

1 Indiana, 46181. I am Brent Waltz's cousin. I  
2 assisted Brent Waltz in moving into his  
3 condominium at 308 Elmead Court, #2010,  
4 Greenwood, Indiana, 46142 during the fourth  
5 quarter of 2003.

6 My two sons, Jason Thomas and Ryan Thomas,  
7 assisted us with the move. The furnishings that I  
8 assisted moving into the condominium included a  
9 bed, dresser, chest, sofa, reclining chair and  
10 other assorted furnishings.

11 Q Would you pass that up, please?

12 A (The witness complied.)

13 MR. B. SPEAR: I've only got one copy of this,  
14 but the division sent a copy of the notice of this  
15 hearing to Brent Waltz by UPS next day delivery,  
16 which is usually delivered during the day, and then  
17 if you're not there, they put a sticker on your  
18 door and then you go pick it up. And it shows that  
19 the Commission, in fact, that Senator Waltz picked  
20 this up oh stand it up there?

21 CHAIRMAN T. WHEELER: Let me -- since this is  
22 in the Commission's, and there was certainly some  
23 concern among the Commission, when the  
24 Commission -- at least I as Chairman of the  
25 Commission had some concerns regarding the fact

1 that the actual notice was initially returned by UP  
2 s with the notation that we received, quote, the  
3 receiver has moved. UPS attempting to locate  
4 receiver. If -- if you could take a moment or have  
5 the Senator clarify, that may...

6 **SENATOR D. WALTZ:** By all means. I would  
7 assume that what they're referring to is the  
8 sticker, which I've taken down several times, but  
9 keeps coming back for some reason. I've probably  
10 removed it at least I'd say a half dozen times,  
11 maybe more.

12 But there was a sticker when I arrived home  
13 that said I had been visited by UPS and that I  
14 should pick this up, and I picked it up on Monday.  
15 Again, given my schedule and given my late hours, I  
16 would not have been at home when they made the  
17 initial knock on my door.

18 So I certainly did get the sticker and did  
19 pick that up at the 16th Street delivery facility.

20 **CHAIRMAN T. WHEELER:** And I would note for the  
21 commission members, you have in front of you a  
22 document that had been produced by the Division,  
23 Pages 1, 2 and 3 which are the UPS tracking printed  
24 off their system which indicate 5:49 p.m. it was  
25 picked up at the box. It was not delivered to the

1 household. Although, they continue to note at  
2 5:48, again, on that same day, the receiver has  
3 moved. So that's -- that is what we received from  
4 UPS.

5 **SENATOR D. WALTZ:** Okay. Well, I think  
6 possibly the confusion, again, is the fact that I  
7 don't get my mail at that address so...

8 **CHAIRMAN T. WHEELER:** But you -- you picked  
9 up -- you, obviously, were there to pick up the  
10 tag?

11 **SENATOR D. WALTZ:** Right. There was a tag.  
12 It was about yea long, standard GPS, and said I had  
13 a delivery and I should pick that up. It was the  
14 first attempt. I think they go through a second  
15 and then ultimately a final attempt.

16 **CHAIRMAN T. WHEELER:** Did they tag it on your  
17 door or on your mailbox?

18 **SENATOR D. WALTZ:** It was not a mailbox. It  
19 was actually on my door so as you walk in about  
20 midway through.

21 **CHAIRMAN T. WHEELER:** So you come home and  
22 found it on your thing and then went and picked it  
23 up?

24 **SENATOR D. WALTZ:** Yes, sir.

25 **Q** Anything else?

1 A I have nothing to add.

2 MR. B. SPEAR: Unless the commission has  
3 questions, I turn it for redirect to my opposing  
4 counsel.

5 CHAIRMAN T. WHEELER: And I ask my -- any  
6 commissioners have any additional questions?

7 VICE CHAIR A. LONG: I guess the question I  
8 have, maybe it's to the Division, you received the  
9 actual envelope that this was in?

10 SENATOR D. WALTZ: Yes, that's the actual  
11 envelope I picked up at the 16th Street UPS  
12 building, yes, sir.

13 CHAIRMAN T. WHEELER: Anything else from the  
14 commission members?

15 MR. B. KING: Mr. Chairman, just very quickly  
16 for the record, it would be correct to show that by  
17 consent the Commission has accepted Exhibits 2  
18 through 10 submitted on behalf of Senator Waltz.  
19 The exhibits presented earlier by Mr. Beeles in the  
20 form of the binder, those documents were provided  
21 to the Division.

22 CHAIRMAN T. WHEELER: Show that the Vice Chair  
23 currently has custody of those exhibits.

24 VICE CHAIR A. LONG: I don't know, is that  
25 2 -- didn't he have a 1?

1 MR. B. KING: I was already...

2 MR. B. SPEAR: I believe the Chairman admitted  
3 1.

4 CHAIRMAN T. WHEELER: Correct.

5 VICE CHAIR A. LONG: What was 1? I don't have  
6 1.

7 CHAIRMAN T. WHEELER: His driver's license.  
8 We've got it.

9 VICE CHAIR A. LONG: Oh, okay.

10 CHAIRMAN T. WHEELER: All right. Now the Vice  
11 Chair has all the exhibits. Mr. Vigh any cross?

12 MR. D. VIGH: Just briefly, Mr. Chairman.  
13

14 REDIRECT EXAMINATION

15 QUESTIONS BY MR. DYLAN A. VIGH:

16 Q With respect to Respondent's Exhibit No. 3 which  
17 is your voting card, it says here, Senator  
18 Waltz, that your previous address was 124 North  
19 Smart Street?

20 A Yes.

21 Q Is that within the voting district?

22 A Yes. A different precinct. I believe that's  
23 Pleasant 5 but...

24 Q But it is within Senate District 36?

25 A Yes, sir.

1 Q And also with respect to Exhibit No. 1, which is  
2 the residential lease, I think it indicates on  
3 the very top 10/1/03 to 5/31/03?

4 A Yes.

5 Q Just to clarify, is that a typographical error?

6 A It would be, yes, sir.

7 Q Okay. And what was the decision for you to go  
8 on a month to month lease?

9 A That's just how it -- we decided to work out and  
10 we just kept that arrangement ever since then.

11 Q And with respect to the exhibit, the affidavit  
12 of Pamela Ingalls, does she have any personal  
13 knowledge of the nights that you would spend at  
14 your residence?

15 A I have never spent the night with Pamela Ingalls  
16 in my residence, sir, if that's what you're  
17 inferring.

18 Q Well, it inferring to that, but it says I  
19 continue to lease the aforementioned condominium  
20 to Brent Waltz but as we know, just leasing a  
21 facility within a district doesn't qualify you  
22 as living at that -- that residence. You  
23 understand that, Senator?

24 A Yes, I do. I think the affidavit speaks for  
25 itself. I would not add or subtract anything

1 from that.

2 Q So she has no personal knowledge?

3 A I -- I don't know what knowledge she has.

4 Again, the affidavit speaks for itself.

5 Q I'm going to show you what I'll mark for  
6 identification purposes as Respondent's Exhibit  
7 F, and I do have one copy of that?

8 CHAIRMAN T. WHEELER: What -- what number are  
9 you on?

10 MR. D. VIGH: F.

11 CHAIRMAN T. WHEELER: G?

12 MR. D. VIGH: G.

13 Q Do you recognize that, Senator?

14 A I do, yes.

15 Q And what is that a picture of?

16 A That is a picture of the mail slot or mailbox  
17 that has a tape over it that says vacant, 2010.

18 Q Okay. And is that your mailbox, specifically?

19 A It's not a mailbox that I use --

20 Q But it is a mailbox?

21 A -- but it is the mailbox that is accompanied by  
22 the condominium.

23 Q Okay. And that's a mailbox that's assigned to  
24 you; is that correct?

25 A I don't believe it's assigned to me with the

1 U.S. Postal Service. I don't believe that they  
2 deliver anything there. I, specifically, had my  
3 mail go to my post office box.

4 Q Okay. And with respect -- but that is -- that  
5 vacant sticker that I alluded to earlier, 2010,  
6 is your apartment; is that correct?

7 A It's one of those that I've removed several  
8 times.

9 Q Okay. And have you notified the post office of  
10 that, not that put that sticker up?

11 A I have not, no.

12 Q I'm going to show you what's been marked for  
13 identification purposes as --

14 CHAIRMAN T. WHEELER: Could you -- could you  
15 hold for just a moment?

16 MR. D. VIGH: Sure.

17 CHAIRMAN T. WHEELER: Do you mind if you pass  
18 that to the commissioners? Could I ask a quick  
19 question? Is this one of the ones where the -- do  
20 you know how the mail is delivered in these? Do  
21 they come off the back or do they fold down...

22 SENATOR D. WALTZ: I've -- I've never received  
23 my mail from there so I would not presume to know.

24 CHAIRMAN T. WHEELER: Is this one where they  
25 would -- can you deposit your mail and they pick up



1 your mail in there as well?

2 SENATOR D. WALTZ: I've -- I've never used it.  
3 I've never...

4 CHAIRMAN T. WHEELER: So you don't know if  
5 they put the vacant sticker so they would know not  
6 to open that one or you have no idea?

7 SENATOR D. WALTZ: I -- I have no idea. I --  
8 like I said, the only information that I have as  
9 far as the vacant sticker was the information I  
10 received secondhand from a member of the media who  
11 saw the Postal worker writing that on there.

12 CHAIRMAN T. WHEELER: So it just keeps coming?

13 SENATOR D. WALTZ: It keeps coming.

14 CHAIRMAN T. WHEELER: Okay.

15 Q And Senator Waltz, I'm going to show you what's  
16 been marked for identification purposes as  
17 Respondent's Exhibit H. That's a letter that my  
18 office sent to you which was a request for  
19 issuance of subpoena. I guess I understand why  
20 it was returned was address -- it looks like A  
21 and F.

22 MR. B. SPEAR: It says return to sender. Not  
23 delivered as address. Unable to forward.

24 Q Right. And unable to forward is due to the fact  
25 that you use your post office box; is that

1 correct?

2 A I wouldn't presume to know the routine for the  
3 U.S. Postal Service, sir.

4 Q Okay. But when unable to forward, does the Post  
5 Office know to forward your mail? Did you ever  
6 give them any indication or leave affording slip  
7 to forward any mail that's sent to your official  
8 residence to your post office box?

9 A I believe so. I remember filling out some forms  
10 at the post office -- this would have been over  
11 four years ago, but I don't remember which forms  
12 were filled out, but I did make an annotation  
13 that I wanted my mail to be received at my post  
14 office box, but I don't know what protocol was  
15 used with that.

16 Q And then finally, with respect to the exhibits,  
17 just so that I'm clear on the photographs that  
18 you took or you had a colleague or friend take  
19 photographs of the inside of your residence,  
20 when were those photos taken?

21 A Those were taken over a period of two days.  
22 Some of -- we used a video camera capture on  
23 that. It would have been taken within the last  
24 week.

25 Q On the back of one of the photos, I note it

1 looks like it has a date of march the 10th,  
2 2008, is that...

3 A I've not seen the back of that, but that would  
4 be about the time, within the last few days --  
5 within the last week.

6 Q After the residency challenge; correct?

7 A Yes.

8 MR. D. VIGH: I have nothing further.

9 MR. B. SPEAR: Nothing else.

10 CHAIRMAN T. WHEELER: All right. Any other  
11 witnesses?

12 MR. D. VIGH: No other witnesses.

13 CHAIRMAN T. WHEELER: All right. Mr. Spear's,  
14 nothing, you rests?

15 MR. B. SPEAR: We rest.

16 CHAIRMAN T. WHEELER: All right. Any further  
17 questions? Anything from the commission members?

18 COMMISSION MEMBER D. DUMEZICH: Mr. Waltz, do  
19 you -- you're a State Senator; correct?

20 SENATOR D. WALTZ: I am.

21 COMMISSION MEMBER D. DUMEZICH: Have you read  
22 the statute that deals with residency and  
23 qualifications for your position?

24 SENATOR D. WALTZ: Yes.

25 COMMISSION MEMBER D. DUMEZICH: Do you believe

1 that you're in line with those qualifications?

2 SENATOR D. WALTZ: Yes.

3 CHAIRMAN T. WHEELER: Anything further?

4 COMMISSION MEMBER D. DUMEZICH: No.

5 VICE CHAIR A. LONG: Is the hearing concluded,  
6 is this -- I mean...

7 CHAIRMAN T. WHEELER: I was allowing the  
8 commissioners to ask any additional questions.  
9 There are no additional questions?

10 VICE CHAIR A. LONG: I don't have any  
11 questions.

12 CHAIRMAN T. WHEELER: Commissioner, I will --  
13 I will close the hearing, the evidentiary part of  
14 the hearing at this point in time. I will accept  
15 comments or discussion or a motion from the  
16 commissioners?

