

INDIANA ELECTION COMMISSION MARCH 6, 2003 MINUTES

MEMBERS PRESENT: Dudley Cruea, Chairman, Indiana Election Commission (“the Commission”); Claudia E. Cummings, Member of the Commission; S. Anthony Long, Vice-Chairman of the Commission; Michael Davis, Proxy for Claudia E. Cummings, Member of the Commission; Butch Morgan, Member of the Commission.

MEMBERS ABSENT: None.

STAFF ATTENDING: J. Bradley King, Co-Director of the Indiana Election Division of the Office of the Indiana Secretary of State (“the Election Division”); Kristi Robertson, Co-Director of the Election Division IED; Dale Simmons, Co-General Counsel of the Election Division; Pam Potesta, Campaign Finance Coordinator, Election Division; Michelle Thompson, Campaign Finance Coordinator, Election Division; Lori Hershberger, Precincts and Voter Registration Coordinator

OTHERS ATTENDING: Mr. Alfred (John) Ashburn (Kokomo Firefighters PAC); Mr. Sean Bagley (Green Party; Steps to Freedom); Ms. Maureen Bard (Office of Census Data); Ms. Maureen Barlock (Green Party); Mr. Paul T. Berkowitz, attorney; Mr. John L. Bonecutter (4th District Democratic Party Committee); Mr. Bruce Borders (Candidate for Indiana State Representative, District 45); Mr. Michael S. Cain (Police on Politics PAC); Mr. Aaron Carlsberg (Members Org. Politicians Union Principles); Big IPAC); Mr. R. Dale Cassidy (Candidate for Indiana State Representative, District 65); Mr. Walter Cotton (Keeton for State Representative); Mr. Michael R. Davis (Indiana Chamber of Commerce); Mr. Stephen Duff (Big IPAC); Thomas R. Grable (Iron Workers Local PAC); Mr. Brad Klopfenstein (Libertarian Party of Indiana); Mr. Gary Neal (HUNT-PAC; Bob Hickes for State Representative); Ms. Cindy Kirkpatrick (Libertarian Party of Indiana); Mr. Carl E. Miller (Committee to Elect Carl E. Miller); Mr. John D. Moore (Citizens for Overdeer); Mr. William Overdeer (Citizens for Overdeer); Mr. Gary Parrish (Voting Technologies International, Inc); Mr. Fred Peterson (Candidate for Indiana State Representative, District 86); Ms. Michele Pippenger (Consulting Engineers PAC); Mr. Karl Queisser (Friends of Queisser Committee); Ms. Pamela Raider (Green Party); Mr. Jack L. Reno (Indiana State Senate District 34); Ms. Sarah Steele (Murray Clark for Governor Committee); Mr. Spencer Valentine (CEA Engineering); Ms. Emily Weikert (Indiana Young Leaders PAC); Mr. Dennis Wilson (Committee to Elect Dennis Wilson).

1. CALL TO ORDER:

The Chair called the March 6, 2003 public session of the Indiana Election Commission to order at 1:15 p.m. in Indiana Government Center South Conference Room "A", 402 West Washington Street, Indianapolis, Indiana.

The Chair noted the presence of a quorum of Commission members, since three members of the Commission were present. He said that Mr. Long was currently stuck in traffic, but was on his way to attend the meeting. The Chair noted that since state law requires a unanimous vote of all Commission members to reduce proposed fines in campaign finance enforcement matters, the Commission would wait for Mr. Long to arrive before considering those items on the agenda.

The Chair stated that proper notice of this meeting had been given under the Indiana Open Door Law. The chair noted that a document had been filed with the Election Division by Ms. Cummings appointing Mr. Michael Davis as her proxy for this meeting to act on her behalf if she was required to leave before the meeting adjourned. A copy of this document is incorporated by reference in these minutes.

2. LITIGATION UPDATE:

The Chair recognized Mr. Simmons to provide a litigation update to the Commission. Mr. Simmons stated that there was not much new to report regarding litigation.

Mr. Simmons noted that the *Majors* case, which challenged the constitutionality of Indiana's disclaimer statute (Indiana Code 3-9-3-2.5), was pending in the 7th Circuit Court of Appeals. He stated that certain Libertarian candidates and other individuals had filed the case claiming that the Indiana statute violated their First Amendment rights. Mr. Simmons noted that the U.S. District court had dismissed the lawsuit on grounds of standing, since the statute only applied to candidates, and these individuals were no longer candidates. Mr. Simmons said that the plaintiffs had then appealed to the 7th Circuit, which ruled that before deciding the case, the 7th Circuit would seek clarification as to whether IC 3-9-3-2.5 applied to individuals who were not candidates. He noted that the 7th Circuit had then certified that question to the Indiana Supreme Court, but that at this time, this office did not know whether the Indiana Supreme Court had accepted this request for certification.

Mr. Simmons added that there was also an ongoing administrative procedure concerning the enforcement of federal laws and Indiana laws providing "fail-safe" methods for voting. He noted that one of these procedures specified that if an individual applied to register to vote at a Bureau of Motor Vehicles license branch under the "Motor Voter" law, the BMV provides that applicant with a receipt. Mr. Simmons said that if this individual then goes to the polls on election day, and the individual's name is not on the poll list, but the individual produces the receipt from the BMV, the individual is allowed to vote. He noted that information regarding this receipt is recorded by the precinct poll clerk on the poll list. He added that as a follow-up to this procedure, the circuit court

clerk is to forward all of the available information concerning this matter to the Election Division. Mr. Simmons noted that the Hendricks County Voter Registration office had notified the Co-Directors in a letter dated November 12, 2002 that Mr. Robert McKinney, Jr., had presented a BMV receipt at the polls, but that Mr. McKinney's name did not appear on the poll list. Mr. Simmons said that under IC 3-7-48-10, the Co-Directors are directed to investigate why the individual's name did not appear on the voter registration list on election day, notwithstanding this application receipt. Mr. Simmons noted that the focus of an investigation of this type would be why did the voter registration application not get to the county voter registration office from the license branch. He indicated that in this scenario, if the county voter registration office did have a copy of the individual's application, the county voter registration office would then have issued a certificate of error. Mr. Simmons stated that as part of the Election Division's investigation, the Co-Directors had asked him to forward a memorandum to Mr. Jim Staples at the Bureau of Motor Vehicles requesting any information concerning a receipt presented at the polls by a voter in Hendricks County. A copy of this memorandum is incorporated by reference in these minutes. Mr. Simmons noted that this memorandum had been sent on February 14, 2003, and that he expected to have information from Mr. Staples to report to the Commission at its next meeting.

Mr. Simmons concluded his report by noting that he had been advised by Mr. Brad Klopfenstein, the Executive Director of the Libertarian Party of Indiana, that the Party intended to move to dismiss several of the cases brought by the Party against the Commission. The Chair recognized Mr. Klopfenstein, who stated that the Libertarian Party intended to settle the pending cases involving the Commission. In response to a question from Mr. Simmons, Mr. Klopfenstein indicated that the Party would be replacing its current counsel in these cases (Mr. Stewart) with Mr. Rutherford.

3. CAMPAIGN FINANCE ENFORCEMENT:

A. Orders Concerning Previous Campaign Finance Enforcement Hearings:

Order 2003-25	5th District Democratic Central Committee
Order 2003-26	Committee to Elect Ken Hughes
Order 2003-27	Committee to Elect Dianna Alvey State Senate District 49

The Chair recognized Ms. Thompson, who stated that Orders 2003-25 through 2003-27 had been prepared for adoption by the Commission, and that these matters had been heard at the September 5, 2002 Commission meeting. Copies of these Orders are incorporated by reference in these minutes.

The Chair, seconded by Mr. Morgan, moved that Orders 2003-25 through Orders 2003-27 be adopted as presented. There being no further discussion, the chair called the question, and with three members voting aye (Cruea; Cummings; and Morgan) and no member voting nay, declared the motion adopted.

B. Dissolution of Existing Committees:

Order 2003-28	Woolery for State Senate Committee
Order 2003-29	Clay for the Legislature Committee
Order 2003-30	Citizens for Chochos

The Chair recognized Ms. Thompson, who noted that Commission members had received copies of the Orders administratively dissolving these three committees, and the most recent reports filed by Clay for the Legislature Committee and Citizens for Chochos. These documents are incorporated by reference in these minutes. She noted that Woolery for State Senate Committee had never filed a report. She said that these committees had not had any activity during the last three years, and have a balance of under \$1,000. She noted that under IC 3-9-1-12, the Commission was authorized to administratively dissolve these committees.

The Chair recognized Mr. Simmons, who noted that the Orders set forth specific findings of fact by the Commission concerning each of these committees to permit their dissolution under IC 3-9-1-12. He added that the Commission does have a choice as to whether to waive accumulated fines previously imposed by the Commission against the committee. He stated that in the past, the Commission has waived these fines, based on the findings required to be made by statute, and set forth in these Orders. Mr. Simmons said that these findings were: (1) that there was no evidence that the committee was currently active; (2) that the resources of the state would be better spent not making further efforts to collect these fines from the committee, since the previous efforts by the Election Division, and from previous referrals of these committees to the Attorney General's office to attempt collection have proven fruitless; and (3) dissolving the committee would not impair the collection of a debt. Mr. Simmons stated that Indiana case law indicated that the individual liability of a committee's chairman and treasurer for a committee's debts would not be impaired by the dissolution of a committee. He noted that in his opinion, the debts owed by these committees were old, and probably had been written off by the creditor.

In response to a question from the Chair concerning the potential impact of the dissolution of Citizens for Chochos on a campaign finance enforcement matter concerning that committee on the Commission's agenda for this meeting, Ms. Thompson stated that the staff would not take any action to pursue this enforcement matter if the Commission chose to dissolve this committee.

The Chair noted that two of these committees showed a balance in their committee funds. He noted that although he did not know if this was still accurate, the committee's statement of organization indicated that the committee had its account with a specific bank. He asked whether the Commission could refer this information to the Attorney General for further collection efforts to seek any funds remaining in these accounts to be paid towards the balance of Commission fines previously imposed against those committees. Mr. Simmons responded that he did not have specific information concerning the history and status of collection efforts regarding these two committees,

but that his opinion was that the statute would permit the Commission to amend the Order to remove the findings concerning that issue, and to permit further efforts to be made to collect these debts. He stated that Ms. Thompson might have further information on the Attorney General's efforts to collect these fines. Ms. Thompson stated that she had been advised by the Attorney General's office that the office was not continuing any effort to collect the fines from these committees.

The Chair responded that if the Attorney General's office had been working on collecting these fines, then the office would not have found any money in that bank account.

Ms. Cummings moved, seconded by Mr. Morgan, moved that Orders 2003-28 through Orders 2003-30 be adopted as presented. There being no further discussion, the chair called the question, and with three members voting aye (Cruea; Cummings; and Morgan) and no member voting nay, declared the motion adopted.

C. Referrals of Committees to Attorney General for Collection:

The Chair recognized Ms. Thompson, who noted that Commission members had received a document listing the committees referred to the Attorney General's office for collection of campaign finance fines. A copy of this document is incorporated by reference in these minutes. The Chair asked that a representative of the Attorney General's office be invited to attend one of the next Commission meetings to provide a status report regarding the collection efforts concerning campaign finance fines being made by that office.

The Chair noted that all four Commission members were now present, and so the Commission would take up pending campaign finance enforcement matters.

D. Delinquent October 2002 and January 2003 Campaign Finance Reports

The Chair asked Mr. King to administer the oath to those individuals testifying before the Commission regarding any of these matters. After Mr. King administered the oath, the Chair asked that each person testifying before the Commission come to the front of the room and state the person's name and cause number. He said that after the Campaign Finance staff provided the Commission with information regarding this cause number, the person would be recognized to testify. The Chair requested that each person testifying limit their remarks to no more than two minutes, and added that Commission members might then ask the person additional questions concerning this cause number.

The Chair recognized Ms. Potesta and Ms. Thompson, who noted that Commission members had received a copy of a 33 page document dated March 6, 2003, and titled Late Committee Filings Before the Indiana Election Commission, which set forth the Campaign Finance staff's information concerning the date each committee listed in the document had filed its report; the date the committee received notice of this hearing; and the proposed fine to be imposed against the committee. This document is incorporated by reference in these minutes.

i. Police on Politics Political Action Committee (Cause 03-4838-81):

The Chair recognized Ms. Potesta, who stated that this committee had filed its report at 12:13 p.m. on January 15, 2003, thirteen minutes after the statutory deadline, and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair recognized Mr. Cain, who stated that the committee had filed this report locally with its county election board before noon on the final date for filing, and had attempted to fax this report before noon to the Election Division, but the fax had not been received by the Election Division until 12:13 p.m. (or 11:13 a.m., local time in his county). He said that this was the result of procrastination by the committee, and apologized for taking the Commission's time with this matter.

In response to a question from Mr. Long, Mr. Cain stated that the committee had filed this report with the Lake County election board before noon, and had attempted to fax this report to the Election Division beginning at about 9:00 a.m. local time (or 10:00 a.m. Indianapolis time).

