

Indiana Election Commission Minutes September 22, 2005

Members Present: Thomas E. Wheeler, II, Chairman of the Indiana Election Commission (the Commission); S. Anthony Long, Vice Chairman of the Commission; Stephen Huddleston, proxy to Thomas E. John, Alex Intermill, proxy to Butch Morgan

Members Absent: Thomas John; Butch Morgan

Staff Attending: J. Bradley King, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Kristi Robertson, Co-Director of the Election Division; Cody Kendall, Co-General Counsel of the Election Division; Dale Simmons, Co-General Counsel of the Election Division.

Also Attending: Ms. Megan Agnew; Mr. Bill Benning; Ms. Donna Bowen; The Honorable Dale Brewer, Porter Circuit Court Clerk; The Honorable Billy Bright, Indiana State Representative; Ms. Hanne Cox; The Honorable William A. Crawford, Indiana State Representative; The Honorable Richard “Dick” Dodge, Indiana State Representative; Mr. Dan Drexler, Indiana Libertarian Party; The Honorable Rita L. Glenn, St. Joseph Circuit Court Clerk; The Honorable Linda Grass, President, Indiana Clerks’ Association and Hancock Circuit Court Clerk; Mr. Steven E. Henderson; Mr. Larry Hile; Mr. Chris Holland; Mr. Brad Klopfenstein, Indiana Libertarian Party; Mr. Mark Manganaro; Mr. Robb McGinnis; Mr. Benny Newell; Mr. Steve M. Pearson; Mr. Chad Roots; Mr. D.J. Sigler; Mr. Mike Smith; Mr. Gordon Southern; Mr. Russell S. Stults; Ms. Lesley Weidenbener; Mr. George Witwer; Mr. Gregory Wright; Mr. Dean A. Young.

1. Call to Order

The Chair called the September 22, 2005 meeting of the Commission to order at 1:15 p.m. in the Election Division Conference Room at 302 West Washington Street Room E-204, Indianapolis, Indiana. The Chair noted that proper notice of the meeting had been given, as required by state law, and that Mr. Intermill and Stephen Huddleston were present as the designated proxies for Mr. Morgan and Mr. John. A copy of the meeting notice, agenda, and designation of proxy are incorporated by reference in these minutes. *[Copies of all documents incorporated by reference are available for public inspection and copying at the Election Division Office.]*

2. Approval of June 22, 2005 and August 19, 2005 Minutes

The Chair noted that members had received copies of the June 22, 2005 and August 19, 2005 Commission minutes for review. Mr. Long moved, seconded by Mr. Huddleston, that the Commission approve the June 22, 2005 and August 19, 2005 minutes, as submitted. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

3. Order 2005-2: Approval of forms

The Chair then recognized Ms. Robertson to present Order 2005-02, which approves revisions of new and existing forms. Ms. Robertson stated that several absentee ballot forms are changing because the way we administer absentee ballots is changing in Indiana, and that these changes will be in effect for these elections this year. She noted that generally we do not have elections in 2005, but this year we have 2 elections in small towns, and a town in Lake County is voting on a public question. The new changes to absentee voting laws will apply to them, and they need the absentee forms shortly so they can start absentee voting for the November 2005 elections.

Ms. Robertson proceeded to review the forms included in Order 2005-02. She noted that the first form was the ABS-1, the absentee ballot application, and that, in general, a voter would fill out the ABS-1 form if voting absentee by mail, by the clerk's office, or by traveling board. She stated that significant information had to be added to this form, which is why the form has small print and is pretty tight. She said that specifically the two big changes to the ABS-1 form are that now voters are signing under the penalty of perjury that all of the information on the application is true, and that the ABS-1 form must state the penalty of perjury, which is not located at the bottom of the form.

Ms. Robertson noted that there is now a requirement that if someone is assisting a voter in filling out the application, that person assisting them must provide some information. Towards the bottom of the form, she pointed out a section that someone who is assisting an individual with the application would complete.

Ms. Robertson indicated that the ABS-2 form is similar, except this form is only used to vote absentee by mail, and is most often used by the political parties and by candidates doing absentee voting drives by mail. She noted that the significant changes on the ABS-2 form are that you're swearing under penalty of perjury, the form now states the penalty of perjury, and there must be a section for someone to complete if the person is assisting someone in filling out the application.

Ms. Robertson noted that the order also includes the ABS-6 form. She remarked that there are not a whole lot of changes to this form, which is the security envelope that the absentee ballot is returned in. She said that this form is used only for absentee ballots that are sent by mail. She indicated that the form must now state the penalty of perjury and this language is towards the bottom of the ABS-6 form. She added that this version also has a change to the back of the form because counties were advising the Election Division that the current design was causing some problems with their post office, and that those are the only two changes on that form.

Ms. Robertson stated that the ABS-17 is a new form, and pointed out that there isn't a state form number this draft. She noted that the state form number is assigned by the department of forms management, which is another state agency. She said that forms management first must review what the Commission approves before forms management will assign a state form number to the ABS-17. She noted that the Election Division will fill in the forms number later before sending this form out for anyone to use. Ms. Robertson stated that the ABS-17 form is now required to be used when a person is turning in absentee ballot applications, in person to a county, and the absentee ballot applications are not your own application. She said that the ABS-17 is an affidavit that the person now has to fill out if turning those applications from other persons. She also noted that the county election board will track that the affidavit associated with the application, so that then there is a paper trail to tie that ABS-17 back to an absentee ballot application.

Ms. Robertson stated that the ABS-19 is another new form, and noted the reason that there is a numbering gap between ABS-17 and ABS-19 is that the Commission has already approved an ABS-18. She said that the ABS-19 is another affidavit to be completed by an individual who is delivering an absentee ballot to the county (as opposed to the absentee ballot application). She noted that there isn't a restriction on who can deliver an absentee ballot application, but there are certainly restrictions on hand delivering an absentee ballot. She indicated that basically, you can only return a voted absentee ballot if the ballot is your own, if you're a member of the voter's household, or if you have a power of attorney to act for that voter. She noted that the ABS-19 would be the affidavit that someone would complete if they are turning in an absentee ballot to the county.

Ms. Robertson stated that the ABS-20 is a new form that reflects a new statutory requirement. She said that the ABS-20 is basically a challenge form. She noted that if a county election board member (or an absentee voter board member, from the clerk's office or the traveling board), has a question about an absentee ballot application, the ABS-20 is the affidavit the member would complete. She indicated that the ABS-20 would be required to be filled out by the county election board or absentee voter board member, if the member thinks that the absentee ballot applicant is not a voter of the precinct, if the application contains a false statement, or the application has not been executed and filed in accordance with Indiana and federal law.

Ms. Robertson said that the only other two forms included in Order 2005-02 are voter registration forms: VRG-13a and 13b, which are different versions of the same type of form, the voter registration acknowledgement notice.

She noted that when an individual registers to vote, or a voter transfers their registration, or updates it, and the individual fills out a voter registration application, when the individual registers to vote, the county voter registration office will send this voter registration acknowledgement notice out to you. Ms. Robertson stated that the VRG-13 is what the voter receives, saying that the voter is registered to vote at this place.

She indicated that there are two different versions of the VRG-13: one is a full-size version, and one is a post-card version. She noted that the Election Division had learned that due to a new federal law requiring the voter answer specific questions on the application, both of these forms needed. She indicated that on the VRG-13a, these answers are on the back of the form, and on the VRG-13b, these answers are on the side. She noted that even if a person is transferring a voter registration, moving within the same county, or just changing your name, the voter can use this portion of the form to do that. She added that the voter does not have to fill out a new voter registration application to do so, if the voter still has this acknowledgment notice, but that under federal law, even when the voter is just changing their name or transferring, the voter does have to fill out a form answering two new questions. She noted that federal law requires that the voter affirmatively say that the voter is a US citizen and will be at least 18 on or before election day.

Ms. Robertson stated that these two questions needed to be added to the VRG-13 forms because the Election Division was apprised by the counties that a lot of voters use this form to transfer or change their name, but the voter is not able to do that unless they have these two questions checked, again under federal law. She noted that the changes to the VRG-13 forms are simply to add these two questions, so that voters will be able to transfer their registration address or change their name using that form.

Ms. Robertson added that the Election Division will be bringing the VRG-13b back to the Commission for future action soon because there is an issue with the back of the form. She noted

that the form says “return service requested”. She said that the Election Division is hearing from the counties that with some local postmasters, this language works just fine in getting the notice returned, so that the notice is not forwarded on. She remarked that if the notice is undeliverable, the notice has to be forwarded back to the county; and cannot be forwarded on to the voter because this mailing is used as an address confirmation.

Ms. Robertson noted that the Election Division is hearing from some counties that although the statement on the VRG-13b works fine, in other counties, the local postmaster is charging the counties extra money to provide return service because the VRG-13b doesn’t have the right statement printed on it to do so. She remarked that the Election Division does not know which statement concerning return service is correct, so the Election Division is going to leave it up to the counties.

She added that once the Election Division has determined that any correction must be made, the Election Division will be bringing the VRG-13b form back to the Commission with more information on that.

In response to a question from the Chair, Ms. Robertson stated that the Election Division would bring the forms back to the Commission for approval because this would be a significant enough change. In response to a question from Mr. Intermill, she added that the absentee ballot application forms definitely will be in Spanish, but that the translation is not completed at this point.

Mr. Long moved, seconded by Mr. Huddleston, that the Commission approve Order 2005-2, as submitted. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

4. Order 2005-14 (Absentee Voter Bill of Rights)

The Chair recognized Mr. King to present Order 2005-14. Mr. King stated that there is no Order 2005-14 for Commission action at this time, so that this agenda item is just a status report.