17 VICE CHAIR A. LONG: Maybe to ask a question  
18 of counsel --

19 CHAIRMAN T. WHEELER: Please.

20 VICE CHAIR A. LONG: -- just so I'm clear on  
21 it. We've -- we've weathered a number of these  
22 residency issues over the years. As I understand  
23 what they're saying here, the Challenger is saying  
24 3-5-5-15 establishes the presumption as to an  
25 unmarried person, but does it -- the question I

1 have is does it exclude the other factors that  
2 we're to consider? Do you understand? I guess the  
3 question is, what I believe Mr. Vigh is saying that  
4 this is code and this is the sole and exclusive way  
5 that you can (indiscernible) on a residence based  
6 on an unmarried person as opposed to the general  
7 statements contained throughout the statute  
8 regarding looking to collateral issues to support a  
9 candidate?

10 **MS. L. BARNES:** Mr. Chairman, to answer  
11 Commissioner Long's question, there is a  
12 corresponding statute, 3-5-5-6 that talks  
13 about -- sections are a rebuttal to the presumption  
14 and can be rebutted by demonstrating intent to  
15 reside in another precinct. That seems to be what  
16 Senator Waltz and his attorney were attempting to  
17 do, was to rebut that presumption.

18 **VICE CHAIR A. LONG:** As I understand what  
19 you're saying, that section 7 through 17 of 3-5-5  
20 provide presumptions based on various  
21 circumstances?

22 **MS. L. BARNES:** Correct.

23 **VICE CHAIR A. LONG:** And I appreciate  
24 counsel's -- both you guys giving us a  
25 (indiscernible) because this (indiscernible).

1           **CHAIRMAN T. WHEELER:** (Indiscernible).

2           **VICE CHAIR A. LONG:** Yeah, I -- some of these  
3 and I don't want to pick on one just particularly,  
4 but some of these talk about -- one at random,  
5 change in -- if a person moves -- in 10, Section  
6 10, if a person moves into another precinct with  
7 intention to make that precinct their residence,  
8 the person loses residency in the precinct that the  
9 person left. That's a (indiscernible)?

10           If an individual moves, that creates a  
11 rebuttable presumption. What if that were a single  
12 person, does that -- would that apply to a single  
13 person and a married person with family?

14           **MS. L. BARNES:** Yes. I believe it would apply  
15 to both, but it's more than just the physical  
16 moving. It also is accompanied by an intent to  
17 make it -- to make the new place -- the new  
18 precinct their residence.

19           **VICE CHAIR A. LONG:** You know, it seems to me  
20 that the burden of proof here is on the Challenger  
21 to establish that Senator Waltz does not live in a  
22 given place where he claims to live and that the  
23 evidence by Senator Waltz's testimony, that he  
24 spends the majority of his time at the -- the  
25 Elmead Court address, would establish a rebuttable

1 presumption that that's his residence.

2 I think also, we look at other things, his  
3 voting record or his voting card, his lease, his  
4 pictures of furniture located there, his gun permit  
5 albeit a typo -- I think that's close enough that  
6 we can accept that that is a typo, driver's  
7 license, all are circumstances that I think are  
8 supportive of the presumption that that is his  
9 residence or at least his intent that that be his  
10 residence. And my observation is, is I don't think  
11 that the Challenger's made a sufficient showing to  
12 rebut the presumption based on his declaration.

13 I would like to hear evidence from somebody --  
14 however, you do it, he does not stay here, period,  
15 and I don't know -- I guess -- I don't know how you  
16 do that when you've got an injunction for somebody  
17 from following you, but I -- I just don't see that  
18 the challenge has been sustained. That's my  
19 observation.

20 **CHAIRMAN T. WHEELER:** Any other commissioners?

21 *(No response.)*

22 **CHAIRMAN T. WHEELER:** Hearing definitely  
23 silence, let me note kind of the direction we've  
24 been given from the General Assembly is No. 1, this  
25 rebuttal of presumption that has been referred to,

1 that the place where you sleep is where you are,  
2 that's what we've been given to use in this  
3 determination.

4 What we know from the Supreme Court in the  
5 Evan Bayh case is that this is what they refer to  
6 as a contextual determination, which is you look at  
7 the gestalt and see if it looks like that's where  
8 they're living?

9 I -- I'll be real frank, when I saw that  
10 our -- our own mailing was returned and it said  
11 resident had moved, I had some serious concern with  
12 that. You've addressed those concerns. I  
13 understand that -- certainly, the gestalt that I've  
14 heard here today.

15 Even if you did not have the rebuttable  
16 presumption, I don't think that they would have met  
17 their burden, but given the fact that they have a  
18 rebuttable presumption that's where you live  
19 independently of the additional evidence, the  
20 entire contextual information that you've provided  
21 and Mr. Spear has ably provided us with -- under  
22 the Bayh case, certainly makes it clear to me that  
23 you meet the criteria and that the Challenger has  
24 failed to meet their burden. I will accept a  
25 motion.



1           VICE CHAIR A. LONG: I would move that we deny  
2 the challenge.

3           CHAIRMAN T. WHEELER: Do I have a second?

4           COMMISSION MEMBER D. DUMEZICH: Second.

5           CHAIRMAN T. WHEELER: Motion's been made and  
6 seconded, any further discussion?

7           *(No response.)*

8           CHAIRMAN T. WHEELER: All in favor, signify by  
9 saying aye?

10          THE COMMISSION: Aye.

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

13          *(No response.)*

14          CHAIRMAN T. WHEELER: The Commission has  
15 denied the challenge in 0 -- 08-170. Mr. Vigh and  
16 Mr. Spear, thank you. Senator Waltz and Mr.  
17 Beeles, thank you very much.

18          VICE CHAIR A. LONG: Counsel, it was a  
19 professional presentation.

20          MR. D. VIGH: Thank you, Counselor. Coming  
21 from a former prosecuting attorney, I appreciate  
22 that.

23          VICE CHAIR A. LONG: It's been a while, hasn't  
24 it?

25          MR. D. VIGH: It's been a while.

1           CHAIRMAN T. WHEELER: We're going to try to  
2 keep moving. The challenge against Rogge.

3           VICE CHAIR A. LONG: And your name, sir?

4           MR. G. REISING: I'm Greg Reising,  
5 R-E-I-S-I-N-G.

6           CHAIRMAN T. WHEELER: And your name?

7           VICE CHAIR A. LONG: You're the attorney for  
8 Mr. Rogge?

9           MR. G. REISING: Yes, I am.

10          CHAIRMAN T. WHEELER: And Bill, can you  
11 introduce yourself?

12          MR. W. GROTH: Yeah. And I'm Bill Groth,  
13 G-R-O-T-H, the attorney for the Challengers, both  
14 of whom are seated behind me, Mr. Farag and  
15 Mr. Allen.

16          VICE CHAIR A. LONG: Now is all stuff you're  
17 handing out after this case?

18          CHAIRMAN T. WHEELER: That's what all this is.

19          MS. L. BARNES: Yes.

20          CHAIRMAN T. WHEELER: Stuff that's come in  
21 since the packet...

22          VICE CHAIR A. LONG: I'm -- I'm trying my best  
23 to stay up here. I may have to...

24          CHAIRMAN T. WHEELER: All right. Mr. Groth,  
25 you are the Challenger -- you're the Challenger,

1 and as such, you have the burden. I would  
2 like -- give me a brief statement and then  
3 we'll -- as we did in the last one.

4 MR. W. GROTH: Can -- I understand -- I had  
5 presented a submission of brief earlier today, and  
6 I'm trusting that that got distributed to the  
7 members...

8 CHAIRMAN T. WHEELER: Look like that?

9 MR. W. GROTH: Correct.

10 VICE CHAIR A. LONG: Oh, okay.

11 MR. W. GROTH: And so it might be beneficial  
12 to kind of follow -- follow me along through that.

13 VICE CHAIR A. LONG: Is this House District  
14 62?

15 MR. W. GROTH: This is House District 3.

16 VICE CHAIR A. LONG: 3, okay. I'm sorry.

17 MR. W. GROTH: So let me -- let me proceed  
18 with a brief opening statement. This is a  
19 challenge to the right of George Rogge to run as a  
20 Democrat candidate in House District 3, and to the  
21 evidence, which I don't think is disputed, I think  
22 this is pretty much -- I'm hopeful it's purely a  
23 question of law, but the evidence is very clear and  
24 unmistakable that Mr. Rogge has always been a  
25 loyal member of the Republican Party.

1           As you know, we don't in Indiana register by  
2 political party, unlike other states. So the way  
3 we determine whether someone is a Republican or a  
4 Democrat, first and foremost is to look at that  
5 person's voting record in the primary elections.

6           We produced as Exhibit 1 to our brief,  
7 Mr. Rogge's voting record for about the last 25  
8 years, I believe, and it shows in every primary  
9 election over at least the last two decades, he has  
10 voted in the Republican Party Primary.

11           We've also produced evidence in Tab 2 that  
12 show that is Mr. Rogge is a very generous man with  
13 his resources in terms of supporting Republican  
14 Party candidates. We also submit that Mr. Rogge  
15 has given up his time to the Republican Party.

16           To his great credit, he has served as a member  
17 of the Lake County Sheriff's Merit Board, as a  
18 Republican Party electee on that board, and he  
19 continued to serve on that position until his  
20 resignation this past December.

21           Now despite his long-standing history and  
22 record, voting record and so forth as a member of  
23 the Republican Party, Mr. Rogge, based on a  
24 certification issued by the Lake County Democratic  
25 Chair, Rudy Clay, last July, wants to run as a

1 Democrat in the primary election next May in House  
2 District 3.

3 And I make the point on Page 2 of our brief  
4 that this is an issue that really cuts across party  
5 lines. It goes to the question of the integrity of  
6 a party primary, and the Supreme Court has made  
7 very clear that both major political parties have  
8 significant associational interests protected under  
9 the First Amendment in safeguarding the integrity  
10 of their primary elections and making sure that the  
11 nominees that run in those primaries or that result  
12 from those primary elections best represent that  
13 party's political positions and philosophies.

14 Now if we look at the statute, and the operate  
15 statute here is Indiana Code Section 3-8-2-7  
16 Subsection 4, you will see that there are basically  
17 three ways that the legislature has determined one  
18 can ascertain a person's party affiliation.

19 There's only -- and as I said, the most  
20 typical way is you look at a person's voting  
21 record, and if we -- if we stop there, obviously,  
22 Mr. Rogge is a Republican, but he's submitted a  
23 certification that was signed last July by the Lake  
24 County Chair saying that on July 25 of last year  
25 when Chairman Clay signed that certification, he

1 was a Republican.

2 But we know from his own public statements and  
3 from his own conduct thereafter that he continued  
4 to be a member of the Republican Party after that  
5 certification was signed in July of last year. We  
6 know that because he made a statement to the Post  
7 Tribune in August 25 -- on August 25 of last year,  
8 that although the certification had been signed by  
9 Chairman Clay, Mr. Rogge didn't really intend that  
10 party conversion to take effect immediately. He  
11 didn't intend it to take effect until January of  
12 this year.

13 And not only do his words belie this  
14 certification, but he also continued to serve as  
15 the Republican electee on the Lake County Sheriff's  
16 Board for several months after this certification  
17 until his resignation on December 3.

18 Now our position, our legal position as I set  
19 forth on -- beginning on Page 5 of our brief is  
20 that Mr. Rogge was admittedly, by his own words,  
21 not a Democrat at the time of Mr. Clay's  
22 certification, and that's important because of what  
23 the statute says.

24 The statute says that if you're going to rely  
25 on the certification of a county chairman to

1 establish your political affiliation, the chairman  
2 must certify that the candidate -- the candidate is  
3 a member of that particular political party.

4 Now the certification that Chairman Clay  
5 signed contains that language. It says Mr. Rogge  
6 is a member of the Democratic Party as of July 25,  
7 when it was signed. But as I've indicated, he  
8 continued to serve as a Republican on that board  
9 for several more months and he made a public  
10 statement to the Post Tribune that he didn't intend  
11 this conversion to take place until January of this  
12 year.

13 So I don't know what his position is going to  
14 be here today, in terms of whether he was or wasn't  
15 a Democrat in July. But if he comes in here today  
16 and claims that in fact he was a Democrat in July,  
17 then I would suggest that you as fact finders need  
18 to look at the -- the undisputed evidence which  
19 shows that he in fact remained a Republican electee  
20 on the commission, on the Sheriff's Merit Board,  
21 and he made public statements that he didn't intend  
22 to become a Democrat until January 1.

