh, okay. Okay.

16          MS. M. THOMPSON: This is Jackson-Jennings  
17          Political Action Committee. Cause number is  
18          2009-5553-65. It's never been before the board  
19          before, and this is a motion to reconsider if  
20          it's a 2007 pre-election fine. It's \$1,003.45,  
21          and the report has not been filed.

22          MR. A. LONG: There's some things --  
23          there's some evidence here, too, isn't there?

24          MS. M. THOMPSON: Right. And there's a  
25          letter, also, and --

1 CHAIRMAN D. DUMEZICH: Where is the letter?

2 MS. A. TAYLOR: Behind the blue tab. I  
3 believe it's the fifth letter after the blue.

4 CHAIRMAN D. DUMEZICH: Do you have anything  
5 further to report?

6 MS. M. THOMPSON: No.

7 CHAIRMAN D. DUMEZICH: Sir, let's hear your  
8 side of it.

9 MR. B. GILLASPY: Well, I think we kind of  
10 slipped through the cracks here. But I don't  
11 really -- I got a call Friday to come to a  
12 meeting, so I'm kind of having to get up to  
13 speed here.

14 I think that the people that were in charge  
15 of the forms, I think -- we had transitioned to  
16 different officers and stuff like this at the  
17 time and the forms just didn't get filed, I  
18 think.

19 When we did find that out, we had sent --  
20 we had a thousand dollar check that we sent to  
21 you on September the 9th with a letter on  
22 September the 9th of 2009 -- or excuse me,  
23 September the 2nd of 2009, which our secretary,  
24 after talking to Abbey Taylor at your office,  
25 said he would like for you guys to reconsider

1 the fine.

2 So in March of -- or you did send the check  
3 back to us on October the 13th. So we kind of  
4 thought, well, the Committee has said, well  
5 there's no fine due, you know, and then we got  
6 this letter this week, and so I'm here today.

7 CHAIRMAN D. DUMEZICH: So let me see if  
8 I've got this right. There was no papers that  
9 were filed; correct?

10 MR. B. GILLASPY: Correct.

11 CHAIRMAN D. DUMEZICH: We notified you that  
12 there were no papers that were filed, and,  
13 subsequently, those papers were filed?

14 MR. B. GILLASPY: I think so, yes, sir.

15 CHAIRMAN D. DUMEZICH: 2007s were filed?  
16 No, still not filed.

17 So what happened then was we hit you with a  
18 fine of 1,003.45. You decided -- you sent us a  
19 check --

20 MR. B. GILLASPY: Uh-huh.

21 CHAIRMAN D. DUMEZICH: -- the check came to  
22 us, and then we have this letter where you said  
23 you would like to contest it; correct?

24 MR. B. GILLASPY: Yes.

25 CHAIRMAN D. DUMEZICH: And then what

1           happened?

2           MR. B. GILLASPY: You sent us a check back.

3           CHAIRMAN D. DUMEZICH: And then you came in  
4 to contest it? Then give me a check for --

5           MR. B. GILLASPY: Then we just got  
6 notice -- we just got notice Thursday to be here  
7 today.

8           CHAIRMAN D. DUMEZICH: Okay.

9           MR. B. GILLASPY: And if that's the case, I  
10 would like to take your 25 percent deal. I  
11 mean, I didn't know which one to be in.

12          MS. S. RIORDAN: So, basically, this really  
13 is the hearing on their request to reconsider?  
14 You sent them back the money and then it got set  
15 on for today?

16          MS. M. THOMPSON: Yes.

17          MS. S. RIORDAN: Okay.

18          MR. A. LONG: Does this PAC still exist?

19          MR. B. GILLASPY: No, sir. We never opened  
20 a checking account. We never did anything.

21          MS. M. THOMPSON: They closed in January of  
22 2009.

23          MR. B. GILLASPY: We filed the forms with  
24 the State to --

25          MR. A. LONG: Did they ever file a

1 financial report?

2 MS. A. TAYLOR: Yes.

3 MR. A. LONG: At the time of closure they  
4 did?

5 MS. A. TAYLOR: Yes. They filed a final  
6 report.

7 MR. A. LONG: So that would have covered  
8 the period -- in theory, that would have been  
9 covered by the annual 2007?

10 MS. A. TAYLOR: No. We don't have a report  
11 for that time period.

12 CHAIRMAN D. DUMEZICH: But it's your  
13 statement that no money was ever collected for  
14 the PAC?

15 MR. B. GILLASPY: We never opened a  
16 checking account. We never collected any money.

17 MS. A. TAYLOR: Every report they filed has  
18 been all zeroes.

19 MR. B. GILLASPY: When we figured the cost  
20 to administer the PAC was going to more be than  
21 what benefit we'd get from it.

22 MR. A. LONG: If he closed it I'm prepared  
23 to make a motion. My motion would be that we  
24 open the hearing, accept the evidence that's  
25 been given during the hearing here as evidence

1 of the hearing, and reduce the fine to  
2 25 percent of the fine plus the costs of mailing  
3 if this gentleman pulls out the files for 2007  
4 annual and makes it a record.

5 MR. B. GILLASPY: Will you be mailing us a  
6 notice on what to do?

7 CHAIRMAN D. DUMEZICH: Yes. And you can  
8 also talk to whoever you want to talk to here.  
9 Give him the card.

10 So I have a motion on the floor that would  
11 reopen the initial hearing, reduce the fine from  
12 \$1,003.45 to 25 percent of that amount plus  
13 mailing costs. And is there any more  
14 discussion?

15 MR. A. LONG: If they file the 2007 to  
16 close out -- technically close out that. I  
17 assume, if the others were all zeroes, that one  
18 probably will be too.

19 CHAIRMAN D. DUMEZICH: And to close out the  
20 account with the filing of the 2007 I have a  
21 motion.

22 MS. S. RIORDAN: Second.

23 CHAIRMAN D. DUMEZICH: Second. Any more  
24 discussion?

25 (No response.)

1 CHAIRMAN D. DUMEZICH: All in favor of the  
2 motion say aye.

3 THE COMMISSIONERS: Aye.

4 CHAIRMAN D. DUMEZICH: All opposed?

5 (No response.)

6 CHAIRMAN D. DUMEZICH: The ayes have it.

7 MR. B. GILLASPY: Thank you.

8 CHAIRMAN D. DUMEZICH: Can you get the name  
9 of somebody that you're going to contact?

10 MS. A. TAYLOR: Yes.

11 CHAIRMAN D. DUMEZICH: Next person, please,  
12 or next people, please, in this case.

13 MR. G. GREEN: My name is Gary Green, and  
14 this is Vicky Gadd, our executive officer, for  
15 the Porter County Builder's Association. I have  
16 multiple cause numbers.

17 MS. A. TAYLOR: Starting on page 3.

18 MS. M. THOMPSON: Mr. Chairman, we have 3,  
19 5, 7, and 9. These are motions to reconsider, a  
20 few different ones.

21 MS. A. TAYLOR: Two are on page 5.

22 MR. A. LONG: I have one on page 3.

23 MS. A. TAYLOR: One on page 3, two on 5,  
24 one on 7, one on 9.

25 MS. M. THOMPSON: Do you want me to do them

1 all at once or --

2 CHAIRMAN D. DUMEZICH: Please do.

3 MS. M. THOMPSON: Okay.

4 CHAIRMAN D. DUMEZICH: Because we'll  
5 probably deal with them all en masse, as well.

6 MS. M. THOMPSON: Okay. This is Porter  
7 County Builder's Association PAC, Cause  
8 No. 2009-5031-16. These are motions to  
9 reconsider. They have been before the board  
10 three different times. The proposed on this one  
11 is \$1,003.45.

12 On page 5 it's Cause No. 2009-5031-57,  
13 motion to reconsider. It's been before the  
14 board three times. Another \$1,003.45.

15 Another one on page 5, which is  
16 2009-5031-97, motion to reconsider. It's  
17 \$1,003.53.

18 2009-5031-192, a motion to reconsider, and  
19 it's a proposed civil penalty of \$1,003.53.

20 CHAIRMAN D. DUMEZICH: So, in total, we're  
21 talking how many thousands? Four thousand?

22 MR. A. LONG: We're not done yet.

23 MS. M. THOMPSON: I have one more.

24 CHAIRMAN D. DUMEZICH: No. But right now,  
25 we're at four; right?



1 MS. M. THOMPSON: Yeah. We're at the last  
2 one. 2009-5031-235 and another \$1,003.45.

3 CHAIRMAN D. DUMEZICH: Congratulations.  
4 The highest amount of fines since I've been the  
5 chairman. You must feel very proud.

6 MR. G. GREEN: No, not at all.

7 CHAIRMAN D. DUMEZICH: Can we hear your  
8 side of it.

9 MR. G. GREEN: The five violations are  
10 concurrent reporting sessions. We had been in  
11 front of the board. I apologize. I thought we  
12 had only been before you once before, in 2007.

13 There were five reports that were not  
14 filed. The previous executive officer that had  
15 come with me to the 2007 meeting had told me  
16 that all filings were being made.

17 It wasn't until Vicky came into the office  
18 that we found not only were the filings not in  
19 order, but we were not given notice of the  
20 hearing to appear before the board in, I think,  
21 2009.

22 We discovered this in May of 2009 and wrote  
23 a letter to the board making aware that the  
24 filings had not been made. We did get the  
25 filings in order and submitted them.

1 MS. A. TAYLOR: Yes. .

2 MR. G. GREEN: Received notice on  
3 August 12th of the violations.

4 We don't dispute the filings were not made.  
5 It's really a case where we were -- had been  
6 misled by our previous executive officer.

7 CHAIRMAN D. DUMEZICH: Who was?

8 MR. G. GREEN: Chris Lomaka.

9 Consequently, all of our reports should be  
10 in order. The total number of dollars in all  
11 these reports, we only had one session that we  
12 actually spent any dollars, and I think that  
13 totaled maybe 3,000 total in expenditures. So  
14 it's a very small PAC.

15 The most disheartening thing to us is we  
16 had been down here. We understand the severity  
17 of the fine, the need to get the reports in. In  
18 our 2007 violation we had filed locally but did  
19 not submit the forms down to the State.

20 So, again, just really here throwing  
21 ourselves on the mercy of the board.

22 CHAIRMAN D. DUMEZICH: Are they current on  
23 everything now?

24 Are you current on everything now?

25 MR. G. GREEN: We believe that we are

1 current on everything now.

2 MS. A. TAYLOR: Yes.

3 CHAIRMAN D. DUMEZICH: Can I entertain a  
4 motion for a 50 percent reduction?

5 MS. B. McCLELLAN: I have a question, Dan.  
6 This covers 2006 to 2008; is that correct?

7 MR. G. GREEN: It was actually 2007 to  
8 2008. We had a previous violation, I believe,  
9 in -- it would have been 2006 that we paid a  
10 violation fine in 2007. And that's part of the  
11 reason that we're obviously very disappointed in  
12 this because the executive officer that was with  
13 me at that hearing in 2007 understood the  
14 severity of the fines when not making the  
15 appropriate reports. So it's very  
16 disheartening, especially given the amount of  
17 dollars that we collect.

18 MR. A. LONG: Were those fines paid?

19 MR. G. GREEN: Yes.

20 MS. V. GADD: And I don't know if I can  
21 make this comment, but I also -- it was somewhat  
22 sabotaged, because no records of any hearing or  
23 anything like this were in any files.

24 Someone -- you know, I can't say who -- had  
25 removed all evidence that these were late and

1 that there was even another hearing. Nothing  
2 existed in the files.

3 MR. G. GREEN: There is a letter dated  
4 May 22nd to the board after Vicky had spoken to  
5 Abbey Taylor regarding this matter.

6 CHAIRMAN D. DUMEZICH: Do we have this in  
7 the record currently?

8 MR. A. LONG: That's what I was looking  
9 for. I thought I had seen that in our --

10 MS. M. THOMPSON: I have an August 12th  
11 letter.

12 MR. A. LONG: Here it is.

13 MR. G. GREEN: May 22nd.

14 MS. M. THOMPSON: It's in the file.

15 MS. B. McCLELLAN: That's the August 12th.  
16 It's a May letter.

17 MR. D. SIMMONS: Oh, I only have that one.

18 MR. G. GREEN: You know, we want to point  
19 out the fact that we discovered the error, tried  
20 to make initial contact realizing the  
21 consequences of having not filed within an  
22 appropriate time frame.

23 CHAIRMAN D. DUMEZICH: So they did bring it  
24 to our attention.

25 Any questions?

1 (No response.)

2 CHAIRMAN D. DUMEZICH: Any comments from  
3 staff?

4 MS. M. THOMPSON: No.

5 CHAIRMAN D. DUMEZICH: Again, I would  
6 entertain a motion for reduction, in light of  
7 the circumstances.

8 MS. S. RIORDAN: The total fine we're  
9 looking at is --

10 CHAIRMAN D. DUMEZICH: \$5,000. For a PAC  
11 that's generated \$3,000 since inception.

12 MR. A. LONG: I will make the motion to  
13 reduce each of the penalties to 50 percent plus  
14 the costs of mailing.

15 CHAIRMAN D. DUMEZICH: I have a motion to  
16 reduce the penalties to 50 percent plus cost of  
17 mailing. Do I hear a second?