In response to a question from the Chair, Mr. Cain stated that he had not brought a copy of the county file-stamped copy of this report with him.

Ms. Cummings moved, seconded by Mr. Long, that this cause be dismissed. The Chair closed the hearing on this cause. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

ii. Committee to Elect Jack Reno (Cause 03-4253-53):

The Chair recognized Ms. Potesta, who stated that this committee had filed its report on January 23, 2003, and was therefore subject to a proposed civil penalty of \$400, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair recognized Mr. Reno, who stated that he was representing his son concerning this matter, since his son was at work today. Mr. Reno said that his son had subsequently filed this report, and had instructed him to file a final report with the Election Division today to disband this committee.

Mr. Morgan moved, seconded by Mr. Long, that the civil penalty in this cause be reduced to \$100 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

In response to a question from Ms. Cummings, the Chair stated that the Commission's policy in the past had been to: (1) reduce the proposed penalty to 25% of the proposed fine if the committee had not previously appeared before the Commission regarding a campaign finance enforcement matter; (2) to reduce the proposed penalty to 50% of the proposed fine when a committee appears before the Commission for a second campaign finance enforcement matter; (3) to reduce the proposed penalty to 75% of the proposed fine when a committee appears before the Commission for a third campaign finance enforcement matter; and (4) to impose the full proposed penalty when a committee appears before the Commission for a fourth or subsequent campaign finance enforcement matter. Ms. Cummings said that she understood the rationale for this policy for first time offenders.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted. In response to a question from Mr. Reno, the Chair stated that the Commission would adopt an order to impose this civil penalty at the next meeting, and that his son's committee would be notified by mail.

iii. Fourth District Democratic Central Committee (Cause 03-4705-17):

The Chair recognized Ms. Potesta, who stated that this committee had filed its pre-election report on October 22, 2002, and was therefore subject to a proposed civil penalty of \$200, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair recognized Mr. Bonecutter, who stated that he was the treasurer of this committee, and had been advised that he was mailing this report for timely receipt by the Election Division, but that this obviously had not occurred.

Ms. Cummings moved, seconded by the Chair, that the civil penalty in this cause be reduced to \$40 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

- iv. Friends for Bruce Borders (Cause 03-4796-22); and**
- v. Friends for Bruce Borders (Cause 03-4796-75):**

The Chair recognized Ms. Potesta, who stated that this committee had filed its pre-election report on October 18, 2002 at 3:01 p.m., and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. Ms. Potesta noted that Mr. Borders had also submitted a letter dated October 18, 2002, which is incorporated by reference in these minutes.

Ms. Potesta added that this committee had filed its annual report on January 15, 2003 at 12:06 p.m., and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003.

After Commission members reviewed this letter, the Chair recognized Mr. Borders, who stated that he believed that in both cases, the reports were filed just a few minutes after the applicable 12:00 noon deadline. He stated that he was a first-time candidate, and with a young family and work obligations, he had not prepared the first report until shortly before the deadline when he was reminded that the report was due. He added that he was concerned that the report when filed be correct. Mr. Borders stated that he finished the report about 11:30 a.m., and kept receiving the “redial” message each time he tried to fax the report to the Election Division. He said that the same thing had occurred regarding the second report, where the report was one of many papers to be processed by the campaign. He added that in that case, he had also not completed the report until shortly before the deadline and had difficulties faxing the report to the Election Division. In response to a question from Ms. Cummings, Mr. Borders stated that he had been more aware of the deadline for filing the pre-election report, but had totally forgotten that the annual report was due.

In response to a question from the Chair regarding the time when Mr. Borders had faxed his October 18, 2002 letter to the Election Division, he stated that he had also tried to fax this letter to the Election Division before noon. Mr. Borders added that his sister served as the committee’s treasurer, and he had been concerned that her signature was not on this report since she was on vacation.

In response to a question from Ms. Cummings, Mr. Borders stated that he had filed a copy of his campaign finance reports with the circuit court clerk of his county at about the same time that he attempted to fax these reports to the Election Division. The Chair recognized Ms. Thompson, who stated that the committee had faxed in a report that was filed with the Election Division at 12:12 p.m., but which had not been signed by the treasurer, and that at 3:01 p.m. on the same day, the Election Division received and filed a report from the committee that had been signed by the treasurer. In response to a question from Ms. Cummings, Ms. Thompson stated that the 3:01 p.m. filing would be

considered an amendment to the report filed at 12:12 p.m., but that in any case the report would be considered to have been filed after the noon deadline.

Mr. Morgan moved, seconded by Mr. Long, that the civil penalty Cause 03-4796-22 be reduced to \$12.50 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

Mr. Morgan moved, seconded by Mr. Long, that the civil penalty Cause 03-4796-75 be reduced to \$25.00 (50% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

vi. Indiana Green Party (Cause 03-4730-18):

The Chair recognized Ms. Potesta, who stated that this committee had filed its pre-election report on November 26, 2002, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. Ms. Potesta noted that Ms. Barlock, the treasurer of this committee, had also submitted a letter dated January 14, 2003, which is incorporated by reference in these minutes.

After Commission members reviewed this letter, the Chair recognized Ms. Barlock, who stated that after she had been appointed treasurer of the Indiana Green Party, she had been advised that she would receive from the Election Division the forms required to file campaign finance reports. She said that the Party had opened a new post office box (Post Office Box 44105) in Indianapolis on August 2, 2002, and had filed a statement of organization with the Election Division. Ms. Barlock stated that the Party had not received the pre-election reporting forms, which the Election Division had mailed to the old post office box address (Post Office Box 3393). She added that when she had contacted the Election Division on November 20, 2002 to obtain campaign finance manuals, she had been advised that the Party had not filed the pre-election report. She stated that Ms. Thompson then advised her that the Election Division records showed the Green Party's new post office box number.

Ms. Barlock provided the Commission with a copy of the CFA-3 filed by the Indiana Green Party with the Election Division on August 2, 2002, which she noted did indicate the new post office box address. She also submitted a copy of the pre-election form, which had been sent to the Party's old post office box in a letter postmarked December 9,

2002, and which was not sent to her at the Party's correct address until December 14, 2002. By consent of the Commission, these documents were accepted into evidence in this cause, and incorporated by reference in these minutes.

After reviewing the evidence presented in this matter, the Chair asked Ms. Thompson if the addresses for the mailings of campaign finance reports were taken from a database setting forth the information supplied on a committee's statement of organization. Ms. Thompson said that this was correct, and that she had examined the database and determined that the Party's address had been corrected. However, Ms. Thompson added that she could not determine if this correction was made before or after the pre-election report was mailed. Ms. Thompson stated that normally when a mailing to a committee is returned by the Postal Service, she keeps the returned mailing in the committee's file, but that in this case, the Election Division had not received any returned mailing sent to this committee. She noted that if the old post office box had a forwarding order which had not yet expired, that would explain why the Election Division had not received this mailing back.

In response to a question from Mr. Long, Ms. Thompson noted that this report had been due October 18, 2002. In response to a question from Ms. Cummings, Ms. Thompson stated that the Election Division had no further information regarding this matter beyond what these documents set forth. In response to a question from Mr. Long, Mr. Simmons stated that the Election Division was statutorily required to mail campaign finance forms to committees for filing. The Chair remarked that committees were also statutorily responsible for knowing when the deadlines were for filing these reports.

In response to a question from Ms. Cummings, Ms. Barlock stated that this report was the first that she had been required to file as party treasurer. In response to a question from Mr. Morgan, Ms. Barlock said that she had been elected party treasurer on July 26, 2002. Mr. Long noted that the Party had filed the amended CFA-3 statement of organization form on August 2, 2002, which showed the change of address.

The Chair stated that this was an extraordinary case in which the treasurer of a committee has provided proof that the report was mailed to the incorrect address, and that the committee had complied with state law by filing an amended statement of organization indicating the correct address within 10 days after Ms. Barlock had become treasurer.

The Chair moved, seconded by Ms. Cummings that this cause be dismissed. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

vii. Committee to Elect Dale Cassiday (Cause 03-4712-61):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 23, 2003, and was therefore subject to a proposed civil penalty of \$400, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. Ms. Potesta noted that Mr. Cassiday had also submitted a letter dated March 5, 2003, and a campaign finance report dated the same date, which dissolved this committee. These documents are incorporated by reference in these minutes.

After Commission members reviewed these documents, the Chair recognized Mr. Cassiday, who stated that he and his treasurer were unaware until about three weeks ago that the committee had not filed this report. He added that both he and his treasurer were convinced that this report had been mailed to the Election Division, but apparently the report was not received. Mr. Cassiday said that he had served as treasurer of his county party's central committee, and as treasurer for other candidate committees over the last 30 years, and so there was some evidence that in filing this report he would not have deviated from that pattern of filing. He added that there was no evidence of fraud here, only miscommunication. He noted that the committee's report indicated that all committee debts were settled following the May primary, and that there were no contributions after the primary.

The Chair noted that the Campaign Finance staff spreadsheet shows that this report was filed January 23, 2003, but that the report submitted with the committee's letter was dated March 5, 2003. Ms. Thompson stated that the committee's annual report had been filed with the Election Division on January 23, 2003 after the committee had been notified of the delinquency of that report, and that the document filed March 5, 2003 was a reconstruction of that document.

Mr. Cassiday said that when the committee was notified in January that the committee's report had not been received by the Election Division, the committee filed its annual report, but did not indicate that the report was the final report to disband the committee. He added that the report filed March 5, 2003 did indicate that it was the final report for the committee and also covered the period from 2001 through May 5, 2002, which was the report apparently never received by the Election Division. Mr. Cassiday stated that he had been told by his county circuit court clerk that the committee had filed every report needed by the county, but that he did not have proof of that county filing with him.

The Chair noted that since Mr. Cassiday was not a candidate on the November 2002 ballot, his committee would not have been required to file an October 2002 pre-election report, only an annual report in January 2003, which could have disbanded the committee.

In response to a question from the Chair, Ms. Thompson stated that the pre-primary 2002 report was the last report received by the Election Division from Mr. Cassidy's committee.

Mr. Morgan moved, seconded by Mr. Long, that the civil penalty in this cause be reduced to \$100.00 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

viii. Committee to Elect Bob Hicks (Cause 03-4818-79):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report at 12:25 p.m. on January 15, 2003, and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. Ms. Potesta noted that Mr. Hicks had also submitted a file stamped copy of the committee's report dated January 15, 2003, and filed with the Tippecanoe County Board of Elections and Registration. This document is incorporated by reference in these minutes.

Mr. Morgan moved, seconded by Ms. Cummings, that the civil penalty in this cause be reduced to \$12.50 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

ix. Keeton for State Representative (Cause 03-4755-68):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 22, 2003, and was therefore subject to a proposed civil penalty of \$350, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. Ms. Potesta noted that Mr. Keeton had also submitted a file stamped copy of the committee's report dated December 18, 2002, and filed with the Switzerland County Circuit Court Clerk, and a cover letter from the Clerk dated January 22, 2003. These documents are incorporated by reference in these minutes.

After Commission members reviewed these documents, the chair recognized Mr. Cotton, who noted that the committee had filed a final report to disband the committee with the Circuit Court Clerk on December 18, 2002. He said that although he had thought that a copy of this report had been faxed to the Election Division at the same time, the

confusion might have occurred because the Clerk's office was very busy that day, and since he had filed a campaign finance report for another candidate at the same time.

Mr. Morgan moved, seconded by Mr. Long, that the civil penalty in this cause be reduced to \$87.50 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

x. Peterson for State House (Cause 03-4890-92):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report at 4:23 p.m. on January 15, 2003, and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. Ms. Potesta noted that the report filed on January 15, 2003 was also the committee's final report

The Chair recognized Mr. Peterson, who said that he had no solid reason for being late, but acknowledged that this report was late. He stated that he had received no contributions, and had made no expenditures, in the campaign, but that it was costing him now because he had been required to take time off work to attend this hearing.

Ms. Cummings moved, seconded by Mr. Morgan, that the civil penalty in this cause be reduced to \$12.50 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

xi. The Committee to Elect Dennis Wilson (Cause 03-4748-66):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 28, 2003, and was therefore subject to a proposed civil penalty of \$650, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. Ms. Potesta noted that the report filed on January 28, 2003 was also the committee's final report

The Chair recognized Mr. Wilson, who stated that his campaign had raised no money, and spent no money, and that he did the whole campaign himself. Mr. Wilson said that he

was a small business person, and his family had a new baby, and as a result, he was late in filing the report, and asked the Commission for every consideration in setting the fine.

Ms. Cummings moved, seconded by Mr. Long, that the civil penalty in this cause be reduced to \$162.50 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

xii. Indivote (Cause 03-4854-86):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 17, 2003, and was therefore subject to a proposed civil penalty of \$100, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. Ms. Potesta noted that the report filed on January 17, 2003 was also the committee’s final report

The Chair recognized an unidentified representative of this committee. She stated that she had mailed this report to the Election Division at Christmastime, but on the date that the report was due, she had received the report back from the Post Office for insufficient postage. She noted that she had mailed the report on time, but because this report had included several pages of information, she had not affixed enough postage to cover the postage charged for the additional weight. She apologized for this error.