23 And for that reason, because of those words,  
24 because of that conduct, this certification is not  
25 in compliance with the code. The code says if the

1 county chair is going to certify you, he certifies  
2 you as a Republican or as a Democrat at the time of  
3 that certification. Now that's what Chairman Clay  
4 said, but that's not what the evidence shows. The  
5 evidence shows in fact Mr. Rogge didn't intend this  
6 conversion to take place until several months  
7 later.

8 And I make the point also, and I'm almost  
9 finished here, I make the point also that a  
10 statement of future intention is not legally  
11 enforceable and that's why the legislature says if  
12 you're going to rely on certification, you have to  
13 state -- you have to certify with this person is  
14 indeed today a member of this political party, and  
15 that's what Chairman Clay said but that's not what  
16 the evidence shows.

17 And this is, I believe, undisputed evidence.  
18 So in light of that fact, you have to go back and  
19 look at the voting record, and the voting record is  
20 unmistakable, Mr. Rogge is a Republican. He's  
21 always been a Republican. But he's decided that as  
22 of this year, apparently, he wants to become a  
23 Democrat, but he wasn't a Democrat when Chairman  
24 Clay certified his -- his political party  
25 affiliation. Therefore, certification is void



1 ab-initio and inoperative and you should rely on  
2 his voting record to determine his political  
3 affiliation, and if you do so, I think you have to  
4 sustain these challenges. Thank you very much for  
5 your time, Mr. Chairman.

6 CHAIRMAN T. WHEELER: Let me ask just a quick  
7 question. Are you intending to call Chairman Clay?

8 MR. W. GROTH: No.

9 CHAIRMAN T. WHEELER: Is there a reason for  
10 that?

11 MR. W. GROTH: Because the certification  
12 speaks for itself. The certification is --

13 CHAIRMAN T. WHEELER: I -- I mean I agree  
14 on --

15 MR. W. GROTH: The certification is dated  
16 July 25, 2007. It's our position that the evidence  
17 shows that in fact Mr. Rogge was not a Democrat on  
18 July 25, 2007.

19 CHAIRMAN T. WHEELER: So the only evidence  
20 we're going to have regarding Chairman Clay, the  
21 chairman -- you don't dispute the issue of his  
22 certification?

23 MR. W. GROTH: I -- I -- I can't.

24 CHAIRMAN T. WHEELER: You in fact  
25 (indiscernible).

1 MR. W. GROTH: I can't, no.

2 CHAIRMAN T. WHEELER: So your only -- the only  
3 evidence is the Democratic Chairman's certification  
4 is this piece of paper?

5 VICE CHAIR A. LONG: This?

6 CHAIRMAN T. WHEELER: Well, that's -- that's  
7 not the Democratic Chairman. That's...

8 VICE CHAIR A. LONG: (Indiscernible).

9 CHAIRMAN T. WHEELER: That's just a statement.

10 VICE CHAIR A. LONG: That is the Democratic  
11 chairman of the election.

12 CHAIRMAN T. WHEELER: I do recall the Lake  
13 County Chair was Spauldie (Phonetic).

14 VICE CHAIR A. LONG: It was Spauldie, and I  
15 think he's sitting back in the audience.

16 MR. W. GROTH: I would Mr. Chairman -- to the  
17 extent I need to do this, I would move to proffer  
18 into evidence exhibits --

19 CHAIRMAN T. WHEELER: And I apologize for  
20 whatever --

21 MR. W. GROTH: That's all right.

22 CHAIRMAN T. WHEELER: -- construction is...

23 MR. W. GROTH: That's all right, Exhibits 1  
24 through 8.

25 VICE CHAIR A. LONG: Now that's your -- that

1 you filed with us here today?

2 MR. W. GROTH: That's correct.

3 VICE CHAIR A. LONG: 1 through 8.

4 CHAIRMAN T. WHEELER: So I know you're done  
5 with your preliminary statement. It sounds like  
6 you kind of did your whole case-in-chief?

7 MR. W. GROTH: I'm -- I'm not intending -- I'm  
8 not intending -- I'm not intending to call  
9 witnesses, that's correct.

10 CHAIRMAN T. WHEELER: All right. So then  
11 basically what we've got here -- with respect to  
12 the Democratic Party Chair in Lake County position,  
13 that's the only articulation of that is a statement  
14 on the 4th?

15 MR. W. GROTH: And the question is whether  
16 that would void ab-initio because of the undisputed  
17 evidence?

18 CHAIRMAN T. WHEELER: Speaking as a Republican  
19 member of this commission, I'm missing something  
20 here. Maybe that's an inappropriate question to  
21 ask.

22 VICE CHAIR A. LONG: I'm not missing anything.  
23 I think what he's saying is that apparently  
24 Mr. Clay believed Mr. Rogge made a conversion to  
25 the like side here, come into the light from the

1 darkness, and Mr. Rogge has taken the position  
2 publicly that all of that wasn't true, I was  
3 planning on doing that sometime in the future but  
4 not now. I think that's what counsel is saying.

5 And the question in my mind is void out  
6 because certain (indiscernible) facts is proven to  
7 be false by the submission of the petitioner's  
8 evidence, would it be necessary for a reconversion  
9 of a recertification simultaneously with the filing  
10 of the ballot because I think that's the position  
11 here.

12 **MR. W. GROTH:** Yeah. And in fact, the statute  
13 talks about a candidate being a member of a  
14 political party, and there was no way Mr. Rogge  
15 could have been a candidate. He wasn't a candidate  
16 at the time of this certification because it took  
17 place way back in July of 2007.

18 And the code -- the election code defines a  
19 candidate as someone who's filed a declaration of  
20 candidacy or made a public announcement of intent  
21 to run for office. And if you look at exhibit 6,  
22 look at the Post Tribune article, Mr. Rogge made  
23 the statement that he at that time was not making  
24 any commitments to run for elected office in 2008  
25 so he wasn't a candidate.

1           **CHAIRMAN T. WHEELER:** But Mr. Groth, didn't  
2 Mr. Clay also say in that same article, quote, he  
3 would be a tremendous candidate, Clay says, because  
4 he's always been a first-class community server?

5           **MR. W. GROTH:** Yeah. I think he would be a  
6 tremendous Republican candidate.

7           **COMMISSION MEMBER D. DUMEZICH:** Has he made  
8 any contributions to the Republican Party since his  
9 conversion by Chairman Clay? I'm looking through  
10 this and...

11           **COMMISSION MEMBER S. RIORDAN:** Mr. Groth, I  
12 saw one in 2007 to IAI Political Action Committee.  
13 Does anybody know what that is?

14           **COMMISSION MEMBER D. DUMEZICH:** That's  
15 independent.

16           **MR. G. ROGGE:** May I answer?

17           **COMMISSION MEMBER D. DUMEZICH:** Yeah.

18           **MR. G. ROGGE:** That's the Independent Agents  
19 of Northwest -- Independent Agents of Indiana.

20           **CHAIRMAN T. WHEELER:** Insurance agents.

21           **MR. G. ROGGE:** Insurance agents. That's what  
22 I am.

23           **COMMISSION MEMBER S. RIORDAN:** That's in  
24 (indiscernible).

25           **CHAIRMAN T. WHEELER:** But that's not in the

1 (indiscernible). I defer to my Lake County friend  
2 from the commission for that.

3 COMMISSION MEMBER D. DUMEZICH: It's the  
4 insurance PAC?

5 MR. G. ROGGE: Yes.

6 COMMISSION MEMBER D. DUMEZICH: Which he's a  
7 member. You're...

8 MR. G. ROGGE: Yes, I am a member.

9 COMMISSION MEMBER D. DUMEZICH: Okay. So...

10 CHAIRMAN T. WHEELER: Mr. Reising.

11 MR. G. REISING: Thank you, Mr. Chairman.

12 CHAIRMAN T. WHEELER: Let me ask, so Mr.  
13 Groth, you finished your -- that's your case  
14 basically; right?

15 MR. W. GROTH: Subject to an opportunity to  
16 examine any witnesses, yeah.

17 CHAIRMAN T. WHEELER: Sure.

18 MR. G. REISING: Mr. Chairman and Members of  
19 the Commission, my name is Greg Reising, and let me  
20 assure the Democratic members that I am a yellow  
21 dog Democrat. I served in the state legislature as  
22 a Democrat and I worked on my first campaign for  
23 Senator Bayh in 1960, before I was old enough to  
24 vote.

25 And what we have here -- if I can address the

1 gentleman's argument for just a minute, is we have  
2 (indiscernible) of the statute, because you have to  
3 be a candidate before you get certification, and  
4 you have to get the certification before you can be  
5 a candidate because you can't run as a candidate  
6 from one party to the other unless you have the  
7 certification.

8 But be that as it may, July 24th, 2007, was  
9 this man's birthday, George A. Rogge's birthday,  
10 and I've known Mr. Rogge for many many years and  
11 spent a portion of that time myself attempting to  
12 convert him to the Democratic Party for a variety  
13 of reasons.

14 And I think that the evidence will show that  
15 George Rogge was born into a staunch Republican  
16 family, that he honors his family, that he honors  
17 his father and his party for a number of years, and  
18 that when his party -- let's back up, when his  
19 father passed away in 2005, he began seriously  
20 reconsidering his position as a Republican.

21 He and I discussed that at length, and decided  
22 on his birthday, (indiscernible), that he was a  
23 Democrat philosophically, and he went to see his  
24 chairman, Rudy Clay, and told him that and told him  
25 that he in fact was a candidate to run for the 3rd

1 House District against Mr. Brown.

2 And he had read the statute and he knew he  
3 needed the certification from there and the mayor  
4 gave it to him. And on the very first day that he  
5 could announce, become certified for office, he  
6 sent the papers down to Indianapolis with the  
7 certification of the mayor attached to it.

8 He was an elected Republican official on the  
9 Lake County Merit Board. This board is  
10 chosen -- this particular position is chosen by  
11 members of the Lake County Sheriff's Department  
12 that are chosen -- that are subject to this merit  
13 commission.

14 Of course, this is Lake County. These people  
15 are overwhelmingly Democrat. They elected George a  
16 few years back as a Republican. In July of 2007,  
17 Mr. Rogge will testify that this was some things he  
18 wanted to finish up on that commission. When he  
19 finished them up on July 3rd, he resigned.

20 VICE CHAIR A. LONG: July 3rd?

21 MR. G. REISING: I'm sorry, December 3rd,  
22 2007, he resigned. After he became a candidate  
23 under the certification, he again had conversations  
24 with Chairman Clay, told him that Representative  
25 Brown had asked the chairman to withdraw his



1 certification, and Chairman Clay said he wasn't  
2 going to do it, that George was a Democrat, he was  
3 welcomed into the party as Mr. Clay had welcomed in  
4 the present Democratic mayor of Hammond and the  
5 present assessor of Ross Township, both of whom  
6 were Republicans that ran for office, while  
7 Mr. Clay was chairman on his certification.

8 And we have an unusual situation in Lake  
9 County. We have a race horse in the race for 3rd  
10 District Democratic representative, a race horse  
11 who believes in the principles of the Democratic  
12 Party and who thinks he can win that race. Other  
13 people think he can win that race, too, so they  
14 come down here and say well, he's not really a  
15 Democrat. We want him off the ballot. We don't  
16 want the people of Lake and Porter County to be  
17 able to make that decision, we want you folks to  
18 make that decision -- don't give them the right to  
19 vote, exercise your vote to keep Mr. Rogge off the  
20 ballot because we have this theory about when you  
21 become a candidate, when you don't become a  
22 candidate, whether or not he's a good Democrat or a  
23 good Republican -- by the way, some of the  
24 candidates on that list are Democrats that he gave  
25 money to.

1           But I think that for this commission to be  
2           asked to decide what somebody is thinking, what  
3           their political philosophy is, whether or not their  
4           a good Democrat or a good Republican would be a  
5           very very dangerous thing for this commission to  
6           do. We have a statute in the state that lays it  
7           out. You go to the chairman of the county in which  
8           you live -- not the chairman in the county next  
9           door to you, but the chairman of the county in  
10          which you live.

11           **CHAIRMAN T. WHEELER:** I take it that comment  
12          is meant to the Porter County chairman's statement  
13          is irrelevant under the statute; correct, it's the  
14          county --

15           **MR. G. REISING:** It's completely irrelevant.

16           **CHAIRMAN T. WHEELER:** And I take it the same  
17          thing. Have you seen Mr. Parker's statement?

18           **MR. G. REISING:** I saw that. I saw that.

19           **CHAIRMAN T. WHEELER:** Same position as  
20          irrelevant because the only thing that matters is  
21          certification from the county chair of where he  
22          lives?