18 MS. B. McCLELLAN: Second.

19 CHAIRMAN D. DUMEZICH: I hear a second.  
20 Discussion?

21 (No response.)

22 CHAIRMAN D. DUMEZICH: Hearing no  
23 discussion, all in favor of the motion say aye.

24 THE COMMISSIONERS: Aye.

25 CHAIRMAN D. DUMEZICH: All opposed, please

1 indicate by name.

2 (No response.)

3 CHAIRMAN D. DUMEZICH: Very good.

4 MR. G. GREEN: Thank you very much. I hope  
5 not to be back here ever again.

6 MS. S. RIORDAN: Thank you so much.

7 CHAIRMAN D. DUMEZICH: Please identify  
8 yourself, give us the file number.

9 MS. D. MURRAY: Deb Murray, treasurer, and  
10 Matt Mayol, M-A-Y-O-L, president; Cause  
11 No. 2011-39-5529.

12 MR. A. LONG: The last two numbers were  
13 what?

14 MS. D. MURRAY: 29.

15 MS. A. TAYLOR: Page 37.

16 MS. M. THOMPSON: This is Architects for  
17 Indiana Political Action Committee, Cause  
18 No. 2011-3955-29. It's been before the board  
19 three times, has a civil penalty of \$1,004.36.

20 MS. D. MURRAY: I was unaware of the  
21 previous history of the fines. I took over as  
22 treasurer early 2010. I don't disagree that we  
23 were late on this one report while I was  
24 treasurer; however, I do request that no fines  
25 be assessed.

1           It was a communication error that occurred  
2           while transferring the duties from the past  
3           treasurer to myself. My understanding was that  
4           the past treasurer was going to submit the forms  
5           needed to get that transferred -- we met and  
6           discussed -- and that I would receive letters  
7           indicating when these reports were due.

8           The past treasurer continued to get the  
9           letters indicating that, and she would send them  
10          over to me, and, therefore, I completed the  
11          first two reports on time, the ones for all of  
12          2009 and the ones for January 2010 through  
13          April 2010.

14          I did not receive a letter indicating there  
15          was a report due at the end of October or by  
16          October 8th. I made the incorrect assumption  
17          that I would file at the end of the year, as I  
18          had done in 2009.

19          When I first realized -- or the first time  
20          we heard that we were late, we received a  
21          notice, and I immediately completed it and got  
22          it in to the board.

23          The year-end 2010 has been filed on time,  
24          and reports will continue to be reported and  
25          filed on time while I am treasurer. So we are

1           throwing ourselves on the mercy of the board,  
2           and that's our story.

3           CHAIRMAN D. DUMEZICH: Are they current?

4           MS. D. MURRAY: Thank you.

5           MS. M. THOMPSON: Yes.

6           CHAIRMAN D. DUMEZICH: Current on  
7           everything?

8           Entertain a motion for a fine reduction.  
9           Well, any questions? I'm sorry.

10          MR. A. LONG: I would move that we impose a  
11          proposed fine of \$1,000 plus mailing costs.

12          CHAIRMAN D. DUMEZICH: Motion on the floor  
13          for a fine of a thousand dollars plus mailing.  
14          Do I hear a second?

15          MS. S. RIORDAN: Second.

16          CHAIRMAN D. DUMEZICH: All in favor say  
17          aye.

18          THE COMMISSIONERS: Aye.

19          CHAIRMAN D. DUMEZICH: Opposed?

20          (No response.)

21          CHAIRMAN D. DUMEZICH: Vote is 4-0. You  
22          have a fine of \$1,000 and mailing costs.

23          Next?

24          MR. R. HICKS: I feel like I turned in a  
25          "get of jail free" card.



1 CHAIRMAN D. DUMEZICH: Well, if you want to  
2 take it back, go ahead.

3 MR. R. HICKS: No, I don't have enough Tums  
4 to do that.

5 I'm not an attorney; I'm a schoolteacher.  
6 I think everybody will be able to hear me. I'm  
7 Robert Hicks, Tippecanoe County Chair. I am  
8 here also to put myself at your mercy. We were  
9 late, but my --

10 CHAIRMAN D. DUMEZICH: What's your cause  
11 number, sir?

12 MR. R. HICKS: Oh, I'm sorry.  
13 2009-5527-242.

14 MS. A. TAYLOR: Page 9.

15 MR. R. HICKS: And that's the letter that I  
16 sent in. When I -- long story short, I'm here  
17 because the buck stops with the county chairman  
18 no matter what my treasurer did or didn't do.  
19 There was some concern that maybe we weren't  
20 supposed to file this.

21 I investigated you guys back when this  
22 happened, found Dudley Cruea had been on this  
23 board and called Dudley and said, "What should I  
24 do?" You know, I didn't know about this, but  
25 the form got filed. And then as the letter

1 states, we didn't get the notification of a  
2 hearing, and that's my reason to -- you know, to  
3 question the total amount. I don't question  
4 that we were late. We were late with a report,  
5 but we didn't get notified of that March 16th  
6 meeting. And if we had, we would have been  
7 there.

8 Now, I will say one thing, March 1st,  
9 March 1st, that's when the next report is due.  
10 I know that now as the chairman. I've tended to  
11 let the people do their jobs as treasurer, and  
12 we've learned how to file electronically and  
13 we've been current since then, take this very  
14 seriously.

15 I mean, that same day that this report was  
16 due we sent -- and I have a copy here -- e-mail  
17 to all our candidates and campaigns that they  
18 had to get their financial report in.

19 And so we -- Dudley said that once you do a  
20 certain thing at the county level -- some  
21 counties don't have to file this form, or at  
22 least didn't used to have to file this form,  
23 based on what was going on with PACs or  
24 something. I don't remember the exact  
25 terminology, because, guys, this was in 2008 and

1 here we are today, 2011. So we've all slept  
2 since then.

3 MR. A. LONG: Did they file a Statement of  
4 Organization here?

5 MS. M. THOMPSON: Yes.

6 MR. R. HICKS: So we don't dispute that.  
7 But, see, I was a fairly new county chairman at  
8 the time, new treasurer takes office, and, you  
9 know, we then found out that, boy, we should  
10 have filed this form, and we did.

11 So I guess I'm asking that if you can find  
12 out when we filed the form and, you know --

13 CHAIRMAN D. DUMEZICH: Has this form been  
14 filed now?

15 MR. A. LONG: Yeah.

16 MS. A. TAYLOR: Yeah.

17 MR. A. LONG: April 29th of 2008.

18 MR. R. HICKS: That's the thing. And we  
19 didn't get notification of a March 16th meeting  
20 back then.

21 MS. S. RIORDAN: So they were supposed to  
22 file on what date, in the pre-primary?

23 MS. A. TAYLOR: The pre-primary was  
24 April 18th.

25 MS. S. RIORDAN: And then they filed

1 11 days later. So that's why the 550 fine?

2 MS. A. TAYLOR: Right.

3 MS. S. RIORDAN: And then the notice of  
4 hearing was for last March; right?

5 MR. R. HICKS: No. No.

6 MS. A. TAYLOR: March 2009 --

7 MR. R. HICKS: 2009.

8 MS. A. TAYLOR: -- was the last hearing.

9 MS. S. RIORDAN: Oh, March 2009.

10 MS. A. TAYLOR: Right.

11 MS. S. RIORDAN: How do we send out notice?  
12 Just by mail?

13 MS. M. THOMPSON: First class mail.

14 MR. R. HICKS: And see -- could I say  
15 something now or not?

16 CHAIRMAN D. DUMEZICH: Sure. Go ahead.

17 MR. R. HICKS: You know, I don't know how  
18 you do your business and you do good business,  
19 I've read stuff about you. I got --

20 Are you Rita?

21 THE REPORTER: No.

22 MR. R. HICKS: Rita was in January 10.  
23 I've got the minutes. They take down everything  
24 you say. This is awesome. So anyway --

25 MR. A. LONG: Sometimes it's not so --

1 MR. R. HICKS: Huh? What?

2 MR. A. LONG: Sometimes with me it's not so  
3 awesome. I say things I probably shouldn't say.

4 MR. R. HICKS: Well, I was reminded of the  
5 minutes, because it said -- you know, it was  
6 even in the minutes, "Rita, can you hear me?"  
7 And then it was in there, "Can you hear me now?"

8 So, you know, we take this stuff seriously  
9 and looked into it and --

10 CHAIRMAN D. DUMEZICH: So you're not  
11 disputing it was late?

12 MR. R. HICKS: No. It was late.

13 CHAIRMAN D. DUMEZICH: Okay. You know  
14 what?

15 MR. A. LONG: I have a motion, whenever you  
16 are all prepared.

17 CHAIRMAN D. DUMEZICH: I'm prepared to hear  
18 a motion.

19 MR. A. LONG: I move that we would give him  
20 back his "get out of jail free" card, reduce  
21 your penalty to 25 percent plus the cost of  
22 mailing, which would have been the penalty had  
23 everything gone through as you had been in the  
24 first time and acknowledge this.

25 MR. R. HICKS: But the point I'm making --

1 I will take that. I'm not going to do away with...  
2 that card again.

3 But you ought to think about signed  
4 receipts. You ought to think about county  
5 chairmen -- you know, I am a schoolteacher --  
6 we're not full-time people, and this is serious  
7 stuff before you guys, and so it wouldn't be a  
8 bad idea that -- you know, that you've got a  
9 signed receipt from the person when these go  
10 out. I don't know if that's doable or something  
11 you want to think about or not, but --

12 CHAIRMAN D. DUMEZICH: I've got a motion on  
13 the floor for 25 percent plus mailing costs in  
14 Cause No. 2009-5527-242. Do I have a second?

15 MS. B. McCLELLAN: Mr. Chairman, I would  
16 second that motion.

17 CHAIRMAN D. DUMEZICH: Having heard a  
18 second, I open the floor to comment, discussion.

19 (No response.)

20 CHAIRMAN D. DUMEZICH: Hearing none, all in  
21 favor of the motion, say aye.

22 THE COMMISSIONERS: Aye.

23 CHAIRMAN D. DUMEZICH: All opposed indicate  
24 by saying nay.

25 (No response.)

1 CHAIRMAN D. DUMEZICH: Ayes have it.

2 At this time we would like to take a  
3 10-minute break, 10-minute break.

4 (A recess was taken.)

5 CHAIRMAN D. DUMEZICH: We're back on the  
6 record.

7 Come on down.

8 MR. D. HARRIS: Donnie Harold Harris,  
9 2011-5894-44.

10 MS. A. TAYLOR: Page 45.

11 MS. M. THOMPSON: This is Public Party,  
12 Cause No. 2011-5894-44, never been before the  
13 Commission and has a civil penalty of \$554.36.

14 CHAIRMAN D. DUMEZICH: And is everything  
15 current now?

16 MS. M. THOMPSON: Yes.

17 MR. A. LONG: Did you say 44?

18 MS. M. THOMPSON: Yes. 45.

19 MS. A. TAYLOR: It's cause 44.

20 CHAIRMAN D. DUMEZICH: So it's cause  
21 2011-5894-44.

22 Sir?

23 MR. D. HARRIS: Yes, sir. I would like to  
24 say, I'm very pleased that this committee here  
25 offers the discounts that you do to everyone in

1 here. I think that's pretty awesome. I think  
2 the 25 percent for me would be very, very  
3 awesome, and I agree that I was late.

4 However, after 14 years and 8 months in my  
5 home, due to the economy collapse, my house was  
6 taken from me right at the exact same week. All  
7 my folders, everything was in trunks and boxes,  
8 and when I finally got the paperwork forwarded  
9 to my new address, I was, unfortunately, a few  
10 days late. I did respond the same day, came  
11 right down to their office, and took care of the  
12 paperwork.

13 So I'm just -- I get a small disability  
14 from the VA, I'm a remodeling contractor that  
15 hasn't worked for a couple of years now, and I'm  
16 asking for some help, if possible.

17 CHAIRMAN D. DUMEZICH: In light of that  
18 kind of a circumstance, I would entertain a  
19 motion.

20 MS. S. RIORDAN: I move to have waive the  
21 penalty.

22 MR. A. LONG: I second.

23 CHAIRMAN D. DUMEZICH: Motion to waive the  
24 penalty and second. Discussion?

25 (No response.)



1 CHAIRMAN D. DUMEZICH: Hearing no  
2 discussion, all in favor of the motion to waive  
3 the penalties indicate by saying aye.

4 THE COMMISSIONERS: Aye.

5 CHAIRMAN D. DUMEZICH: Those opposed, nay.  
6 (No response.)

7 CHAIRMAN D. DUMEZICH: Ayes have it.  
8 Penalty waived.

9 MR. D. HARRIS: Thank you, sir.

10 CHAIRMAN D. DUMEZICH: Thank you very much.

11 MR. A. LONG: Good luck to you.

12 MR. D. HARRIS: Thank you.

13 MR. S. BUSCHMANN: This is  
14 No. 2011-4568-54. I'm Steve Buschmann,  
15 attorney, B-U-S-C-H-M-A-N-N. This is Wayne  
16 Flick, the executive director.