Mr. King noted that the Election Division is continuing to work on a number of other forms, including the forms Ms. Robertson just mentioned. He remarked that the Absentee Voter’s Bill of Rights is required under a new statute which provides that an absentee voter receive a short statement, in non-attorney language (minimizing Indiana Codes cites), explaining the rights and responsibilities to protect individuals who receive absentee ballots in the mail. He said that the Co-Directors anticipate this Order, along with several other additional forms, to the Commission for approval at its next meeting.

5. Campaign Finance Enforcement; Ratification of Agreements

The Chair noted that, based on the Commission’s recent standards for individuals wishing to present information to the Commission during the course of campaign finance and voting systems hearings, those individuals will be asked to take an oath. The Chair recognized Mr. Simmons, who administered the oath to those indicating that they would give testimony on campaign finance matters or voting system matters.

The Chair recognized Mr. King, and asked him to provide the Commission with a brief discussion of what he believed to be the fairly resounding success of the Commission's "pre-trial diversion" program.

Mr. King noted that the members of the Commission had received a memorandum concerning this topic from the Co-Directors, dated September 12, 2005. He noted that the cover page of the memo explains new legislation adopted in 2005 by the General Assembly, which provides if a person is notified of a proposed campaign finance civil penalty by the Election Division, the person may enter into an agreement with the Election Division, pay their penalty, and waive any hearing before the Commission that would otherwise be required. He said that this agreement must provide for the payment of the entire proposed civil penalty, no later than the date of execution of the agreement. He added that this agreement must then be presented to the Commission for ratification at the Commission's next meeting.

Mr. King stated that after this statute was enacted, the election division campaign finance staff, Ms. Thompson and Ms. Potesta, sent draft agreements to every entity whose name is on the agenda today or is listed in the following pages, describing this new legislation and offering the opportunity for the committee to sign the agreement. The committees who signed this agreement are listed on the following pages of the memo, and include 55 committees at this point who have submitted a total of \$11,400 in payment for campaign finance fines and waived their right to a hearing before the Commission. Mr. King added that the checks submitted by the committees have all cleared their accounts, the submitted payments have been deposited, and the recommendation of the co-directors is that the Commission ratify the agreements listed on the following pages.

The Chair recognized Ms. Robertson, who stated that the only thing she would add is that these fines are deposited into the campaign finance enforcement account, which is a non-reverting account used to pay for campaign finance activities, like putting our campaign finance reports on the Election Division's website, and the data entry that is involved with that.

The Chair stated that he would just like to congratulate the General Assembly for giving the Commission the ability to have this program and not have 55 more people sitting in front of the Commission, and to the staff of the election division for getting these agreements done and ready for Commission action.

Mr. Long moved, seconded by Mr. Huddleston, that the Commission ratify the agreements set forth in the September 12, 2005 memorandum, as submitted. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

6. Adoption of Orders 2005-03 through 2005-13

The Chair recognized Mr. King, who noted that the following orders listed under agenda item number 7 (Orders 2005-03 through 2005-13):

Order 2005-03	Kapetanov for Governor
Order 2005-04	Steve Wolfe for State Representative
Order 2005-05	Kapetanov for Governor

Order 2005-06	Steve Wolfe for State Representative
Order 2005-07	Indiana's 9th Congressional District Central Committee
Order 2005-08	Proud Republicans Inviting Democratic Endorsement
Order 2005-09	I.B.E.W. Local Union 369 Political Action Committee
Order 2005-10	Ulmer for State Representative
Order 2005-11	Keramida Environmental, Inc.
Order 2005-12	Anheuser-Busch, Inc.
Order 2005-13	Standard Management

are for enforcement causes with have all been heard at previous Commission meetings and that Orders 2005-03 through 2005-13.

Mr. Long moved, seconded by Mr. Huddleston, that the Commission adopt Orders 2005-03 through 2005-13, inclusive, as submitted. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

7. Campaign Finance Enforcement Hearings

The Chair recognized Mr. King, who stated that the proceedings conducted by the Commission are under the State Administrative Orders and Procedures Act (AOPA). He noted that AOPA permits an individual or a committee who has been charged a proposed campaign finance fine, to have an opportunity to appear before the Commission, and that all individuals have indicated their wish to testify have been sworn. He added that the campaign finance staff begins by present the information concerning a violation, along with a proposed fine, that is set forth in spreadsheet form, to simplify review by the Commission. This spreadsheet is incorporated by reference in these minutes. He noted that those who are present speak on behalf of a committee are given whatever time the Commission deems appropriate to make individual presentations.

The Chair recognized Mr. Young, who thanked the Chairman and Commission members, stated that he is an attorney practicing law in Hartford City, Indiana, 2721 High St in Blackford County, and was present on behalf of two causes. Mark Townsend for State Senate Committee, administrative cause number 05-4238-34, and on behalf of his own campaign, Committee to Elect Dean Young State Representative, administrative cause number 05-3531-28.

A. Mark Townsend for State Senate Committee (Cause 05-4238-34):

The Chair recognized Ms. Potesta, who stated that the Mark Townsend for State Senate Committee, cause number 05-4238-34; filed their report on January 27, 2005. She noted that the committee received their notice of this hearing on September 12, has a proposed civil penalty of \$402.50, and has submitted a letter for consideration by the Commission. The letter is incorporated by reference in these minutes.

The Chair recognized Mr. Young on Mr. Townsend's behalf, who stated that the facts that surround the Townsend for State Senate Committee and Young for Representative are virtually identical. Mr. Young addressed them at the same time, with the consent of Commission members. He noted that Mr. Townsend has submitted a letter of apology to the board and the Commission for his inadvertent missing of the deadline. Mr. Young said that Mr. Townsend ran for State Senate in 1998, and has filed, to the best of Mr. Young's knowledge, timely reports ever since. Mr. Young said that Mr. Townsend's committee is somewhat inactive, given the fact that

he has not sought reelection since that time, and he provided the materials to Mr. Fisher, who was his campaign treasurer, and also a certified public accountant in Hartford City, in a timely fashion. However, Mr. Young stated that due to inadvertence and oversight, the report was not filed until January 27, 2005. Mr. Young asked that the Commission favorably consider Mr. Townsend's fine and waive the fee, as it will never happen again, and Mr. Townsend does apologize.

The Chair closed the hearing on this cause, noted that Mr. Townsend has been before the Commission before, for an unknown reason. Mr. Long moved that the Commission reduce the proposed fine from \$400 to \$200, and that's because it has been indicated that he has one prior violation, plus the mailing costs. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

B. Dean Young for State Representative Committee (Cause 05-3531-28):

The Chair recognized Ms. Potesta, who stated that Dean Young for State Representative Committee, cause number 05-3531-28, filed his report on January 27, and has a proposed civil penalty for \$402.50, as well.

The Chair recognized Mr. Young, who stated that he had served 6 terms for State Representative for House District 31, before that had served 2 terms as prosecuting attorney for Blackford County, and that as a result, through the years, has filed literally dozens of reports. He said that this is the first time that he was aware of, that he was late in filing a report. He remarked that the treasurer of his campaign is the same treasurer as Mr. Townsend's campaign, and that he hired the same accounting firm, paying them lots of money to file the report on time. Mr. Young stated that he recognized that it is his responsibility to make sure these reports are filed in a timely manner. He noted that he chose not to seek reelection in November 2004, and as a result, failed to give proper oversight to the filing of campaign finance reports, as perhaps he should have. However, he stated that he takes the Commission's job very seriously, and takes his duty very seriously. He agreed that he was eight days late in filing my report, but asked the Commission to consider waiving the fine.

The Chair closed the hearing on this cause. Mr. Long stated that he appreciates the fact that Mr. Young has never had a fine before, and for that reason, proposed that the Commission reduce the fine of \$400 to \$100. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

C. Smith for Treasurer (Cause 04-4864-39):

The Chair recognized Ms. Potesta, who stated that Smith for Treasurer, cause number 04-4864-39, did not file annual report that was due on January 21, 2004, that they received their notice on September 12, and have a proposed civil penalty of \$1,002.50. She noted that the committee had filed a motion to reconsider, and that the Commission previously authorized the penalty of \$1,002.50 on August 26, 2004.

The Chair recognized Mr. D.J. Zeigler, who was present on behalf of Smith for Treasurer Campaign. Ms. Zeigler thanked the Commission members, and wanted to additionally thank

Michelle Thompson for her professionalism in this matter. He said that she has become my lifeline to figure out what's going on here. Mr Ziegler stated that he served as treasurer for the Smith for Treasurer campaign committee a couple years ago and only recently discovered that the penalty had been levied by the Commission. He noted that when he did discover that, he thought the file would indicate that he took immediate action seeking a motion to reconsider before the board.

Mr. Ziegler stated that the Committee had established a post office box for the campaign to receive mail, and as is the common practice for small communities, and candidates from small communities, when campaign finance notices were mailed, and appropriately so, to the address listed on the CFA-1 in Columbia City, Indiana, those were sent after the expiration of the post office box. He remarked that those letters were held, and not being received by the appropriate person on the campaign. He added that as a result, the campaign was not present before the Commission when this cause was heard for the first time. Mr. Ziegler said that his concern, certainly, is less than monetary, and certainly more from a reputation standpoint the fact that both candidates, Mrs. Smith and himself, obviously failed to meet a deadline and that is unacceptable, but at the same time, wanted the Commission to be aware of the oversight.