23           **MR. G. REISING:** Well, I just -- I don't know  
24          Mr. Parker, but I assured Mr. Parker that he will  
25          discover when Mr. Rogge is a member of the state

1 legislature that he's a very good Democrat.

2 CHAIRMAN T. WHEELER: Assuming (indiscernible)  
3 vote against him?

4 MR. G. REISING: Well, and I think -- you  
5 know, I think that's a good point, Mr. Chairman,  
6 because if this board decides that its job -- it's  
7 the job of this board to decide who's a Democrat  
8 and who's a Republican, then that's the kind of  
9 situation you put yourself in virtually every  
10 year -- you're a good Democrat, you're a bad  
11 Republican.

12 CHAIRMAN T. WHEELER: And your position is  
13 that the statute says that that's the county  
14 chair's job?

15 MR. G. REISING: That's the county chair's  
16 job, the county chair did his job, and the county  
17 chair has not backed away from his job. The county  
18 chair has not said whoa, wait a minute.

19 CHAIRMAN T. WHEELER: Well, I note that you  
20 didn't call the county chair either; correct?

21 MR. G. REISING: Well, the county chair is a  
22 busy man and his statement is his statement.

23 CHAIRMAN T. WHEELER: Apparently so.

24 COMMISSION MEMBER D. DUMEZICH: He's doing a  
25 lot of jobs in Gary's City Hall right now.

1 MR. G. REISING: He has --

2 COMMISSION MEMBER D. DUMEZICH: And we'll  
3 likely see more vacancies there soon.

4 MR. G. REISING: He has his hands full as --  
5 every mayor of Gary I've known has had his hands  
6 full. And so we are prepared if this commission  
7 feels it's an issue, to have George tell you about  
8 his conversion to the Democratic Party.

9 VICE CHAIR A. LONG: That's an issue to me.

10 MR. G. REISING: Fine.

11 VICE CHAIR A. LONG: I can tell you that.

12 MR. G. REISING: I'm ready to call my first  
13 witness, George Rogge, who's already been sworn.

14 CHAIRMAN T. WHEELER: Fair enough.

15

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. GREGORY S. REISING:

18 Q So George, just for the record, would you tell  
19 the commission who you are and what you're  
20 running for?

21 A I'm George A. Rogge, and I'm running for the  
22 Democratic candidate for the 3rd House District,  
23 House of Representatives.

24 Q All right. George, from a political standpoint,  
25 tell us your history?

1 A Well, as you have said, I was born into a very  
2 staunch Republican family, and you know I didn't  
3 exactly -- I was a good kid. I mean I never  
4 bucked my father and my mother and I was a good  
5 son and I honored their views until actually my  
6 dad died in 2005.

7 But there's -- you know, there's -- there's  
8 many things that growing up and getting involved in  
9 politics that I knew I wasn't a Republican, and if  
10 I look at, you know, some of the people that --  
11 people that are presidents, our past presidents, I  
12 certainly am one -- my favorite president is Harry  
13 Truman.

14 And I feel that I'm a like Harry Truman.  
15 Harry Truman set up the corporations, and I did so  
16 in the last couple of years, in standing up against  
17 U.S. Steel, and in this tax fight, I got the money  
18 for taxpayers instead of U.S. Steel getting it.

19 I'm also one that applied to get a pollution  
20 tax introduced into the general assembly. In fact,  
21 I went to Charlie Brown trying to do so. Of  
22 course, a motion tax would be against -- at least  
23 in Lake County, the 74 corporate polluters, and  
24 these are kinds of things that a Republican  
25 wouldn't do. These are things that a Democrat does

1 or should do. And that's the kind of guy I am.

2 And actually going down the line, when I was a  
3 kid, JFK -- you know JFK in my -- in my childhood  
4 is -- is not evil. He's the one that started the  
5 lightbulb going off and looking into politics.  
6 Walter Mondale -- Walter Mondale, I believe if he  
7 was actually president in 1984, we would absolutely  
8 have a total different country. We would not be in  
9 Iraq. After all, he came one vote in the senate of  
10 pulling some of the (indiscernible) and didn't  
11 have -- if you listen to him today, if you actually  
12 listen to what he says today, Walter Mondale says  
13 that we don't study history, we're condemned to  
14 repeat it and by golly that's what we've done  
15 (indiscernible).

16 So I -- I think everything I've done in the  
17 last few years has been as a good Democrat in all  
18 fairness and I became a Democrat -- absolutely.

19 Q Well, George, your birthday is July 24th?

20 A Yep.

21 Q And on July 24th, 2007, did you give yourself a  
22 birthday present?

23 A Yeah. I -- I have a strange way of celebrating  
24 my birthday. I try to do certain things in my  
25 community, and for the last probably 20 years,

1 my dad died, he had dedicated a new building or  
2 dedicated a new social type project, and this  
3 particular birthday in 2007, I in fact went to  
4 Mayor Clay, and I said I want to be a Democrat  
5 and I want to run a Democratic round.

6 Well, he came close to the date -- it was one  
7 day later, but I -- that was close enough for me,  
8 but that was my birthday present to myself and done  
9 that for a number of years like that.

10 Q And George, at that time, July of 2007, you were  
11 serving on the Sheriff's Merit Board?

12 A Yes, I was.

13 Q As a Republican?

14 A Yeah.

15 Q And how did you obtain that position?

16 A Well, the merit board -- merit board offices, it  
17 holds the police officers of the county for  
18 sheriffs and then for sheriff's deputies which  
19 are predominantly Democratic -- they're all a  
20 bunch of Democrats (indiscernible), and they  
21 voted for me to be on the merit board as  
22 representing them.

23 And in the year 2007, there was a number of  
24 potential cases with a number of merit board  
25 officers that could have or should have come out in

1 the fall due to the fact that their attorney,  
2 Mr. Javonski (Phonetic) suddenly died, that they  
3 (indiscernible) new attorney in time and I could  
4 see that those items were not going to come out but  
5 I didn't know that until December -- late November  
6 and I -- I resigned on December.

7 CHAIRMAN T. WHEELER: Mr. Rogge, let me ask a  
8 question. The Lake County Sheriff's Merit Board is  
9 an elected position; is that correct?

10 MR. G. ROGGE: It's elected by the -- I am  
11 elected by the officers, not everybody.

12 CHAIRMAN T. WHEELER: All right. It's  
13 not -- it's not a politically elected position --  
14 I'm confused? Do you stand for office on a ballot  
15 or are you just -- you're the FOP of  
16 (indiscernible)?

17 MR. G. ROGGE: Well, it's election from...

18 VICE CHAIR A. LONG: Not FOP.

19 CHAIRMAN T. WHEELER: It's not the FOP, the  
20 officers themselves -- I'm just trying to -- I do  
21 all the Marion County work and it's different  
22 apparently, and I'm just trying to -- you  
23 don't -- you haven't stood for election as a  
24 Republican member of the Lake County Merit Board to  
25 the general public; correct?



1 MR. G. ROGGE: No.

2 CHAIRMAN T. WHEELER: Okay.

3 MR. W. GROTH: Mr. Chairman, could I call to  
4 your attention the Indiana statute that governs for  
5 the appointment or election of...

6 CHAIRMAN T. WHEELER: Fair enough. Is  
7 that -- is that the...

8 MR. W. GROTH: It's in my brief on Page 9.

9 CHAIRMAN T. WHEELER: All right.

10 MR. W. GROTH: Mr. Rogge is one of two members  
11 who are elected by the police force, one of  
12 which -- it has to be by statute a Republican, the  
13 other a Democrat. Mr. Rogge was elected as a  
14 Democrat -- as a Republican.

15 CHAIRMAN T. WHEELER: When?

16 MR. W. GROTH: You'd have to ask him.

17 Q When -- when were you first selected to that  
18 position?

19 A Well, not exactly. I'd say about seven years  
20 ago.

21 Q Okay.

22 CHAIRMAN T. WHEELER: And I take it from Mr.  
23 Groth's position, you can't have a change of heart?

24 MR. W. GROTH: Sure.

25 VICE CHAIR A. LONG: I'm sure he had a change

1 of heart because he had a position on the merit  
2 board, because being a member of the merit board,  
3 the position he was in as a prerequisite, if you're  
4 a Republican, and one of the members, the  
5 prerequisite they're a Democrat.

6 Q And Mr. Rogge, to reiterate, you did not resign  
7 in July because you thought there were some  
8 things that needed to be done?

9 A Yes.

10 Q And did any of these things have anything to do  
11 with the fact that you were a Republican and  
12 other people were Democrats?

13 A No. Actually, nothing -- nothing comes up as a  
14 Republican/Democrat on that board.

15 Q Okay. And when you had finished these items,  
16 some of them weren't (indiscernible), you  
17 resigned your position?

18 A Yes.

19 Q And have -- have you talked to Mayor Clay since  
20 your certification signature in July of '07?

21 A Yes.

22 Q And has he reiterated his support of your  
23 certification?

24 MR. W. GROTH: Well, I guess I would  
25 respectfully object. That's -- that's clearly

1 hearsay.

2 CHAIRMAN T. WHEELER: This is an  
3 administrative hearing, and hearsay is admissible,  
4 so as long as there is some admissible evidence  
5 that goes along with this that supports a position.

6 Q Go ahead.

7 A Yes.

8 Q And did the mayor inform you that Mr. Brown  
9 tried to get him to change his mind?

10 A Yes.

11 Q And did the mayor tell you that he wasn't going  
12 to change his mind?

13 A Yes.

14 Q And the mayor knew that you continued to serve  
15 on the merit board until December?

16 A I don't know.

17 Q And you have talked to him as recently as when?

18 A Yesterday.

19 Q And did the mayor indicate to you that he felt  
20 that you were a good Democrat and was going to  
21 stand not endorsing you because he's the  
22 chairman of the party so he wouldn't endorse in  
23 the primary, but he stood -- he stood by  
24 his -- his commitment to you as a Democrat?

25 A Yes.

1           MR. G. REISING: I have no other questions of  
2 this witness. Do you have any questions of this  
3 witness?

4           CHAIRMAN T. WHEELER: I believe -- I believe  
5 Commissioner Riordan has a question.

6           VICE CHAIR A. LONG: I have some -- have you  
7 got some? I've got -- I've got...

8           COMMISSION MEMBER S. RIORDAN: You go ahead.

9           VICE CHAIR A. LONG: All right. When had you  
10 this transformation back on your birthday, did you  
11 announce it to the world I'm a Democrat?

12          MR. G. ROGGE: Of the world?

13          MR. G. REISING: Of the world?

14          VICE CHAIR A. LONG: Did you say it in any  
15 format, any group any place I'm now a Democrat?

16          MR. G. ROGGE: I said it to all my friends.

17          VICE CHAIR A. LONG: Okay. Are you a friend  
18 of Joseph Kirk?

19          MR. G. ROGGE: Joseph Kirk is...

20          VICE CHAIR A. LONG: Is he a friend of yours?

21          MR. G. ROGGE: Well, he's on the merit board.

22          VICE CHAIR A. LONG: I didn't ask -- I know  
23 that. Don't tell me something I don't know.

24          MR. G. ROGGE: I'm sorry.

25          VICE CHAIR A. LONG: Tell me things I don't

1 know. Is he your friend?

2 MR. G. ROGGE: I've never been -- I don't -- I  
3 don't even know where he lives.

4 VICE CHAIR A. LONG: All right. Do you know a  
5 John, is it Buncich?

6 MR. G. REISING: Buncich.

7 VICE CHAIR A. LONG: I can't -- you know who  
8 I'm talking about.

9 MR. G. REISING: John Buncich.

10 VICE CHAIR A. LONG: Buncich, yeah, you know  
11 him?

12 MR. G. ROGGE: I know him, yes.

13 VICE CHAIR A. LONG: Is he your friend?

14 MR. G. ROGGE: Well, I -- I -- if being a  
15 friend means you go over to their home and so  
16 forth, no, I don't know where he lives.

17 VICE CHAIR A. LONG: Are you -- are you  
18 friendly?

19 MR. G. ROGGE: I'm friendly, sure, absolutely.

20 VICE CHAIR A. LONG: What about James Pope I  
21 can pronounce that?

22 MR. G. ROGGE: Yes.

23 VICE CHAIR A. LONG: Is he a friend of yours,  
24 friendly with you.

25 MR. G. ROGGE: Friendly, yes.

1           VICE CHAIR A. LONG:  And John -- I can't --  
2           Shelhart (Phonetic).

3           MR. G. ROGGE:  Shelhart, yes.

4           VICE CHAIR A. LONG:  These are members of the  
5           Sheriff's Merit Board, aren't they?

6           MR. G. ROGGE:  Yes.

7           VICE CHAIR A. LONG:  The reason I ask how much  
8           this transformation you say you've made, on  
9           September the 13th, 2007, under new business -- I  
10          don't even know which one it would be, is bringing  
11          in Buncich -- now how close am I?