17 THE REPORTER: Wayne Flick?

18 MR. S. BUSCHMANN: Flick.

19 MS. M. THOMPSON: This is the Indiana State  
20 Police Alliance Political Action Committee,  
21 Cause No. 2011-4568-54, has been before the  
22 Commission five times, has a civil penalty of  
23 \$704.02.

24 CHAIRMAN D. DUMEZICH: Are they currently  
25 current with all their filings? And what page

1 are we on?

2 MS. M. THOMPSON: Page 50.

3 CHAIRMAN D. DUMEZICH: Oh, 50.

4 MS. M. THOMPSON: Sorry.

5 CHAIRMAN D. DUMEZICH: No. You said it. I  
6 missed it.

7 MR. A. LONG: Which? There's two on 50.  
8 I'm sorry.

9 MS. M. THOMPSON: The first one, the  
10 Indiana State Police.

11 MR. S. BUSCHMANN: If it pleases the  
12 Commission --

13 CHAIRMAN D. DUMEZICH: Your name?

14 MR. S. BUSCHMANN: Steve Buschmann.

15 CHAIRMAN D. DUMEZICH: Okay.

16 MR. S. BUSCHMANN: I'm the counsel.

17 We had had some late filings under some  
18 previous executive directors and created the  
19 system that that wouldn't happen again. The  
20 person in the office, Kathy Butler, who is  
21 responsible for filing this form, noted on her  
22 calendar that it was due on April the 26th. She  
23 filed it two days in advance of the due date.  
24 Unfortunately, it was due April the 16th.

25 So we are before you again. Again, merely

1 a clerical error on her part on the time which  
2 she thought the report was due. We were, in  
3 fact, eight days late.

4 CHAIRMAN D. DUMEZICH: Been before the  
5 board four times, although I would note that  
6 several of them were 2002.

7 MR. S. BUSCHMANN: They were earlier ones.  
8 That was two executive directors ago.

9 CHAIRMAN D. DUMEZICH: Is this -- just for  
10 clarity sake, is this the first time this  
11 executive director has had a delinquency before  
12 this board?

13 MR. W. FLICK: I started one year ago, and  
14 that happened right after I started, yes.

15 CHAIRMAN D. DUMEZICH: I would entertain a  
16 motion to reduce the fine associated with the  
17 Indiana State Police Alliance Political Action  
18 Committee.

19 (No response.)

20 CHAIRMAN D. DUMEZICH: Hearing none --

21 MR. A. LONG: I move we impose a fine of  
22 \$700 plus the mailing costs.

23 CHAIRMAN D. DUMEZICH: Motion to impose a  
24 fine of \$700 plus mailing costs. Do I hear a  
25 second?

1 MS. S. RIORDAN: Second.

2 CHAIRMAN D. DUMEZICH: Hearing a second,  
3 open for discussion.

4 I would like to indicate this is the first  
5 time this executive director has had the issue  
6 and note that before we go to a vote.

7 Any other comment?

8 (No response.)

9 CHAIRMAN D. DUMEZICH: Hearing none, all in  
10 favor of imposing the full fine of \$700 plus  
11 costs please indicate by saying aye.

12 THE COMMISSIONERS: Aye.

13 CHAIRMAN D. DUMEZICH: All opposed by  
14 indicating nay.

15 (No response.)

16 CHAIRMAN D. DUMEZICH: Motion carries.  
17 Full freight, guys, plus mailing costs.

18 MR. M. WOMACK: Cause number is  
19 2011-4579-33. My name is Mike Womack. I'm the  
20 treasurer for Indiana Forestry and Woodland  
21 Owners Association's Political Action Committee.

22 MS. A. TAYLOR: 39, bottom of 39.

23 MS. M. THOMPSON: This is Indiana Forestry  
24 and Woodland Association PAC, Cause  
25 No. 2011-4579-33, has been before the Commission

1 one other time. They have a total civil penalty  
2 of \$1,004.36.

3 CHAIRMAN D. DUMEZICH: And are they  
4 currently current?

5 MS. M. THOMPSON: Yes, they are.

6 CHAIRMAN D. DUMEZICH: Currently current?  
7 Oh, boy.

8 Okay. Sir, Mr. Womack?

9 MR. M. WOMACK: Thank you. Our previous  
10 treasurer passed away in 2010. It was kind of  
11 towards the middle of 2010. They were looking  
12 for somebody to carry the flag. I did that. I  
13 knew about the filing. On the 13th I filled it  
14 out. We hadn't had any changes in our  
15 paperwork. I put it in the mail on the way to  
16 the hospital to have our third child, and I  
17 never followed up with the Election Commission  
18 to make sure that they received it.

19 We got a letter a few weeks later that said  
20 they hadn't gotten it. I never received it back  
21 in the mail, so I don't know what happened to  
22 it.

23 I would throw myself on the mercy of the  
24 Committee. I wasn't aware of the previous late  
25 filing. That was prior to my being involved.

1           And I've got a picture of my daughter --  
2           she's beautiful -- if you would like to see her,  
3           if it would help my case at all.

4           CHAIRMAN D. DUMEZICH: Straight for the  
5           heartstrings.

6           How much money do you have in your PAC,  
7           just out of curiosity?

8           MR. M. WOMACK: Right now, we've got a  
9           couple hundred bucks, so it will all be coming  
10          out of pocket to cover this. It's a very small  
11          PAC. When we filed this report, we had about  
12          \$1,400. That was in October.

13          MS. S. RIORDAN: I'm going to make a motion  
14          that we reduce it to --

15          CHAIRMAN D. DUMEZICH: Before you finish  
16          that, did you say your third girl or your --

17          MR. M. WOMACK: It's actually my first  
18          girl. I have two boys.

19          CHAIRMAN D. DUMEZICH: Okay. We don't need  
20          a whole lot of sympathy.

21          MS. S. RIORDAN: -- to reduce it to  
22          25 percent of the existing fine plus mailing  
23          costs.

24          CHAIRMAN D. DUMEZICH: Having a motion to  
25          reduce it to 25 percent of existing fine plus

1 mailing costs, do I hear a second?

2 MR. A. LONG: Second.

3 CHAIRMAN D. DUMEZICH: Having heard motion  
4 to second, open for discussion.

5 (No response.)

6 CHAIRMAN D. DUMEZICH: It's still a  
7 violation.

8 MR. M. WOMACK: I understand. I'm sorry.  
9 It won't happen again. I appreciate it very  
10 much. Thank you.

11 MR. A. LONG: Congratulations on your  
12 daughter.

13 MR. M. WOMACK: I appreciate that.

14 CHAIRMAN D. DUMEZICH: All in favor of the  
15 motion say aye.

16 THE COMMISSIONERS: Aye.

17 CHAIRMAN D. DUMEZICH: All opposed?

18 (No response.)

19 MR. A. LONG: I thought we voted.

20 CHAIRMAN D. DUMEZICH: The ayes have it.

21 MR. M. WOMACK: Thank you.

22 CHAIRMAN D. DUMEZICH: Next? Is this the  
23 last campaign finance violation?

24 (No response.)

25 MR. T. DeLUCA: I have three administrative

1 cause numbers: 2011-5858-17, -67, and -96.

2 CHAIRMAN D. DUMEZICH: And your name, sir?

3 MR. T. DeLUCA: My name is Thomas DeLuca,  
4 and I am representing Democracy for Tippecanoe.

5 MS. A. TAYLOR: There is 16, 30, and 56.

6 CHAIRMAN D. DUMEZICH: 16.

7 MR. T. DeLUCA: I would also request the  
8 amount of the fines. I don't know of anything  
9 short of what's on these three sheets of papers.

10 CHAIRMAN D. DUMEZICH: Ladies, would you  
11 care to enlighten us --

12 MS. M. THOMPSON: Okay.

13 CHAIRMAN D. DUMEZICH: -- as to his many  
14 violations.

15 MS. M. THOMPSON: He's got three different  
16 violations here, Democracy for Tippecanoe.

17 The first one is 2011-5858-17. It's with  
18 the -- never been before the Commission before  
19 and has a total penalty of a \$1,004.02; again on  
20 page 30, 2011-5858-96, has a proposed civil  
21 penalty of \$1,004.36; and 56, 2011-5858-67, for  
22 another \$1,004.02.

23 MR. A. LONG: Can you tell us, the first  
24 one, the 17, that's for what report?

25 MS. A. TAYLOR: The 2009 annual report.



1 CHAIRMAN D. DUMEZICH: It says comments,  
2 "Letter." Has that been filed?

3 MS. M. THOMPSON: Yes. That one is  
4 paper-clipped, the letter part. It's got the  
5 black paper clip. It's a big packet there.

6 MR. A. LONG: Can I ask you, is the  
7 pre-primary, is that the 96 one?

8 MS. A. TAYLOR: The pre-primary is the 67.

9 MR. A. LONG: Okay. And then the 2010  
10 annual is the 96?

11 MS. M. THOMPSON: Correct.

12 MR. A. LONG: And it's not been filed yet?

13 MS. M. THOMPSON: No.

14 MR. A. LONG: And the letter --

15 MS. M. THOMPSON: It's the packet  
16 paper-clipped, the big one, binder-clipped.

17 MR. T. DeLUCA: Which of these reports have  
18 been filed with your office, and on what date  
19 were they filed?

20 MS. A. TAYLOR: The annual was filed -- the  
21 2009 annual was filed October 13th, and the 2010  
22 pre-primary was filed October 13th.

23 MS. M. THOMPSON: And the 2010 has not been  
24 filed.

25 MR. T. DeLUCA: Okay.

1. MR. A. LONG: And it's due now?

2 MS. M. THOMPSON: It's due January 18th.

3 MR. A. LONG: He's going to be back.

4 MS. M. THOMPSON: We have him all three on  
5 this one. This is for the annual, this past  
6 annual one.

7 MR. A. LONG: Oh, it's already accumulated  
8 a thousand dollar fine; so it's okay.

9 CHAIRMAN D. DUMEZICH: Something is not  
10 filed?

11 MS. A. TAYLOR: That's the 2010 annual,  
12 which is due January 19th.

13 CHAIRMAN D. DUMEZICH: Does this remain  
14 still open? It is, because we've got --  
15 Sir?

16 MR. T. DeLUCA: Okay. I apologize if --  
17 I'm going to try to present this in an order  
18 that's understandable. I'm a bit nervous. This  
19 is my first time in front of a board like this.

20 MR. A. LONG: We're pretty laid back. You  
21 don't need to be too nervous. We may not always  
22 agree with you, but we don't lock anybody up.  
23 We never have, even though we would like to a  
24 couple of times.

25 MR. T. DeLUCA: I mean, I guess I would

1           like to start with saying that it wasn't until  
2           this morning when I called and spoke with Abbey,  
3           the IEC, that I even knew that we had any  
4           reports filed with the State for 2009 annual and  
5           pre-primary, and those must have been submitted  
6           by our former treasurer, or this organization's  
7           former treasurer, Raj Seshu.

8           Knowing that, here I have -- gosh, I just  
9           don't know where to start. As far as the  
10          history of the organization is concerned -- let  
11          me start with that -- on 4/27/09 the  
12          organization was formed, filed with the State  
13          and then filed with our county, which is  
14          Tippecanoe County, which has -- whose election  
15          board has its own set of special rules, which  
16          leads to a further confusion I may have had.

17          The organization was formed, first and  
18          foremost, to collect contributions at a  
19          reception that was held after a weekend-long  
20          campaign training session so that we could  
21          appropriately pay for the expenses and so on.

22          As soon as I became aware as the  
23          chairperson of the committee that the annual  
24          report was not filed, I immediately requested  
25          from the treasurer any and all documents so that

1 I could appoint a new treasurer and get matters  
2 settled promptly, at which point he said that he  
3 would take care of it, he knows that he would be  
4 fined, he would have fines and he would pay them  
5 and he would get it in, and as you can see, the  
6 report was not filed promptly. In fact, for  
7 months afterwards, I had repeatedly requested  
8 from him any and all documents. The most I  
9 received at one point were blank checks issued  
10 by the bank when we first opened our account.

11 When I finally received all materials,  
12 according to him, it was simply the bank  
13 materials, like the checkbook and paperwork  
14 filed with the bank. I never actually received,  
15 say, copies of checks that were received,  
16 totals. To this date, I don't know the details  
17 of what was actually contributed at that initial  
18 fund-raiser. All I know is it wasn't a whole  
19 lot, given future funds that were raised for  
20 campaign purposes.

21 CHAIRMAN D. DUMEZICH: But a report was  
22 filed; correct?

23 MR. T. DeLUCA: In October of last year;  
24 correct? I have never seen the report. I was  
25 not given a copy of the report. I was not --

1           CHAIRMAN D. DUMEZICH: So it was not filed  
2 by you? Okay.

3           MR. T. DeLUCA: It was filed completely by  
4 the rogue treasurer, I guess, who never  
5 consulted with me at all about it.

6           What I did do was appoint a new  
7 treasurer -- actually, first for the pre-primary  
8 2010 report, which I have a copy of here, I  
9 assembled the report myself, had him look it  
10 over, since we were co-workers, which when he  
11 signed it as treasurer it's here and it was  
12 submitted on time, on the 16th, with the county  
13 election board.