Mr. Ziegler remarked that the motion to reconsider contains all of these matters, and stated to the Commission that this campaign is not accepting or spending funds, even prior to the decision by the Commission; and that there remains approximately \$600 outstanding. Mr. Ziegler proposed, should the Commission see fit, as an alternative to the imposition of a \$1,000 fine, reducing the fine to \$600, and the committee would immediately close and disband. Mr. Ziegler said that he had been loathe do to that to this point simply because he wanted to appear and explain himself in this instance, and explain again, this was inexperience. He said he just wanted the Commission's decision for the campaign to disband, and to cure any defects that remain. Mr. Ziegler said he was a beneficiary already to the pre-trial diversion program, as a prosecutor up north, and appreciated the commentary, but obviously needed to resolve this matter and submit that to the Commission.

The Chair recognized Mr. Long, who stated that he would like to make a disclosure, and then make a motion, if the staff doesn't think it's inappropriate. Mr. Long stated that he has known Mrs. Smith for many years, and seconded her nomination at the state convention. He asked if that caused anybody any problems from an ethical standpoint. He stated that Mrs. Smith used to live in Warrick County, and was precinct committeeman. Mr. Long remarked that he tries to be above the word on these issues, and considered her a close, personal friend, but his belief is on a fault situation that if someone wants to reopen their hearing, he has never opposed it. Mr. Long stated that to that end, he would move that we grant the motion to reconsider to open the hearing and then deal with it from that standpoint. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

The Chair stated that the hearing on this cause is now open. The Chair stated that, as he understands it, Mr. Zeigler is treasurer of the campaign. He said that with respect to this particular cause number, you have suggested to the Commission that it was not from a lack of diligence on your part, or on the Commission's part, but was based on a closed post office box, as set forth in your prior statement, as well as in your petition to reconsider. He added that with respect to the fine, he understood that Mr. Ziegler had suggested that the Smith for Treasurer Committee is willing to, in exchange for some leniency with respect to the fine (and he believed that the sum mentioned was \$600.00), would close down the committee as well.

The Chair closed the hearing. Mr. Long moved that the Commission reduce the fine to \$597.50, plus \$2.50 mailing costs, and that his goal was to make it whatever makes the total \$600 even. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

D. Committee to Elect Gordon Southern (Causes 05-5248-4; 05-5248-5; and 05-5248-88):

The Chair recognized Ms. Potesta who stated that this committee has three enforcement matters, and with the Commission's consent, staff would present the causes together. She stated that the Committee to elect Gordon Southern, cause number 05-5248-4, did not file the statement of organization, and has a proposed civil penalty of \$1,002.50; in cause number 05-5248-5, did not file a CFA-4 nomination report, and has a proposed civil penalty of \$1,005; was also late on the committee's annual report, cause number 05-5248-88, did not file his annual report, and has a proposed civil fine of also \$1,002.50.

The Chair recognized Mr. Southern, who stated that he appreciated the consistency of \$1,000.00 on each case, and that the Commission probably appreciate the fact that he screwed them all up, but that really wasn't the case. Mr. Southern stated that he took responsibility for what happened, but he had filed all of these in a timely manner with the county circuit court clerk. Mr. Southern said that he had these reports date stamped from the clerk, and then, made a rather large error. Mr. Southern stated that a staffer with the House Democratic Caucus, asked me to mail everything to him, and that he might take care of all of them at the same time and hoped they were done. Mr. Southern remarked that apparently, the only place this individual filed them was on the ground and off to the side of his desk, because they never made it to the Election Division. Mr. Southern repeated that he had copies of the ones filed at the county clerk's office, and that he made every effort to comply, did all of the paperwork, had it all turned in on time, but that the reports did not get delivered to the Election Division.

With the consent of the Commission, Mr. Southern presented file stamped copies of the reports to be entered as evidence in this hearing. The Chair stated that the CFA-4 report shows that the filing occurred on January 18, 2005, and asked when would the CFA-4 have been due? Ms. Potesta responded that this report was due the 19th of January at noon. The Chair stated that the CFA-1, the statement of organization, does not show a file stamp and asked Mr. Southern if he had a file-stamped copy of the committee's CFA-1.? Mr. Southern responded apparently not, sir; it was filed with the county. Mr. Southern said that he was very careful to make sure it was filed properly. Mr. Long asked if Mr. Southern knew who at the Democratic Caucus he mailed it to. Mr. Southern responded that he did: Troy Liggett. The Chair stated that the Commission now has your CFA-1, statement of organization, which is not file-stamped; the Commission has your CFA-4, stamped January 18, 2005 by the Cass County clerk; the Commission has the candidate filing confirmation, which is not stamped in any fashion; and the Commission has a declaration of candidacy for primary nomination, which is stamped January 21, 2004, from the Cass County clerk. The Chair noted that the Commission still does not have the CFA-4 that was due on July 27, 2004. He indicated that the committee's pre-nomination report should have been dated in July 2004. The Chair stated that the Commission has found what we're going to find.

The Chair noted for the record that the following documents had been entered as evidence in this cause: (1) Candidate statement of organization, designation of principle committee or exploratory committee (CFA-1) dated June 28, 2004, not file-stamped in any fashion, from either

the circuit court or the election division; (2) the CAN-5 candidate confirmation file-stamped from the Election Division dated June 30, 2004; (3) CFA-4, dated December 31, 2004, filed with the Cass County clerk January 18, 2005, which he understand, but for being filed in the wrong place, would have been on time.

The Chair closed the hearing and asked for Commission discussion. Mr. Long stated that his observation is the first document, in cause number 4, was filed in the wrong place. He said that while there's technically a violation there, he would be in favor of waiving the fine on that one. Mr. Long remarked that the second one, the pre-primary report, was more significant to him, and that this report should have been properly filed and timely filed. Mr. Long said that he did not think the Commission has evidence that that one was filed at all. He said that his inclination would be to treat that as a standard violation within the Commission's normal reductions, because Mr. Southern had not been before the Commission before. Mr. Long stated that on the third, his thought is that in deference to the committee filing a report, and he thought that it would behoove him if it's not been filed with the Election Division yet, the report probably should be, but that the Commission has the report here, as evidence. He indicated that he would be inclined to make a motion that the Commission accept it in that fashion, and that way the Commission can conclude that committee. Mr. Long suggested that the Commission should show a substantial reduction, maybe even a waiver, but could not confirm on that thought, on the third one. He noted that this approach would basically set the penalty at \$250, plus whatever the Commission would set on the third one. He stated that he was most concerned with the middle cause.

The Chair stated that he shared Mr. Long's thoughts on these matters.

Mr. Long moved that the Commission waive the fine in cause number 05-5248-4. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler, and no Commission member voting "no," the motion was adopted.

Mr. Long moved that on cause number 05-5248-5, the Commission impose its standard penalty for anyone in this situation of \$252.50. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

Mr. Long moved that the Commission reduce the fine in cause number 05-5248-88 to \$100.00 from \$1,000.00 plus the mailing. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

Mr. Long moved that the Commission accept exhibit number 1, cause number 05-5248-28, as a filing and show that the committee has disbanded. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Huddleston, Mr. Long and Mr. Wheeler), and no Commission member voting "no," the motion was adopted. Mr. Long stated that the campaign committee is now disbanded, so Mr. Southern would not have to worry about this anymore.

E. Christopher Holland for State Representative (Cause 05-5151-76):

The Chair recognized Ms. Potesta, who stated that Christopher Holland for State Representative, cause number 05-5151-76, filed his report on January 31, received notice on September 12, and has a proposed civil penalty of \$602.50. She noted that the Committee had submitted a letter, which is incorporated by reference in these minutes. She added that the committee did file a final report on January 31.

The Chair recognized Mr. Holland, who stated that he came to the Commission from Rushville, Indiana, as a small business owner. He said that he felt it was his civic duty to run for state representative because there was only one person on the ballot, and decided to give the people of southern Indiana the choice between two candidates. He remarked that he has learned a lot about state government. He said that he dug out the box of newspaper articles from under his bed about issues I took the Republican candidate to task on, but nonetheless got beat, and probably will not be reopening a political career. He asked the Commission to have a heart, and be kind since a number of people try to be a part of democracy and run a small campaign.

The Chair stated that he understood that Mr. Holland has closed his campaign committee.

Mr. Long stated that the Commission should grant some recognition that a citizen decided to run, made a mistake, and fixed it. Mr. Long moved, in accordance with past Commission practice, that the fine be reduced to \$150 plus the mailing fee. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

F. Goldstein for State Representative (Cause 05-5128-20 and 05-5128-73):

The Chair recognized Mr. Klopfenstein, who stated that he was representing ten different causes before the Commission at this hearing. He noted that five of them he was requesting be considered all together, three others considered together, and that should leave two individuals. He noted that he recommended to most of these people to not pay initially and take their chances before the Commission.

The Chair stated that the Commission would consider Goldstein for State Representative, cause number 05-5128-20, and cause number 05-5128-73.

The Chair recognized Ms. Potesta, who stated that Goldstein for State Representative, cause number 05-5128-20, filed as a report on October 18, received notice on September 12, has been before the board one other time, and has a proposed civil penalty of \$162.50. She added that Goldstein for State Representative, cause number 05-5128-73, filed a final report on January 19 at 2:47 pm, and has a proposed civil penalty of \$52.50.

The Chair recognized Mr. Klopfenstein, who stated that Mr. Goldstein unfortunately couldn't be present, so asked Mr. Klopfenstein to represent him. He said that on the first cause, Mr. Goldstein apologizes; his wife was going through chemotherapy for breast cancer, and it got away from him. He said that this is what happens when the candidate serves as treasurer. Mr. Klopfenstein stated that the second report was only 2 hours late, and Mr. Goldstein apologized and asked for any relief the Commission could give him.