12          COMMISSION MEMBER S. RIORDAN:  Good.

13          MR. G. REISING:  Good.

14          VICE CHAIR A. LONG:  On another issue, Mr.  
15          Buncich is requesting that Mr. Rogge advise the  
16          board as to his political status with the board and  
17          as far as his intentions effective date, etc.  The  
18          members of the election, or the merit board at  
19          least September, some two months after you made the  
20          transformation, they're asking you to tell them,  
21          and you were at the meeting -- you're at that  
22          meeting registered here and they asked you to tell  
23          them what your status was, and I don't see anything  
24          in the minutes saying I've seen the light.  I'm now  
25          a Democrat.  Did you do that?

1           MR. G. ROGGE: No, I didn't do that.

2           VICE CHAIR A. LONG: Okay. Then I note in  
3 your voter history that you've never ever called  
4 for a Democratic ballot; is that a fair statement?

5           MR. G. ROGGE: That'd be fair.

6           VICE CHAIR A. LONG: And that as late as the  
7 primary election in 2007, you were still aligning  
8 yourself with the Republican Party when you called  
9 for the Republican Party ballot in 2007?

10          MR. G. ROGGE: Yes.

11          VICE CHAIR A. LONG: And it was sometime after  
12 the primary in May, between May and your birthday,  
13 that you changed your parties?

14          MR. G. ROGGE: Yep.

15          VICE CHAIR A. LONG: And you didn't -- do  
16 you -- I mean the issue of you wanting something to  
17 do -- you understood from being a many year member,  
18 did you not, of the election -- of the merit board  
19 that being a Republican was a prerequisite to hold  
20 the position that you were, did you not?

21          MR. G. ROGGE: I -- I knew that, yeah.

22          VICE CHAIR A. LONG: And so you had -- in  
23 order to accomplish that and make your actions  
24 between July and December lawful, you could not  
25 become a Democrat and say hey, I'm a Democrat now

1 and still continue to be a member of that board,  
2 could you?

3 MR. G. ROGGE: Oh, I think I can.

4 VICE CHAIR A. LONG: So the board requirement,  
5 you have to be a Republican, and so you're saying  
6 that the merit board had too much democrats on it  
7 and maybe all of its decisions between July and  
8 December are void?

9 MR. G. ROGGE: I say that Democrat/Republican  
10 has never come up in a board meeting in the whole  
11 time I've been there.

12 VICE CHAIR A. LONG: Well, yeah, it has. It  
13 come up on September -- in September when they  
14 asked you to tell them what member of the party you  
15 were in and you didn't do it, but it did come up.  
16 Is that the only time you're saying it ever came  
17 up?

18 MR. G. ROGGE: That's the only time.

19 VICE CHAIR A. LONG: And you knew you were a  
20 Republican member of the board?

21 MR. G. ROGGE: I did.

22 VICE CHAIR A. LONG: It sounds to me like  
23 Mr. Clay has got an issue with Mr. Brown. That's  
24 all the questions I've got.

25 COMMISSION MEMBER S. RIORDAN: May I?



1 CHAIRMAN T. WHEELER: Please.

2 COMMISSION MEMBER S. RIORDAN: When did you  
3 become a candidate for this office?

4 MR. G. ROGGE: The first time, the first day I  
5 applied.

6 COMMISSION MEMBER S. RIORDAN: Which was what  
7 date, sir?

8 MR. G. ROGGE: February 25th.

9 COMMISSION MEMBER S. RIORDAN: Of what year.

10 MR. G. ROGGE: 2008.

11 MR. G. REISING: First day of filing.

12 MR. G. ROGGE: First day of filing.

13 MR. W. GROTH: It's Exhibit 8, Member Riordan.

14 COMMISSION MEMBER S. RIORDAN: Did you ever  
15 publicly declare that you would be a candidate for  
16 office before that?

17 MR. G. ROGGE: Yes. Yes, I did.

18 COMMISSION MEMBER S. RIORDAN: And what date  
19 did you do that on? Did you have a kickoff at some  
20 point or a fundraiser?

21 MR. G. ROGGE: Yeah. December 22nd, for sure.

22 COMMISSION MEMBER S. RIORDAN: Okay. But not  
23 before July of 2007?

24 MR. G. ROGGE: Before July what?

25 COMMISSION MEMBER S. RIORDAN: 2007, had you

1 had a fundraiser --

2 MR. G. ROGGE: No.

3 COMMISSION MEMBER S. RIORDAN: -- or formed a  
4 committee --

5 MR. G. ROGGE: No.

6 COMMISSION MEMBER S. RIORDAN: -- or had a  
7 public announcement before July of 2007?

8 MR. G. ROGGE: No.

9 COMMISSION MEMBER S. RIORDAN: That's all the  
10 questions.

11 VICE CHAIR A. LONG: When did you form a  
12 committee? You said you had a fundraiser in  
13 December, I think you said.

14 MR. G. ROGGE: Yes.

15 VICE CHAIR A. LONG: Did you form a committee  
16 back to December?

17 MR. G. ROGGE: I did form a -- a exploratory  
18 committee. I don't remember a date. Yes, I --  
19 I -- here, this would be it. This would be it.  
20 The IRS -- the IRS date is probably the date,  
21 11/14/07.

22 MR. G. REISING: Mr. Rogge filed a report and  
23 receipts of expenditures in '07, and he formed a  
24 committee in '07 as required by law, and  
25 neither -- neither of us remember the date that we

1 did that. It seems do me it was in -- it was  
2 in -- before that.

3 VICE CHAIR A. LONG: Well, they're going to  
4 bring the time down.

5 MR. G. REISING: Yeah.

6 MS. L. BARNES: That's what we -- yes. Mr.  
7 Chairman, we can -- we can verify that with our  
8 campaign finance -- campaign finance staff.

9 MR. G. ROGGE: Yeah. It was late October or  
10 early November.

11 COMMISSION MEMBER S. RIORDAN: Mr. Chairman?

12 CHAIRMAN T. WHEELER: Go ahead, Sarah.

13 COMMISSION MEMBER S. RIORDAN: I've -- I've  
14 been looking closely at the statute here, and  
15 3-8-2-7 for declaration of candidacy, particularly  
16 Subsection A4(c) in my mind appears to require the  
17 county chairman's certification that the candidate  
18 is a member of the party in good standing.

19 And I don't think we've seen anything that  
20 would establish that you were a candidate at the  
21 time you converted to the Democratic Party and I  
22 think that -- I mean it, you know, goes without  
23 saying that we (indiscernible) the Democratic Party  
24 and wished that you had become one of us sooner.

25 But the statute for declaration of candidacy

1 requires that the chairman approve you as a  
2 candidate and certify that you're in good standing  
3 as a candidate. I don't think they were a  
4 candidate then. And so the determination that the  
5 chairman made at that time, to me, the requirements  
6 of the statute would have had to evaluate your  
7 standing as a (indiscernible) -- maybe I haven't  
8 said that correctly, but the statute requires that  
9 you have a certification of a candidate.

10 And unless we see something else, that you've  
11 made no indication, some public declaration of  
12 candidacy either as defined by statute or  
13 otherwise, I don't think you were a candidate and I  
14 don't think (indiscernible) and I don't think it's  
15 all there.

16 That's -- I'm inclined to look at it that way.  
17 If we want to see things from our campaign finance  
18 staff, we should, but that's the way I'm looking at  
19 it right now.

20 **VICE CHAIR A. LONG:** And Mr. Chairman, I would  
21 add to that and I concur with that, the statute  
22 that's being referred to is written in the present  
23 tense, that the county chairman must certify that  
24 the certification if the candidate is a member of  
25 the political party.

1           And I don't think there's -- my observation is  
2 I don't think he became a member of the political  
3 party until he disavowed his membership in the  
4 Republican Party by stepping down from a position  
5 that he held that was a prerequisite, and that  
6 furthermore, when asked his political affiliation  
7 in September at the meeting of the merit board, he  
8 apparently, according to their minutes, remained  
9 silent, which my observation, I just -- it just  
10 seems to me we find ourselves in a -- being called  
11 to referee an inner party dispute in Lake County  
12 that I don't think is -- if we have any business in  
13 it or not.

14           I think Mr. Rogge is (indiscernible). We  
15 welcome him -- we, like most people, I don't want  
16 every (indiscernible) our party, but I mean a few  
17 of them we've turned down, but most people, we  
18 welcome in our -- under our tent, and we welcome  
19 Mr. Rogge. I just don't think he meets the  
20 requirement of a candidate.

21           **MR. G. REISING:** I'll add Mr. Rogge's  
22 testified that he told Mr. Clay on the 25th  
23 and -- that he was a Democrat and he was a  
24 candidate against Charlie Brown and the chairman of  
25 the party certified that and hasn't backed away

1 from that certification and I think that anything  
2 that if this -- if this commission were to deny him  
3 and the people of the 3rd District their right to  
4 vote because they decided that they know more about  
5 what the chairman was thinking in doing than the  
6 chairman was thinking in doing -- the chairman, who  
7 has not disavowed this, I think that would be a  
8 real tragedy for -- for the people of Gary.

9 And we filed our petition for candidacy on the  
10 first date that a petition for candidacy could be  
11 filed. We filed our petition with the State of  
12 Indiana long prior to that before we raised any  
13 funds -- is that the date there?

14 MS. L. BARNES: Yes.

15 MR. G. REISING: And what was that date?

16 MS. L. BARNES: November 14th, 2007, is when  
17 you opened your committee.

18 MR. G. REISING: Right.

19 CHAIRMAN T. WHEELER: Mr. Reising, let me --  
20 let me ask a question. I -- and I mean I actually  
21 agree with much of what the Vice Chair said with  
22 respect to -- this appears to be, with all due  
23 respect, a Lake County dispute on Democrats so far  
24 be it from me to speak to that particular issue.

25 On the other hand, I do note contrary to what

1 I think Commissioner Riordan was implicating, the  
2 certification did indeed certify you as a  
3 candidate. As I read the certification, it says  
4 that George A. Rogge is a member of the above named  
5 party in good standing, period. This certification  
6 is made in support of the declaration of candidacy  
7 filed by the above named candidate for the  
8 elections being held in the year 2008 only.

9 So just reading that, and I have seen -- if  
10 Mr. Groth had brought Mr. Clay here to testify that  
11 he disavowed this, I think that solves the problem.

12 **MR. W. GROTH:** Mr. Clay -- with all due  
13 respect, Mr. Chairman, Mr. Clay is not my agent for  
14 purposes of this case. He's Mr. Rogge's agent.

15 **CHAIRMAN T. WHEELER:** But you have the burden  
16 of proof there.

17 **MR. W. GROTH:** I understand that.

18 **CHAIRMAN T. WHEELER:** If your burden of  
19 proof -- if I read this statute correctly, and the  
20 way I read this statute, it says if the chair of  
21 the county that he lives in certifies him as a  
22 Democrat for -- and you're striking the word  
23 "candidacy." I read the word "candidacy" in here.

24 Now, let me finish, certifies the candidate is  
25 a member of that political party. It is my belief

1           that that's sufficient, that's my personal belief.  
2           It is my belief that that county chair, the statute  
3           has given that county chair the ability to decide  
4           to make this determination. I'm not particularly  
5           interested in figuring out if Mr. Rogge is  
6           Republican or Democrat.

7                     And from my Republican standpoint, I'm  
8           disappointed that a man of his articulate nature  
9           has apparently determined that he has more in line  
10          with the Democratic Party. On the other hand, I  
11          believe -- this is me, personally, I believe and I  
12          believe that the general assembly said that those  
13          kind of decisions rests with the county chair.

14                    And the county chair -- the only thing we have  
15          in evidence from the county chair is this piece of  
16          paper. And if this is a, you know, Lake County  
17          dispute between the county chair and Mr. Brown, for  
18          example, and he's recruited somebody to go after  
19          him, that's -- that's their prerogative.

20                    I don't, personally, view that as the role of  
21          the commission to determine whether or not  
22          Mr. Rogge is a Republican or Democrat. I view  
23          us -- I view us as looking at if this was  
24          fraudulent, if somehow he had repudiated this, but  
25          as I view this, this -- this is a statement that



1 has gone forth and was intended to support his  
2 candidacy -- in fact, it says that.

3 MR. W. GROTH: Right.

4 CHAIRMAN T. WHEELER: And that's -- that's how  
5 I view it. I'm having difficulty with going  
6 anywhere else here.

7 MR. W. GROTH: And you have to -- I'm sorry.

8 COMMISSION MEMBER D. DUMEZICH: And here's my  
9 issue with it. I'm the first to admit that the  
10 chairman made plenty of really stupid decisions.  
11 However, having said that, I also understand that  
12 they are the chairman.