14           Now, I was under the impression, perhaps  
15 falsely, that if we had filed both with the  
16 State and with the County, because the state  
17 file number is used with the county, those  
18 reports would get forwarded on to the State,  
19 faxed over. That was probably an oversight on  
20 my part.

21           Heather Maddox, on the election board, has  
22 said that she's done things in the past  
23 similarly for state representative candidates,  
24 like Sheila Klinker, who lives in the county,  
25 files reports locally and then has those faxed

1 over. But I never gave any specific requests to  
2 have them faxed over. I just assumed, again,  
3 perhaps falsely, that by having an IEC file  
4 number on the organization's paperwork that it  
5 would get there. For that, I apologize.

6 But I brought here for you a copy of all  
7 paperwork on file with the County, which  
8 includes the pre-primary report.

9 On September 17th I filed paperwork again  
10 with the county election board to replace the  
11 treasurer, who had grown incredibly negligent,  
12 and probably should have replaced him a lot  
13 sooner, and then filed a pre-election 2010  
14 report and the annual 2010 report, both with the  
15 county election board, again thinking that it  
16 would get passed on to the State somehow, but it  
17 didn't. Now, I don't know what reports --

18 CHAIRMAN D. DUMEZICH: Can we take those  
19 into the record? Have these been filed now with  
20 us? Or you don't know what's been filed and  
21 what hasn't?

22 MS. M. THOMPSON: No, it hasn't.

23 CHAIRMAN D. DUMEZICH: Rather than take it  
24 into the record, I think he should probably file  
25 it with them; right?

1 MR. T. DeLUCA: All I can say with any  
2 accuracy is that this is what's on file with the  
3 Tippecanoe Election Board; and I just had copies  
4 made this morning and brought them here; so I  
5 would like to submit them, if I can.

6 CHAIRMAN D. DUMEZICH: And it's noted how  
7 strongly you stand behind the statements.

8 MR. T. DeLUCA: Well, this is freaking me  
9 out. I also --

10 CHAIRMAN D. DUMEZICH: Hey, don't worry.  
11 We can't put anybody in jail, because if we  
12 could, you would already be there.

13 MR. T. DeLUCA: The fines are all so  
14 intimidating, especially considering at the  
15 moment I'm unemployed. I am seeking new job  
16 prospects and I have Sallie Mae breathing down  
17 my neck for student loan payments. So this is  
18 not something I'm excited to --

19 MR. A. LONG: Let's see what you have and  
20 we'll turn it in to these folks as filings.

21 MR. T. DeLUCA: Okay. I mean, the only one  
22 thing I don't have a copy of is the annual 2009  
23 report, and I have never actually seen it, and I  
24 would like to see it and confirm.

25 MS. M. THOMPSON: Okay. When we're

1 finished here, I can go upstairs and help you.

2 MR. T. DeLUCA: Thank you. What should I  
3 do with these?

4 MS. S. RIORDAN: Can we just look at them  
5 for a second.

6 CHAIRMAN D. DUMEZICH: Yeah. Yeah.

7 MR. T. DeLUCA: Now, I also have a  
8 statement from the Tippecanoe County Election  
9 Board Co-Director, Heather Maddox, just  
10 attesting to the fact that while dealing with  
11 this and the original annual 2009 report that I  
12 have been constantly in contact with my  
13 treasurer, and just all attempts were  
14 unsuccessful at trying to get the materials from  
15 him. So I could present that to the board, as  
16 well, and then copies of e-mails, but that's  
17 kind of, I don't know, childish. But, I mean,  
18 if you want to read them, they're just several  
19 attempts I've made with him via e-mail to get  
20 the materials.

21 MR. A. LONG: Other than moneys you and  
22 your rogue treasurer have put in yourselves, how  
23 much money have you raised through fund-raising  
24 activities?

25 CHAIRMAN D. DUMEZICH: According to the



1 reports.

2 MR. A. LONG: As best you can tell.

3 CHAIRMAN D. DUMEZICH: We're not trying to  
4 hang you up. We're just trying to --

5 MR. T. DeLUCA: I just handed them to you.  
6 I want to say somewhere between 5- and 7,000  
7 maybe for -- used during the 2010 election  
8 period, and those funds --

9 I'm paralyzed. Can I pass these along  
10 first?

11 CHAIRMAN D. DUMEZICH: Sure.

12 MR. T. DeLUCA: Okay. I should be clear in  
13 stating that the PAC was formed mostly to obtain  
14 an ActBlue account. And I don't know if anyone  
15 is not familiar with ActBlue, but ActBlue is a  
16 national clearinghouse that allows candidates at  
17 the state level and PACs at the state level to  
18 receive contributions online by credit card.

19 We started a statewide PAC to be able to  
20 provide county-level candidates with  
21 fund-raising pages. So, in other words, we  
22 would receive contributions by ActBlue earmarked  
23 to specific candidates and then pass those  
24 contributions along. So those were the funds  
25 raised exclusively during the 2010 election

1 cycle.

2 MS. S. RIORDAN: Who is Jamie Wittenberg?

3 MR. T. DeLUCA: Jamie Wittenberg is the  
4 current treasurer that I appointed on the --

5 MS. S. RIORDAN: Did you file your 2010  
6 pre-primary in the county?

7 MR. T. DeLUCA: Yes.

8 MS. S. RIORDAN: Okay. Because I've got  
9 it, and there's no county stamp on it.

10 MR. T. DeLUCA: And I noticed that this  
11 morning, too.

12 MS. S. RIORDAN: I've got your 2010  
13 pre-general, and that was filed with the county  
14 but not with you; correct? Or is it --

15 MS. M. THOMPSON: We have the pre-elect.

16 MS. S. RIORDAN: You have the pre-elect?

17 MS. M. THOMPSON: Uh-huh.

18 MS. S. RIORDAN: And you have the  
19 pre-primary?

20 MS. M. THOMPSON: Uh-huh.

21 MS. S. RIORDAN: Okay. So those were  
22 filed. It's just the annual?

23 MS. M. THOMPSON: Annual.

24 MS. S. RIORDAN: And I don't even see the  
25 annual --

1 MR. T. DeLUCA: I raised my concern about  
2 the stamp this morning when I received copies,  
3 but Heather Maddox's phone number is included.

4 MS. S. RIORDAN: What I would say is -- I  
5 would agree with a motion to give them a break  
6 on the fine with a strong recommendation that  
7 you download the Campaign Finance Handbook and  
8 you put Abbey Taylor's phone number in bold and  
9 you calendar the dates that all these various  
10 reports are due, and with that -- I don't know.  
11 I mean, I don't know what you think is  
12 reasonable.

13 CHAIRMAN D. DUMEZICH: You know what?  
14 Let's make sure he's in full compliance and then  
15 come back on March 14th.

16 MS. S. RIORDAN: Fair enough.

17 CHAIRMAN D. DUMEZICH: And by that time,  
18 you can sort through the crap, get everything in  
19 full compliance, and we can decide what to do  
20 with him.

21 MR. A. LONG: And if he's fortunate to get  
22 a job by then, he doesn't have to come back on  
23 the 14th, but we'll get a report back from these  
24 folks if you've got everything in order. I  
25 would suggest, once this meeting is adjourned

1           today, you get a Campaign Finance Manual, you  
2           get copies of whatever we have that you don't  
3           have, and then I'm going to turn these over to  
4           these finance ladies, and they will be  
5           showing -- if we don't already have it, they  
6           will be shown his file today by you.

7           And, Mr. Chairman, I think that is probably  
8           documented as an exhibit.

9           CHAIRMAN D. DUMEZICH: Yeah. If we can get  
10          this marked as --

11          MR. A. LONG: I would say that we table  
12          these three until we get it resolved, and I  
13          think you can probably leave here with some  
14          degree of confidence, if you get it all squared  
15          away, you're probably going to get a significant  
16          reduction in your penalty.

17          CHAIRMAN D. DUMEZICH: But the next time  
18          full freight.

19          MR. A. LONG: Yeah.

20          CHAIRMAN D. DUMEZICH: Next time it's --

21          MR. A. LONG: If you're going to have three  
22          appearances here, it puts you into the hundred  
23          percent category next time, so --

24          CHAIRMAN D. DUMEZICH: Okay? Fair enough?

25          MR. T. DeLUCA: That's fair enough.

1 MR. A. LONG: I move to table this until  
2 March the 14th and -- to close the hearing and  
3 then to table the matter for decision until  
4 March the 14th for report from staff.

5 CHAIRMAN D. DUMEZICH: Second?

6 MS. S. RIORDAN: Second.

7 CHAIRMAN D. DUMEZICH: Hearing a second,  
8 any discussion on the matter?

9 (No response.)

10 CHAIRMAN D. DUMEZICH: Hearing none, all in  
11 favor of the motion to close the hearing and  
12 table this until March 14th, please indicate by  
13 saying aye.

14 THE COMMISSIONERS: Aye.

15 CHAIRMAN D. DUMEZICH: And any opposed  
16 please indicate by saying nay.

17 (No response.)

18 CHAIRMAN D. DUMEZICH: 4-0. Motion to  
19 table has been granted.

20 I would like to hear a hearing report on  
21 the motions to continue that we have. Motions  
22 to continue on this; right?

23 MR. A. LONG: We've got to impose the fines  
24 on the ones that didn't appear today.

25 CHAIRMAN D. DUMEZICH: We will hear any

1 discussion relevant to what you want to do.

2 MR. A. LONG: Other than before we get down  
3 to an en masse fine on everybody else.

4 MS. M. THOMPSON: Right. On page 2, Wells  
5 County Republican Central Committee. They're  
6 also on page 20.

7 MR. A. LONG: They want a continuance, do  
8 they not?

9 MS. M. THOMPSON: Correct.

10 MR. A. LONG: I would -- just the two on  
11 them?

12 MS. M. THOMPSON: Just the two on those.

13 MR. A. LONG: I would move that they be  
14 continued, and depending on their situation,  
15 either until the 14th or, if that's too quick  
16 for them to get whatever they need, to the next  
17 meeting, but grant their motion for continuance.

18 CHAIRMAN D. DUMEZICH: I hear a motion to  
19 grant Wells County Republicans to continue.

20 MS. S. RIORDAN: Second.

21 CHAIRMAN D. DUMEZICH: Hearing a second,  
22 any discussion?

23 (No response.)

24 CHAIRMAN D. DUMEZICH: Hearing none, all in  
25 favor of the motion to continue Wells County

1           Republicans indicate by saying aye..

2           THE COMMISSIONERS: Aye.

3           CHAIRMAN D. DUMEZICH: All opposed say nay.

4           (No response.)

5           CHAIRMAN D. DUMEZICH: 4-0. Motion

6 carries.

7           Next?

8           MS. M. THOMPSON: Page 10, MidAmerican  
9 Political Action Committee has a request for  
10 continuance.

11          MR. A. LONG: Only the one page?

12          MS. M. THOMPSON: Just the one page.

13          MR. A. LONG: I move that we grant their  
14 motion.

15          CHAIRMAN D. DUMEZICH: Motion to grant  
16 MidAmerican Political Action Committee with a  
17 continuance. Do I hear a second?

18          MS. S. RIORDAN: Second.

19          CHAIRMAN D. DUMEZICH: Hearing a second,  
20 any discussion?

21          (No response.)

22          CHAIRMAN D. DUMEZICH: Hearing none, motion  
23 to continue MidAmerican Political Action  
24 committee, all in favor say aye.

25          THE COMMISSIONERS: Aye.

1 CHAIRMAN D. DUMEZICH: Opposed?

2 (No response.)

3 CHAIRMAN D. DUMEZICH: Hearing none, motion  
4 carries 4-0.

5 MS. M. THOMPSON: And one more continuance  
6 is on page 55, Grant County Democrat Central  
7 Committee.

8 MR. A. LONG: Just the one page?

9 MS. M. THOMPSON: Just the one page.

10 MR. A. LONG: I move that that be granted.

11 CHAIRMAN D. DUMEZICH: I have a motion to  
12 grant the --

13 MR. A. LONG: Grant County.

14 CHAIRMAN D. DUMEZICH: -- yeah, motion to  
15 grant Grant County with a continuance on their  
16 matter.

17 MS. S. RIORDAN: Second.

18 CHAIRMAN D. DUMEZICH: Hearing a second,  
19 any discussion?

20 (No response.)

21 CHAIRMAN D. DUMEZICH: Hearing no  
22 discussion, all in favor of the motion to grant.  
23 Grant County continuance, please indicate by  
24 saying aye.

25 THE COMMISSIONERS: Aye.



1 CHAIRMAN D. DUMEZICH: All opposed?

2 (No response.)

3 CHAIRMAN D. DUMEZICH: Motion carries 4-0.

4 MS. M. THOMPSON: Okay. Page 61, this is  
5 Cindy Meyer Ziemke for State Representative.

6 This was one that was tabled from the last 9/2  
7 meeting. We took the testimony and we needed  
8 the quorum of all of you to --

9 CHAIRMAN D. DUMEZICH: Oh, that's right.

10 MS. M. THOMPSON: And we told her she  
11 didn't have to come back.

12 CHAIRMAN D. DUMEZICH: And, procedurally,  
13 can you say what the motion was? Do you  
14 remember what the motion was?