Mr. Long stated that in cause number 05-5128-20, he was most sympathetic to Mr. Goldstein's situation. Mr. Long moved to reduce that proposed fine to \$37.50 plus the mailing costs, and this would give the candidate the benefit of not having a prior penalty before the Commission because of the extenuating circumstances. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

Mr. Long moved on cause number 05-5128-73, to reduce the fine to \$10 plus the mailing cost. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

G. Committee to Elect Chad Roots (Cause 05-5158-78):

The Chair recognized Ms. Potesta, who stated that the Committee to Elect Chad Roots, cause number 05-5158-78, filed a final report on February 2, never been before the Commission before and had a proposed civil penalty of \$702.50.

Mr. Klopfenstein stated that he believed it was a mistake that Mr. Roots ever even filed this committee with the State of Indiana to begin with. He noted that Mr. Roots had run for US Representative, and that candidates for this office do not file campaign finance reports with the Election Division. Mr. Klopfenstein stated that Mr. Roots may have filed paperwork, but did not believe he should have. Mr. Long stated that he thought Mr. Roots was running for House District 34. Mr. Klopfenstein responded that he was not sure why he had that filed since Mr. Roots did not run for that district seat. Mr. Klopfenstein said that the Libertarian Party ran Leon Dickson in that district, and that Mr. Roots' CFA-4 says US House District 6.

Mr. Long moved to reduce the fine to \$100 plus the mailing cost, for a total of \$102.50. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

H. Committee to Elect Shane (Cause 05-5152-77)

I. Mark Brickman (Cause 05-5171-79)

J. Elect Bob Farrell (Cause 05-5173-80)

K. Committee to Elect Bell (Cause No 05-5175-81)

L. Hoosiers for Schadowsky (Cause No 05-5178-82)

The Chair recognized Mr. Klopfenstein, who stated that the enforcement actions against these five committees have the same response. He stated that on January 18, in the evening, he faxed about 15 or 20 campaign finance reports to the Election Division, also sent an email stating that he had faxed them in, and asking if the receipt of the forms could be confirmed. Mr. Klopfenstein noted that this email is included in your packet. The email is incorporated by reference in these minutes. He noted that Ms. Potesta responded before noon on January 19 and stated that she had received them, so it was his belief that those reports were timely filed.

Ms. Potesta responded that the morning of a filing deadline, as the Commission can imagine, before noon, is extremely hectic. She said that reading emails is not something she would normally have to do since the campaign finance staff is usually checking all of the reports in. Ms. Potesta stated that the Election Division has all of these reports on file now.

Mr. Long moved that these causes be dismissed. Mr. Huddleston seconded the motion. The Chair said that he would just like to ask the Co-Directors to figure out what had happened. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

M. Committee to Elect Mike Cole (Cause 05-5204-85)

The Chair recognized Ms. Potesta, who stated that Committee to Elect Mike Cole, cause number 05-5204-85, did not file a report, received notice on September 12, never been before the board before, and has a proposed civil penalty of \$1,002.50.

The Chair recognized Mr. Klopfenstein, who stated that Mike Cole was treasurer of his own campaign, and it was just the habit of a first time candidate, so he apologizes. Mr. Klopfenstein stated that he assumed Mr. Cole had filed, but campaign finance staff indicated that Mr. Cole had not.

Mr. Long moved to table cause 05-5204-85 until the next Commission meeting. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

N. Libertarian Party of Indiana State Senate Committee (Cause 05-790-89)

The Chair recognized Mr. Klopfenstein, who stated that the party’s treasurer was late, and he apologizes. He added that the treasurer got busy, so the Commission’s leniency is appreciated. Mr. Klopfenstein stated that this report is now filed.

Mr. Long moved to reduce the proposed fine to \$37.50 plus the mailing cost, for a total of \$40. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

O. Gividen for Governor Committee (Cause 05-5115-93)

The Chair recognized Mr. Klopfenstein, who stated that the election ended and Mr. Gividen just lost track of time. Mr. Klopfenstein stated that he understood that Mr. Gividen filed his end of year report, but is missing the mid-year report from July.

Mr. Long moved to table this cause until the next meeting. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

P. New Indiana Leadership Network (Cause 05-4945-15)

The Chair recognized Ms. Potesta, who stated that the New Indiana Leadership Network, cause number 05-4945-15, filed their report on October 21, received their notice on September 12, they’ve never been before the board before, and have a proposed civil penalty of \$302.50.

The Chair recognized Ms. Agnew, who stated that this was her fault, and that she just forgot to file the report. She noted that the committee was pretty much inactive, raised very little money during this period, and that the committee was closed a few weeks ago. She apologized to the Commission.

Mr. Long moved to reduce the proposed civil penalty to \$75 plus the mailing costs. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

Q. Marty McDermott for State Senate (Cause 05-5149-75)

The Chair recognized Ms. Potesta, who stated that Marty McDermott for State Senate, cause number 05-5149-75; did not file the committee's report, received notice on September 12; has never been before the Commission before, and has a proposed civil penalty of \$1,002.50. She noted that the Commission has received a letter from Mr. McDermott. This letter is incorporated by reference in these minutes.

Mr. Long moved to table this cause until the next meeting. He stated that if the Election Division receives a filing closing this committee, he would then move to dismiss. He urged that the committee just send the report in, get it properly filed and be done with this. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was tabled.

R. Committee to Elect Billy Bright (Cause 05-5035-58)

The Chair recognized Ms. Potesta, who stated that the Committee to Elect Billy Bright, cause number 05-5035-58, filed this report on January 19 at 12:55 pm, received notice on September 12, has never been before the board before and has a proposed civil penalty of \$52.50.

The Chair recognized Mr. Bright, who stated that he had never run for office until he ran for this seat, and was just late. He stated that he was sorry, and would make sure it doesn't happen again. He noted that the report had been hand delivered.

Mr. Long moved to reduce the proposed fine to \$12.50, plus the mailing costs. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

S. Committee to Elect Billy Bright (Causes 05-5035-95, 05-0535-96, 05-0535-97)

The Chair recognized Ms. Thompson, who stated that these causes concerning the Committee to Elect Billy Bright involved three CFA-11s that were due on October 17, October 24, and October 28, 2004. She noted that this committee also brought in these CFA-11 reports when the committee brought its annual report in. She stated that she would also like the Commission to note that the committee brought these CFA-11s to the campaign finance staff's attention first.

The Chair recognized Mr. Bright, who stated that we were new in this process; we were inexperienced, and just missed the deadlines. He apologized to the Commission and asked for leniency. Mr. Bright said that he could assure the Commission that it won't happen again.

Mr. Long moved to reduce these fines to \$100.00 on each case, for a total of \$300.00. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

T. Committee to Elect Dick Dodge (Cause 05-5138-21)

The Chair recognized Ms. Potesta, who stated that the Committee to Elect Dick Dodge, cause number 05-5138-21, filed its report on October 21, received notice on September 12, has never been before the board before, and has a proposed civil penalty of \$302.50. She added that this was a pre-election report.

The Chair recognized Mr. Dodge, who stated that he formed his Committee to run in May 2004, and filed the proper CFA-4 form with the county clerk. He said that neither he nor the clerk realized at the time that it also needed to be filed with the Election Division, since all previous offices he held had been at the county level, and they were unaware of the need to file it at the state.

Mr. Dodge stated that he has a copy from the filed report in the county office, which shows that this report was filed October 15 in the Steuben County Clerk’s Office. Mr. Dodge apologized for the oversight, and stated it will not happen again.

Mr. Long moved to waive this fine and the mailing costs, and commented that Mr. Dodge made the effort to file this report, and he filed it in the county office. Mr. Long noted that Mr. Dodge was just doing what he’d always done, and now understands the state filing requirement. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

U. Newell 2004 (Cause 05-5070-65)

The Chair recognized Ms. Potesta, who stated that Newell 2004, cause number 05-5070-65, filed its report on February 14, received notice on September 12, has never been before the board before, and has a proposed civil penalty of \$1,002.50. She added that Mr. Newell had provided a letter to the Commission. This letter is incorporated by reference in these minutes.

The Commission took a brief recess, then resumed its meeting.

The Chair recognized Mr. Newell, who addressed the Commission concerning this matter.

Mr. Long moved to table this cause until the next meeting. He stated that if Mr. Newell should file the necessary papers, and close this committee. Mr. Long urged Mr. Newell to call the campaign finance staff, and figure out what he needed to do. Mr. Long added that he would then make a motion to substantially reduce the penalty when the cause is next brought up, and that for Mr. Long’s purposes, Mr. Newell would not have to come down. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

V. 1st District Republican Committee (Causes 05-4692-13; 05-4692-90)

The Chair recognized Ms. Potesta, who stated that 1st District Republican Committee, cause number 05-4692-13, has not filed their report, has never been before the board before, and have a proposed civil penalty of \$1,002.50. Ms. Potesta added that 1st District Republican Committee, cause number 05-4692-90, filed its regular party report which was due on March 1 on March 28, and had a proposed civil penalty in the second cause of \$1,002.50.