In response to a question from Ms. Cummings, Ms. Thompson stated that a committee could complete and file its campaign finance report before the end of a reporting period (such as a calendar year), if the committee had no further activity until after the end of the reporting period.

The Chair moved, seconded by Mr. Morgan, that the civil penalty in this cause be reduced to \$25.00 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

In response to a question from the representative, the Chair indicated that it would be unnecessary for the committee to be reopened solely for the purpose of paying this fine since a candidate or committee officer could pay this fine personally.

xiii. Ironworkers Local 439 PAC Fund (Cause 03-4374-45):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 31, 2003, and was therefore subject to a proposed civil penalty of \$800, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair recognized Mr. Grable, who stated that he understood that this report was only required for candidates, and not for political action committees, and that when he had completed the report, he should have faxed (rather than mailed in) this report. He apologized to the Commission. The Chair noted that this was the second time the committee had filed a report late, Mr. Grable responded that this was correct, again due to the committee mailing its report, which was routed through Chicago.

Ms. Cummings moved, seconded by Mr. Long, that the civil penalty in this cause be reduced to \$400.00 (50% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

xiv. Members Organizing Politicians on Union Principles (Cause 03-4488-52):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 16, 2003, and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair recognized Mr. Berkowitz, the attorney for Mr. Carlsberg, the treasurer of this committee, who stated that this report was sent by certified mail, return receipt requested from the Hobart, Indiana post office on January 10, 2003. He provided the Commission with a copy of the certified mail time and date stamp, and noted that for some reason, this mail had taken six days to reach the Election Division. By consent, Commission members accepted this document into evidence in this cause.

In response to a question from the Chair, Mr. Berkowitz stated that the committee was aware that under Indiana statutes, the deposit of the report into the U.S. mail did not meet the filing requirements, and that the committee would not file its report by mail again.

Mr. Long stated that the legislature was just wrong on this point, and that the filing should be timely when the report is turned in to the hands of the government. Mr. Morgan expressed his appreciation of the committee’s acronym (MOPUP).

Ms. Cummings moved, seconded by Mr. Morgan, that the civil penalty in this cause be reduced to \$12.50 (25% of the proposed civil penalty), plus mailing costs. The Chair

closed the hearing on this cause. Mr. Long said that he would vote for the motion only because this is what the legislature says the Commission had to do, and to ensure that the committee's fine was reduced by \$37.50. He added that the committee had followed the spirit of the law. The Chair stated that he agreed with Mr. Long, but that the legislature would have to change this statute. Mr. Long added that the Supreme Court of Indiana accepted filings when deposited in the mail.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

xv. Committee to Elect Carl E. Miller (Cause 03-4748-87):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 28, 2003, and was therefore subject to a proposed civil penalty of \$650, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. Ms. Potesta noted that the report filed on January 28, 2003 was also the committee's final report

The Chair recognized Mr. Miller, who stated that he was a first-time candidate, and that his family was not comfortable with him running for a high profile office (Indiana House District 86), and so he withdrew as a candidate for this office in July 2002. He said that since he was no longer going to be on the general election ballot, and did not raise or spend any money, he was not aware that he needed to file any campaign finance report. He asked the Commission for any consideration it could give in this matter.

In response to a question from Ms. Cummins, Mr. Miller stated that he lived in Marion County. In response to an additional question from Ms. Cummings, Mr. Miller stated that he may have received a copy of the *Campaign Finance Manual* when he filed as a candidate. Ms. Cummings stated that she asked since she knew that it was Marion County's policy to put these manuals out for candidates who are filing so that these questions would be answered. Ms. Cummings stated that she did not wish to discourage Mr. Miller from being a candidate again.

Mr. Morgan moved, seconded by Mr. Long, that the civil penalty in this cause be reduced to \$162.50 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

xvi. Murray Clark for Governor (Cause 03-4875-89):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report at 12:01 p.m. on January 16, 2003, and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair recognized Ms. Steele, who stated that this report had not been faxed, but had been presented in person at the Election Division office.

Ms. Cummings moved, seconded by Mr. Morgan, that the civil penalty in this cause be reduced to \$12.50 (25% of the proposed civil penalty), plus mailing costs.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

xvii. Friends of Queisser Committee (Cause 03-4910-94):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on March 4, 2003, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair recognized Mr. Queisser, who stated that he had not intended to file as a candidate for state representative, but intended to file as a candidate for city council and was precluded from doing so due to redistricting. He said that he was unaware that he had even filed a committee for state representative until receiving notice from the Election Division. Mr. Queisser said that he was in the process of disbanding the committee, which had no assets, and threw himself on the mercy of the Commission.

In response to questions from Mr. Long and Ms. Cummings, Mr. Queisser stated that he his declaration of candidacy for state representative had been filed, but that he had intended to file as a candidate for city council last summer. In response to a question from the Chair, Mr. Queisser said that he had signed and filed the forms to organize the Friends of Queisser Committee.

In response to a question from Mr. Long, Mr. Queisser stated that he had filled out these forms, but that another person had filed them. In response to a question from Ms. Cummings, Mr. Queisser said that he had not filed with the circuit court clerk as a candidate for city council until redistricting questions had been resolved, and that if he was then determined to be a resident of the proper council district he would file as a candidate for that office. He added that it was not his intent to file an exploratory committee or candidate committee for state representative.

In response to a question from the Chair and Mr. Long, Mr. Quiesser said that he had filled out the CFA-1 statement of organization form, but left the office sought blank until the city council redistricting had been resolved. In response to a question from Mr. Long, Mr. Quiesser stated that he lived in Indianapolis. Mr. Long noted that the Indiana Supreme Court had recently resolved the issue of the city-county council district boundaries in Marion County. In response to a question from Mr. Long, Mr. Quiesser said that he had filled out the campaign finance forms ahead of time, waiting for this decision, and was intending to fill in the city county council district office then and file the form with the Marion County Circuit Court Clerk.

In response to a question from Mr. Morgan, Mr. Quiesser stated that this form had been filed in case he chose to be a candidate for state representative, but that no monies had been raised for this campaign.

Mr. Long stated that this appeared to be a unique situation since the committee organization form was filed by mistake. He noted that the form was marked with a pen as “exploratory”, whereas everything else on the form was typed in.

Mr. Long asked the Election Division staff what would be the effect when an individual does not file the paperwork, but the paperwork is filed inadvertently by another person.

Ms. Cummings asked Mr. Queisser why he had dated his signature on this form if he did not intend the form to be turned in. He responded that he was under the assumption that it did not matter what day he signed the form, but rather the date that the form was filed.

In response to a question from Mr. Long, Mr. Queisser stated that he learned for the first time that this committee’s statement of organization had been filed when he received a notice of this hearing at the end of February 2003. He added that the committee’s report had since been filed with the Election Division, and showed no assets.

The Chair moved, seconded by Ms. Cummings, that the civil penalty in this cause be reduced to \$250.00 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause. Mr. Long stated that he would support this motion since unless the Commission’s vote to reduce was unanimous, the committee would be fined \$1,000.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

xviii. Kokomo Firefighters Political Action Committee (Cause 03-1822-36):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 17, 2003, and was therefore subject to a proposed civil penalty of \$100,

plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair recognized Mr. Ashburn, who stated that on January 14, 2003, this report had been placed in a mailbox in Kokomo, and that the committee had no control over the United States Postal Service. He said that he had received a letter from the Election Division dated January 17, 2003, indicating that this report was delinquent. Mr. Ashburn said that he immediately called Ms. Potesta to let her know that their letters may have crossed in the mail. He added that this committee had never been late. Mr. Ashburn said that this committee has a certificate of deposit, and as a result, it takes some time to get the balance on this certificate from the bank to include in the committee's annual report.

Ms. Cummings moved, seconded by Mr. Morgan, that the civil penalty in this cause be reduced to \$25.00 (25% of the proposed civil penalty), plus mailing costs.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Ms. Cummings, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

Ms. Cummings stated that she was required to leave the meeting at this point, and would be replaced by her designated proxy, Mr. Davis. Ms. Cummings said that she was scheduled to host a reception in honor of Sarah Taylor, the former Marion County Circuit Court Clerk, this afternoon at the Columbia Club, and invited those present to attend this reception following the Commission meeting. The Chair thanked Ms. Cummings and welcomed Mr. Davis.

xix. Citizens for Overdeer (Cause 03-4723-64):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 22, 2003, and was therefore subject to a proposed civil penalty of \$350, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. Ms. Potesta noted that the report filed on January 22, 2003 was also the committee's final report

The Chair recognized Mr. Overdeer, who presented Mr. Moore to the Commission. Mr. Overdeer stated that he had been a successful candidate for county council, and then an unsuccessful candidate for State Representative. He said that Mr. Moore had checked with the local clerk's office following the election, and had understood that no further reports needed to be filed by the committee. Mr. Overdeer said that Mr. Moore contacted him on January 22 when Mr. Moore had received notice of this delinquency from the Election Division, and that Mr. Overdeer had then called the Election Division to discuss this matter with Ms. Thompson. He added that following Ms. Thompson's advice, he got this report filed with the Election Division immediately thereafter on January 22. Mr. Overdeer stated that the delinquent filing was the result of miscommunication, and

misdirection from the Circuit Court Clerk's office in Whitley County. Mr. Moore stated that Mr. Overdeer had served as a fine public servant, and that Mr. Moore accepted full responsibility as the committee's treasurer for this late filing.

The Chair moved, seconded by Mr. Long, that the civil penalty in this cause be reduced to \$87.00 (25% of the proposed civil penalty), plus mailing costs. The Chair closed the hearing on this cause.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

xx. Indiana Young Leaders Political Action Committee (Cause 03-4263-44):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 21, 2003, and was therefore subject to a proposed civil penalty of \$300, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair recognized Ms. Weikert, who stated that she was the treasurer of this PAC. Ms. Weikert said that the committee had received very few contributions other than its membership dues, and only a small amount of expenditures. Ms. Weikert said that she had faxed this report to the Election Division on the morning of January 15, 2003, and was told by Election Division staff that the committee's report had been received. She added that when she was notified on January 21, 2003 by the Election Division that the report was delinquent, she had immediately filed the report.

In response to a question from the Chair asking if she had a receipt from its fax machine concerning the January 15 filing, Ms. Weikert said that unfortunately she did not.

In response to a question from Mr. Long asking about her telephone call to the Election Division on January 15, Ms. Weikert said that she did not know who she spoke to at the Election Division on that occasion. Mr. Long then asked why the committee had sent the report twice. Ms. Weikert responded that the first time the committee had attempted to fax the report to the Election Division, the fax machine generated a report indicating that only part of the report had been successfully transmitted, so the entire report was faxed again.

In response to a question from Mr. Long, Ms. Weikert said that after these events occurred on January 15, she then contacted the Election Division and was told that the faxed report had been received. The Chair then asked why the committee had not provided a copy of this initial receipt by attaching it to its report filed on January 21. In response to a question from Mr. Long, Ms. Weikert responded that the fax machines used

on previous occasions had generated this type of report, but that the new fax machine used for this transmission simply indicated a malfunction..

Mr. Long said that Ms. Weikert's credibility was unquestioned in his mind, and that he had known her (and her father, who serves as a judge in southern Indiana) for several years. He stated that he believed that Ms. Weikert's testimony to the Commission was truthful.

The Chair closed the hearing on this cause. Mr. Long moved, seconded by Mr. Morgan, that this cause be dismissed.

The Chair stated that although he did not know Ms. Weikert personally, and trusted Mr. Long's opinion in this matter, he expressed the concern that the Commission would be setting a bad precedent in dismissing this matter since many committees appear before the Commission to claim that they had sent or mailed a report that was never received by the Election Division. He said that the fax machine used at his business does not generate a receipt for each transmission, but the machine can print out a report that lists each of the transmissions, so that he has proof when needed that a transmission was made. He added that if Ms. Weikert could provide the name of the person that she spoke to at the Election Division to confirm receipt of the report, that he would be more comfortable with this motion.

There being no further discussion, the Chair called the question, and declared that with two members voting "aye" (Mr. Long, and Mr. Morgan), and two Commission members voting "no" (Mr. Cruea, and Mr. Davis) the motion was not adopted.

The Chair moved, seconded by Mr. Davis, that the civil penalty in this cause be reduced to \$87.00 (25% of the proposed civil penalty), plus mailing costs. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

xxi. Consulting Engineers Political Action Committee (Cause 03-4584-15):

The Chair recognized Ms. Potesta, who stated that this committee had filed its pre-election report at 12:25 p.m. on October 18, 2002, and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair recognized Ms. Pippenger, who apologized to the Commission for the report being late. She stated that this was the first report that she had prepared and had not had enough time to properly complete it before the filing deadline.