15 MR. A. LONG: What her violation is, what  
16 her position -- I don't remember. Well, I  
17 wasn't here. That's why I don't remember.

18 MS. S. RIORDAN: Did she have a pre-primary  
19 large contribution supplemental that she failed  
20 to file?

21 MS. M. THOMPSON: Right.

22 MS. S. RIORDAN: Okay. And how many days  
23 did she miss it by?

24 MS. M. THOMPSON: Eleven.

25 MS. S. RIORDAN: Was it a situation she

1 filed with the County but failed to file with  
2 the State?

3 CHAIRMAN D. DUMEZICH: What was the total  
4 amount raised by --

5 MS. A. TAYLOR: \$51,000.

6 CHAIRMAN D. DUMEZICH: That's significant.

7 MS. S. RIORDAN: Yeah.

8 CHAIRMAN D. DUMEZICH: But it is her first  
9 violation.

10 MR. A. LONG: Yes. That's what it says  
11 here.

12 MS. A. TAYLOR: I'm not sure if she filed  
13 with the County because she files online.

14 MS. S. RIORDAN: Did she file her 2010  
15 year-end or did she close it before then?

16 MS. A. TAYLOR: I believe she closed it  
17 before then.

18 MS. S. RIORDAN: But she would still have  
19 to file it, wouldn't she?

20 MS. A. TAYLOR: She closed it in November  
21 of 2010.

22 MS. S. RIORDAN: And did they have anything  
23 on hand at that time?

24 MS. A. TAYLOR: No.

25 CHAIRMAN D. DUMEZICH: And the motion that

1 was tabled is what? Was it --

2 MS. A. TAYLOR: I don't think we --

3 MR. A. LONG: You couldn't reduce it  
4 because I wasn't here. It takes unanimous, and  
5 I had to leave.

6 MS. A. TAYLOR: Yeah. I don't think there  
7 was a motion. I think she just came and --

8 CHAIRMAN D. DUMEZICH: Okay. I'd entertain  
9 a motion to reduce the penalty.

10 MS. S. RIORDAN: I'm going to say reduce it  
11 to 25 percent.

12 CHAIRMAN D. DUMEZICH: Hear a motion to  
13 reduce the penalty of \$550 for the Cindy Meyer  
14 Ziemke for State Representative Committee,  
15 motion to reduce the 550-dollar penalty by 25  
16 plus --

17 MR. A. LONG: To 25 percent.

18 CHAIRMAN D. DUMEZICH: -- to 25 percent  
19 plus mailing costs.

20 MR. A. LONG: Second.

21 CHAIRMAN D. DUMEZICH: Hearing a second,  
22 any discussion?

23 (No response.)

24 CHAIRMAN D. DUMEZICH: Hearing no  
25 discussion, all in favor of the motion to reduce

1 the fine on the Cindy Meyer Ziemke for State  
2 Representative Committee from \$550 to 25 percent  
3 of that amount plus mailing costs indicate by  
4 saying aye.

5 THE COMMISSIONERS: Aye.

6 CHAIRMAN D. DUMEZICH: All opposed?

7 (No response.)

8 CHAIRMAN D. DUMEZICH: Motion carries 4-0.

9 MS. M. THOMPSON: All right. Page 2,  
10 Citizens to Save our Assessors is on page 2 and  
11 page 8.

12 CHAIRMAN D. DUMEZICH: Save our Assessors.

13 MS. M. THOMPSON: These were continued from  
14 the 3/16 meeting.

15 MS. A. TAYLOR: I believe at that meeting,  
16 the committees who were closed got their fines  
17 dismissed, and this committee was told that if  
18 they closed, then you would discuss their  
19 penalty.

20 MR. A. LONG: These are both closed?

21 MS. A. TAYLOR: Yes.

22 MR. A. LONG: All their filings in order?

23 MS. A. TAYLOR: Yes.

24 MR. A. LONG: I move that we waive their  
25 penalties if they're closed.

1           CHAIRMAN D. DUMEZICH: Motion on the floor  
2           to waive penalties associated with the Citizens  
3           to Save our Assessors. Do I hear a second?

4           MS. S. RIORDAN: Second.

5           CHAIRMAN D. DUMEZICH: Hearing a second, do  
6           I hear any discussion?

7           (No response.)

8           CHAIRMAN D. DUMEZICH: Hearing no  
9           discussion, all in favor of the motion to waive  
10          penalties associated with Citizens to Save our  
11          Assessors indicate by saying aye.

12          THE COMMISSIONERS: Aye.

13          CHAIRMAN D. DUMEZICH: Opposed?

14          (No response.)

15          CHAIRMAN D. DUMEZICH: Hearing none, motion  
16          carries 4-0.

17          MS. M. THOMPSON: All right. And this is  
18          the last one, page 10, Portage Firefighters  
19          Local 3151 Political Action Committee. This  
20          actually was assessed a fine of \$1,000, but it  
21          was our mistake. It should have been \$650.

22          MR. A. LONG: Motion to amend the order?

23          MS. M. THOMPSON: Right. So we wanted to  
24          bring this back before the board.

25          MR. A. LONG: I would move to amend the

1 order to \$650 to reflect the fine of \$650.

2 MS. S. RIORDAN: Second.

3 MR. A. LONG: But they've never been before  
4 us before?

5 MS. M. THOMPSON: No. But they have failed  
6 to file previously. They have delinquencies.

7 MR. A. LONG: I think the report is wrong.  
8 We wouldn't have fined them \$1,000 on a first  
9 time before the board, would we?

10 MS. A. TAYLOR: They didn't appear at that.

11 MR. A. LONG: That's the pre-primary --

12 CHAIRMAN D. DUMEZICH: Well, I've got a  
13 motion on the floor, so --

14 MR. A. LONG: I've got a motion to amend  
15 the order. I was just curious as to --

16 CHAIRMAN D. DUMEZICH: We have a motion to  
17 amend the order from \$1,000 down to \$650 plus  
18 mailing costs for the Portage Firefighters Local  
19 3151 Political Action Committee, and I also  
20 heard a second. Any discussion on this matter?

21 (No response.)

22 CHAIRMAN D. DUMEZICH: Hearing none,  
23 everyone in favor of the motion to amend the  
24 Portage Firefighters Local 3151 Political Action  
25 Committee fine from \$1,000 to \$650 plus mailing

1 costs please indicate by saying aye. . . . .

2 THE COMMISSIONERS: Aye.

3 CHAIRMAN D. DUMEZICH: Any opposed?

4 (No response.)

5 CHAIRMAN D. DUMEZICH: Motion carries 4-0.

6 MS. M. THOMPSON: That's our cleanup.

7 MR. A. LONG: And I would move, on all the  
8 rest of them that failed to appear today that we  
9 impose the proposed fine plus mailing costs.

10 CHAIRMAN D. DUMEZICH: I have a motion on  
11 the floor to impose full fines for anyone who  
12 failed to appear today. Do I hear a second?

13 MS. B. McCLELLAN: Second.

14 CHAIRMAN D. DUMEZICH: Hearing a second,  
15 any discussion?

16 MR. A. LONG: That's all. No.

17 CHAIRMAN D. DUMEZICH: Okay. There's a  
18 motion on the floor to impose full fines on  
19 anyone who failed to appear today. Having the  
20 motion to second, hearing no discussion, all in  
21 favor of the motion, say aye.

22 THE COMMISSIONERS: Aye.

23 CHAIRMAN D. DUMEZICH: All opposed?

24 (No response.)

25 CHAIRMAN D. DUMEZICH: Motion carries 4-0.

1 I'm thinking for the knuckleheads that  
2 didn't show up that -- somewhere today we had  
3 something where we referred them to the Attorney  
4 General for prosecution or collection, whatever.  
5 Could we also have that prepared, that group  
6 prepared for --

7 MS. S. RIORDAN: We have to give them a  
8 chance to pay it first.

9 MR. A. LONG: We have to enter in  
10 the orders.

11 MS. A. TAYLOR: We have to send the orders,  
12 and then we have to give them 30 days.

13 MS. S. RIORDAN: And then turn it over.

14 MR. A. LONG: But we probably -- we may  
15 have some that go over to the Attorney General  
16 next month.

17 MS. M. THOMPSON: I will have some more  
18 next time.

19 CHAIRMAN D. DUMEZICH: What do we have  
20 left? Next on the agenda is Order No. 2011-46.  
21 Can you report on this order, Brad?

22 MR. B. KING: Yes. Mr. Chairman and  
23 Members of the Commission, I think my colleague  
24 has distributed copies of Order 2011-46.

25 Following the approval of the forms under



1           2011-45, we discovered that there had been a  
2           miscommunication between us, and so we absented  
3           ourselves from the meeting to draft the order  
4           that stands before you.

5           This is also for a 2012 petition form, but  
6           it will be for the May 2012 presidential  
7           primary. And if you will flip to the third page  
8           of the document, you will see a form that may  
9           look familiar. It's identical to the form used  
10          in 2008. All that's been changed is updating  
11          references to 2012 dates in the instructions and  
12          the text of the form.

13          I will be happy to answer questions.

14          MR. A. LONG: I move to approve  
15          Order 2011-46 and the form noted.

16          CHAIRMAN D. DUMEZICH: I have a motion to  
17          approve Order 2011-46 and the forms that are  
18          attached.

19          MS. B. McCLELLAN: I would second that  
20          motion.

21          CHAIRMAN D. DUMEZICH: I have a second to  
22          approve. Any discussion?

23          (No response.)

24          CHAIRMAN D. DUMEZICH: Hearing none,  
25          everyone in favor of approving the Order 2011-46

1 and the form attached to it, please indicate by  
2 saying aye.

3 THE COMMISSIONERS: Aye.

4 CHAIRMAN D. DUMEZICH: Any opposed?

5 (No response.)

6 CHAIRMAN D. DUMEZICH: 4-0 in favor.

7 Motion carries.

8 Okay. I would like to recognize

9 Ray Scheele --

10 MR. R. SCHEELE: Scheele.

11 CHAIRMAN D. DUMEZICH: -- Scheele -- sorry  
12 about that, Ray -- or other representatives from  
13 Ball State for the presentation of Voting System  
14 Technical Oversight Program report. Ray will  
15 discuss the testing schedule for the Unisyn  
16 optical scan voting system.

17 MR. R. SCHEELE: All right. Thank you.

18 Mr. Chairman and Commissioners --

19 CHAIRMAN D. DUMEZICH: Let me apologize for  
20 botching your name. I, among everybody here,  
21 should be sensitive to that, more sensitive to  
22 names.

23 MR. R. SCHEELE: You would be surprised  
24 what I've been called sometimes. That's fine.

25 Again, I'm Ray Scheele, and we have a

1 couple of things to discuss with you quickly:  
2 With me is Dr. Jay Bagga, who is the co-director  
3 of the VSTOP program, as well. And, of course,  
4 I think you also remember Dr. Joe Losco, who is  
5 part of our VSTOP team.

6 We want to give you a briefing today on  
7 three different items, and then we will talk to  
8 you about one action item here at the end  
9 concerning an ECO, or what we call an  
10 engineering change of order, on a voting system.

11 But I will turn it over to Joe first, just  
12 to give you the background and briefing on a  
13 couple, three issues.

14 Joe.

15 MR. J. LOSCO: Mr. Chairman, members of the  
16 Commission, the first item we wanted to report  
17 on is our progress on certifying a new system,  
18 the Unisyn OpenElect 1.0 op scan system.  
19 Indiana's is the first state in which this  
20 system is being asked to be certified.

21 It has been certified thus far by the  
22 U.S. Election Assistance Commission. The IEC-11  
23 has been filed. We've been working to review  
24 the VSTL lab reports. We are ready to do our  
25 hands-on inspection, and Unisyn will be in

1 Muncie to have us conduct this on this  
2 Wednesday. So we are moving along on that and  
3 hope to have that done soon.

4 The second system for which an IEC-11 has  
5 been filed is the ES&S --

6 MR. A. LONG: Let me stop just a second.

7 MR. J. LOSCO: Yeah. Sure.

8 MR. A. LONG: The one on the -- Unisyn, is  
9 that the way you pronounce it?

10 MR. J. LOSCO: Yes.

11 MR. A. LONG: They've got an application  
12 pending here?

13 MR. J. LOSCO: Yes.

14 MR. A. LONG: And that's -- has it gone out  
15 to the independent testing?

16 MR. J. LOSCO: Yes, it has.

17 MR. A. LONG: And then you all are  
18 monitoring this and then going to give us a  
19 report later? Did you indicate you're going to  
20 test it coming up soon?

21 MR. J. LOSCO: Yes. Part of our protocol  
22 involves reviewing the VSTL lab report, which we  
23 have done, and then calling them in for a  
24 hands-on inspection, which we will do this  
25 Wednesday.