13 MR. W. GROTH: I would like to point out, and  
14 I would like to ask a couple of questions on  
15 cross-examination, but I would like to point out  
16 that this -- we don't have -- it's not my theory of  
17 what a candidate is. It's the statute.

18 The statute says you become a candidate either  
19 by taking the action legally necessary under  
20 Indiana law, which we know wasn't done til  
21 November, or publicly announcing that you're a  
22 candidate for public office.

23 Now going into Mayor Clay's office and having  
24 a private tete-a-tete with him and say I'm thinking  
25 about running for mayor, will you, or running for

1 House District 3, will you certify me, is not  
2 equivalent to a public announcement. Therefore, if  
3 he has not a candidate by operation of the -- of  
4 the statutory definition, the certification by Clay  
5 that he is a -- that he is a Democratic Party  
6 member and he is a candidate is -- is simply void  
7 and inoperative.

8 COMMISSION MEMBER D. DUMEZICH: See I  
9 don't -- I don't think that, because if you go in  
10 and the first person -- the person you tells the  
11 county chairman, I believe you're making -- you're  
12 telling the party that at that point in time.

13 MR. W. GROTH: Well, you can tell your wife  
14 that, but that doesn't make it a public  
15 announcement.

16 COMMISSION MEMBER D. DUMEZICH: No. But when  
17 you tell the chairman of the party that, I think  
18 that you are making it public. I think that  
19 that -- that in and of itself, that action, telling  
20 the official head of the Lake County Party that  
21 you're a candidate for it, I think achieves the  
22 public -- achieves the -- the intent of the  
23 statute.

24 MR. W. GROTH: Well, I would respectfully  
25 disagree far differently. But Mr. Chairman, may I

1 ask a few questions on cross-examination?

2 CHAIRMAN T. WHEELER: Sure.

3 COMMISSION MEMBER S. RIORDAN: Let me -- let  
4 me just --

5 MR. W. GROTH: Sure. Go ahead.

6 COMMISSION MEMBER S. RIORDAN: -- direct the  
7 Commission's attention to 3-5-2-6, which actually  
8 tells us -- which defines a candidate, and that's  
9 where I took my questions from, when did you form a  
10 committee, when did you make a public declaration?

11 I think -- well, 3-5-2-6 is the section. It  
12 tells us that a candidate is someone who's taken  
13 the action necessary to qualify for listing on the  
14 public or has publicly announced or declared  
15 candidacy or otherwise seeks nomination for or  
16 election to an elected office, regardless of  
17 whether the individual wins.

18 And I think that we've established that none  
19 of those things happened before the date of  
20 certification.

21 MR. G. REISING: Well, the first thing did --  
22 the first thing did happen.

23 COMMISSION MEMBER S. RIORDAN: Before the  
24 certification? I mean I guess my point is --

25 MR. G. REISING: The first thing happened --

1 the first --

2 COMMISSION MEMBER S. RIORDAN: Pardon me. I  
3 guess my point is that on the date that this was  
4 signed, you weren't a candidate. There was no  
5 declaration of candidacy. You weren't a candidate.  
6 And even the chairman has to follow the statutes of  
7 Indiana, and that would be my approach, but...

8 MR. G. REISING: If I may?

9 COMMISSION MEMBER S. RIORDAN: Sure.

10 MR. G. REISING: The statute you just read,  
11 the first -- the first line says takes action  
12 necessary to become a candidate. As someone who  
13 had voted in the Republican primary in previous  
14 election, the first action that he had to take to  
15 become a candidate was to get the chairman of the  
16 county in which he resides to certify him as a  
17 Democrat. That's the --

18 COMMISSION MEMBER S. RIORDAN: To certify him  
19 as a candidate.

20 MR. G. REISING: And that's what the  
21 certification --

22 COMMISSION MEMBER S. RIORDAN: And he wasn't a  
23 candidate.

24 MR. G. REISING: That's what the certification  
25 says. The certification says he certifies a

1 candidate. The first legal step George Rogge had  
2 to take to become a candidate for that office was  
3 to get that certification. That's what he did.

4 **COMMISSION MEMBER S. RIORDAN:** Well, I  
5 don't -- I don't agree that that was the first step  
6 that he had to take. The first step that he had to  
7 take was to -- I mean he could have taken any first  
8 step. He could have thrown a fundraiser. He could  
9 have hopefully opened his committee before that.  
10 He could have held kick-off party. He could have  
11 written letters to the editor. He.

12 Wasn't required to get -- he's required to  
13 have the certification when he is a candidate. And  
14 admittedly, this really goes to both sides, I feel  
15 a whole lot better if Mayor Clay were here. I'd  
16 feel a whole lot better if Mayor Clay had amended  
17 this or played a date that was current when he was  
18 a candidate after he had become a candidate. And  
19 these distinctions, I think, are really -- are  
20 substantial.

21 **MR. G. REISING:** Well...

22 **COMMISSION MEMBER S. RIORDAN:** I mean  
23 one -- one way to go would be if it's all about the  
24 county chairman, then you know, we want to hear  
25 from the county chairman, but I think we have a

1 certification before you became a candidate. And  
2 if you were going to use these -- the language of  
3 that particular certification to, you know, approve  
4 him in some future, it could have been candidacy  
5 for President of the United States. It could have  
6 been, you know, a candidacy for anything.

7 But we don't have Mayor Clay's present  
8 certification of you as a candidate for this  
9 particular office and I believe that's what the  
10 statute requires. That's the way I see it.

11 **MR. G. REISING:** Well, if that -- if that were  
12 true, then the certification wouldn't be good at  
13 any point in time because it certifies him as a  
14 Democrat in the 2008 elections. This is what  
15 we're -- he is a candidate in the 2008 elections.

16 To say that -- you just read the statute.  
17 Mr. Rogge, the first thing he had to do to become a  
18 candidate, was to get that certification. If  
19 you're saying it was the last thing he had to do  
20 after he became a candidate, then -- then he could  
21 never be a candidate because he couldn't be.

22 **MR. G. ROGGE:** Well, it says I have to be a  
23 candidate in the year 2008. That's what it says.

24 **MR. G. REISING:** That's not the certification.

25 **MR. G. ROGGE:** On that page, it says that. I

1 mean I...

2 COMMISSION MEMBER D. DUMEZICH: I would -- I  
3 would argue that the construction of the -- of the  
4 view of the statute, as interpreted by my learned  
5 colleague, would strip that qualification out of  
6 the statute, would make that -- it would make that  
7 clause a nullity.

8 MR. G. REISING: Sure.

9 COMMISSION MEMBER D. DUMEZICH: Because you've  
10 got he's a candidate, to get a certification, but  
11 in order to be a candidate, you have to have the  
12 certification and...

13 COMMISSION MEMBER S. RIORDAN: No, I don't  
14 think so at all. I think you can receive the  
15 certification after you become a candidate.

16 COMMISSION MEMBER D. DUMEZICH: No. If you go  
17 down to the ask to register as a Democrat for  
18 office, they look at the last time you ran, and if  
19 you pulled an R, you can't register. You cannot  
20 become a candidate (indiscernible).

21 VICE CHAIR A. LONG: It's a prerequisite for  
22 filing for candidacy.

23 CHAIRMAN T. WHEELER: Right.

24 VICE CHAIR A. LONG: But it's not a  
25 prerequisite to becoming a candidate.

1           **COMMISSION MEMBER S. RIORDAN:** Exactly.

2           **VICE CHAIR A. LONG:** I can announce that I'm  
3 going to be the Republican candidate for the  
4 president -- for governor this year, if the  
5 deadline hadn't run, and I announced it, then that  
6 makes me a candidate. When I say that to the  
7 world, I become a candidate, and I don't need the  
8 chairman's certificate saying I'm a Republican in  
9 good standing, but I do need it to file.

10           **COMMISSION MEMBER S. RIORDAN:** Thank you.

11           **VICE CHAIR A. LONG:** The filing is one of  
12 the -- one of the acts that makes you a candidate.  
13 It is not the only act. I think that's what  
14 Sarah's question -- Commissioner Riordan's question  
15 was earlier, did you -- I mean if he had a  
16 fundraiser, that -- that means you have to file a  
17 committee and start receiving money. There should  
18 be -- exploratory committee.

19           All of these things, he didn't need really  
20 certification to form his exploratory committee, he  
21 didn't file that with us. He needed it only if he  
22 was going to file a declaration of candidacy, and I  
23 think that's where you all are differing. And I  
24 agree with you completely, it's a prerequisite to  
25 filing. It's not a prerequisite to becoming a



1 candidate.

2 COMMISSION MEMBER S. RIORDAN: And you can't  
3 just file on a certain candidate. So we don't have  
4 to do them all -- they don't all become operative  
5 at one time.

6 CHAIRMAN T. WHEELER: Let me ask -- let me ask  
7 a second question. You focused on 1 and 2. No. 3  
8 says otherwise seek nomination for election to an  
9 elected office. It is my understanding that the  
10 first step in seeking nomination to anything is to  
11 go to your chair -- when it's a state office, you  
12 go to your state chair.

13 VICE CHAIR A. LONG: That's merely -- that's  
14 the proper etiquette.

15 CHAIRMAN T. WHEELER: But what my point is --

16 VICE CHAIR A. LONG: But I guarantee when I  
17 was county chair --

18 CHAIRMAN T. WHEELER: What my point is --

19 VICE CHAIR A. LONG: -- for 13 years, people  
20 filed all the time, and Ed Treacy maybe up here,  
21 and that's a -- he was the Lord over the party here  
22 (indiscernible), but people filed all the time and  
23 didn't come and ask me if they could file? They  
24 did it if they were Republican wanting to file  
25 Democrat, but not other...

1           COMMISSION MEMBER D. DUMEZICH: Did you  
2 ever -- did you ever sign the papers for them?

3           VICE CHAIR A. LONG: No.

4           CHAIRMAN T. WHEELER: Let's do this, is there  
5 anything further before we go to the commission?  
6 Do you have anything further, Bill?

7           MR. W. GROTH: I had some cross-examination.

8           CHAIRMAN T. WHEELER: Okay.

9

10 **CROSS-EXAMINATION**

11 **QUESTIONS BY MR. WILLIAM R. GROTH:**

12 **Q** Mr. Rogge, you're not denying, I take it, that  
13 you told a reporter for the Post Tribune on or  
14 about August 25, 2007 that you didn't intend  
15 your conversion to the Democratic Party to take  
16 place until January 1?

17 **A** I -- as I recall, I said what I said. As I was  
18 reading from actually the -- the certification  
19 of county chairman, and I -- the way I read it,  
20 this certification is (indiscernible)  
21 declaration of candidacy filed -- filed  
22 (indiscernible) county for the election to be  
23 held in 2008, and that's -- that's what I  
24 was -- I didn't do anything wrong.

25           And that's what I was referring to. In fact,

1 if you keep reading that article, I --

2 Q You're not denying in that article, are you?

3 MR. G. REISING: Let him finish his -- let him  
4 finish his answer.

5 MR. W. GROTH: Well, he's -- he's  
6 filibustering at this point. He's not answering  
7 the question.

8 A I'm not filibustering. I'm answering the  
9 question.

10 CHAIRMAN T. WHEELER: Hold on for just  
11 a -- give me just a second. Mr. Groth, ask your  
12 question again?

13 Q My question, Mr. Rogge, which I think takes a  
14 yes or a no answer, is: Did you in fact tell  
15 the Gary Post Tribune reporter on or about  
16 Saturday, August 25, that you didn't intend your  
17 conversion to the Democratic Party to take place  
18 until January 1, 2008?

19 CHAIRMAN T. WHEELER: That's a factual  
20 question. Did you make that statement? That is  
21 yes or no question.

22 A In part, yes.

23 CHAIRMAN T. WHEELER: And certainly, your  
24 attorney can follow up with what you meant by it,  
25 and that's fine.

1 Q And isn't it also true that you told the  
2 reporter that -- at or about that same time that  
3 you had not made any commitments to run for  
4 elected office if 2008?

5 A I -- the answer is yes.

6 Q All right. Thank you. And you -- you've  
7 testified about --

8 A I did not -- I did not want -- no, wait. You  
9 know...

10 CHAIRMAN T. WHEELER: Let me -- let me --  
11 Mr. Rogge, let me have your attorney follow up with  
12 you to do it. It's going to be a lot cleaner.

13 Q And Mr. Rogge, you made a point of stressing  
14 that your parents were Republicans, and you  
15 voted the way you thought you -- they wanted you  
16 to vote, and my parents are Republicans, too,  
17 but it didn't keep me from voting as a Democrat.