Mr. Davis moved, seconded by Mr. Long, that the civil penalty in this cause be reduced to \$12.50 (25% of the proposed civil penalty), plus mailing costs.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

xxii. The Big I Pac (Cause 03-851-33):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 21, 2003, and was therefore subject to a proposed civil penalty of \$300, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair recognized Mr. Duff, who stated that the association sponsoring this committee had a long time office manager/administrative assistant who handled all of the campaign finance and lobbying reports for the association, and that this individual had been replaced last year. He added that the person hired to replace this individual was unfamiliar with the filing dates, and as a result, this report was filed late. He said that when the current office manager was notified of the delinquency by the Election Division on January 20, the report was then promptly filed on January 21, 2003.

Mr. Long moved, seconded by Mr. Morgan, that the civil penalty in this cause be reduced to \$75.00 (25% of the proposed civil penalty), plus mailing costs.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

xxiii. Committee to Elect Ed Gluck (Cause 03-4849-83):

The Chair recognized Ms. Potesta, who stated that this committee had filed its annual report on January 22, 2003, and was therefore subject to a proposed civil penalty of \$350, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. She noted that the January 22, 2003 report was the committee’s final report. Ms. Potesta added that this committee had filed a report with the Vigo County clerk’s office on December 27, 2002, and had submitted a letter dated February 26, 2003 to the Commission. A copy of the letter and report are incorporated by reference in these minutes.

After reviewing these documents, the Chair recognized Mr. Klopfenstein, who stated that he did not know the circumstances of Mr. Gluck’s filing with the Election Division, but that Mr. Gluck obviously had filed this report on time with his county circuit court clerk. Mr. Klopfenstein said that to Mr. Gluck’s knowledge, he had filed his annual report at the same time with the Election Division, but that for some reason, the Election Division does not have a record of this filing. He requested leniency for Mr. Gluck.

Mr. Long moved, seconded by Mr. Davis, that the civil penalty in this cause be reduced to \$87.50 (25% of the proposed civil penalty), plus mailing costs.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruca, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

- xxiv. Kenn Gividen Committee (Cause 03-4850-84);**
- xxv. Fleming for State Senate (Cause 03-4851-85);**
- xxvi. Gillon for Freedom (Cause 03-4884-91);**
- xxvii. Precht for Senate (Cause 03-4897-93);**
- xxviii. Daily for the House (Cause 03-4847-82):**

The Chair recognized Ms. Potesta, who stated that the Kenn Gividen Committee had filed its annual report on January 29, 2003, and was therefore subject to a proposed civil penalty of \$700, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. She noted that the January 29, 2003 report was the committee’s final report.

Ms. Potesta stated that the Fleming for State Senate Committee had filed its annual report on January 21, 2003, and was therefore subject to a proposed civil penalty of \$300, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. She noted that the January 21, 2003 report was the committee’s final report.

Ms. Potesta stated that the Gillon for Freedom Committee had filed its annual report on January 31, 2003, and was therefore subject to a proposed civil penalty of \$800, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. She noted that the January 31, 2003 report was the committee’s final report, and that the committee had submitted a letter dated February 3, 2003, which is incorporated by reference in these minutes.

Ms. Potesta stated that the Precht for Senate Committee had filed its annual report on January 23, 2003, and was therefore subject to a proposed civil penalty of \$400, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. She noted that the January 21, 2003 report was the committee’s final report, and that the committee had submitted a letter on March 4, 2003, which is incorporated by reference in these minutes.

Ms. Potesta stated that Daily for the House Committee had filed its annual report on January 21, 2003, and was therefore subject to a proposed civil penalty of \$300, plus

mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. She noted that the January 21, 2003 report was the committee's final report, and that the committee had submitted a letter on March 5, 2003, which is incorporated by reference in these minutes.

After Commission members reviewed the documents submitted in these causes, the Chair recognized Mr. Klopfenstein, who stated that each of these individuals was for a first time candidate, the committees did not have any previous campaign finance enforcement actions before the Commission, and had raised and spent no money.

Mr. Long moved, seconded by Mr. Davis, that the civil penalty in these causes be reduced to 25% of the proposed civil penalty, plus mailing costs, specifically:

Kenn Gividen Committee	\$175, plus \$2.50 mailing costs
Fleming for State Senate	\$ 75, plus \$2.50 mailing costs
Gillon for Freedom	\$200, plus \$2.50 mailing costs
Precht for Senate	\$100, plus \$2.50 mailing costs
Daily for the House	\$ 75, plus \$2.50 mailing costs

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

**xxix. Second District Democratic Central Committee
(Cause 03-724-1):**

The Chair recognized Ms. Potesta, who stated that this committee had filed its pre-election report on October 21, 2002, and was therefore subject to a proposed civil penalty of \$150, plus mailing costs of \$2.50. She added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair recognized Mr. Morgan, who stated that the information presented by the Election Division staff concerning this cause was accurate. He said that he had asked a person to check to be certain that the committee's report had been filed, but the person had forgotten that the congressional districts had been renumbered. Mr. Morgan remarked that the Third District committee had in fact filed on time, but that the newly renamed Second District committee had not. He stated that the committee's report was late, and that the committee was prepared to pay the fine imposed by the Commission.

Mr. Long moved, seconded by the Chair, that the civil penalty in this cause be reduced to \$37.50 (25% of the proposed civil penalty), plus mailing costs.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

**xxx. Montgomery for Indiana House of Representative
(Cause 03-4776-74):**

The Chair recognized Ms. Thompson, who stated that this committee had filed a motion for continuance of this cause. Copies of the motion and attached exhibits are incorporated by reference in these minutes.

After Commission members reviewed these documents, Mr. Long moved, seconded by the Chair, that this cause be continued to the next Commission meeting. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

xxxi. Committee to Elect Brooks LaPlante (Cause 03-4815-26):

The Chair recognized Mr. Long, who said that he had received a complaint as a member of the Commission regarding the original filing of this committee’s report, and understood that there was an amended filing before the Commission. Mr. Long stated that he had received a copy of this document from the Election Division staff.

Mr. Long noted that in the amended report, which was filed on Monday, March 3, 2003, there seemed to be a number of contributions of more than \$1,000 which either the candidate had personally received (or the candidate’s company) had received which had raised a question in his mind that he would ask that the Election Division staff to review, and advise the Commission, either at today’s meeting or at a future meeting, to determine whether or not this committee had complied with any requirements to file supplemental reports within a certain period after receiving contributions of more than \$1,000. He stated that this issue should be resolved.

The Chair recognized Ms. Thompson, who stated that the cause before the Commission today concerned the committee’s pre-election report, which had been filed late. She noted that after the original pre-election report was filed, there was a complaint that the committee did not have an accurate report, and that the committee had then filed an amended report. Ms. Thompson stated that when the candidate filed the committee’s annual report, she found that the annual report was defective, and that she had mailed the committee a notice that this report was defective. She said that the committee had filed an amended annual report on March 3, 2003, but that she had not had time to investigate the report or any amendment before today’s Commission meeting.

The Chair asked that the Election Division staff investigate this matter and provide a report at the next Commission meeting. Mr. Long moved, seconded by the Chair, that this cause be continued to the next Commission meeting.

Mr. Long asked that the campaign finance staff bring copies of all four reports to the next Commission meeting, particularly the first two reports, so that he could be justified in his mind concerning this matter. He said that he was not trying to advance a particular cause, but questions have been raised to him, and he assumed that other Commission members have questions raised to them periodically. Mr. Long stated that all he was asking was that the Commission look into this, and see what needed to be done to get everything on the right track.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

**xxxii. Indiana Pharmacists Action Committee
(Cause 03-3608-6):**

The Chair recognized Ms. Robertson, who stated this committee had filed its pre-election report late. She added, however, that in calculating the number of prior times this committee had appeared before the Commission, one of the times listed on page 2 of the campaign finance staff’s report included a previous enforcement action that had been dismissed by the Commission because a notice sent by the Election Division to the committee had contained a wrong filing date. The Chair noted that the campaign finance staff’s report should be amended to reflect that this committee had only appeared on one prior occasion before the Commission for a campaign finance enforcement matter.

The Chair asked if any other person was present to testify regarding campaign finance enforcement matters, and there was no response from those in attendance.

- xxxiii. International Brotherhood of Painters & Allied Trades Local #47 PAC (Cause 03-4452-11);**
- xxxiv. Indiana Association of Homes & Services for the Aging PAC (Cause 03-4458-12);**
- xxxv. Pachyderm Political Action Committee (Cause 03-4493-14);**
- xxxvi. CORPAC Political Action Committee (Cause 03-4749-19);**
- xxxvii. Committee to Elect Mark Duwe State Representative (Cause 03-4766-20);**
- xxxviii. Committee to Elect Randy Plew State Representative (Cause 03-4775-21);**
- xxxix. Elect Karen Goldstein for State Representative (Cause No. 03-4799-23);**
- xl. Committee to Elect Raymond Crawford (Cause No. 03-4813-25);**
- xli. Freedom Political Action Committee (Cause No. 03-4836-27)**
- xlii. International Brotherhood of Electrical Workers Local 531 (Cause No. 03-4837-28);**
- xliii. First District Democratic Central Committee (Cause No. 03-4843-29);**

- xliv. Democrats for Better Government, Inc. (Cause No. 03-4908-30);**
- xl. Hoosier Issues Political Action Committee (Cause No. 03-4914-31);**
- xlvi. Dean Mock for State Representative Committee (Cause No. 03-1131-34);**
- xlvii. Committee to Elect Dumezich (Cause No. 03-4480-51);**
- xlviii. Citizens for Crabtree (Cause No. 03-4527-54);**
- xlix. Friends of Karen Freeman Wilson (Cause No. 03-4567-57);**
- l. Shepperd for State Representative (Cause No. 03-4614-59);**
- li. Home Builders Association of Greater Terre Haute, Inc. PAC (Cause No. 03-4645-60);**
- lii. Hoosiers for Kent Benson (Cause No. 03-4722-63);**
- liii. Hoosiers for Hannon (Cause No. 03-4737-65);**
- liv. Hoosiers for Ehrhard (Cause No. 03-4756-69);**
- lv. Friends to Elect Jean Macdonald (Cause No. 03-4764-70);**
- lvi. Good & Lawful Christian Men for John Anthony Malan State Representative (Cause No. 03-4769-72);**
- lvii. Shane Stillman for Senate Committee (Cause No. 03-4817-78);**
- lviii. Smith for Treasurer (Cause No. 03-4864-88); and**
- lix. Sanders for State Senate (Cause No. 03-4880-9088);**

The Chair noted that International Brotherhood of Painters & Allied Trades Local #47 PAC had filed its pre-election report on October 22, 2002, and was therefore subject to a proposed civil penalty of \$200, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Indiana Association of Homes & Services for the Aging PAC had filed its pre-election report on October 21, 2002, and was therefore subject to a proposed civil penalty of \$150, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Pachyderm Political Action Committee had filed its pre-election report on November 6, 2002, and was therefore subject to a proposed civil penalty of \$950, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that this committee had submitted a letter, dated February 26, 2003, and that the committee had filed its final report in November.

The Chair noted that CORPAC Political Action Committee had filed its pre-election report on October 28, 2002, and was therefore subject to a proposed civil penalty of \$500, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any

previous occasion for a campaign finance violation. The Chair noted that this committee had submitted a letter, dated February 24, 2003.

The Chair noted that Committee to Elect Mark Duwe State Representative had filed its pre-election report on October 22, 2002, and was therefore subject to a proposed civil penalty of \$200, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Committee to Elect Randy Plew Representative had filed its pre-election report on October 18, 2002, at 2:33 p.m., and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Elect Karen Goldstein for State Representative had filed its pre-election report on October 22, 2002, and was therefore subject to a proposed civil penalty of \$200, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Committee to Elect Raymond Crawford had filed its pre-election report on October 23, 2002, and was therefore subject to a proposed civil penalty of \$250, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Freedom Political Action Committee had filed its pre-election report on October 18, 2002, at 12:10 p.m. and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that this committee had submitted a letter, dated February 28, 2003.

The Chair noted that International Brotherhood of Electrical Workers Local #531 had filed its pre-election report on October 23, 2002, and was therefore subject to a proposed civil penalty of \$200, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that this committee had submitted letters dated October 22, 2002, and February 27, 2003.

The Chair noted that First District Democratic Central Committee had filed its pre-election report on October 18, 2002, at 1:33 p.m. and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the

Commission on any previous occasion for a campaign finance violation. The Chair noted that this committee had submitted a letter, dated March 6, 2003.

The Chair noted that Democrats for Better Government, Inc. had filed its pre-election report on October 21, 2002, and was therefore subject to a proposed civil penalty of \$150, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Hoosier Issues Political Action Committee had filed its pre-election report on October 21, 2002, and was therefore subject to a proposed civil penalty of \$150, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that this committee had submitted a letter, dated February 24, 2003.

The Chair noted that Dean Mock for State Representative Committee had filed its pre-election report on October 18, 2002, at 1:54 p.m. and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that this committee had submitted a letter, dated February 28, 2003.

The Chair noted that Committee to Elect Dumezich had filed its pre-election report on October 18, 2002, at 4:45 p.m. and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Citizens for Crabtree had not filed its pre-election report, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Friends of Karen Freeman Wilson had filed its annual report on January 22, 2003, and was therefore subject to a proposed civil penalty of \$350, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that this committee had submitted a statement on March 6, 2003, and that the committee had filed its final report in January.