1           CHAIRMAN D. DUMEZICH: Am I correct in  
2           thinking this is -- just to make sure I  
3           understand, this the first individual state --

4           MR. J. LOSCO: Yes.

5           CHAIRMAN D. DUMEZICH: -- that they've had  
6           an application with?

7           MR. J. LOSCO: Yes.

8           MR. R. SCHEELE: That's our understanding.

9           MR. A. LONG: Could we have in advance of  
10          our March 14th meeting -- you may not be ready  
11          to report by then, but because this is something  
12          that I'm going to spend more time studying  
13          before the meeting, I want to see if you're  
14          going to have something at a meeting for sure,  
15          I'm going to want to see it well in advance of  
16          the meeting, and it would be nice to get just a  
17          report on your hands-on. If we're first up on  
18          the agenda, we're going to --

19          MR. J. LOSCO: Sure. We would love to do  
20          that.

21          MR. R. SCHEELE: Yeah.

22          CHAIRMAN D. DUMEZICH: It's with great  
23          trepidation, being first -- obviously, everybody  
24          should do their job, but we want to be really,  
25          really careful.

1 MR. J. LOSCO: Sure. We understand that,  
2 Mr. Chairman. And you're all welcome on  
3 Wednesday to come and watch at the Alumni Center  
4 starting at 8:30 on Wednesday.

5 MR. R. SCHEELE: We will videotape it, if  
6 you want to watch the tape.

7 CHAIRMAN D. DUMEZICH: Send me the DVD.

8 MR. A. LONG: That might be interesting to  
9 watch.

10 MR. R. SCHEELE: Absolutely. Good.

11 MR. J. LOSCO: We will do that.

12 Any questions on that item?

13 MR. A. LONG: I think the fact you guys are  
14 doing this is most assuring to me. Of course,  
15 I've known Ray for years, but the fact that  
16 we've got an Indiana university that's taking a  
17 look at this and helping us, I feel much better  
18 about it than what I used to.

19 MR. J. LOSCO: Thank you. The second --

20 MR. A. LONG: I want to get these folks  
21 separated out from ES&S, because I think we're  
22 done with Unisyn.

23 CHAIRMAN D. DUMEZICH: Yes. Tell us about  
24 ES&S.

25 MR. J. LOSCO: ES&S has filed an IEC-11 for

1 a new system, the 3.2.1.0. That is currently in  
2 testing in Huntsville, Alabama. The VSTL report  
3 is not yet ready. When we get that, we will  
4 start our investigation. We will then also  
5 invite representatives to come and bring their  
6 system to Muncie and do a hands-on test on that,  
7 as well.

8 MR. A. LONG: Is someone here from ES&S  
9 today?

10 MR. J. LOSCO: Yes.

11 MR. A. LONG: Maybe we should bring him up  
12 front.

13 MR. R. SCHEELE: Sure.

14 CHAIRMAN D. DUMEZICH: Sir, were you here  
15 when the oath was administered?

16 MR. S. PEARSON: No, I was not.

17 CHAIRMAN D. DUMEZICH: Dale, please  
18 administer --

19 Do you plan on testifying, sir?

20 MR. S. PEARSON: If called upon, yes.

21 CHAIRMAN D. DUMEZICH: You know what, Dale?  
22 Swear him in, because we're going to call upon  
23 him.

24 MR. D. SIMMONS: Raise your right hand,  
25 please.

1 MR. R. SCHEELE: We weren't either.

2 CHAIRMAN D. DUMEZICH: Oh, you guys weren't  
3 either? Oh.

4 MR. D. SIMMONS: So "I do" after the  
5 administration of the oath. Do you swear or  
6 affirm under the penalties of perjury the  
7 testimony you're about to give the Commission at  
8 today's meeting is the truth, the whole truth,  
9 and nothing but the truth? Say, "I do."

10 MR. R. SCHEELE: I do.

11 MR. J. LOSCO: I do.

12 MR. S. PEARSON: I do.

13 MR. J. BAGGA: I do.

14 MR. J. LOSCO: And I will affirm that for  
15 what I've already testified to.

16 CHAIRMAN D. DUMEZICH: Tony would like to  
17 have you within arm's length. And it's my job  
18 to hold you.

19 MS. S. RIORDAN: Stop it.

20 MR. J. LOSCO: So as far as the 3.2.1.0 we  
21 just wanted to inform you that the application  
22 has been filed and we're working on it.

23 Any other questions about that system?

24 (No response.)

25 MR. J. LOSCO: There is one other issue



1       that you may have heard about, and that has to  
2       do with the current ES&S 3.2.0.0. Ray has given  
3       out a packet to you regarding this.

4             A component, the DS200, experienced some  
5       problems in the May 4, 2010, primary election in  
6       Cuyahoga County. The matter was brought to the  
7       attention of the U.S. Election Assistance  
8       Commission. Product advisory was issued on  
9       June 25, 2010.

10            EAC has been conducting an investigation  
11       into the anomalies, and those anomalies deal  
12       with power-down and freezing with the DS200  
13       precinct count optical scan voting device, which  
14       is a component of the Unity 3.2.0.0. Again, the  
15       EAC is continuing to investigate the matter.

16            In Indiana we're aware of three counties  
17       that use these machines. Newton, Monroe, and  
18       Jackson either currently use or have contracted  
19       to acquire this system from ES&S.

20            We wish the Commission to know that we are  
21       aware of these concerns, we're following the  
22       investigations, and we'll be prepared to give  
23       the Commission periodic updates on our findings.

24            MR. A. LONG: Can you tell us what the  
25       problems are?

1           MR. J. LOSCO: The problem specifically is  
2           with this kind of power-down and freezing  
3           problem with the precinct count optical scan  
4           device. And Dr. Bagga is our technical advisor.  
5           He might be able to give you a little more --

6           MR. A. LONG: As I understand it, that's  
7           not the only problem. There's three problems,  
8           aren't there?

9           MR. J. LOSCO: This is the problem that the  
10          EAC has targeted.

11          MR. A. LONG: What about the --

12          CHAIRMAN D. DUMEZICH: Are there any other  
13          problems besides --

14          MR. A. LONG: Have they reported any other  
15          problems to you all or ES&S that you think we  
16          ought to know about it?

17          MR. J. LOSCO: Related to it there were  
18          problems with hanging or stuck ballots, but,  
19          again, these are all part of the DS200 system.

20          MR. A. LONG: Anything about any counter  
21          problems?

22          MR. J. LOSCO: None that we have confirmed,  
23          but we are still investigating.

24          MR. A. LONG: I'm sorry, Sarah. I'm not  
25          much of a gentleman. I jump in.

1 MS. S. RIORDAN: No, no, please.

2 MR. A. LONG: It's my understanding that  
3 the public counter does not increment when the  
4 ballot is dropped into the ballot box.

5 Technical bulletin from ES&S.

6 Are you aware of that?

7 MS. S. RIORDAN: What is the date on that?

8 MR. J. LOSCO: The date of that is?

9 MR. A. LONG: February 11th.

10 MR. J. LOSCO: No. We are not aware of  
11 that.

12 MR. A. LONG: Well, then I'm glad you guys  
13 came down here to find out about it. Maybe the  
14 gentleman from ES&S can tell us why you're not  
15 aware of it.

16 I understand also, in addition to that,  
17 there's a problem if the ballots are too long.  
18 It counts votes that aren't votes.

19 Are you aware of that?

20 MR. J. BAGGA: We have come across that  
21 issue.

22 MR. A. LONG: And is there some reason you  
23 didn't report that to us?

24 MR. J. LOSCO: We were working from the EAC  
25 advisory, which we believe incorporates part of

1           that, but the EAC is still investigating.

2           MR. A. LONG: If that's a problem, then  
3 we've got a primary coming up, and we've got  
4 three in here, counties that use this. It would  
5 seem to me, as our watchdogs out there, if you  
6 had any inkling there's a problem, you ought to  
7 be the ones reporting that to us.

8           Now, can you explain to me why Ball State  
9 University, as representatives of this  
10 commission and the Secretary of State's office,  
11 or whoever you all are contracted with, has not  
12 raised the three separate stand-alone problems  
13 that our staff has dug out and found for us and  
14 you have not seen fit to mention it to us?

15           MR. J. LOSCO: Those problems were not  
16 specifically addressed in our conversations with  
17 the EAC.

18           MR. A. LONG: I don't -- that's your  
19 answer? That's the only reason? Because the  
20 feds didn't know about it, you choose not to  
21 tell us about it? Okay? Is that it?

22           MR. J. LOSCO: And we were not informed by  
23 ES&S.

24           MR. A. LONG: How did you learn about it?

25           MR. J. LOSCO: We learned about it through

1           advisories from the EAC.

2           MR. A. LONG: So the EAC knew about it and  
3 they're not investigating those?

4           MR. J. LOSCO: They may be, but they were  
5 not part of the advisory.

6           MR. A. LONG: I come full circle back  
7 around. Do you know of a vote counting  
8 problem -- you know, I can understand maybe a  
9 freeze in the -- I think there's some fix to  
10 that it's offensive, but this one is where it  
11 counts votes where no votes have been cast,  
12 which undermines the integrity of the system,  
13 and you have -- you relied on maybe they're  
14 going to look at it before -- as our agent,  
15 Ray -- I don't care -- I'm not just picking on  
16 him. You know, you're my friend, and I'm  
17 telling you, I am personally incensed by you  
18 all. I'm also incensed by these folks at ES&S,  
19 the fact that this is a problem, but I'm pretty  
20 upset that that affects your credibility with me  
21 that if you have a hint of a problem that  
22 undermines the integrity of an election that you  
23 ought to be e-mailing us all and say, "Guys, we  
24 need a special meeting to talk about this or to  
25 let you know there's something on the horizon

1           that you need to be aware of."

2           MR. R. SCHEELE: Fair enough. The EAC has  
3           a two-step process when they investigate  
4           something. One is an informal investigation.  
5           The informal investigation, they collect  
6           information on what they have understood is a  
7           problem. In this particular instance, it was  
8           Cuyahoga County, Ohio.

9           Then, if there's more credibility to other  
10          situations with that voting system, they move to  
11          a formal investigation. That's where they have  
12          not designated a formal investigation on this  
13          system yet, but that's where we expect it to go.

14          Now, the three items that they've looked at  
15          specifically are the ones that we just talked  
16          about. In fact, you have a copy of the June 25,  
17          2010, technical advisory from the EAC, which  
18          summarized it as intermittent freeze-ups,  
19          lockups, and shutdowns on that voting system.

20          MS. S. RIORDAN: And what's the date on  
21          that one?

22          MR. R. SCHEELE: This was June 25, 2010.

23          MS. S. RIORDAN: And when did we certify  
24          this system?

25          MR. R. SCHEELE: This system was

1 certified -- I don't know. We'd have to look at  
2 our records. But we never -- yeah, our program  
3 was not in operation at the time the 3.2 --

4 MS. S. RIORDAN: I'm just looking back  
5 when --

6 MR. A. LONG: We have the minutes that you  
7 guys represented to us that this system was in  
8 compliance.

9 MS. S. RIORDAN: So December 1, 2009, at  
10 our hearing we talked about, let's see, Unity  
11 3.2.0.0, and this, again, was in December of  
12 2009, and this was a request for a new system to  
13 be certified. I moved that we approve the  
14 application for Unity 3.2.0.0.

15 MR. A. LONG: This is the date I think is  
16 more significant than anything, the one where  
17 it's counting the ballots improperly. The date  
18 of that, their technical bullet was in October  
19 of 2009 before they came in here before us and  
20 didn't tell us about it. And we will talk to  
21 these folks about that in a minute.

22 Are you telling me you didn't know about  
23 that then?

24 MR. R. SCHEELE: No. We do not get  
25 technical bulletins or anything from ES&S.

1 MS. S. RIORDAN: Well, here's my next  
2 question. These are owned by Newton, Monroe,  
3 and Jackson County, and has this system yet been  
4 used by anybody in any election, any of those  
5 three counties? Did they use this in the 2010  
6 primary or general?

7 This is what they have in operation right  
8 now? Anybody answer that?

9 MR. A. LONG: Would you put your name in  
10 the record, please.

11 MR. S. PEARSON: My name is Steve Pearson.  
12 I'm the Vice President of Certification for  
13 Election Systems & Software.

14 CHAIRMAN D. DUMEZICH: For? For the  
15 record, not for me.

16 MR. S. PEARSON: Election Systems &  
17 Software.

18 MR. A. LONG: For ES&S.

19 CHAIRMAN D. DUMEZICH: Thank you.

20 MR. S. PEARSON: Newton County is --  
21 neither Jackson or Monroe have taken receipt of  
22 this system yet; however, there's contracts in  
23 place for delivery in early March, delivery for  
24 those two. But Newton has had this product  
25 since shortly after the certification in



1 December of 2009.

2 MS. S. RIORDAN: Does anybody know whether  
3 any of the election administrators from any of  
4 these three counties know about these technical  
5 services bulletins?

6 MR. S. PEARSON: All of our customers are  
7 notified of technical bulletins and they're  
8 given access to them for their use, yes. So  
9 Newton was aware of these issues, and we did  
10 notify our customers when these anomalies came  
11 about.

12 MR. A. LONG: And they've got a change  
13 order request in?

14 MR. R. SCHEELE: Right.

15 MR. A. LONG: Could we have a copy of that  
16 change order request? It's not in our packet,  
17 is it?

18 MR. S. PEARSON: May I address that, your  
19 question?

20 MR. A. LONG: Sure.

21 MR. S. PEARSON: The change orders are  
22 related to hardware changes, and our Unity  
23 3.2.1.0 release addresses the three issues that  
24 are before you, as far as those technical  
25 bulletins.