The Chair recognized Ms. Cox, who stated that the former treasurer was new to Indianapolis on September 15, and filed the CFA-4 report with the Election Division. She stated that he was not aware that these reports were not filed by the interim treasurer. She added that the committee has never been negligent before, and does not intend to be again; that this was simply an oversight. Ms. Cox noted that at that time, I was not part of the district committee, so she could not provide the Commission with more specific information. She said that since this is the committee's first time, the committee hopes that the Commission will waive the fine or have leniency to reduce the fine. Ms. Cox noted that the committee currently has \$183.34. She added that Senator Landske felt terrible when she found out this report had not been filed. Ms. Cox added that if the Commission needs additional information, the committee will provide it in an appropriate timeframe.

Mr. Long moved that on cause number 05-4692-13, the Commission waive the fine and costs. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

Mr. Long moved that on cause number 05-4692-90, the Commission reduce the fine to \$250.00 plus the mailing cost. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

W. Larry Rex Hile (Cause 05-5050-94)

The Chair recognized Ms. Thompson who stated that Larry Rex Hile, cause number 05-5050-94, concerned a CFA-11 report which was due on October 29, 2004, filed on January 13, 2005. She added that she again wanted to let the Commission know that this Committee brought the late filing of the CFA-11 to my attention first, and that the Hile Committee had submitted a letter to the Commission. The letter is incorporated by reference in these minutes.

The Chair recognized Mr. Hile, who stated that he was not sure who or where, but the reason that the requirement to file a CFA-11 report got triggered was that he had received two contributions from SAFEPAC, and it just didn't occur to him that 750 plus 750 came to over \$1,000.00. He added that this is the only report that the committee had goofed up on out of lots of reports.

Mr. Long moved to reduce the proposed penalty to \$100.00 plus the mailing cost. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

X. Victory Project PAC (Cause 05-4972-16)

The Chair recognized Ms. Potesta, who stated that Victory Project PAC, cause number 05-4972-16, filed its report on December 15, has never been before the board before, and has a proposed civil penalty of \$1,002.50. She noted that the committee had filed a letter with the Commission. This letter is incorporated by reference in these minutes.

The Chair recognized Mr. Wright, who stated that the committee didn't do anything this year, and was planning on shutting down after this year. He added that he had 3 addresses last year; and that this was not an excuse. He apologized to the Commission since he had never been the treasurer of a campaign committee or PAC, had 3 addresses last year and moved around, and it was just confusing. He said that with no committee activity, the report just totally escaped my mind, and that the letter from the campaign finance staff did not reach him until it went through a couple places. Mr. Wright said that he then immediately responded, asked that you treat us a little gingerly, and would appreciate a reduction or waiver of the fine. He noted that the committee has the same amount of money that we started out with, except for an accounting fee, and we have the same amount of money in the bank today, and we haven't been very active this year, or last year. Mr. Wright said that the committee will be shut down by the end of the year.

Mr. Long moved to table this cause until the next meeting, to allow the committee to figure out which direction they're going to proceed in. He added that if they choose to conclude their committee, or not, the Commission can just deal with it at the next meeting. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

Y. Crawford Committee (Cause 05-974-22)

The Chair recognized Ms. Potesta, who stated that the Crawford Committee, cause number 05-974-22, filed its report on January 20, received notice on September 12, has never been before the Commission before and has a proposed civil penalty of \$52.50. The committee's filing was one day late

The Chair recognized Mr. Crawford, who stated that he was not here to protest, but was here to pay his fine. He apologized for being late, and stated that he made a mistake, and will pay the fine.

Mr. Long moved, recognizing that Representative Crawford has never been before the board before, that he has served admirably for awhile, that he's been filing reports for awhile now, and in deference to that, that the Commission reduce the proposed fine to \$12.50 plus mailing costs, for a total of \$15.00. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

Z. Indiana Young Democrats (Cause 05-4965-55)

The Chair recognized Ms. Potesta, who stated that Indiana Young Democrats, cause number 05-4965-55, filed their report one day late on January 20, have never been before the board before, and have a proposed civil penalty of \$52.50. She noted that the committee has filed a letter with the Commission. This letter is incorporated by reference in these minutes.

The Chair recognized a representative from the committee, who stated that this was an inadvertent and unintentional error, for which the committee apologizes, and that she can supply the Commission with a copy of the amended letter.

Mr. Long stated that the argument that the Commission has had from this young lady had impressed him to make a motion to reduce the fine to \$12.50 plus the mailing cost, and he so moved. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

AA. United Steelworkers of America, Local 115 (Cause 05-2045-26)

The Chair recognized Ms. Potesta, who stated that United Steelworkers of America, Local 115, cause number 05-2045-26, filed their report on February 2, received their notice on September 12, has never been before the board before, and has a proposed civil penalty of \$702.50. She noted that the committee had filed a letter with the Commission. The letter is incorporated by reference in these minutes.

The Chair recognized Mr. Henderson, who stated that he had called the committee's treasurer concerning this matter. He stated that the committee's bookkeeper/secretary since 1982, had retired at the first of this year, and she had handled the filings in the past since 1986. He added that the new treasurer kind of forgot they had to file since he had not handled filings before, and that the committee asked for the Commission's forgiveness.

Mr. Long moved to table this until the next meeting, so that the committee could decide which direction they want to go. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

BB. Committee to Elect Dumezich (Cause 05-4480-39)

The Chair recognized Ms. Potesta, who stated that the Committee to Elect Dumezich, cause number 05-4480-79, filed their report on January 24, has been before the board one other time, and has a proposed civil penalty \$252.50.

The Chair recognized Mr. Stults of Lewis and Wilkins, who stated that the first time he appeared before the Commission for this committee was due to the same problem: a failure to file the annual report. Mr. Stults noted that the committee missed that deadline by only 4 hours and 55 minutes. He remarked that this time, he had the report set to go, ready to be filed, and put it in his mailbox. Mr. Stults added that, unbeknownst to him, since he was headed out of town, and the mail delivery had been halted, and the report was still in his mailbox when he returned. Mr. Stults said that once he found the report in his mailbox, he immediately filed it. He noted that his mother-in-law had shut off his mail service during his vacation. The Chair then asked if Mr. Stults was placing blame squarely on Mr. Dumezich's mother-in-law. Mr. Stults responded after consultation and at the direction of Mr. Dumezich that he was placing full blame in regards to this matter on Dumezich's mother-in-law.

Mr. Long moved to reduce the proposed fine to \$125.00 plus the mailing cost. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and

declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

CC. Committee to Elect Marsha Abell (Cause 05-4812-49)

The Chair recognized Ms. Potesta, who stated that the Committee to Elect Marsha Abell, cause number 05-4812-49, filed their report on January 25, received their notice on September 12, has never been before the board before, and has a proposed civil penalty of \$302.50. She noted that the committee had filed a letter with the Commission. The letter is incorporated by reference in these minutes.

The Chair recognized Ms. Robertson, who stated that she had spoken to Ms. Abell, who apologized for not being able to be present today, but she just started a new job in Evansville and was unable to make it up here for this meeting.

Mr. Long noted that Ms. Abell filed her forms, and amended the statement of organization for her committee. He stated that Ms. Abell initially ran for State Representative, was defeated, kept her committee open, then ran for county council, and amended her committee statement at the county level. He noted that she then filed her reports timely with the county election board, making the committee organization statement amendment she filed, to solve the issue so that she no longer had to file here. Mr. Long stated that he called Ms. Abell since he had known her for a long time, and that was his understanding, based on what she had indicated to him. He said that she filed all the reports in the county office, but that he did not know what she had filed at the state office. He added that he knew that if the Election Division called her, she would be happy to close this committee, or whatever the Election Division told her to do.

Ms. Robertson responded that Ms. Abell would have needed to amend her statement of organization with the county election office and close her committee with us.

Mr. Long moved to table this cause, and if Ms. Abell closes out the committee with the state, with the idea that we waive the penalty. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

DD. McGlothen for Indiana (Cause 04-5200-113)

The Chair asked if a representative from this committee was present. There was no response. Mr. Kendall noted that this cause is a continuance from a prior hearing.

EE. Regions Financial Corporation State PAC (Cause 05-5235-3)

The Chair noted that the Commission had received a letter from this committee requesting a continuance. A copy of this letter is incorporated by reference in these minutes.

Mr. Long moved to grant the motion for a continuance to the next meeting, if that’s what they’re asking for. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

FF. Laborers International Union (Cause 05-4482-12)

The Chair noted that the Commission had received a letter from this committee requesting amnesty. A copy of this letter is incorporated by reference in these minutes.

After Commission members reviewed the letter, Mr. Long moved that since they wrote a letter, that the Commission impose a \$37.50 fine plus mailing costs. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

GG. Draft Kernan Committee (Cause 05-4990-17)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long asked if the committee had filed their report and disbanded the committee. Ms. Potesta confirmed that this was correct.

Mr. Long moved to reduce the proposed fine to \$250.00 plus the mailing cost. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

HH. Committee to Elect Matt Smith (Cause 05-5043-18)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long moved to reduce the proposed fine to \$50.00 plus the mailing cost. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

II. Citizens for Jay Lynn (Cause 05-3558-29)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long moved to table this cause. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

JJ. Citizens for Sally (Cause 05-3828-32)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long moved to table this cause. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting

“aye” (Mr. Huddleston; Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

KK. Gidley for State Representative (Cause 05-4824-50)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long moved to reduce the proposed fine in this matter to \$375.00 plus the mailing cost. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

LL. Proud Republicans Inviting Democratic Endorsement (Cause 05-4953-54)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long noted that the committee had filed with Marion County and sent a file stamped copy to the Election Division. Mr. Long moved that the Commission waive the penalty in this cause. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

MM. Committee to Elect Catherine Campbell (Cause 05-5055-59)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long moved to reduce the proposed civil penalty to \$12.50 plus the mailing cost, for a total of \$15.00. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

NN. Wehrle (Cause 05-5061-62)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long noted that Mr. Wehrle thought he was filing for United States Representative, but actually filed for State Representative. He added that if a candidate does not get on the ballot, the candidate does not have any responsibility to file. He remarked that if the candidate filed a statement of organization but did not make it on the ballot, the candidate would not necessarily have to file, based on when the candidate filed and when they withdrew.