The Chair noted that Shepperd for State Representative had filed its annual report on January 16, 2003, after noon, Indianapolis time, and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had

received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that this committee had submitted a letter, dated February 25, 2003.

The Chair noted that Home Builders Association of Greater Terre Haute, Inc. PAC had filed its annual report on January 27, 2003, and was therefore subject to a proposed civil penalty of \$600, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that this committee had submitted a letter dated February 25, 2003.

The Chair noted that Hoosiers for Kent Benson had filed its annual report on January 15, 2003, at 5:59 p.m., and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Hoosiers for Hannon had filed its annual report on January 24, 2003, and was therefore subject to a proposed civil penalty of \$450, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that this committee had submitted a letter, dated February 25, 2003, and that the January report was the committee's final report.

The Chair noted that Hoosiers for Ehrhard had filed its annual report on January 15, 2003, at 1:53 p.m., and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that the January report was the committee's final report.

The Chair noted that Friends to Elect Jean Macdonald had not filed its annual report, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Good & Lawful Christian Men for John Anthony Malan for State Representative had not filed its annual report, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Shane Stillman for Senate Committee had filed its annual report on January 15, 2003, at 12:44 p.m., and was therefore subject to a proposed civil penalty of

\$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that the committee had submitted a letter dated March 4, 2003.

The Chair noted that Smith for Treasurer had filed its annual report on January 21, 2003, and was therefore subject to a proposed civil penalty of \$300, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation.

The Chair noted that Sanders for State Senate had filed its annual report on January 28, 2003, and was therefore subject to a proposed civil penalty of \$650, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had not been before the Commission on any previous occasion for a campaign finance violation. The Chair noted that the January report was the committee's final report, and that the committee had submitted a letter dated February 11, 2003, along with a copy of the report filed with the Tippecanoe County Board of Elections and Registration.

The Chair recognized Mr. King, who stated that he had been contacted by several individuals concerning the Dean Mock for State Representative Committee, and had been asked to inform the Commission that former State Representative Mock was suffering from a serious illness, and referred the Commission to the letter submitted by that committee.

After Commission members reviewed the documents submitted in these causes, the Chair moved, seconded by Mr. Davis, that the civil penalty in these causes be reduced to 25% of the proposed civil penalty, plus mailing costs, specifically:

International Brotherhood of Painters & Allied Trades Local #47 PAC:

\$50, plus \$2.50 mailing costs;

Indiana Association of Homes & Services for the Aging PAC:

\$37.50, plus \$2.50 mailing costs;

Pachyderm Political Action Committee:

\$237.50, plus \$2.50 mailing costs;

CORPAC Political Action Committee:

\$125, plus \$2.50 mailing costs;

Committee to Elect Mark Duwe State Representative:

\$50, plus \$2.50 mailing costs;

Committee to Elect Randy Plew State Representative:

\$12.50, plus \$2.50 mailing costs;

Elect Karen Goldstein for State Representative:

\$50, plus \$2.50 mailing costs;

Committee to Elect Raymond Crawford:

\$62.50, plus \$2.50 mailing costs;

Freedom Political Action Committee:

\$12.50, plus \$2.50 mailing costs;

International Brotherhood of Electrical Workers Local 531:

\$50, plus \$2.50 mailing costs;

First District Democratic Central Committee:

\$12.50, plus \$2.50 mailing costs;

Democrats for Better Government, Inc.:

\$37.50, plus \$2.50 mailing costs;

Hoosier Issues Political Action Committee:

\$37.50, plus \$2.50 mailing costs;

Committee to Elect Dumezich:

\$12.50, plus \$2.50 mailing costs;

Citizens for Crabtree:

\$250.00, plus \$2.50 mailing costs;

Friends of Karen Freeman Wilson:

\$87.50, plus \$2.50 mailing costs;

Shepperd for State Representative:

\$12.50, plus \$2.50 mailing costs;

Home Builders Association of Greater Terre Haute, Inc. PAC:

\$150, plus \$2.50 mailing costs;

Hoosiers for Kent Benson:

\$12.50, plus \$2.50 mailing costs;

Hoosiers for Hannon:

\$212.50, plus \$2.50 mailing costs;

Hoosiers for Ehrhard:

\$12.50, plus \$2.50 mailing costs;

Friends to Elect Jean Macdonald:

\$250, plus \$2.50 mailing costs;

Good & Lawful Christian Men for John Anthony Malan State Representative:

\$250, plus \$2.50 mailing costs;

Shane Stillman for Senate Committee:

\$12.50, plus \$2.50 mailing costs;

Smith for Treasurer:

\$75, plus \$2.50 mailing costs; and

Sanders for State Senate:

\$162.50, plus \$2.50 mailing costs;

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

Mr. Long stated that, in deference to what he understood was the extreme ill health of former State Representative Mock, he moved that Dean Mock for State Representative Committee (Cause No. 03-1131-34) be dismissed. The Chair seconded the motion. There being no further discussion, the Chair called the question, and declared that with four

members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

- ix. I.E.B.E.W. Local Union 369 Political Action Committee (Cause No. 03-1235-3);**
- lxi. Indiana Pharmacists Action Committee (Cause No. 03-3608-6);**
- lxii. Huntington National Bank of Indiana PAC (Cause No. 03-4044-7);**
- lxiii. Constitution Party of Indiana State Committee (Cause No. 03-4416-9);**
- lxiv. Hoosiers Against Crazy Taxes (Cause No. 03-4472-13);**
- lxv. Committee to Elect Andrew Thomas for State Representative (Cause No. 03-4802-24);**
- lxvi. Indianapolis Chamber of Commerce PAC (Cause No. 03-782-32);**
- lxvii. Indiana Regional Carpenters Cope Account (Cause No. 03-3671-37);**
- lxviii. Simmerman for Indiana (Cause No. 03-3835-40);**
- lxix. Michigan City Firefighters PAC (Cause No. 03-3957-41);**
- lxx. International Brotherhood of Painters & Allied Trades Local #47 PAC (Cause No. 03-4452-49);**
- lxxi. Hoosiers Against Crazy Taxes (Cause No. 03-4472-50);**
- lxxii. Indiana’s Finest Political Action Committee (Cause No. 03-4568-58);**
- lxxiii. Friends of Kincaid (Cause No. 03-4717-62);**
- lxxiv. Michael Batz for State Representative (Cause No. 03-4751-67);**
- lxxv. Committee to Elect Mark Duwe State Representative (Cause No. 03-4766-71);**
- lxxvi. Committee to Elect Randy Plew State Representative (Cause No. 03-4775-73);**
- lxxvii. Elect Karen Goldstein for State Representative (Cause No. 03-4799-76);**
- lxxviii. Committee to Elect Raymond Crawford (Cause No. 03-4813-77);**
- lxxix. Hoosier Issues Political Action Committee (Cause No. 03-4914-95); and**
- lxxx. Indiana Association of Homes & Services for the Aging PAC (Cause No. 03-4458-98).**

The Chair noted that I.E.B.E.W. Local Union 369 Political Action Committee had filed its pre-election report on October 18, 2002, at 3:17 p.m. and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation. The Chair also noted that the committee had submitted a letter dated March 4, 2003.

The Chair noted that Indiana Pharmacists Action Committee had filed its pre-election report on October 18, 2002, at 12:46 p.m. and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation. The Chair also noted that the committee had submitted a letter dated November 6, 2002.

The Chair noted that Huntington National Bank of Indiana PAC had filed its pre-election report on October 28, 2002, and was therefore subject to a proposed civil penalty of \$500, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Constitution Party of Indiana State Committee had filed its pre-election report on November 13, 2002, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation. The Chair noted that the committee had submitted a letter dated March 4, 2003.

The Chair noted that Hoosiers Against Crazy Taxes had not filed its pre-election report, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Committee to Elect Andrew Thomas for State Representative had filed its pre-election report on October 18, 2002, at 2:06 p.m. and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Indianapolis Chamber of Commerce PAC had filed its annual report on January 17, 2003, and was therefore subject to a proposed civil penalty of \$100, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation. The Chair noted that this committee had submitted a letter dated February 25, 2003.

The Chair noted that Indiana Regional Carpenters Cope Account had filed its annual report on January 16, 2003 and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Simmerman for Indiana had filed its annual report on January 15, 2003, at 3:27 p.m. and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Michigan City Firefighters had filed its annual report on January 16, 2003, and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that International Brotherhood of Painters & Allied Trades Local #47 PAC had filed its annual report on January 22, 2003, and was therefore subject to a proposed civil penalty of \$350, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Hoosiers Against Crazy Taxes had not filed its annual report, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Indiana's Finest Political Action Committee filed its annual report on February 3, 2003, and was therefore subject to a proposed civil penalty of \$950, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Friends of Kincaid filed its annual report on January 16, 2003, and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Michael Batz for State Representative had not filed its annual report, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Committee to Elect Mark Duwe State Representative had not filed its annual report, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this

hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Committee to Elect Randy Plew State Representative filed its annual report on January 15, 2003, at 3:27 p.m., and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Elect Karen Goldstein for State Representative filed its annual report on January 15, 2003, at 12:05 p.m., and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Committee to Elect Raymond Crawford filed its annual report on January 17, 2003, and was therefore subject to a proposed civil penalty of \$100, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Hoosier Issues Political Action Committee filed its annual report on February 28, 2003, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

The Chair noted that Indiana Association of Homes & Services for the Aging PAC filed its annual report on January 15, 2003, at 4:30 p.m., and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on one previous occasion for a campaign finance violation.

After Commission members reviewed the documents submitted in these causes, Mr. Long moved, seconded by the Chair, that the civil penalty in these causes be reduced to 50% of the proposed civil penalty, plus mailing costs, specifically:

I.E.B.E.W. Local Union 369 Political Action Committee:

\$25, plus \$2.50 mailing costs;

Indiana Pharmacists Action Committee:

\$25, plus \$2.50 mailing costs;

Huntington National Bank PAC:

\$250, plus \$2.50 mailing costs;

Constitution Party of Indiana State Committee:

\$500, plus \$2.50 mailing costs;

Hoosiers Against Crazy Taxes:

\$500, plus \$2.50 mailing costs;
Committee to Elect Andrew Thomas State Representative:
\$25, plus \$2.50 mailing costs;
Indianapolis Chamber of Commerce PAC:
\$50, plus \$2.50 mailing costs;
Indiana Regional Carpenters Cope Account:
\$25, plus \$2.50 mailing costs;
Simmerman for Indiana:
\$25, plus \$2.50 mailing costs;
Michigan City Firefighters:
\$25, plus \$2.50 mailing costs;
International Brotherhood of Painters & Allied Trades Local #47 PAC:
\$175, plus \$2.50 mailing costs;
Hoosiers Against Crazy Taxes:
\$500, plus \$2.50 mailing costs;
Indiana’s Finest Political Action Committee:
\$475, plus \$2.50 mailing costs;
Friends of Kincaid:
\$25, plus \$2.50 mailing costs;
Michael Batz for State Representative:
\$500, plus \$2.50 mailing costs;
Committee to Elect Mark Duwe State Representative:
\$500, plus \$2.50 mailing costs;
Committee to Elect Randy Plew State Representative:
\$25, plus \$2.50 mailing costs;
Elect Karen Goldstein for State Representative:
\$25, plus \$2.50 mailing costs;
Committee to Elect Raymond Crawford:
\$50, plus \$2.50 mailing costs;
Hoosier Issues Political Action Committee:
\$500, plus \$2.50 mailing costs; and
Indiana Association of Homes & Services for the Aging PAC:
\$25, plus \$2.50 mailing costs.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

Ixxxix. Porter County Republican Central Committee (Cause No. 03-4681-16)

The Chair noted that in the past, the Commission had dismissed campaign finance enforcement actions against county political party committees if the committee had filed its campaign finance report with its county election board. Mr. Long responded that he had intended to so move, and noting that the record confirmed that the county committee had filed locally, moved that this cause be dismissed. The Chair seconded the motion.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

lxxxii. Citizens for Chochos (Cause No. 03-4105-42)

The Chair noted that the Commission had voted earlier to administrative dissolve this committee, and asked whether the campaign finance enforcement action against this committee should therefore be dismissed. Mr. Long moved, seconded by the Chair, that this cause be dismissed. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

**lxxxiii. Clay for the Legislature Committee (Cause No. 03-4403-46);
and
lxxxiv. Woolery for State Senate Committee (Cause No. 03-4559-56)**

The Chair noted that the Commission had also voted earlier to administrative dissolve these committees. The Chair moved, seconded by Mr. Long, that these causes be dismissed. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

**lxxxv. Republican Sixth Congressional District Committee (Cause No. 03-3350-5);
lxxxvi. Sandra Dempsey for Indiana Senate (Cause No. 03-3777-38);
lxxxvii. J. Murray Clark Committee (Cause No. 03-3781-39);
lxxxviii. Anderson for Indiana (Cause No. 03-4248-43);
lxxxix. KeyCorp Political Action Committee (Cause No. 03-4429-48);
xc. Committee to Elect Mary Wheeler (Cause No. 03-4547-55);
xci. Elect Roach – A Sure Bet (Cause No. 03-4822-80);
xcii. Kinser for State Representative (Cause No. 03-4831-96);
xciii. Elect Roach – A Sure Bet (Cause No. 03-4822-80);**

The Chair noted that Republican Sixth Congressional District Committee filed its pre-election report on October 24, 2002, and was therefore subject to a proposed civil penalty of \$300, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on two previous occasions for a campaign finance violation.