1           CHAIRMAN D. DUMEZICH: Not to minimize this  
2           in any way, I just want to understand this.  
3           This no count, lack of counting, do we have any  
4           sort of quantification of occurrence, how often  
5           it happens?

6           MR. S. PEARSON: Well, I think there's been  
7           no evidence of it ever occurring in an election.  
8           We have no --

9           MS. S. RIORDAN: What about the Cuyahoga  
10          County situation?

11          MR. S. PEARSON: I will address each one of  
12          them. The ballot skew issue is the first one.  
13          It was found in L&A, logic and accuracy,  
14          testing, and we were working with them over a  
15          ballot that was laid out. It was long ballot,  
16          19-inch ballot. It was a double-sided ballot  
17          where it had -- it was a referendum race, and it  
18          had a lot of text.

19          And the way that the ballot was laid out,  
20          the text was laid out very close to the oval,  
21          and what we found was -- and then, on top of  
22          that, the ballots -- with the contract printer  
23          that they used in Cuyahoga, the ballots weren't  
24          printed to spec.

25          So we had a ballot that had a little bit of

1 skew, a long ballot with a lot of text close to  
2 the oval on the bottom of the backside of the  
3 ballot.

4 So what was found in the logic and accuracy  
5 testing was that if the ballot was inserted a  
6 certain way where there was a skew when it was  
7 inserted into the machine but not too much for  
8 the machine to reject it, when you had the skew  
9 introduced on top of skew that was on the way  
10 that the ballot was printed --

11 MS. S. RIORDAN: It marked an oval that  
12 wasn't marked?

13 MR. S. PEARSON: -- we found that, yeah, we  
14 could either pick up a vote or lose a vote in  
15 that bottom corner, and that --

16 MS. S. RIORDAN: And what did they do to  
17 correct that before the election?

18 MR. S. PEARSON: Reprinted the ballots. We  
19 reprinted the ballots, paid to have that done,  
20 so -- and a technical bulletin was issued so  
21 that that would be avoided in the future. So  
22 that was the only occurrence of that was in  
23 testing.

24 CHAIRMAN D. DUMEZICH: A 19-inch ballot is  
25 fairly large, I take it?

1 MR. S. PEARSON: Correct.

2 CHAIRMAN D. DUMEZICH: Right. So, now,  
3 with our municipal elections, the ballot is  
4 going to be substantially smaller than that?

5 MS. S. RIORDAN: I don't know. I don't  
6 know. I mean, in Marion County we have a lot of  
7 contested races. We've got 27 -- how many? --  
8 29 council seats.

9 CHAIRMAN D. DUMEZICH: Yeah. But they  
10 don't --

11 MS. S. RIORDAN: No, but, I mean, I'm using  
12 it as an example. I mean, we'll have 29 --

13 CHAIRMAN D. DUMEZICH: In Newton County,  
14 they may not have.

15 MR. A. LONG: Newton and Jackson.

16 CHAIRMAN D. DUMEZICH: Those two counties,  
17 I mean.

18 MR. A. LONG: Newton, Jackson, and Monroe  
19 are the three that --

20 Did you all tell us about this problem when  
21 we were in here in December and we certified  
22 this?

23 MR. S. PEARSON: At that point we weren't  
24 aware of it.

25 MR. A. LONG: Yeah, you were. October 20th

1 of 2009. We approved it on December the 1st,  
2 2009. So you issued a technical service  
3 bulletin on October 20, 2009, and my question,  
4 very simply, is I'm going to ask why, because  
5 you didn't tell us about it, why your company  
6 chose to say we've got a problem with these  
7 ballots and why didn't you tell us about it?

8 MR. S. PEARSON: I don't know why.

9 MR. A. LONG: I've got a pretty good  
10 reason, an explanation in my mind, but I'm just  
11 giving you the opportunity.

12 MR. S. PEARSON: As a common practice,  
13 whenever there is any technical issue found with  
14 the system, if there's a workaround for the  
15 system, we will create a technical bulletin,  
16 which is an advisory for our customers, and then  
17 we provide them those technical bulletins. So  
18 in this case, you know, our customers were  
19 notified of these issues.

20 CHAIRMAN D. DUMEZICH: You can consider us  
21 from this point forward your customer.

22 MR. S. PEARSON: Do I? Can I?

23 CHAIRMAN D. DUMEZICH: Yeah. And that  
24 means you're going to notify us when something  
25 like this happens so there's not going to be

1           somebody that's going to come in here, you know,  
2           a month and a half or so after the issuance of  
3           this saying that the system is proper and should  
4           be certified, only to find out a year later now  
5           that, in fact, we may have certified a system  
6           that had significant flaws and problems with it,  
7           problems and flaws that you were aware of.

8           MR. S. PEARSON: We will make sure --

9           CHAIRMAN D. DUMEZICH: And when I say,  
10          "us," I want these guys, I want Ball State to  
11          get your technical memorandums so they are aware  
12          of it.

13          And, certainly, when you are aware of those  
14          things, two things, one, don't assume we know  
15          about it, and, two, include that in your  
16          testing. You've been delegated a very, very  
17          important responsibility from the Secretary of  
18          State's office and from this commission, and  
19          this will make us all look bad.

20          And looking bad is not my concern. My  
21          concern is that we accidentally disenfranchise  
22          somebody, and that would be a horrible thing.  
23          For all the work and all the effort that  
24          everybody puts in to get this right, this would  
25          be a real black eye for the State and a horrible

1        thing to happen to some individual. We take  
2        this very, very seriously.

3                MR. A. LONG: What are they requesting to  
4        change? They've got an engineering change  
5        order. What are they wanting to change?

6                MR. R. SCHEELE: The ECO that they have  
7        requested that we have looked at at some length  
8        is a design change on the box on the optical  
9        scan machine when after the ballots go through  
10       the central counting unit and they drop into the  
11       box, the ECO pertains to the existing door  
12       panels on that box, which was a plastic box.

13               Now they want to change those to a  
14       steel-covered box. That's basically a design  
15       change. The EAC has found and tested it --  
16       we've been through their protocol -- that it  
17       does not go to the core functionality of the  
18       voting system, that it's just a design change to  
19       catch the ballots after they come through the  
20       central counting unit. That's the ECO, and it  
21       pertains to the 3.2.0.0 voting system, not to  
22       the next one that they're coming with, the next  
23       version, which may or may not be -- we don't  
24       have the federal lab results on it yet, but  
25       that's an ECO. It's a design change dealing

1 with the existing door handles, the hinges, and  
2 the casters on that particular box.

3 CHAIRMAN D. DUMEZICH: We have our next  
4 hearing on, what, March 14th? That's what we've  
5 talked about. Could you have a complete report  
6 written by that time, a complete explanation of  
7 where we stand --

8 MR. R. SCHEELE: Uh-huh.

9 CHAIRMAN D. DUMEZICH: -- for the  
10 Commission at that time?

11 MR. R. SCHEELE: Sure. We will get it to  
12 you before the 14th.

13 CHAIRMAN D. DUMEZICH: Oh, yeah. Tony, how  
14 many days are you looking for to have it ahead  
15 of time?

16 MR. A. LONG: Oh, I would like to have a  
17 week.

18 You know, if ES&S has got anything to say,  
19 I've got a motion to make here today, because I  
20 want to give them every opportunity to be heard.  
21 If they've got something they want to say, this  
22 is -- we're spending way too much time on ES&S  
23 issues.

24 MR. S. PEARSON: I would like to address  
25 that for the Commission.



1 CHAIRMAN D. DUMEZICH: Please do.

2 MR. S. PEARSON: Okay. Technical advisory  
3 bulletins have been a common practice in the  
4 industry as long as I've been in the industry  
5 and before that, and I know all of the  
6 manufacturers have some sort of technical  
7 bulletin or customer advisory process for when  
8 there's anomalies that are found in a system  
9 like this. So it's not anything that is new and  
10 introduced just with these issues here.

11 So with our customers we post and we give  
12 them access to all customer advisories and  
13 technical bulletins that pertain to their  
14 specific system so that they are aware of those,  
15 of any workarounds or issues, until they can be  
16 resolved in another release and certified in the  
17 state.

18 The ballot skew issue, I apologize if we  
19 were aware of it and we didn't make this board  
20 aware of it. I apologize for that. In the  
21 future we will make sure that you are aware of  
22 all technical bulletins as they pertain to the  
23 certified system that you have in your state.  
24 We will do that.

25 CHAIRMAN D. DUMEZICH: This one was

1 especially nice because the system wasn't  
2 certified yet, so it wasn't as if -- we want it  
3 not only for all systems certified but when you  
4 know that a certification is going to be pending  
5 for that system, in both instances.

6 MR. S. PEARSON: We will make sure. Yeah,  
7 I apologize if that was the case. And the  
8 timing of it, maybe I wasn't aware of it or my  
9 team wasn't aware of it at the time. So I  
10 apologize.

11 CHAIRMAN D. DUMEZICH: But that is your  
12 job; right?

13 MR. S. PEARSON: There was no intention to  
14 not disclose that to either you or anyone that  
15 was the user of the system.

16 CHAIRMAN D. DUMEZICH: I believe you, but,  
17 frankly, we're very, very skeptical of those  
18 sort of comments, in light of the history.

19 MR. S. PEARSON: Okay.

20 CHAIRMAN D. DUMEZICH: I believe your  
21 representation, but I'm just telling you, we  
22 are -- in general, we are skeptical of those  
23 type of comments, especially in light of the  
24 history.

25 MR. S. PEARSON: We work very closely with

1 the EAC. I mean, I generally talk almost on  
2 daily basis during these test campaigns. So  
3 they are aware of this. The issue was addressed  
4 and the 3.2.1.0 released, which we have an  
5 application for. As soon as the test report is  
6 done for that, then we would like to bring that  
7 in for examination, as well.

8 MR. A. LONG: Why would you be in daily  
9 contact with the federal folks and not in any  
10 contact with the state folks that are certifying  
11 your equipment? You know, that's a pretty  
12 hollow statement. "We're in daily contact with  
13 the people at the EAC. Our people don't know  
14 anything about" --

15 MR. S. PEARSON: We have ongoing testing  
16 campaigns with them, with the labs and --

17 MR. A. LONG: You've got some ongoing  
18 things with us, too.

19 CHAIRMAN D. DUMEZICH: Have you made all  
20 your comments?

21 MR. S. PEARSON: Well, I can address each  
22 one of the issues. Just to tell you that --  
23 like for the freeze/lockup issue, that was also  
24 found in the logic and accuracy testing in  
25 Cuyahoga. That has been addressed and is

1 resolved in the release that we want to bring in  
2 front of you, as well.

3 And then the third issue that is in front  
4 of you, the technical bulletin, which is  
5 commonly referred to as the ballot drop issue,  
6 was one that has not been seen in the field. It  
7 was found several weeks ago or maybe two months  
8 ago in iBeta quality assurance, in their  
9 testing, prior to transitioning the project over  
10 to Wyle. So that has also been addressed, and  
11 we are in the final two weeks of testing at Wyle  
12 to resolve -- with resolution to those issues.

13 CHAIRMAN D. DUMEZICH: Thank you.

14 Any motions?

15 MR. A. LONG: I have a motion that we  
16 instruct staff to -- I'm going to make two  
17 motions on the table. My first motion, after I  
18 make it, I have a second that I'm --

19 CHAIRMAN D. DUMEZICH: I will never get  
20 this right under Robert's Rules, but you make  
21 the first --

22 MR. A. LONG: The first motion is to  
23 initiate the decertification process for the  
24 ES&S system -- I want to get the right numbers  
25 down here, what we're talking about --

1 ES&S 3.2.0.0, and I guess if I need to add  
2 anything else to that, whatever the formal title  
3 for that is, that we initiate the  
4 decertification process because of the problems  
5 that have come to light here.

6 CHAIRMAN D. DUMEZICH: I have a motion on  
7 the floor to decertify -- begin the  
8 decertification process with respect to the ES&S  
9 system 3.2.0.0 DS200.

10 MS. S. RIORDAN: Does a motion have to be  
11 seconded before it can be tabled?

12 CHAIRMAN D. DUMEZICH: I believe so.

13 MS. S. RIORDAN: Okay. I'm going to second  
14 the motion.

15 CHAIRMAN D. DUMEZICH: Otherwise, it goes  
16 for a lack of second.

17 MS. S. RIORDAN: And then I'm going to move  
18 to table it until our next meeting.

19 And, Anthony, can you repeat your motion  
20 again.

21 MR. A. LONG: The motion is the staff start  
22 the decertification process for the system  
23 without going through the technical numbers.  
24 And then I intend -- if you made a motion, I  
25 intend to second that and table that to our next

1 meeting.

2 MS. S. RIORDAN: Yeah. Then I move to  
3 table that motion.

4 MR. A. LONG: Then I will second that.

5 MR. S. PEARSON: Can there be further  
6 discussion?

7 CHAIRMAN D. DUMEZICH: Not today.

8 MS. S. RIORDAN: I mean, if anybody  
9 wants -- for the record, if you want to know  
10 what our thinking is, I mean, the  
11 decertification process involves due process and  
12 an opportunity to be heard, an opportunity to  
13 respond.