Mr. Long moved to waive the proposed civil penalty. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

OO. Duncan for State Representative (Cause 05-5064-63)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long moved to continue this cause. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

PP. Friends of Karen Moskowitz (Cause 05-5064-64)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long moved to reduce the proposed civil penalty to \$75.00 plus the mailing cost. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

QQ. Waite for State Representative (Cause 05-5091-68)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long moved to reduce the fine to \$500.00 plus the mailing cost. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

RR. Dr. S. G. Raju for Senator (Cause 05-5103-71)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long moved to reduce the civil penalty to \$100.00 plus the mailing cost. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

SS. Jerry D. Smith (Cause 05-5145-74)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long noted that the candidate had mailed the report on the due date, but that the legislature has stated the Commission must go by receipt date, not postmark date. Mr. Long moved to reduce the civil penalty to \$50.00 plus mailing cost. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Huddleston, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

TT. Waite for State Senator (Cause 05-5086-68)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long moved to table this cause, for the late filing, to see what he wants to do with his committee. Mr. Huddleston seconded the motion. There being no further discussion, the Chair

called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

UU. Campaign Finance Enforcement Causes; No Appearance or Letter

The Chair noted that no representative of any of the following committees had appeared before the Commission, or sent a letter to the Commission.

Mr. Long moved that in the causes for the following committees, for the reason that the committee has not been the subject of a previous campaign finance enforcement proceeding before the Commission, that the proposed fine be reduced to 25% plus the cost of mailing. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

McGlothen for Indiana, 04-5200-113 (reduced from \$1,000.00 to \$252.50)
McGlothen for Indiana, 04-5200-116 (reduced from \$1,000.00 to \$252.50)
Hoosiers for Witwer, 04-3951-13 (reduced from \$500.00 to \$127.50)
AT&T PAC, 05-1804-25 (reduced from \$1,000.00 to \$252.50)
Singleton for House District 71, 05-4779-47 (reduced from \$250.00 to \$65.00)
Powers for State Representative, 05-4785-48 (reduced from \$1,000.00 to \$252.50)
Friends of Susan Maxson, 05-4888-52 (reduced from \$1,000.00 to \$252.50)
Committee to Elect Thomas Cavanaugh, 05-4904-53 (reduced from \$450.00 to \$115.00)
Committee to Elect Thomas Keister, 05-5012-56 (reduced from \$1,000.00 to \$252.50)
Committee to Elect Allen Lee Stevens, Jr., 05-5030-57 (reduced from \$300.00 to \$77.50)
Committee to Elect Rick Ryfa, 05-5057-60 (reduced from \$50.00 to \$15.00)
WWW. Vote Fagen.com, 05-5058-61 (reduced from \$50.00 to \$15.00)
Jeff Crites for State Representative, 05-5078-66 (reduced from \$750.00 to \$190.00)
Gary Young Democrats, 05-5109-72 (reduced from \$50.00 to \$15.00)
Kapetanov for Governor, 05-5197-83 (reduced from \$1,000.00 to \$252.50)
McGlothen for Indiana, 05-5200-84 (reduced from \$1,000.00 to \$252.50)
Balance PAC – Indiana, 05-5214-86 (reduced from \$1,000.00 to \$252.50)
Grant County GOP Victory Committee, 05-5218-87 (reduced from \$50.00 to \$15.00)

Mr. Long moved that in the causes for the following committees, for the reason that the committee had been the subject of a previous campaign finance enforcement proceeding before the Commission on one occasion, that the proposed fine be reduced to 50% plus the cost of mailing. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

Indiana Society for Legislative Action for Psychologists, 05-1543-6 (reduced from \$50.00 to \$27.50)
Friends of Karen Buyer Burkhardt, 05-4269-35 (reduced from \$1,000.00 to \$502.50)
Ingermann for State Representative Committee, 05-5096-69 (reduced from \$50.00 to \$27.50)

Mr. Long moved that in the causes for the following committees, for the reason that the committee had been the subject of a previous campaign finance enforcement proceeding before

the Commission on two occasions, that the proposed fine be reduced to 75% plus the cost of mailing. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

Kokomo Firefighters PAC, 05-1822-7 (reduced from \$1,000.00 to \$750.00)
5th District Democratic Central Committee, 05-4278-10 (reduced from \$200.00 to \$152.50)
Jessen for State Representative Committee, 05-5101-19 (reduced from \$300.00 to \$227.50)
Johnson for State Senate Committee, 05-1587-23 (reduced from \$1,000.00 to \$750.00)
Citizens for Robert D. Green, 05-3689-30 (reduced from \$1,000.00 to \$752.50)
Friends of Steve Johnson, 05-3996-33 (reduced from \$1,000.00 to \$752.50)
International Brotherhood of Painters & Allied Trades Local #47 PAC, 05-4452-37 (reduced from \$1,000.00 to \$750.00)
Hoosiers for Kent Benson, 05-4722-42 (reduced from \$1,000.00 to \$752.50)
Michael Batz for State Representative, 05-4751-44 (reduced from \$1,000.00 to \$752.50)
Jessen for State Representative Committee, 05-5101-70 (reduced from \$1,000.00 to \$752.50)
Citizens for Robert D. Green, 05-3689-91 (reduced from \$1,000.00 to \$752.50)
Friends of Steve Johnson, 05-3996-92 (reduced from \$1,000.00 to \$752.50)

Mr. Long moved that in the causes for the following committees, for the reason that the committee had been the subject of a previous campaign finance enforcement proceeding before the Commission on three or more occasions, that the proposed fine be the amount set forth in the campaign finance staff spreadsheet, previously incorporated by reference into these minutes, plus the cost of mailing. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

International Chiropractors Association of Indiana, 05-1828-8 (full fine: \$502.50)
Hoosiers Against Crazy Taxes, 05-4472-11 (full fine: \$1,002.50)
Jones for State Representative, 05-1728-24 (full fine: \$1,002.50)
Local Union 855 PAC, 05-3144-27 (full fine: \$352.50)
Sandra Dempsey for Indiana Senate, 05-3777-31 (full fine: \$1,002.50)
Hoosier Osteopathic PAC, 05-4431-36 (full fine: \$102.50)
Hoosiers Against Crazy Taxes, 05-4472-38 (full fine: \$1,002.50)
Committee to Elect Mark Duwe State Representative, 05-4766-45 (full fine: \$1,002.50)
Committee to Elect Randy Plew State Representative, 05-4775-46 (full fine: \$1,002.50)
Milan Kesic for State Representative, 05-4557-41 (full fine: \$1,002.50)
Kinser for State Representative 55th, 05-4831-51 (full fine: \$1,002.50)

VV. Citizens for Crabtree (Cause 05-4527-40)

The Chair noted that the Commission had received a letter from this committee. A copy of this letter is incorporated by reference in these minutes. After Commission members reviewed the letter, Mr. Long moved to reduce the proposed penalty to \$750 plus the cost of mailing. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

WW. Citizens for Crabtree – Administrative Dissolution (Cause 05-4527-98)

The Chair recognized Ms. Thompson, who stated that the last report filed for this committee was the annual of 2001, and the committee had a balance at that time of \$299.00. She added that to comply with the legal requirements to dissolve this committee, both chairman and a treasurer has been notified that this hearing was taking place. She noted that this morning Mr. Crabtree sent a letter, which was the first correspondence received from him. Mr. Kendall stated that he had also spoken with Mr. Crabtree.

After reviewing the letter, the Chair stated that basically, Mr. Crabtree is willing to bail out and give the Commission whatever the committee has left.

Mr. Long stated that he thought the Commission should administratively dissolve this committee, close the committee on our books, and since the committee's got outstanding fines that goes over to the Attorney General, who will write him a letter. He added that if the Attorney General collects, he collects; if he doesn't, he doesn't.

Mr. Long moved to administratively dissolve Citizens for Crabtree. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

XX. Hoosiers Against Crazy Taxes– Administrative Dissolution (Cause 05-4472-99)

The Chair recognized Ms. Thompson, who stated that the last report filed for this committee was the annual of 2001, which showed \$21.00 in cash on hand. She noted that since this committee is a PAC, they have been subjected to a fine for each report since that time, and that both the chairman and treasurer have been notified of this hearing.

Mr. Long moved to administratively dissolve Hoosiers Against Crazy Taxes. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

8. Voting Systems Certifications for Term Ending October 1, 2005

The Chair recognized Mr. King, who stated that the voting systems certifications on the agenda are split into two groups. He noted that the legislature had adopted a standard 4-year term beginning October 1, 2005 for voting system certifications, so, that after this meeting, when the Commission approves voting systems, the certifications will all be for up to 4 years, and expire on October 1, 2009. He indicated that the Commission's agenda reflected the transition point of this process.

Mr. King noted that the Commission has received a voting systems certification memo from the Co-Directors, dated September 22, 2005, which was current as of this morning. He added that, during the course of the meeting, the Election Division received an additional fax concerning voting system certifications, which the Co-Directors will explain when discussing that vendor's application. A copy of the memorandum and fax are incorporated by reference in these minutes.

The Chair asked if the Commission were to approve systems today, would the Commission have to approve them again next month. Mr. King responded no, that some voting system vendors have

filed applications on the agenda for this meeting for approval for a four year term beginning October 1, 2005.