18 Now the question is: Your dad died in  
19 2005, you continued to vote in the Republican  
20 primary after that, didn't you?

21 A Yes.

22 Q And in terms of your contributions, you've  
23 testified that you've given some contributions  
24 to democrats. Isn't it true that the only  
25 contribution you ever given is somebody by the

1 name of Dilworth -- any -- she's the only  
2 Democrat that you gave a contribution to; is  
3 that true, Mr. Rogge -- you can answer the  
4 question. I'm not asking your lawyer.

5 A The only Democrat?

6 Q Yeah.

7 A No.

8 Q Well, what other Democrats have you contributed  
9 to?

10 A Sheila Moss, the judge.

11 Q Tell me -- tell me who Dilworth is; who is  
12 Dilworth?

13 A McKenya Dilworth is a Democrat, and she ran for  
14 this same office.

15 Q Is she a friend of yours?

16 A Yeah.

17 Q Are you romantically involved with her?

18 MR. G. REISING: I'm going to object to that.  
19 This is...

20 CHAIRMAN T. WHEELER: I think that's...

21 MR. W. GROTH: You're not going to let him  
22 answer that?

23 CHAIRMAN T. WHEELER: No.

24 MR. W. GROTH: Okay.

25 CHAIRMAN T. WHEELER: I've sustained the

1 objection.

2 Q And it's true, is it not, that you were not a  
3 Democrat on July 25, 2007?

4 A I'm saying I was.

5 Q But you continued to serve on the sheriff's  
6 commission as a Republican until December 3rd?

7 CHAIRMAN T. WHEELER: All right. At this --  
8 at this time -- we've gone through all this over  
9 and over again. I think the Commission is at a  
10 point to take action in this. I'll accept a  
11 motion.

12 VICE CHAIR A. LONG: I'll make a motion that  
13 the challenge be sustained for the reasons I stated  
14 earlier.

15 COMMISSION MEMBER S. RIORDAN: Second.

16 CHAIRMAN T. WHEELER: Motion's made and  
17 seconded, any further discussion?

18 *(No response.)*

19 CHAIRMAN T. WHEELER: I have a brief -- I  
20 believe -- although there are serious concerns that  
21 have been raised, I have a real problem that the  
22 state chair isn't here. Removing the county  
23 chairman's prerogative, I think that's -- that's --  
24 I have significant concerns about that because I --  
25 I believe strongly that the intent is that the

1 county chair ought to control who's deciding who's  
2 a Republican and who's a Democrat on this issue.

3 With that, the motion has been made, it's been  
4 seconded, all in favor, signify by saying aye?

5 THE COMMISSION: Aye.

6 CHAIRMAN T. WHEELER: Those opposed, same  
7 sign?

8 *(No response.)*

9 CHAIRMAN T. WHEELER: Motion carries 4-0. The  
10 challenge is sustained.

11 MR. B. KING: Excuse me, very quickly for the  
12 record...

13 VICE CHAIR A. LONG: *(Indiscernible)*.

14 MR. B. KING: I do.

15 VICE CHAIR A. LONG: I need to take a drink of  
16 water.

17 MR. B. KING: There -- there were two  
18 challenges filed in this matter, Cause 172 and 173  
19 *(indiscernible)*.

20 VICE CHAIR A. LONG: Can we take five?

21 CHAIRMAN T. WHEELER: Five-minute break, and  
22 then we will start with Barbara A. Wyly -- I'm  
23 sorry, Mark Wehrle.

24 *(A recess was taken.)*

25 CHAIRMAN T. WHEELER: All right, without a

1 gavel once again, I will call this meeting back to  
2 order. Next on our agenda is 08-175 in the matter  
3 of the challenge of the candidate Mark Wehrle. Is  
4 Mark Wehrle here or anybody representing Mark  
5 Wehrle?

6 (No response.)

7 CHAIRMAN T. WHEELER: Is Angela Chasey here or  
8 anybody representing Angela Chasey?

9 (No response.)

10 CHAIRMAN T. WHEELER: I would ask the  
11 Division -- I believe if no one is here, that we  
12 will dismiss the complaint; is that the correct  
13 process?

14 MS. P. POTESA: (Indiscernible).

15 VICE CHAIR A. LONG: (Indiscernible).

16 CHAIRMAN T. WHEELER: Yeah, (indiscernible).  
17 It doesn't say.

18 COMMISSION MEMBER S. RIORDAN: But it's not in  
19 the book. It's still on the agenda.

20 VICE CHAIR A. LONG: Oh, I -- is it agenda? I  
21 was following the book.

22 CHAIRMAN T. WHEELER: I was following the  
23 book, too.

24 COMMISSION MEMBER S. RIORDAN: Yeah. There's  
25 one for Toby Fields.



1           CHAIRMAN T. WHEELER: All right. We'll do  
2 Toby Fields.

3           COMMISSION MEMBER S. RIORDAN: Excellent.

4           CHAIRMAN T. WHEELER: Did you call out there?

5           VICE CHAIR A. LONG: Did you call for Fields?

6           CHAIRMAN T. WHEELER: No.

7           VICE CHAIR A. LONG: Fields here.

8           MR. T. McCLAMROCH: Here.

9           CHAIRMAN T. WHEELER: Hold on. No Fields.  
10 Give me one second.

11          MS. P. POTESTA: I just...

12          CHAIRMAN T. WHEELER: Go out there and ask for  
13 Wehrle or Angela Chasey.

14          VICE CHAIR A. LONG: Three times.

15          CHAIRMAN T. WHEELER: Three times loudly.  
16 Anybody?

17          *(No response.)*

18          CHAIRMAN T. WHEELER: Let the record -- let  
19 the record show that the Division has called three  
20 times loudly for Wehrle and for Chasey. Seeing  
21 that they're not here, I'll accept a motion to  
22 dismiss the challenge.

23          VICE CHAIR A. LONG: So moved.

24          CHAIRMAN T. WHEELER: Do I have a second?

25          VICE CHAIR A. LONG: Second.

1           CHAIRMAN T. WHEELER: The motion's made and  
2 seconded, any further discussion?

3           *(No response.)*

4           CHAIRMAN T. WHEELER: Hearing none, all in  
5 favor signify by saying aye?

6           THE COMMISSION: Aye.

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

9           *(No response.)*

10          CHAIRMAN T. WHEELER: The challenge in 01-175  
11 has been dismissed. What number is the Toby Fields  
12 one?

13          MS. P. POTESTA: That is 179.

14          CHAIRMAN T. WHEELER: I don't have it in my  
15 book.

16          VICE CHAIR A. LONG: I don't have it.

17          MS. P. POTESTA: This is strange, though. I  
18 can't believe...

19          CHAIRMAN T. WHEELER: All right. How come I  
20 don't have Toby Fields in my book?

21          VICE CHAIR A. LONG: Is it the number?

22          MS. P. POTESTA: Because I think...

23          VICE CHAIR A. LONG: 179 -- I don't have 179  
24 either.

25          CHAIRMAN T. WHEELER: I don't have it either.

1 Are you going to give us something on...

2 MS. P. POTESTA: Yes.

3 CHAIRMAN T. WHEELER: Okay. All right. This  
4 one is a little -- this is not a candidate  
5 challenge. This is an improper filing; am I  
6 correct?

7 MR. B. KING: Yes, Mr. Chair, that's correct.  
8 This filing was with the Election Division and was  
9 not included on the certification of candidates  
10 made on March 4th of 2008.

11 CHAIRMAN T. WHEELER: All right. Since this  
12 is not a challenge, we'll do this slightly  
13 differently. What I'm going to do is ask the  
14 Division, and Brad actually just did it, but Brad,  
15 just briefly from the Division's standpoint, what's  
16 the status? Did we ever get this paperwork? When  
17 did we get this paperwork?

18 MR. B. KING: Mr. Chairman and Members of the  
19 Commission, I believe we received this paperwork on  
20 the file stamped date on the letter which is March  
21 4th, 2008. We had not previously received a CAN-2  
22 filing that was attached to that or the CAN-7, the  
23 candidate filing of information which is signed by  
24 the Lawrence County circuit court clerk.

25 CHAIRMAN T. WHEELER: And Leslie, it looks

1 like you had a conversation with him, according to  
2 his letter.

3 MS. L. BARNES: Yes, I did.

4 CHAIRMAN T. WHEELER: As I understand it, he  
5 didn't file -- has he ever filed anything with us?

6 MR. T. FIELDS: Yes.

7 CHAIRMAN T. WHEELER: Do we have all the forms  
8 now?

9 MR. T. FIELDS: Yes. I've got...

10 CHAIRMAN T. WHEELER: (Indiscernible)?

11 MR. T. FIELDS: I've got the copies where I  
12 filed it with the -- the day I came up, after we  
13 had our phone conversation.

14 MS. L. BARNES: What...

15 MR. T. FIELDS: The...

16 VICE CHAIR A. LONG: I have the letter filed  
17 by March 4th.

18 MR. T. FIELDS: Right. I've got the CAN-2 and  
19 the 7, I believe.

20 MS. L. BARNES: (Indiscernible) March 4th?

21 MR. T. FIELDS: Yeah.

22 CHAIRMAN T. WHEELER: What's the February 22nd  
23 date on the paperwork?

24 MS. P. POTESTA: Copies.

25 VICE CHAIR A. LONG: He filed with the county

1           instead of the Election Division, is that the  
2           issue?

3           **MR. T. FIELDS:** Right.

4           **MS. L. BARNES:** Yes.

5           **MR. T. FIELDS:** Yeah. I had called into and  
6           called to the clerk's office, and they told me to  
7           get -- to see what I needed to do, how to go about  
8           filing, and I was told there in the week before the  
9           filing deadline that they could take care of  
10          everything in Lawrence County.

11          **CHAIRMAN T. WHEELER:** Is there a reason why  
12          it's not fully filled out? It doesn't show your  
13          precinct, the very first form.

14          **COMMISSION MEMBER D. DUMEZICH:** Did you submit  
15          an economic interest report?

16          **MR. T. FIELDS:** No. What I've -- what I've  
17          got here is what I done at the county and I filled  
18          out -- this is what they gave me at the -- at the  
19          voter registration.

20          I went into the clerk's office and talked to  
21          Myron Rainey (Phonetic), and they gave me the  
22          paperwork to fill out right there, and put the seal  
23          on it and done all the confirmation and everything.

24          And I left there and then I got a phone call  
25          on Friday -- on that evening when I got home at

1 4:00 o'clock that said that they couldn't forward  
2 it to the state, to the Secretary of State's  
3 Office, and that I would have had to have it there  
4 by noon on Friday.

5 And so -- when I talked to them, and then I  
6 immediately tried to call the election division at  
7 3:45 or 4:00 or whatever it was that afternoon, and  
8 I talked to.

9 MS. L. BARNES: Leslie.

10 MR. T. FIELDS: No.

11 MS. L. BARNES: No.

12 MR. T. FIELDS: I talked to -- I'm not sure  
13 who -- because when I called and asked who I need  
14 to talk to and they gave me the voice mail.

15 MS. L. BARNES: Okay.

16 MR. T. FIELDS: And I ended up calling like  
17 three or four times to get let back in, to get  
18 ahold of somebody -- to try to get ahold of  
19 somebody on Friday afternoon to see what I could  
20 do, and so they told me to call in on Monday  
21 morning.

22 So I called back at 8:00 o'clock on Monday  
23 morning and we got -- then when you called me back  
24 probably -- was it Tuesday?

25 MS. L. BARNES: That sounds right.

1           **MR. T. FIELDS:** You said -- you called me back  
2 and told me that I needed to get this and what I  
3 could do and bring it up to you.

4           **MS. L. BARNES:** You had asked --

5           **MR. T. FIELDS:** To get on the agenda.

6           **MS. L. BARNES:** -- to speak to someone you  
7 could appeal to it, if there was anyone that had  
8 statutory --

9           **MR. T. FIELDS:** Right.

10          **MS. L. BARNES:** -- authority to extend the  
11 deadline?

12          **MR. T. FIELDS:** Right.

13          **CHAIRMAN T. WHEELER:** And your response was we  
14 can't do it under the statute if there is an  
15 emergency or natural disaster?

16          **MS. L. BARNES:** Right. I said the Division  
17 cannot accept a late filing by statute but I said  
18 the Commission does have statutory authority to  
19 extend the deadline under certain circumstances.

20          **CHAIRMAN T. WHEELER:** And I believe the two  
21 circumstances that were given under statute are  
22 natural disaster or other emergency that makes it  
23 impossible or unreasonable for a person to perform  
24 the duty to file a document by the time specified  
25 in this time. So what natural disaster or

1 emergency?