The Chair noted that Sandy Dempsey for Indiana Senate had not filed its annual report, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on two previous occasions for a campaign finance violation.

The Chair noted that J. Murray Clark Committee had filed its annual report on January 15, 2003, at 12:01 p.m., and was therefore subject to a proposed civil penalty of \$50, plus

mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on two previous occasions for a campaign finance violation.

The Chair noted that Anderson for Indiana had filed its annual report on January 16, 2003, and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on two previous occasions for a campaign finance violation.

The Chair noted that KeyCorp Political Action Committee had filed its annual report on January 22, 2003, and was therefore subject to a proposed civil penalty of \$350, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on two previous occasions for a campaign finance violation.

The Chair noted that Committee to Elect Mary Wheeler had filed its annual report on January 21, 2003, and was therefore subject to a proposed civil penalty of \$300, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on two previous occasions for a campaign finance violation.

The Chair noted that Elect Roach – A Sure Bet had filed its annual report on January 15, 2003, at 4:33 p.m., and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on two previous occasions for a campaign finance violation.

The Chair noted that Kinser for State Representative 65th had not filed its annual report, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on two previous occasions for a campaign finance violation.

After Commission members reviewed the documents submitted in these causes, the Chair moved, seconded by Mr. Davis, that the civil penalty in these causes be reduced to 75% of the proposed civil penalty, plus mailing costs, specifically:

Republican Sixth Congressional District Committee:

\$225, plus \$2.50 mailing costs;

Sandy Dempsey for Indiana Senate:

\$750, plus \$2.50 mailing costs;

J. Murray Clark Committee:

\$37.50, plus \$2.50 mailing costs;

Anderson for Indiana:

\$37.50, plus \$2.50 mailing costs;

KeyCorp Political Action Committee:

\$262.50, plus \$2.50 mailing costs;

Committee to Elect Mary Wheeler:

\$225, plus \$2.50 mailing costs;

Elect Roach – A Sure Bet; and

\$37.50, plus \$2.50 mailing costs;

Kinser for State Representative 65th:

\$750, plus \$2.50 mailing costs;

Mr. Davis noted that Ms. Dempsey had been out of office for some time, but still had an open candidate's committee.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruza, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

- xciv. Insurance Mens PAC (Cause No. 03-825-2);**
- xcv. South Bend Firefighters PAC (Cause No. 03-1871-4);**
- xcvi. Partners for Growth and Jobs (Cause No. 03-4315-8);**
- xcvii. New Democrat Network (Cause No. 03-4424-10);**
- xcviii. Jones for State Representative (Cause No. 03-1728-35);**
- xcix. New Democrat Network (Cause No. 03-4424-47);**

The Chair noted that Insurance Mens PAC filed its pre-election report on October 29, 2002, and was therefore subject to a proposed civil penalty of \$550, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on three previous occasions for a campaign finance violation.

The Chair noted that South Bend Firefighters PAC filed its pre-election report on October 18, 2002, at 2:33 p.m. and was therefore subject to a proposed civil penalty of \$50, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on three previous occasions for a campaign finance violation.

The Chair noted that Partners for Growth and Jobs filed its pre-election report on October 21, 2002, and was therefore subject to a proposed civil penalty of \$150, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on three previous occasions for a campaign finance violation.

The Chair noted that New Democrat Network filed its pre-election report on October 24, 2002, and was therefore subject to a proposed civil penalty of \$300, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on three previous occasions for a campaign finance violation.

The Chair noted that Jones for State Representative had not filed its annual report, and was therefore subject to a proposed civil penalty of \$1,000, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on four previous occasions for a campaign finance violation.

The Chair noted that New Democrat Network filed its annual report on February 3, 2003, and was therefore subject to a proposed civil penalty of \$950, plus mailing costs of \$2.50. The Chair added that the committee had received notice of this hearing on February 21, 2003, and had been before the Commission on three previous occasions for a campaign finance violation.

After Commission members reviewed the documents submitted in these causes, Mr. Long moved, seconded by Mr. Morgan, that the full amount of the proposed civil penalty in these causes be imposed, plus mailing costs, specifically:

Insurance Mens PAC:

\$550, plus \$2.50 mailing costs;

South Bend Firefighters PAC:

\$50, plus \$2.50 mailing costs;

Partners for Growth and Jobs:

\$150, plus \$2.50 mailing costs;

New Democrat Network:

\$300, plus \$2.50 mailing costs;

Jones for State Representative:

\$1,000, plus \$2.50 mailing costs;

New Democrat Network; and

\$950, plus \$2.50 mailing costs.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

The Chair briefly recessed the Commission meeting. The Chair then reconvened the Commission meeting with the same members and their proxies present.

4. VOTER’S BILL OF RIGHTS:

The Chair recognized Mr. King, who noted that Commission members had received the following documents: (1) a draft titled “Order 2003-03; Approval of the Voter’s Bill of Rights”; and (2) a document indicating changes made to the draft of this document presented at the Commission’s last meeting.

Mr. King stated that in 2002, Indiana enacted legislation to provide for a Voter’s Bill of Rights, a document that would be approved by the Commission. He noted that this

legislation required that the Voter's Bill of Rights be included with registration material, posted on the agency's website, and provided to the media before elections to circulate, to inform voters of their rights under Indiana law. Mr. King added that since the 2002 Indiana legislation, new federal legislation (the Help America Vote Act of 2002) had been enacted, which would be discussed in more detail in the Co-Directors' report to the Commission. He indicated that this federal legislation contains a provision effective in 2004, which will require the Indiana Voter's Bill of Rights to include additional information beyond what the document is currently required to include under Indiana law, and will require the posting of the Voter's Bill of Rights at polling places. Mr. King stated that the Voter's Bill of Rights to be used in Indiana elections in 2003 could also be optionally posted in polling places.

Mr. King said that the Co-Directors had submitted a draft of the Voter's Bill of Rights at the last Commission meeting. He noted that he and former Co-Director Spencer Valentine had worked on the initial draft before his departure. Mr. King remarked that following the submission of this initial draft, comments and suggestions had been received from several county election officials, from Commissioner Cummings, who regretted that she had not been able to stay for the remainder of the Commission meeting to speak to these matters herself, and from the Secretary of State's office.

Mr. King noted that Order 2003-03 was identical to that presented to the Commission at its January 2003 meeting, and that the changes made in the text of the document since that meeting were indicated by underlining. He indicated as an example, that language stating the date of the election and the polling place hours, which would be required under the new federal law, had been added to this draft, and that the word "Voter's" had been substituted to conform to the language used under HAVA.

Mr. King said that under the heading "Who can vote?", language, he noted that the language formerly at this location had been relocated in this draft to the first paragraph on page 3, under the heading "Challenged at the Polls", so that all of the text concerning challenged voters would be located under the same heading. He noted that the final sentence under the "Who can vote?" heading concerning the penalties for knowingly voting at an election when a person is not authorized to vote, is taken from the current language used on the voter registration application form.

Mr. King remarked that the paragraph under "Fail-Safe Procedures" had been broken up to address two different kinds of fail-safe procedures: (1) "(when your name is not on the list)"; and (2) "(when your name or address does not match what's on the poll list)". He noted that under the first type of fail-safe procedures, language was included under paragraphs 2 and 3 to add affirmative statements that the voter may vote after taking the required steps under the applicable fail-safe procedure. He added that on page 2 of the draft, the language concerning the second type of fail-safe procedures had been altered under paragraphs 2 and 3 to reflect current Indiana law, which allows a person to return to a former precinct, the voter does so to vote "one last time" before the voter's registration is transferred. Mr. King noted that the order paragraphs 2 and 4 had been reversed in this draft since a voter returning to a former precinct within the same county

and same congressional district is a far more common procedure than returning to Indiana to vote in the final 30 days before a presidential election. He concluded by noting that a penalty statement similar to that used earlier under the “Who can vote?” heading had also been added at the end of the “Fail-Safe Procedures” text.

Mr. King said that under “Other Voter Protections”, two provisions had been added at the suggestion of county election officials to the paragraph titled “Voters Needing Assistance”: (1) to note that the person assisting the voter can be a poll worker or “someone you choose”; and (2) that the person you choose must fill out an affidavit before assisting you to vote. He noted that these provisions were currently prescribed by Indiana law.

Mr. King stated that under “Challenged at the Polls”, he had already discussed the relocation of the first paragraph, and that the final paragraph setting forth the penalty provisions was identical to the language used under the “Who can vote?” heading.

Mr. King remarked that under “Primary Elections”, a change was added at the suggestion of a county election official to specify that a voter “may only vote for candidates in the party whose ballot you select.”

The Chair recognized Mr. Morgan, who stated that on page 3, the draft read “You may be challenged at the polls by another voter who believes that you do not meet all of the requirements to vote.” In response to a question from Mr. Morgan regarding whether there were geographic restrictions on which voters could challenge another voter, Mr. King said that the challenge statutes stated that a voter could be challenged either by another voter of the precinct, or, in other cases, by a precinct election officer, who was required to be a registered voter of the county to serve as a precinct election officer. In response to a further question from Mr. Morgan, Mr. King added that the challenger would at least have to be a registered voter of the county.

The Chair recognized Mr. Simmons, who noted that a voter could be challenged at a primary election by another voter of the precinct under Indiana Code 3-10-1, but since Indiana Code 3-11-8-15 only allowed voters of the precinct to be present within the polls for the purpose of voting, that in his opinion, a voter could not remain within the precinct at a primary solely for the purpose of challenging due to party affiliation.

The Chair recognized Ms. Robertson, who stated that she agreed with Mr. Simmons, but that the issue that the Commission and Election Division staff had struggled with was how much detailed statutory language to include on a form designed for all voters to understand. Mr. Simmons added that this was a challenge, given the length of the document involved here.

The Chair recognized Mr. Davis, who stated that Ms. Cummings had asked him to pose a question regarding the penalty language under the “Who can vote?” heading. In response to a question from Mr. Davis, Mr. King stated that the language referred to was in a form satisfactory to Ms. Cummings, to the best of his understanding.

The Chair recognized Mr. Long, who asked with regard to the penalty language that appears in three locations in this document, why the language was identical in two locations, but different in the third location. He noted that some of the penalty language clauses referred to Class D felony violations, and asked if some of these penalty provisions were other classes of felonies.

Mr. King responded that two different statutes were referenced in these penalty provisions: (1) Under the headings “Challenged at the Polls” and “Who can vote?”, the statute referred to was Indiana Code 3-14-2-9, a violation of which would be a Class D felony; and (2) Under the “Fail-Safe” heading, the statute referred to was Indiana Code 3-14-2-11, a violation of which would also be a Class D felony, with the exception of certain fail-safe statutes referenced in IC 3-14-2-11.

The Chair asked if the Voter’s Bill of Rights draft pending before the Commission could only be used for the May 2003 primary, and if the Commission would have to approve another version for use at the November 2003 municipal elections. Mr. King responded that the date of this document would have to be changed for November 2003, and that the document would have to be more extensively revised for the 2004 elections to address federal law requirements, and provisional balloting procedures.

Mr. Long asked if a Spanish language version of this document would be available. Mr. King responded that he had been working with several staff members at the Secretary of State’s office regarding the translation of election and voter registration forms into Spanish, and if the Commission wished, he could make arrangements with them for a Spanish language version of the Voter’s Bill of Rights to be made available.

The Chair moved, seconded by Mr. Long, that Order 2003-03 be approved, with the stipulation that the Voter’s Bill of Rights be provided in Spanish as well as in English. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

5. VOTING SYSTEM CERTIFICATIONS:

The Chair recognized Ms. Robertson, who noted that the Co-Directors voting system application recommendation memo, dated March 3, 2003, had been provided to Commission members. This document is incorporated by reference in these minutes.

A. Voting Technology International VOTWARE 3.6.8 Touch Screen Direct Recording Electronic Voting System

The Chair recognized Mr. Benning, who stated that he was present to address the Commission on behalf of VTI’s application for certification of this voting system.

The Chair recognized Ms. Robertson, who said that the information concerning the status of this application was found on page 5 of the Co-Directors' memo. She noted that VTI had submitted an application for system certification in 2002, and had filed additional documentation concerning version 3.6.8 of this system in January 2003. Ms. Robertson added that VTI had submitted documentation of the escrow of its system's software with DSI Technology Escrow Services (DSI). A copy of this documentation is incorporated by reference in these minutes. She remarked that the system had been demonstrated at the September 2002 Commission meeting, and that VTI had submitted documentation that Wyle Laboratories had tested this voting system and found that the system was in compliance with current Federal Election Commission (FEC) Standards. A copy of this documentation is incorporated by reference in these minutes.