A. Avante International Technology Vote-Trakker EVC308-SPR direct record electronic touch screen voting system (firmware version 4.7.6)

Mr. King noted that Avante had filed a letter requesting the Commission's consent to withdraw this application. Mr. Long moved that the Commission approve the request to withdraw this application. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

B. Diebold Election Systems, Inc. AccuVote-TSx direct record direct record electronic voting system (hardware version 341-2211; firmware version 4.5.2)

Mr. King noted that Diebold had filed an application for an updated version of this system, and had also filed a request for this application to be withdrawn. Mr. Long moved that the Commission approve the request to withdraw this application. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

C. Diebold Election Systems, Inc. AccuVote-TSx direct record direct record electronic voting system (firmware version 4.6.3; software version 1.18.24)

Mr. King noted that at the August 2005 Commission meeting, there was some question regarding which version GEMS would be used for this system, but that this issue had been clarified. He added that the application has been filed, and that the Election Division has proof of escrow for both the GEMS component and the firmware component. He noted that this system has been demonstrated previously to the Commission, and that the Election Division has received letters indicating the version 4.6.3 firmware complies with the 2002 standards and that the GEMS software version complies with 2002 standards. Mr. King stated that the recommendation of the co-directors is that this voting system be approved by the Commission and certified for a term that expires October 1, 2005. He added that Diebold has already submitted an application for certification of this system for the October 1, 2005 through October 1, 2009 term.

Mr. Long moved that the Diebold Election Systems, Inc. AccuVote-TSx direct record direct record electronic voting system (firmware version 4.6.3; software version 1.18.24) be approved for use in Indiana elections for a term expiring October 1, 2005. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

D. Diebold Election Systems, Inc. AccuVote-OS (Model D) optical scan ballot card voting system (firmware version 1.96.6; GEMS software version 1.18.24, with Central Count version 2.0.12, optional)

Mr. King stated that this application for an optical scan ballot card voting system. He noted that this system uses the same version of GEMS software in the DRE system, and includes optional Central Count software. He stated that the application has been filed with the required fee, that

the Election Division has received proof of escrow from Iron Mountain for the firmware, GEMS, and Central Count software used in this system. He said that since this application is for an upgrade to a previously approved version of this voting system, there was not a demonstration of this system at the last meeting, but that the original version was demonstrated to the Commission at a previous meeting. He stated that the Election Division has received confirmation that independent testing authority (ITA) testing has been completed and the software complies with the 2002 standards. Mr. King stated that the co-directors recommend, based on the application of the vendor, and the results reported by the ITA, the Commission certify the system for use in Indiana elections for the term expiring October 1, 2005.

Mr. Long moved, based on the co-directors recommendation, that this voting system be approved for use in Indiana elections for a term expiring October 1, 2005. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

E. Election Systems and Software AutoMARK voting system Voter Assistance Terminal (VAT); hardware version 1.0; firmware version 1.0; and Information Management System (AIMS), version 1.09

Election Systems and Software AutoMARK voting system Voter Assistance Terminal (VAT); hardware version 1.0; firmware version 1.0; and Information Management System (AIMS), version 1.1.10

The Chair recognized Ms. Robertson, who stated that this system is an application for a new system. She noted that the original application and fee had been submitted on May 11, 2005, but that subsequently, earlier today, September 22, 2005, ES&S filed a letter with the Election Division, indicating that the initial application for AutoMARK AIMS version 1.09 has been superseded by another application filed today. She said that, basically, ES&S is requesting to withdraw a previous application and substitute a more recent version of the Information Management System. She noted that today ES&S has provided documentation of escrow of the system firmware and software, and that this system was demonstrated at the June 22 Commission meeting.

Ms. Robertson stated that ES&S has submitted an ITA report from CIBER dated September 2, indicating that the system has completed testing and does meet the 2002 federal standards. She noted that at the August 2005 Commission meeting, the issue that was still unresolved was whether the AutoMARK been tested with the versions of ES&S's optical scan readers that are currently certified in Indiana. She added that after that meeting, information has been provided to the Election Division that the AutoMARK system has now been tested with the versions of the optical scan readers that are certified in Indiana and does meet the 2002 standards. Ms. Robertson stated that, based on the information submitted to the Election Division that the co-directors recommend: (1) that the initial application of the system containing AIMS version 1.09 be withdrawn; and (2) that the version of the system referenced above containing AIMS version 1.10, be certified by the Commission for use in Indiana elections for the term expiring October 1, 2005.

Mr. Long moved to approve the request to withdraw the application for AutoMARK voting system referenced above containing AIMS version 1.09. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four

members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

The Chair asked Mr. King to discuss the other Co-Director recommendations set forth on page 6 of the memo. Mr. King responded that the question was whether the Commission’s certification of AutoMARK version 1.1.10 would allow the AutoMARK to be used with *only an* optical scanner, previously certified for use in Indiana, whether marketed by ES&S or not, or with *any* optical scan system. He noted that, specifically, this issue involves whether the certification of the AIMS 1.1.10 version of AutoMARK only authorizes the AutoMARK to be used with the Model 100 and Model 650, which are two ES&S optical scanners certified in Indiana. He noted that the letter received by the Election Division from the ITA (CIBER), indicated that the AutoMARK 1.1.10 had in fact been used with Unity 2.5 and worked properly on the Model 100 and Model 650 for the Indiana certified versions.

Mr. King stated that his personal recommendation was that that use with the Model 100 and Model 650 be the extent of the result of certification by the Commission because that is what has been documented in independent testing.

The Chair stated that the Commission will only certify the use of voting systems with respect to those that have been tested and approved.

Ms. Robertson stated that the Election Division has documentation to show that the AutoMARK has been fully tested and worked together, as you pull these all these voting system together. She added that the Election Division’s concern is that the “voting system” definition does not make a distinction between vendors’ products to state explicitly whether the products are from the same vendors or different ones. She indicated that the applicant is treating those products as the same, and that was the issue that the Commission members had at the last meeting. She noted that the Commission did not view the AutoMARK itself as standing alone; and that instead, the AutoMARK was going to be used with certain readers, whether with ES&S’s own readers, or another vendor’s optical scan readers. Ms. Robertson stated that when the AutoMARK is tested together with specific optical scan readers, it gives the Election Division reassurance that in an election, all of the components of the voting system will work together.

Mr. King recommended that the Commission approve the system only for use with the components it has already been tested with. He stated that he believed there should be a separate application and certification if the vendor wants to use another optical scan reader with the AutoMARK that has not already been tested together at this point.

Ms. Robertson stated that election officials are struggling with the current law and what the definition of a voting system is, and that maybe the General Assembly should be asked to clarify this for us.

Mr. Long stated that he thought that due process would require that before the Commission certifies one vendor to work in conjunction with another vendor’s equipment, the Commission would need the other vendor present, brought to the table and given notice to respond.

An unidentified representative of ES&S said that he would like to point out that the AutoMARK System was ITA tested also with the Eagle, which is currently certified for use in this state, and that this was noted in the vendor’s full text report. He stated that ES&S would also like to seek certification for the AutoMARK to be used in conjunction with the other optical scan devices that are currently certified for use in Indiana.

Mr. Long moved that, based on the co-directors' recommendation, that the application for the ES&S AutoMARK voting system 1.0, firmware version 1.0 and AIMS version 1.1.10, be approved for use in Indiana Elections for a term expiring October 1, 2005. He noted that the system complies with 2002 FEC standards. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

F. Hart InterCivic eSlate direct record electronic voting system, version 4.0

The Chair recognized Ms. Robertson, who noted that the Hart InterCivic eSlate DRE voting system was a previously approved voting system. She said that at the August 19 Commission meeting, the Commission approved certification of version 4.1 of this voting system. She noted that the Commission had a question about whether the application for version 4.0 had been superseded by version 4.1. Ms. Robertson remarked that the Election Division confirmed with Hart InterCivic on September 21 that this was correct, and Hart InterCivic had filed a statement requesting that the application for version 4.0 be withdrawn.

Mr. Long moved that that the Commission approve the request to withdraw Hart InterCivic's application for version 4.0. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

G. UniLect Corporation "The Patriot" direct record electronic voting system

The Chair recognized Mr. King, who stated that a hearing was held at the last Commission meeting, concerning dismissal of the application for certification of the UniLect "Patriot" DRE voting system. He noted that the memo from the Co-Directors of this date documents that the Election Division notified the company of this dismissal hearing, and that the Co-Directors received a response on September 20, 2005, from UniLect. He stated that the co-directors have no recommendation regarding the dismissal of this application.

After Commission members reviewed the memorandum and vendor's response, Mr. Huddleston moved to dismiss this application. Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

H. Voting Technologies International (VTI) direct record electronic voting system upgrade (Dell Optiplex 280; software version 5.0.2; firmware version "not applicable")

The Chair recognized Mr. King, who noted that representatives from VTI were present. He noted that VTI had submitted applications for approval of two different types of systems.

Mr. King stated that with regard to the DRE voting system referenced above, the Election Division has received the application plus the required fee and the escrow documentation. He noted, however, that the Election Division had not had time to clarify the relationship of this system to the existing 3.6.8, but it appears to be the next generation of it.

Mr. King indicated that the outstanding problem with the current application is that the ITA testing had not been completed at the Wyle Laboratories according the letter we received from Wyle. We are recommending that this application be tabled pending a letter from an ITA confirming that system testing has been completed.