2 MR. T. FIELDS: I didn't have any natural  
3 disaster or emergency other than the fact that I  
4 owe oh when I had made a couple of trips into the  
5 clerk's office and talked to them about what I  
6 needed to do to file?

7 And I -- and the information that I got there,  
8 they told me that I could -- they could take of  
9 everything there and all I had to do was bring it  
10 in there and file by 12:00 o'clock on Friday.

11 And I went back on Friday morning, before I  
12 got everything else that I was -- needed to do, I  
13 went back in there on Friday and filed these papers  
14 right here, walked out with these, and they told me  
15 everything was done and square, and I walked out of  
16 there that morning at 8:30 or 9:00 o'clock.

17 CHAIRMAN T. WHEELER: Figured you were done?

18 MR. T. FIELDS: And thought I was done. I  
19 come in the door at quarter to 4:00 on Friday  
20 evening, and my wife says you've got a message,  
21 voice mail you need to listen to.

22 CHAIRMAN T. WHEELER: From the clerk's office?

23 MR. T. FIELDS: From the clerk's office, and  
24 they told me you need to have that there -- you  
25 need to deliver that to Indianapolis by 12:00



1 o'clock today, and this was at...

2 CHAIRMAN T. WHEELER: 4:00 o'clock; right?

3 MR. T. FIELDS: 4:00 o'clock. And I said  
4 well, had they told me that on the week before,  
5 when I went in to talk to them or had they told me  
6 that when I was in there at 8:30 or whatever on  
7 Friday morning, I would have had plenty of time  
8 to -- you know, it would have been here.

9 But they told me it was all -- when I walked  
10 out, I had all this in my hand with the court seal  
11 on it.

12 CHAIRMAN T. WHEELER: Stamped and everything?

13 MR. T. FIELDS: Stamp telling me that I was  
14 done and ready to go, and I walked out the door  
15 and...

16 CHAIRMAN T. WHEELER: I -- I understand your  
17 problem. The problem we've got is statutorily,  
18 unless it was an emergency or natural disaster, we  
19 cannot go ahead and accept that or extend that, and  
20 I think that's what Leslie has indicated, too.

21 And frankly, historically, you're not the only  
22 one that's had -- it has happened a numerous times,  
23 since I've been on the Commission, and I know  
24 Commissioner Long has been on it. You didn't go to  
25 the website and look at the Commission's website?

1 I know we have this information. It's all on our  
2 website.

3 **MR. T. FIELDS:** There's -- there's one mention  
4 on that on Page 38 or something on the handbook in  
5 there that it has to be on the website that's -- on  
6 there where it says to file, and it tells on there,  
7 it states nothing on the handbook until about 30  
8 pages later that it has to done in person at the  
9 Secretary of State's Office.

10 **COMMISSION MEMBER D. DUMEZICH:** I'm troubled  
11 by something else, though, because I remember when  
12 I filed, I thought I had to send in a statement of  
13 economic interests contemporaneously with it, and  
14 it had to be filed with the...

15 **MR. T. FIELDS:** They told -- and I've got.

16 **COMMISSION MEMBER D. DUMEZICH:** The clerk and  
17 the house, (indiscernible) -- I mean that presents  
18 a problem. I mean you haven't given adequate  
19 disclosure to -- to voters of your (indiscernible)  
20 financial interests.

21 **MR. T. FIELDS:** They told me at the clerk's  
22 office and they gave -- I mean, I've got it all  
23 right here, they told me that that did not have to  
24 be filed, that I could turn that in after -- after  
25 this, that I could bring it up.

1           And they didn't give me a date. They just  
2 told me that I had to -- to...

3           **COMMISSION MEMBER D. DUMEZICH:** That's  
4 campaign finance. That's something different --

5           **MR. T. FIELDS:** Okay.

6           **COMMISSION MEMBER D. DUMEZICH:** -- based on  
7 what I'm looking -- what I'm seeing there is  
8 campaign finance (indiscernible). This is an  
9 entire form that has to be filed with the clerk and  
10 the house.

11           **VICE CHAIR A. LONG:** If you're running for  
12 legislative offices or judicial offices, there's  
13 statement of economic interests that have to be  
14 filed.

15           **COMMISSION MEMBER D. DUMEZICH:** If you own  
16 over \$10,000 in stock in a company, if you -- all  
17 sorts of things.

18           **MR. T. FIELDS:** Okay.

19           **COMMISSION MEMBER D. DUMEZICH:** I mean it's a  
20 very very long...

21           **CHAIRMAN T. WHEELER:** I defer to the  
22 legislators (indiscernible). The commission  
23 members have, obviously, been through these -- that  
24 process.

25           **COMMISSION MEMBER D. DUMEZICH:** And it's a

1 horrible pain in the rear end, is my point, but I  
2 don't think you've gotten to that. As you sit  
3 here, I still don't think that you have fulfilled  
4 all of the requirements to be a candidate for  
5 office, is the point that I'm making.

6 **MR. T. FIELDS:** The only thing -- the only  
7 point that I was making on there, though -- I mean  
8 when I went to the clerk's office and I talked to  
9 the -- I talked to three different people at the  
10 Lawrence County Clerk's office, and they told me,  
11 because I went in ahead of time, and they gave me  
12 the information -- they said this is what we need  
13 to do, and as long as you get this done, and they  
14 gave me the paperwork and I filed it and I done  
15 exactly what they told me to do, you know, and  
16 that's what -- I mean...

17 **CHAIRMAN T. WHEELER:** I understand exactly  
18 what you're saying. What I would do is lodge a  
19 complaint with them. The problem is from the  
20 Commission's standpoint, the general assembly does  
21 not allow us to fix that particular problem.

22 They told us that the only thing we can fix is  
23 if there is a natural disaster or other emergency.

24 **MR. T. FIELDS:** So you have no control over  
25 the people that work under you?

1           CHAIRMAN T. WHEELER: They don't work for us.

2           COMMISSION MEMBER D. DUMEZICH: They don't.

3           CHAIRMAN T. WHEELER: That is a separate  
4 elected official. The Lawrence County Clerk is an  
5 elected official.

6           MR. T. FIELDS: I realize that.

7           CHAIRMAN T. WHEELER: You understand that.

8           MR. T. FIELDS: But -- but you...

9           CHAIRMAN T. WHEELER: If --

10          MR. T. FIELDS: They don't have to answer to  
11 anybody but the local?

12          CHAIRMAN T. WHEELER: Well, if there was --  
13 that's correct. They answer to the clerk. Now the  
14 Division staff answer to the two co-directors who  
15 are sitting here.

16          MR. T. FIELDS: But who does the clerk -- who  
17 does Myron Rainey at the clerk's office...

18          CHAIRMAN T. WHEELER: Lawrence County. Is  
19 that the Lawrence County Clerk?

20          MR. T. FIELDS: It's Lawrence County Clerk.

21          CHAIRMAN T. WHEELER: The people of Lawrence  
22 County.

23          MR. T. FIELDS: But they're -- I mean who's  
24 the...

25          CHAIRMAN T. WHEELER: The people of Lawrence

1 County.

2 MR. T. FIELDS: Above that -- I mean so they  
3 don't have to answer to anybody until election  
4 time?

5 CHAIRMAN T. WHEELER: If there's gross  
6 misfeasance.

7 VICE CHAIR A. LONG: If they're being  
8 impeached or charged with a crime, there are some  
9 exceptions for general running of the offices,  
10 that's right.

11 CHAIRMAN T. WHEELER: I understand -- I  
12 understand your concern and...

13 MR. T. FIELDS: That -- that concerns me a  
14 great deal.

15 CHAIRMAN T. WHEELER: I agree.

16 MR. T. FIELDS: If there's -- if there's a  
17 county office that has no accountability to nobody  
18 but the voters...

19 CHAIRMAN T. WHEELER: The people of that  
20 county, people of Lawrence County.

21 MR. T. FIELDS: Only to the voters?

22 CHAIRMAN T. WHEELER: Only to the voters.

23 MR. T. FIELDS: It's all that's there? But  
24 everybody else has to answer to the State Board of  
25 Accounts and different ones that -- the checks and

1 balances.

2 VICE CHAIR A. LONG: That's only as to ballots  
3 and the books.

4 MR. T. FIELDS: That's just for the book, but  
5 as far as being right or wrong -- well, shoot, I'm  
6 in the wrong place.

7 CHAIRMAN T. WHEELER: I appreciate you coming  
8 and I apologize -- although, I guess I shouldn't  
9 apologize for the Lawrence County Clerk. We just  
10 said that that problem is...

11 VICE CHAIR A. LONG: Sometimes it fails and  
12 sometimes it...

13 CHAIRMAN T. WHEELER: There's no doubt, but  
14 the general assembly has not -- not given us the  
15 ability the do that, and perhaps for good reason.  
16 They don't us to instate candidates that have not  
17 fulfilled certain requirements absent an emergency  
18 or natural disaster. That's our...

19 MR. T. FIELDS: So the -- but the -- so the  
20 paperwork of Lawrence County Circuit Court is  
21 zilch?

22 CHAIRMAN T. WHEELER: That should have been  
23 filed up here and they are -- you tell them that  
24 and I would go back and explain that to them  
25 politely but friendly --

1           MR. T. FIELDS: Oh, I will.

2           CHAIRMAN T. WHEELER: -- and to perhaps some  
3 people when that clerk runs again.

4           MR. T. FIELDS: Well, this -- this clerk  
5 hasn't ran. He was appointed. The other clerk.  
6 And I'm not here to -- I mean...

7           CHAIRMAN T. WHEELER: I understand.

8           MR. T. FIELDS: Because it's almost -- you  
9 know, I've got a civil case. You know I could  
10 do -- you could follow because of that, if you  
11 wanted to do that, but that's not what I'm -- you  
12 know, I'm not looking at, you know, anything like  
13 that. All I want to do is get my name on the  
14 ballot. I've been waiting to do this for several  
15 years, until Jerry (indiscernible) stepped down.

16          VICE CHAIR A. LONG: Next time --

17          CHAIRMAN T. WHEELER: Call one of our --  
18 either one of them.

19          VICE CHAIR A. LONG: -- call these offices and  
20 they'll send you a packet of everything you need.  
21 I assume the state of economic interest comes out  
22 with a packet, does it not?

23          MR. B. KING: Yes.

24          CHAIRMAN T. WHEELER: And if you do it again,  
25 call our staff. I mean our staff -- you know,



1 we've taken criticism of our staff and I know the  
2 co-directors have addressed criticism like that  
3 when our staff has been at fault, but in this case,  
4 this wasn't our fault, and we're not -- we're just  
5 not given by the general assembly the ability to  
6 rectify a problem.

7 MR. T. FIELDS: Okay.

8 VICE CHAIR A. LONG: So we move to --

9 CHAIRMAN T. WHEELER: Deny the request.

10 VICE CHAIR A. LONG: -- deny the -- well,  
11 actually, we don't have -- what do we have  
12 officially before us?

13 CHAIRMAN T. WHEELER: We have a request for  
14 extension of time?

15 VICE CHAIR A. LONG: Motion to deny for one of  
16 jurisdiction.

17 COMMISSION MEMBER D. DUMEZICH: Second.

18 CHAIRMAN T. WHEELER: All in favor, signify by  
19 saying aye?

20 THE COMMISSION: Aye.

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

23 *(No response.)*

24 CHAIRMAN T. WHEELER: I appreciate it.

25 MR. T. FIELDS: All right. Thank you for your

1 time.

2 VICE CHAIR A. LONG: Maybe next time.

3 CHAIRMAN T. WHEELER: Next up, Barbara Wyly.

4 MS. B. WYLY: Sir, there are simply would may  
5 be called as witnesses that have not been sworn in  
6 and that would be Mr. Blondell and Mr. Wyle.

7 CHAIRMAN T. WHEELER: All right. Give me just  
8 a sec and get ourselves organized.

9 MR. D. GARNER: Mr. Garner.

10 MR. B. KING: Is there a copy for the...

11 MR. D. GARNER: I have -- I gave that --  
12 there's an original and four.

13 MR. B. KING: Okay. We have -- we have a  
14 copy.

15 MR. D. GARNER: Okay. I didn't get one for  
16 everybody and...

17 CHAIRMAN T. WHEELER: Could you introduce  
18 yourselves and I'm going to swear you in?

19 MR. D. GARNER: Yeah. I'm Doug Garner and I  
20 filed the challenge.

21 CHAIRMAN T. WHEELER: And then you are?

22 MS. B. WYLY: I'm Barbara Wyly.

23 CHAIRMAN T. WHEELER: Barbara Wyly, okay. And  
24 both of you are present for Wyly, I suspect?

25 MS. B. WYLY: Yes, they are.