Ms. Robertson added that the following documents had also been provided to Commission members: (1) a letter dated September 16, 2002 to Mr. Boldin of VTI from the Co-Directors; (2) an undated letter from Mr. Parish and Ms. Bowen of VTI to Co-Director King; (3) a letter dated February 27, 2003 from Ms. Bowen to Co-Director King, which included a fax transmission from Wyle Laboratories; (4) a fax dated March 3, 2003 from Ms. Bowen to Co-Director King, which included a fax transmission from DSI; and (5) an undated memo from Co-General Counsel Dale Simmons to the Co-Directors concerning VTI's application. These documents are incorporated by reference in these minutes.

Ms. Robertson stated that the Co-Directors, based on the vendor's application, the results of independent testing authority testing, and review by the Co-General Counsel, recommended that the Commission find that this voting system complies with Indiana law and that this voting system be certified for use in Indiana elections for a five year term, expiring March 6, 2008.

The Chair recognized Mr. Davis, who stated that Commissioner Cummings had asked that he inquire regarding the ballot security of this system, and whether previous Commission concerns regarding that issue had been satisfactorily addressed. Mr. Benning responded that the system had originally included a voter identification number, in addition to a PIN number, that the voter was required to enter before casting a ballot on the voting system. He noted that the system now only required a voter to enter a PIN number. In response to a question from Mr. Davis, Mr. Benning stated that if a voter accidentally entered an incorrect PIN number, the voter would have several more chances to enter the number correctly before being required to return to the poll clerk table and obtain a replacement PIN number.

Mr. Davis asked what back up features were included in the system, in case there was a power loss during voting. Mr. Benning responded that if a power loss occurred, this system contained a seven hour battery pack that would permit the system to continue to operate, and that the system contained other features that would permit the regeneration of votes cast before a power outage occurred.

Mr. Davis noted that in the primary elections, there are races where a person may vote for multiple candidates, such as 2 candidates of 5, for example, in a particular county. He asked if the voting system accommodated this type of voting. Mr. Benning responded that the system did so, and included error messages that would appear if the voter attempted to vote for more than the permitted number of candidates in such an election. In response to a further question from Mr. Davis, Mr. Benning noted that the system could accommodate any number of multiple candidates in an election district.

The Chair recognized Mr. King, who stated that the vendor had amended its application to include updated information regarding the other jurisdictions which had previously certified this voting system. Mr. Benning added that this system had been certified in the states of Arkansas, Colorado, and Ohio, and was in the process of being certified in South Carolina. The Chair asked Mr. Benning to inform the Commission if this system experienced any problems when used in the South Carolina elections next month. Mr. Benning agreed to do so.

Mr. Davis asked how many voting systems the vendor had sold which were used in Indiana elections during 2002. Mr. Benning responded that this model of voting system was the first system for which VTI had sought Indiana certification.

In response to a question from the Chair, Ms. Robertson referred Commission members to page 5 of the Co-Directors' memo, which recommended that the vendor's application for certification of this system be approved by the Commission.

The Chair moved, based on the recommendation of the Co-Directors and review of the application by the Co-General Counsel, that Voting Technology International VOTWARE 3.6.8 Touch Screen Direct Recording Electronic Voting System be approved for use in Indiana elections for a five year period expiring March 6, 2008. Mr. Davis seconded the motion.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

B. Diebold Election Systems, Inc. AccuVote 2000 Optical Scan Precinct Based Tabulator, Firmware Version 1.94f

The Chair recognized Mr. King, who stated that this was an application for an upgrade to an existing voting system previously certified in Indiana in 1997, and currently used in 9 counties. He noted that the previous certification for this system had expired in February 2002. Mr. King remarked that when the Co-Directors' memorandum had been prepared, all of the required elements of the application had been received by the Election Division, except for a list of current county customers. He said that the Election Division had since received this document, and had sought comments on this application from those counties. Mr. King noted that this document, dated March 3, 2003, is incorporated by reference.

Mr. King added that the following documents had also been provided to Commission members and incorporated by reference: (1) a letter dated December 26, 2002 to Commission members from Steve Corey of Diebold; (2) the application for certification of this voting system, dated December 26, 2002; (3) a report from Wyle Laboratories concerning this voting system, dated October 23, 1996; and (4) a letter from DSI dated December 31, 2002 confirming escrow of system materials. He noted that the Election Division had previously received documentation of the testing performed on the system software by CIBER, an independent testing authority.

Mr. King referred Commission members to page 2 of the Co-Directors' memo, which recommended that the vendor's application for certification of this system be approved by the Commission for a five year term expiring in March 2008. He added that Mr. Corey from Diebold was present to address any additional questions from the Commission. In response to a question from the Chair, Mr. King stated that there had been no comments received from any county users of the system.

The Chair recognized Mr. Corey, who stated that he had brought the voting system to today's meeting if the Commission had any questions concerning its operation. He stated that this system came on the market in 1991, and was the most widely used precinct based optical scan system in America, with over 800 users. Mr. Corey noted that when the original application had been filed the escrow documentation had been provided by Governmental Business Services (GBS).

After further discussion, Mr. Long moved that Diebold Election Systems, Inc. AccuVote 2000 Optical Scan Precinct Based Tabulator, Firmware Version 1.94f be approved for use in Indiana elections for a five year period expiring March 6, 2008. Mr. Davis seconded the motion.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

C. Election Systems & Software Election Reporting Manager Version 6.3.1.0 and Data Acquisition Manager Version 4.2 (Client/Remote) and 2.4 (Host)

The Chair recognized Ms. Robertson, who stated that pages 2-3 of the Co-Directors' memo contained information regarding this proposed software upgrade to a currently certified system. She noted that the Commission had received the following documents, which are incorporated by reference: (1) a letter dated December 11, 2002 from ES&S to the Election Division concerning the escrow of version 6.3.2.0 of Election Reporting Manager (ERM) and version 4.3 (Client/Remote) and 2.5 (Host) of Data Acquisition Manager (DAM); (2) a fax dated January 8, 2003 from ES&S to the Election Division including a signed letter from DSI, an escrow agent, documenting the escrow of version 6.3.2.0 of ERM and 4.3 of DAM; and (3) a fax dated March 6, 2003 from ES&S to the

Election Division stating that the versions 6.3.1.0 of ERM and version 4.2 (Client) and 2.4 (Host) had been escrowed with DSI, and that documentation of this escrow with DSI would be forwarded to the Election Division as soon as possible.

Ms. Robertson noted that the memo referred to a previous documentation of escrow, which contained the wrong version number. She added that the fax received today from ES&S indicates that ES&S has escrowed the correct version number of this software, but that the Election Division has not yet received confirmation of the escrow from DSI.

Mr. Long stated that the original application and escrow documentation contained wrong numbers for the ERM and both components of the DAM software. In response to a question from Mr. Davis, Ms. Robertson stated that this application was only for an upgrade to system software and not an upgrade or change to the hardware of the voting system.

The Chair moved that Election Systems & Software Election Reporting Manager Version 6.3.1.0 and Data Acquisition Manager Version 4.2 (Client/Remote) and 2.4 (Host) be approved for use in Indiana elections for a five year period expiring March 6, 2008, subject to ES&S providing satisfactory documentation of escrow by April 1, 2003 to Election Division staff. Mr. Davis seconded the motion.

There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting "no," the motion was adopted.

D. Election Systems & Software Model 650 (version 1.1.9.1) centralized mark sense optical scan tabulator

The Chair recognized Ms. Robertson, who stated that pages 3-4 of the Co-Directors' memo contained information regarding the proposed certification of a new optical scan tabulation system. She noted that the Commission had received the following documents, which are incorporated by reference: (1) the IEC-11 application form for certification of this system filed by ES&S with the Election Division on February 10, 2003, and the documentation submitted with that application; and (2) a letter dated August 22, 2002 from Wyle Laboratories stating that system hardware version 1.0 and firmware version 1.1.9.1 complied with FEC Standards.

The Chair recognized Ms. Robertson, who stated that the Election Division had attempted to arrange for a demonstration of this system at today's meeting, but that this had not been possible. She noted that as a result, this application was not being presented with a recommendation from the Co-Directors for Commission action, but that she hoped that the system would be available for demonstration at a future meeting.

E. MicroVote Infinity Direct Recording Electronic Voting System, Model V-1, Firmware Version 2.06 (system conditionally certified pending receipt of escrow documentation)

The Chair recognized Mr. King, who stated that page 4 of the Co-Directors' memo contained information regarding the status of this system. Mr. King noted that on September 5, 2002, the Commission has approved a firmware upgrade to this system to version 2.06, subject to MicroVote General Corporation providing documentation of escrow from Brambles NSD (doing business as Recall Total Information Management). He said that on September 16, 2002, MicroVote had provided documentation of escrow from Brambles NSD, dated September 13, 2002. This documentation is incorporated by reference in these minutes.

F. MicroVote MEMS Software Upgrade to Version 7.5 (approved conditionally pending receipt of escrow documentation and documentation of installation for all county users).

The Chair recognized Mr. King, who stated that page 4 of the Co-Directors memo documented that on September 5, 2002, the Commission found that approval by the Co-Directors of an "emergency voting system change" to correct programming errors in previously certified MEMS software was in the best interest of Indiana voters, subject to MicroVote documenting: (1) the escrow of this system upgrade software and source code and (2) the installation of this upgrade in all counties using the MicroVote MV 464 before the November 2002 general election.

Mr. King noted that the Election Division had received confirmation of this escrow on September 11, 2002 by Brambles. He added that the Commission had received the following documents, which are incorporated by reference in these minutes: (1) a letter dated September 9, 2002 from Monica Roscelli, Escrow Officer, for Recall Total Information Management; and (2) "Exhibit #B2", dated September 3, 2002, from Recall Total Information Management confirming escrow of Election Management Software Source Code for MEMS 7.5H.

Mr. King added that Commission members had received copies of the following documents: (1) a letter dated September 16, 2002 to Mr. Ries from the Co-Directors, setting forth the status of the Commission's actions regarding both the MV 464 MEMS 7.5 software upgrade and the Infinity firmware upgrade to version 2.06; and (2) a letter dated March 4, 2003, from Mr. Ries to the Election Division, confirming that all MicroVote customers in Indiana have installed the currently certified 7.5H version of the MEMS software. Mr. King noted that the March 4, 2003 letter did not specify when this installation had been completed, but that it presumably occurred before the November 2002 general election.

6. HUNTINGTON COUNTY PRECINCT BOUNDARY ORDER:

The Chair recognized Ms. Robertson, who stated that Commission members had received a sketch of the boundaries two precincts in Huntington County, which is incorporated by reference in these minutes. She stated that she understood that the boundaries between Jackson 1 precinct and Jackson 3 precincts were in contention. She noted that Jackson 3 is located with the Town of Roanoke, and that Jackson 1 is located outside of the Town of Roanoke. Ms. Robertson said that she thought that this may have led to confusion by the Election Division as to what precinct boundaries the Commission had actually approved. She remarked that the Election Division understood that the Commission was approving the precinct boundary of the precinct located within the Town (Jackson 3) to meet state statutory deadlines, but that the Commission in fact had approved the revised boundary for Jackson 1.

Ms. Robertson stated that the Commission had needed additional information concerning the bowling alley depicted on this sketch. She noted that the bowling alley is located within a split census block, and that the Election Division had thought that this property was located within the Town, but was in fact located in the unincorporated area of the township and outside of the Town. Ms. Robertson stated that there are no voters residing in this area, and so the confusion regarding these boundaries will have no effect on voters in the municipal election.

The Chair recognized Mr. Simmons, who stated that Jackson 1 and Jackson 3 are two precincts which share a common boundary. He noted that Jackson 3 is located with the Town of Roanoke, whereas Jackson 1 is located outside Roanoke. He said that he believed that the Commission's intent, as reflected on pages 19-20 of the minutes of the last Commission meeting, was to take care of the town election by shifting the boundary between Jackson 1 and Jackson 3 to conform these precinct boundaries to the actual boundary of the Town of Roanoke. He noted that the bowling alley property, although previously in Jackson 3, was not part of the Town of Roanoke.

Mr. Simmons stated that the Commission's action at its last meeting had been to approve the proposed boundary for Jackson 1, but not the proposed boundary for Jackson 3. He noted that since precinct boundaries within municipalities could not be changed after January 31 in a municipal year, he recommended that the Commission acknowledge that an error had been made at its previous meeting, and issue a corrected order for these precinct boundaries. He noted, however, if one boundary was corrected in this manner, he did not see how the boundaries of both precincts, whether inside Roanoke or not, would both be affected.

Mr. Long asked whether the Commission's order approving Jackson 1 precinct included a description of the boundary of that precinct. He said that this did not appear to be a case where a Commission order would merely correct a misnumbering of the precincts, but would instead require an entirely new legal description for Jackson 1. Mr. Simmons responded that the legal description for Jackson 1 had been included in the order, but that the mistake appeared to have occurred when the Commission referenced "Jackson 1" in

its motion, the Commission was in fact referring to the precinct located within the town of Roanoke, which is “Jackson 3.” He stated that his question was whether this error was sufficiently documented for the Commission to approve what would otherwise be a boundary change after January 31 of a municipal election year. Mr. Simmons said that Huntington County had informed the Election Division that no voters lived in the area designated on the sketch as the “bowling alley.”