Mr. Long moved that the Commission table this application until the next meeting. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

I. Voting Technologies International (VTI) optical scan ballot card voting system Scantron ES 2800; hardware number ES 2800; firmware version 1.0.4; software version 1.0.4.

The Chair recognized Mr. King, who stated that VTI had also submitted the above application for an optical scan ballot system (as opposed to the DRE), which is referred to as the “Scantron 1.0.4.” He stated that the Election Division has received the application form with the required components, the fee has been paid, and proof of escrow has been provided. Mr. King noted that this system has not yet been demonstrated to the Commission.

Mr. King stated that with regard to the letters from the ITA, initially, the co-directors were not convinced that the letters indicate that the testing had been completed. He said that during the course of the meeting, we received a letter from Wyle that addressed (at least to our satisfaction), this one issue. He indicated that the Wyle letter indicates that the functional testing has been completed but that additional testing was required. Mr. King noted that today’s fax from Wyle, indicates that the additional testing was simply a term that Wyle uses to refer to the final report that is eventually filed with the Election Division. He added that, assuming that this is the case, the Co-Directors were prepared to recommend certification, but that he did not know what the Commission’s feelings would be with regards to the demonstration issue.

The Chair recognized Mr. Benning, who stated that VTI was prepared to demonstrate the voting system, but that this process could take a while. He noted that everything has been passed by the ITA with regards to the functionality of the system.

Mr. Long moved to table further consideration of this application to the next meeting and schedule a demonstration to be held at the end of the next meeting. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Huddleston, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

9. Voting Systems Certifications for Term Ending October 1, 2005

The Chair recognized Mr. King, who called the Commission’s attention to pages 10 through 12 of the Co-Directors’ memo. He noted that the applications listed on those pages were for the certification of a voting system for a 4-year term, beginning October 1, 2005, ending October 1, 2009. Mr. King said that these pages list all of the existing certified systems and indicate whether the vendors have reapplied.

- A. Diebold Election Systems, Inc. AccuVote-TS touchscreen direct record electronic voting system (AVTS-R6); hardware version 1.0; firmware version 4.1.11; GEMS software version 1.17.17**

- B. Diebold Election Systems, Inc. AccuVote OS 2000 Precinct Optical Scan Tabulator, firmware version 1.94f; GEMS software version 1.17.17.**

Mr. King stated that Diebold had advised the Election Division that it would not seek recertification for the two voting systems referenced above for the 2005-2009 term.

- C. Diebold Election Systems, Inc. AccuVote-TSx direct record electronic voting system (firmware version 4.6.3; software version 1.18.24)**
- D. Diebold Election Systems, Inc. AccuVote-OS (Model D) optical scan ballot card voting system (firmware version 1.96.6; GEMS software version 1.18.24, with Central Count version 2.0.12, optional)**

Mr. King noted that earlier in this meeting, the Commission meeting had approved certification of the two voting system referenced above for a term expiring October 1, 2005.

Mr. Long moved that: (1) the Diebold Election Systems, Inc. AccuVote-TSx direct record direct record electronic voting system (firmware version 4.6.3; software version 1.18.24); and (2) the Diebold Election Systems, Inc. AccuVote-OS (Model D) optical scan ballot card voting system (firmware version 1.96.6; GEMS software version 1.18.24, with Central Count version 2.0.12, optional) be approved for use in Indiana elections for a term beginning October 1, 2005 and expiring October 1, 2009. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting “no,” the motion was adopted.

- E. Election Systems & Software iVotronic direct record direct record electronic voting system (hardware version 1.0; firmware version 9.0.0.0)**
- F. Election Systems & Software Data Acquisition Manager (DAM) version 6.0.0.0; Election Reporting Manager (ERM) version 7.0.0.0; Hardware Programming Manager (HPM) version 5.1.0.0**
- G. Election Systems & Software Model 100 Precinct Tabulator Optical Scan (firmware version 5.1.0.0; Unity 2.5 component**
- H. Election Systems & Software Model 650 centralized mark sense tabulator, version 2.0.1.0 (Unity 2.5 component)**
- I. Election Systems and Software AutoMARK voting system Voter Assistance Terminal (VAT); hardware version 1.0; firmware version 1.0; and Information Management System (AIMS), version 1.1.10**

The Chairman recognized Mr. King, who stated that the voting systems identified in items E, F, G, H, and now I, are systems that the Commission had previously approved and are being used in Indiana counties by ES&S customers, with the exception of the AutoMARK.

Mr. King noted that on September 12, the Co-Directors had sent notice to all of the vendors, containing information about this recertification process, and the need to submit applications for the 2005-2009 term, but that the Election Division has not received any filings from ES&S for these systems to continue to be marketed in Indiana after October 1, 2005. He noted that this requirement was provided for by the state legislature with regard to this transition.

An unidentified representative of ES&S stated that “we are working on getting the applications to you.” The Chairman stated that since the Commission has not received these application from you, ES&S will have to wait until January to have these voting systems approved by the

Commission. He noted that as such, ES&S will not be permitted to market these products in the state of Indiana until the Commission approves the applications, which will not be until January. The Chairman recognized Mr. King, who stated that staff had brought extra blank voting system applications to the meeting in the event the vendor had not filed these applications. The Chair indicated that if ES&S could complete these applications during the remainder of the meeting, the Commission would consider this matter further.

J. Hart InterCivic eSlate direct record electronic voting system and Ballot Now Absentee Paper System version 4.1, including JBC version 3.1.3; eSlate version 3.1.3; SERVO version 3.0.17; BOSS version 4.0.48; Ballot Now version 3.0.24, Rally version 2.0.11; Tally 4.0.25

The Chair recognized Mr. King noted on September 21, the Election Division had received an application from Hart InterCivic for recertification of this system for the 2005-2009 term, and that since this voting system had been approved by the Commission for use in Indiana at the Commission's last meeting, that the Co-Directors recommended approval of this application for certification for the 2005-2009 term.

Mr. Long moved that: Hart InterCivic eSlate direct record electronic voting system and Ballot Now Absentee Paper System version 4.1, including JBC version 3.1.3; eSlate version 3.1.3; SERVO version 3.0.17; BOSS version 4.0.48; Ballot Now version 3.0.24, Rally version 2.0.11; Tally 4.0.25 be approved for use in Indiana elections for a term beginning October 1, 2005 and expiring October 1, 2009. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

K. MicroVote General Corporation direct record electronic Infinity Voting Panel (Model VP1; firmware version 2.04; IEMS software version 2.04
L. MicroVote General Corporation direct record electronic voting system Model MV 464 (hardware only)

Mr. King stated that MicroVote had advised the Election Division that it would not seek recertification for the two voting systems referenced above for the 2005-2009 term, but that MicroVote did plan to submit an application for certification of an upgrade to the Infinity Voting Panel. He noted that MicroVote had previously filed an application for certification of an earlier upgrade to the Infinity voting system, but had received consent to withdraw that application.

M. Voting Technologies International (VTI) direct record electronic VOTWare software upgrade (version 3.6.8).

Mr. King stated that VTI had advised the Election Division that it would not seek recertification of the voting system referenced above for the 2005-2009 term

N. Election Systems & Software Applications

The Chair asked ES&S representatives if they had completed the applications for certifications of ES&S voting systems for the 2005-2009 term. ES&S representatives responded that they had made progress in doing so, but were not completed.

After Commission discussion, the Chair indicated that he would be willing to accept a motion to approve these applications (based on the recommendation of the Co-Directors) if ES&S could have the completed applications file stamped at the Election Division on this date.

The Co-Directors agreed to make themselves available until ES&S could complete the remaining applications and to have the applications file stamped with today's date at the Election Division. The Co-Directors repeated their recommendation that the restrictions on the use of the AutoMARK with certain optical scan readers adopted by the Commission earlier in the meeting for the term ending October 1, 2005 continue to apply to the use of the AutoMARK during the 2005-2009 term.

Mr. Long moved, based on the recommendations of the Co-Directors, and subject to ES&S meeting the filing requirement set forth above, that the

- (1) Election Systems & Software iVotronic direct record direct record electronic voting system (hardware version 1.0; firmware version 9.0.0.0)**
- (2) Election Systems & Software Data Acquisition Manager (DAM) version 6.0.0.0; Election Reporting Manager (ERM) version 7.0.0.0; Hardware Programming Manager (HPM) version 5.1.0.0;**
- (3) Election Systems & Software Model 100 Precinct Tabulator Optical Scan (firmware version 5.1.0.0; Unity 2.5 component);**
- (4) Election Systems & Software Model 650 centralized mark sense tabulator, version 2.0.1.0 (Unity 2.5 component); and**
- (5) Election Systems and Software AutoMARK voting system Voter Assistance Terminal (VAT); hardware version 1.0; firmware version 1.0 (Build 168); and Information Management System (AIMS), version 1.1.10**

be approved for use in Indiana elections for a term beginning October 1, 2005 and expiring October 1, 2009. Mr. Huddleston seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Huddleston, Mr. Intermill, Mr. Long, and Mr. Wheeler), and no Commission member voting "no," the motion was adopted.

10. Adjournment

There being no further items on the Commission's agenda, the Chair entertained a motion to adjourn. Mr. Intermill moved, seconded by Mr. John, that the Commission do now adjourn. The Chair called the question, and declared that with three members voting "aye" (Mr. Intermill, Mr. John, Mr. Wheeler), and no Commission member voting "no," the motion was adopted. The Commission then adjourned at 5:20 p.m.

Respectfully submitted,

J. Bradley King
Co-Director

Kristi Robertson
Co-Director

APPROVED:

Thomas E. Wheeler, II
Chairman