14 My thinking -- and I can't speak for others  
15 on the board, but you should have that  
16 opportunity to be heard and have an opportunity  
17 to explain why the system shouldn't be  
18 decertified. But right now, I feel like I voted  
19 to certify based on incomplete information.

20 And I understand you're saying that, you  
21 know, technical services -- or technical  
22 bulletins come out all the time. You know, I  
23 mean, that's a constant thing that happens. But  
24 it's not technical bulletins for toasters or  
25 technical bulletins for even computers; it's

1 technical bulletins for voting machines.. And  
2 that's your business, and you understand the  
3 consequences of that.

4 But if we can as a board think or discuss  
5 or contemplate whether there's additional  
6 testing that needs to be done before this can  
7 be -- before this system is put in place in  
8 Indiana, what independent testing has been done  
9 in Indiana for the 3.2.0.0 that can make us  
10 confident that these problems aren't going to  
11 come up again?

12 CHAIRMAN D. DUMEZICH: Well, that's why I  
13 have asked these guys for a complete report,  
14 which we're going to get on March 7th so it's  
15 written down so there will be no ambiguity and  
16 everybody up here will understand what we're  
17 voting for.

18 MS. S. RIORDAN: And will there be  
19 independent testing as part of the report that  
20 you provide on March 7th?

21 CHAIRMAN D. DUMEZICH: Their independent  
22 testing.

23 MS. S. RIORDAN: Right.

24 MR. J. LOSCO: We will investigate and, if  
25 necessary, work with ES&S to bring them in for

1 additional tests.

2 MS. S. RIORDAN: Because I think that's  
3 what I want to have happen. And I don't think  
4 this is too terribly punitive, but, you know,  
5 okay, so they've got it and -- is it Newton  
6 where they're using it now?

7 CHAIRMAN D. DUMEZICH: Well, there are  
8 three: Newton, Monroe --

9 MS. S. RIORDAN: Right. But is it just  
10 Monroe that actually has the machines? I  
11 forgot.

12 MR. S. PEARSON: Newton.

13 MR. R. SCHEELE: Newton. The other two are  
14 contract.

15 MS. S. RIORDAN: Okay. Monroe and Jackson  
16 are going to take delivery with plans to use in  
17 the primary this year; right?

18 MR. S. PEARSON: Yes.

19 CHAIRMAN D. DUMEZICH: And Newton doesn't  
20 have a primary; is that correct?

21 MR. S. PEARSON: Not to my knowledge.

22 MS. S. RIORDAN: Okay. So I would feel  
23 most comfortable if there is some more hands-on  
24 testing done so that we can see if these  
25 problems exist in the batch that is sold to



1 . . . . these counties. I don't know. I mean, is that  
2 reasonable from a technical perspective? I  
3 don't know.

4 MR. R. SCHEELE: Well, let me say --

5 CHAIRMAN D. DUMEZICH: We will know plenty  
6 early if they've going to use bigger ballots.

7 MR. R. SCHEELE: Let me say something about  
8 the testing, and Dr. Bagga can certainly chime  
9 in here.

10 When we test the system, we test it --  
11 obviously, we first look at all the requirements  
12 of the Indiana code, the protocol that we have  
13 there. We test it. We've already run through  
14 all of the checklists that the federal lab has  
15 done to make sure it has passed all of those.  
16 Then we take a look at the Indiana statutes and  
17 the Indiana requirements.

18 Now, we're only testing one voting system.  
19 That's what they bring to campus. We do not  
20 test all the voting systems that are 3.1.0.0  
21 that are in use in Indiana. Now, some states do  
22 that, by the way, or they will run L&A tests on  
23 every machine prior to every election.

24 MS. S. RIORDAN: Well, I'm pretty sure my  
25 county clerk does that, for example.

1 MR. R. SCHEELE: Well, yeah, the public  
2 test is the Indiana answer to that --

3 MS. S. RIORDAN: Right.

4 MR. R. SCHEELE: -- where, in fact, the  
5 county clerk at the public test will run their  
6 logic and accuracy test, which is basically a  
7 mock election.

8 MS. S. RIORDAN: Right.

9 MR. R. SCHEELE: So that's our procedure by  
10 which we try to catch all of the machines that  
11 are going to be in use in that election.

12 CHAIRMAN D. DUMEZICH: I've got a question  
13 for you. How many of your machines are going to  
14 be in use this spring, number?

15 MR. S. PEARSON: That are certified in the  
16 states of Ohio, Wisconsin --

17 CHAIRMAN D. DUMEZICH: No, no. I'm talking  
18 solely in Indiana.

19 MR. S. PEARSON: In Indiana, I don't have a  
20 total number in those three counties. I don't  
21 have that count.

22 CHAIRMAN D. DUMEZICH: I would like to get  
23 that count and include that in your report.  
24 That way, we can make a determination whether we  
25 want you to test every voting system.

1 MR. A. LONG: Every machine. I mean, my  
2 question, Ray, if you had known about this, is  
3 that something you would have called to our  
4 attention and said, "There's a problem," on  
5 December the 1st? And this is D200 registers  
6 unmarked ovals -- this is their bulletin -- on  
7 skewed 17- and 19-inch ballots issued on  
8 October 20, 2009. Is that something that you  
9 would have discussed with this commission if you  
10 would have --

11 MR. R. SCHEELE: Yes.

12 MR. A. LONG: -- been aware of it?

13 MR. R. SCHEELE: Yes, we would have  
14 discussed it. We did not test a 19-inch ballot.

15 MR. A. LONG: But you didn't know that  
16 there was a problem?

17 MR. R. SCHEELE: No, we didn't know there  
18 was a problem.

19 MR. A. LONG: And therein lies the problem.  
20 I question whether or not I would have voted for  
21 certification had I known that, and I suspect  
22 that's why ES&S didn't tell us about it. That  
23 would be my conclusion from that --

24 MR. R. SCHEELE: Right.

25 MR. A. LONG: -- because I wouldn't think

1           that they would expect us to represent to the  
2           clerks out there to spend a million dollars and  
3           buy a bunch of machines from them when we don't  
4           have confidence that, if they happen to have a  
5           big primary election and choose to use a big  
6           ballot, we may get some extra votes that weren't  
7           votes.

8                     And that's just -- that's just -- I mean,  
9           they don't inspire in me a whole lot of  
10          confidence, and I expect that you guys  
11          procedurally will be looking at all of these  
12          things, and I would hope -- maybe your contract  
13          needs to be reviewed, I mean, from the  
14          standpoint of expanded to monitor these things,  
15          because somebody needs to monitor these ovals --  
16          or technical service bulletins or communiques  
17          from all of the certified equipment that we've  
18          got out there so that at least we don't get  
19          blindsided by learning this, because I don't  
20          think we would have -- but for our staff digging  
21          this out, I don't think we would have known  
22          about it from you all today, and I'm reasonably  
23          sure ES&S wouldn't have notified us about it. I  
24          don't know. But --

25                     MR. R. SCHEELE: We certainly have not seen

1           that one, and --

2           MR. J. LOSCO: Can I add that, when we look  
3           at the systems, we're looking at it particularly  
4           from the standpoint of the Indiana statutes.  
5           We're not equipped, like the labs in Huntsville,  
6           to do the very rigorous testing that they do,  
7           looking through source code and repeatedly  
8           putting these systems under very rigorous  
9           testing. We're simply not equipped to do that.  
10          And so we rely on their reports, as the Indiana  
11          code indicates, to get a handle on a lot of  
12          those very technical issues that deal with  
13          functionality above and beyond the Indiana code.

14          MR. S. PEARSON: If I could add, in defense  
15          of Ball State University, these systems, none of  
16          these issues were found in two and a half years  
17          of testing with the voting system test labs. It  
18          wasn't until there were a large number of units  
19          that were deployed where these unique scenarios  
20          presented themselves.

21          MR. A. LONG: They had 89 failures in their  
22          testing in Ohio?

23          MR. S. PEARSON: Correct. And it was a  
24          unique test that had never been exercised in  
25          that manner, and what it was determined to be

1 was a bug in the Linux, which is an operating  
2 system, like Microsoft Windows but it's Linux.  
3 It was determined to be a bug in the Linux  
4 operating system --

5 CHAIRMAN D. DUMEZICH: Uh-huh.

6 MR. S. PEARSON: -- for the freeze and  
7 lockup issue.

8 CHAIRMAN D. DUMEZICH: I believe Ball State  
9 is doing the best job that they can. But the  
10 fact of the matter is, if they would have things  
11 like this, your notification, your technical  
12 bulletin, it would help them perform their job.  
13 That's the long and short of it.

14 MR. A. LONG: I think our staff can look at  
15 maybe some internal rules for this commission to  
16 promulgate, it requires all technical service  
17 bulletins and all communiques to their customers  
18 on any certified equipment to be sent through  
19 us, copied to us affirmatively and not just  
20 available online.

21 CHAIRMAN D. DUMEZICH: Yeah.

22 MR. R. SCHEELE: For all members.

23 CHAIRMAN D. DUMEZICH: Yeah, for all  
24 members.

25 MR. S. PEARSON: When we do submit -- when

1 the test report is submitted, each one of these  
2 items where a technical bulletin would have been  
3 written would have been an item where there  
4 would have been a change release note that was  
5 provided in the technical data packages provided  
6 to the labs and then a test report which details  
7 each one of the changes and the corrections; so  
8 they will be listed in the --

9 CHAIRMAN D. DUMEZICH: Sure. And I know  
10 you've told us in the future you're going to  
11 send these, but I want to make sure that  
12 anything that's associated with this system, any  
13 sort of technical memorandum, technical bulletin  
14 that's been sent out, that it be at the disposal  
15 of Ball State for this testing that they're  
16 going to do and for the report that they're  
17 going to write for us, which we will get on  
18 March 7th, just procedurally so I make sure that  
19 everybody knows where we're at.

20 Right now, there's been a motion put on the  
21 table that decertify ES&S. That motion has been  
22 tabled. The responsibility of the various  
23 parties here, Ball State is to provide us with a  
24 thorough report as to the status of this system,  
25 including any, any and all technical bulletins

1 or memorandums that apply to the ES&S system . . . .  
2 3.2.0.0 -- what is it? -- DS200 so they can  
3 perform any thorough analysis.

4 The possibility also exists that we are  
5 going to ask Ball State to check out every  
6 machine or, quote/unquote, voting system, but we  
7 want to know the amount of voting systems or,  
8 slash, machines that are going to be used in  
9 Indiana during the primary to make sure that  
10 this commission is comfortable that ES&S's  
11 system is, in fact, correctly reporting the vote  
12 tallies in the various precincts.

13 Are there any questions about any of the --  
14 about anything I've said or the status of where  
15 this commission sits relative to this very  
16 serious and significant problem?

17 (No response.)

18 CHAIRMAN D. DUMEZICH: Thank you,  
19 gentlemen.

20 With that, there is a motion on the -- not  
21 on the table -- yeah, on the floor to table the  
22 decertification -- commencement of  
23 decertification proceedings against ES&S, and  
24 that motion has been seconded. We have had  
25 discussion on that.



1 Is there any further discussion?...

2 (No response.)

3 CHAIRMAN D. DUMEZICH: Hearing none, I  
4 would like to take a vote on the motion to table  
5 the commencement of decertification procedures  
6 on ES&S relative to their system 3.2.0.0 DS200.  
7 All in favor of the motion to table, please  
8 indicate by saying aye.

9 THE COMMISSIONERS: Aye.

10 CHAIRMAN D. DUMEZICH: All opposed?

11 (No response.)

12 CHAIRMAN D. DUMEZICH: Motion carries 4-0.

13 MR. R. SCHEELE: Thank you.

14 MS. S. RIORDAN: I motion to adjourn.

15 MR. A. LONG: I will second.

16 CHAIRMAN D. DUMEZICH: Hearing motion to  
17 adjourn and a second, any discussion?

18 (No response.)

19 CHAIRMAN D. DUMEZICH: Hearing none, all in  
20 favor say aye.

21 THE COMMISSIONERS: Aye.

22 CHAIRMAN D. DUMEZICH: All opposed?

23 (No response.)

24 CHAIRMAN D. DUMEZICH: I don't think Steve  
25 is opposed. Motion carries.

1                    (At this time the proceedings were . . . . .  
2                    adjourned.)  
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1 STATE OF INDIANA )  
 ) SS:  
 2 COUNTY OF MARION )

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4 I, Julie M. Morgan, RPR, and a Notary Public  
 5 and Stenographic Reporter within and for the County  
 6 of Marion, State of Indiana at large, do hereby  
 7 certify that on the 21st day of February, 2011, I  
 8 took down in stenograph notes the foregoing  
 9 proceedings;

10 That the transcript is a full, true and  
 11 correct transcript made from my stenograph notes.

12 IN WITNESS WHEREOF, I have hereunto set  
 13 my hand and affixed my notarial seal this \_\_\_\_\_  
 14 day of March, 2011.

15

16

17

NOTARY PUBLIC

18

19 My Commission Expires:

20 August 7, 2016

21 County of Residence:

22 Marion County

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