The Chair recognized Ms. Bard, who stated that she did not hear what boundaries had been agreed upon at the last Commission meeting, since she had been discussing this issue in the hallway with the County’s attorney, and GIS employee. She said that the paperwork provided to the Office of Census Data by the Election Division did not set forth the boundaries for these precincts that Huntington County wanted to have. She remarked that in this case, the census block boundaries provided to Huntington County were not correct, and that the County GIS system had corrected the boundaries by “rubberizing” the maps. She added that all of the representatives of the county confirmed to her that there was no population in this area. Ms. Bard stated that these precincts were a pair. She remarked that while she could not address the Commission’s orders, but that the paperwork provided to the Office of Census Data at this time accurately reflected the boundaries of Jackson 1 and Jackson 3 precincts. Ms. Bard provided a copy of a map depicting the boundaries of Jackson 1 and Jackson 3 to the Commission.

Mr. Long said that this could be viewed as a clerical error, which could be corrected at any time. The Chair stated that the Commission could then adopt a motion that this was a clerical error in the previous order, and that “Jackson 1” should have been designated as “Jackson 3”, which is the precinct inside the Town of Roanoke.

The Chair recognized Mr. Simmons, who suggested that the Commission approve the boundaries of both Jackson 1 and Jackson 3, and noted that since Jackson 1 lay outside of the Town, it was not subject to any statutory deadline for revision this year. In response to a question from Mr. Long, Mr. Simmons said that the order could be amended retroactively to add the approval of Jackson 3 to the order. In response to a question from Mr. Long, Ms. Robertson said that she agreed.

Mr. Long moved, seconded by the Chair, that the Commission acknowledge that the Commission’s previous order in 2003 approving precinct boundaries in Huntington County inadvertently omitted approval of the boundary of Jackson Precinct 3, and that the Order should reflect that the boundaries of both Jackson 1 and Jackson 3 had been approved by the Commission.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruca, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

In response to a question from Mr. Long, Ms. Robertson stated that the Election Division was planning to meet with counties whose precinct boundaries had not been approved in 2001 or 2002, even if the county’s precincts could not be approved at this time due to the

2003 municipal election. She added that the Division was encouraging counties to work with Election Division staff so that when precinct boundaries could be approved after the 2003 elections, these counties would be prepared to have their precincts submitted to the Commission. Mr. Long asked the chair if Commission members could be provided with a report before the next Commission meeting concerning the status of this issue so that the Commission could complete the job it had started. The Chair agreed.

7. ORDERS APPROVING ABSENTEE BALLOT FORMS AND VOTER REGISTRATION NOTICE:

The Chair recognized Mr. Simmons, who stated that the Commission had received copies of Orders 2003-32, 2003-33, 2003-34, and 2003-35, which are incorporated by reference in these minutes.

Mr. Simmons stated that these forms revisions were being made to implement changes in statutes from previous years that would be in effect for the 2003 municipal elections. He said that Order 2003-34 concerned two distinct processes. He noted that the Legislature wanted to provide a method for absent uniformed services and overseas voters to vote by fax, and that to implement this provision, the Election Division had developed three forms. Mr. Simmons noted that these included a separate absentee ballot application for these voters. He indicated that the Election Division had attempted to incorporate this language into the existing absentee ballot application, but that since different information was needed from these applicants, and that different qualifications applied to these voters, the Election Division had developed Form ABS-12 for this purpose.

Mr. Simmons said that this form asked for e-mail or fax contact information from the voter, since the circuit court clerk was responsible for confirming to the voter that the absentee ballot application fax had been received. Mr. Simmons noted that after the voter's application is received, the voter is faxed an absentee ballot by the county, along with Form ABS-9. He added that the Form ABS-9 serves as a fax cover sheet, as an affidavit for the absentee voter stating that the voter meets the qualifications required to vote an absentee ballot by fax, and as an express waiver of the voter's right to the confidentiality of the voter's ballot since the person receiving the faxed ballot will as a result see the voter's ballot choices.

Mr. Simmons remarked that when the faxed ABS-9 and ballot are received, the circuit court clerk attaches the cover sheet along with the previously received absentee ballot application to a blank absentee envelope, pursuant to state statute. He noted that the Election Division had determined that it would be useful to create a new absentee ballot envelope, designated ABS-10, to set votes from these absentee voters apart from the ordinarily used absentee envelope. He indicated that the clerk who received the faxed absentee ballot would fold the ballot, and insert the ballot into the ABS-10 envelope, and attach the ABS-9 cover sheet and affidavit to the ABS-10, and then send the envelope to the precinct, or retain the envelope for processing in central count counties. Mr. Simmons noted that the Election Division had been concerned that if the existing ABS-8 absentee

envelope was used, the inspector of a precinct might reject the absentee ballot since the ABS-8 envelope in this case would not include the signature of the voter, and had determined that the ABS-10 would alert the inspector that something was different concerning the ballot included in that envelope.

Mr. Simmons stated that the second process addressed in Order 2003-34 was the result of legislative changes concerning the registration of absentee uniformed services voters. He noted that under these statutes, military voters who return to Indiana due to government moving orders or discharge from the military during the ten days before the election (after the certified poll lists are issued) are permitted to register up until noon on election day. He added that Form ABS-11 and ABS-13 recognize that these voters will not appear on the poll list, but that they do have a right to register and to vote.

Mr. Simmons said that the ABS-13 affidavit of registration for late registration by a qualified absent uniformed services voter included the qualifications to register under this statute, and noted that Form ABS-13 required the voter to swear that the voter has not already cast a ballot in the voter's precinct. He remarked that this starts the process by getting the military voter registered. He added that under statute, the only location where this voter can vote is by absentee ballot in the circuit court clerk's office, and if the voter does choose to vote there, the ABS-13 affidavit is forwarded to the county voter registration office for the person's registration to be processed.

Mr. Simmons remarked that if the voter chooses to vote, the circuit court clerk must certify, using Form ABS-11, to the inspector that the person who voted using this procedure has cast an absentee ballot, and that the poll clerks are directed to mark the poll list accordingly. He noted that the ABS-11 form would be attached to the voter's absentee ballot when sent to the precinct for processing, and that at the precinct, the ABS-11 certificate would be attached to the poll list, with this action by the inspector being attested to by the poll clerks. He added that the ABS-10 envelope would also be used to contain a voted ballot cast under this procedure. Mr. Long noted that the text of the ABS-10 envelope indicates that it could be used for either procedure.

Mr. Long asked whether there was a method to indicate the precinct that the voter using an ABS-13 late voter registration form resided in. Mr. Simmons responded that the ABS-13 form and a standard voter registration form would be executed in the circuit court clerk's office, and that the clerk should then be able to direct the absentee ballot to the proper precinct, and forward the voter registration form to the county voter registration office. He added that the instructions on the ABS-13 form contained information about the procedures for processing this registration.

The Chair recognized Ms. Robertson, who noted that the Order did not contain State Form numbers, since these numbers had not been assigned yet by Forms Management. She said that since these forms were needed for the May 2003 primary election, the Election Division had brought the forms to the Commission for approval at this meeting, and would add the assigned form numbers to the versions distributed to the counties.

Mr. Long moved, seconded by Mr. Davis, that Order 2003-34 be adopted as presented. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

The Chair recognized Ms. Robertson, who stated that Order 2003-32 concerned the form used by independent and minor party candidates to petition to be placed on the ballot at a municipal election. She noted that the Election Division had discovered an error on this form with regard to the filing date, since the previous version of this form had indicated that the filing deadline was noon, July 5, 2003, but that the statute sets the deadline date as noon, June 30, 2003. She indicated that in 2002, the deadline had been July 1, 2002 since June 30, 2002 fell on a weekend.

Ms. Robertson stated that the Election Division recommended that the Commission approve the corrected version attached to Order 2003-32, which would be sent out immediately to the counties, and that the Commission grandfather the previous version of the CAN-44 form containing the incorrect date so that this would not affect individuals who had already gathered signatures using the previous form.

Ms. Robertson stated that Order 2003-33 concerned the CAN-19 form to be used by independent and minor party candidates to petition to be placed on the 2004 general election ballot. She noted that the Election Division had already begun to receive requests for this form, along with requests for Democratic and Republican candidates seeking petition forms to be placed on the 2004 primary ballot for United States Senate or Governor. She added that this version of the CAN-19 form merely makes the appropriate date changes for use of the form in the 2004 general election.

Ms. Robertson stated that Order 2003-35 concerned the VRG-13b form, which is the voter registration acknowledgment notice sent by county voter registration offices to voters after the voter’s registration application has been approved. She noted that Lake County had requested that the Commission approve the version of the VRG-13b form used in that county as part of the county’s automated processing equipment. She indicated that Lake County’s version of the VRG-13b was based on a version of this form previously approved by the Commission, but that the County had added a space for the voter identification number, which is a new requirement. Ms. Robertson stated that the Election Division staff had reviewed this draft, and found that it conformed with statutory requirements concerning voter registration acknowledgment notices.

Mr. Long moved, seconded by Mr. Morgan, that Order 2003-32, Order 2003-33, and Order 2003-35 be adopted as presented.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Davis, Mr. Long, and Mr. Morgan), and no Commission member voting “no,” the motion was adopted.

8. REPORT BY CO-DIRECTORS

The Commission members consented to the use of their signature stamps by Election Division on the orders approved by the Commission at this meeting.

A. Voter Registration File Compilation and File Format

The Chair recognized Mr. King, who noted Commission members had received a copy of a memorandum from the Co-Directors to the county voter registration officers, dated January 31, 2003 concerning the annual submission of county voter registration data for the compilation of the statewide voter registration file and including file format specifications. This document is incorporated by reference in these minutes. He added that the Election Division will be compiling the county voter registration information as it existed on February 1, 2003, and making the compilation available under the usual conditions prescribed by statute. He stated that the Election Division would not be doing a duplicate voter registration mailing in 2003.

Mr. King indicated that there had been a very good response from the counties to this memo, and that as of yesterday, all but 9 counties had provided a copy of their voter registration files. He stated that the remaining counties are at varying states in the process to do so. He noted that St. Joseph County was in the process of installing a new voter registration system, and had worked to keep the Co-Directors informed about their progress. He indicated that it was possible that the Election Division would receive St. Joseph County's voter registration file later this week.

The Chair noted that a copy of a letter from the Co-Directors to Mr. Brad Mason of ADS, dated March 6, 2003, concerning the maintenance of Franklin County's voter registration system had been provided to Commission members and is incorporated by reference in these minutes.

Mr. King noted that ADS was the vendor formerly employed by Franklin County to provide its voter registration software. He indicated that Franklin County had changed vendors after January 1, 2003 to Diebold/GBS, and that he understood that because of a "kill" command or file built into ADS's registration software, Franklin County has been unable to process any voter registration applications, changes, or cancellations since January 1, 2003, or to prepare the voter registration file needed for the state voter registration file compilation.

Mr. King said that the Election Division had contacted Ms. Oglesby, the Franklin County Circuit Court Clerk to assist her with this matter. He noted that the March 6 letter to Mr. Mason quoted Indiana Code 3-7-27-23, which provides that an outgoing voter registration software vendor is required to work with a county's new vendor to provide information necessary for the county's voter registration software program to work, but without being required to divulge proprietary information. Mr. King said that as of this date, the efforts by Franklin County and its new vendor to work with ADS have not been successful. He noted that the letter expressed the concerns of the Co-Directors not only

regarding the compilation of the state voter registration file, but the preparation of the poll lists for the May 2003 Batesville city primary. Mr. King stated that the Attorney General had been copied on this letter, and that if ADS did not comply with IC 3-7-27-23 by March 14, 2003, the Co-Directors would be prepared to take further action in this matter.

B. Help America Vote Act of 2002 (HAVA); federal funding and Vote Indiana Team

The Chair recognized Ms. Robertson, who provided information concerning the Help America Vote Act of 2002 (HAVA) and the Vote Indiana Team. She stated that the Vote Indiana Team, a tripartisan group put together and presided over by Secretary of State Rokita, has begun meeting and will continue to meet every Friday until July, which is the State's deadline for adopting a State Plan to implement HAVA. She indicated that the Election Division would keep the Commission informed regarding this process, and the state legislation that was underway to implement HAVA.

9. OTHER BUSINESS:

The Chair stated that the next Commission meeting would be convened on the fourth Thursday in April, 2003.

10. ADJOURNMENT:

Mr. Long moved, seconded by Mr. Davis, that the Commission do now adjourn. The chair called the question, and with four members voting aye (Cruea; Davis; Long; Morgan) and no member voting nay, declared the motion adopted unanimously. The Commission then adjourned at 5:30 p.m.

Respectfully submitted,

J. Bradley King
Co-Director

Kristi Robertson
Co-Director

APPROVED:

Thomas E. Wheeler, II
Chairman