

1 congressional district, we believe that that's  
2 in the first congressional district.

3 VICE CHAIRMAN LONG: So the position of  
4 your challenger here is that the certification  
5 number of five and three is correct --

6 MR. PATTON: That's correct.

7 VICE CHAIRMAN LONG: -- and that the  
8 error's on the front side?

9 MR. PATTON: That's true. And that's  
10 how -- how we arrived at the 498 number. And I  
11 believe maybe some other independent review  
12 arrived at a 497 number, perhaps, because they  
13 just reviewed the front page and not the actual  
14 certified page.

15 VICE CHAIRMAN LONG: Has your challenger or  
16 have you added with an adding machine the  
17 certifications on the second pages of all these  
18 petitions?

19 MR. PATTON: Yes, we have.

20 VICE CHAIRMAN LONG: That's where you came  
21 up with what number?

22 MR. PATTON: 498.

23 VICE CHAIRMAN LONG: So it's your  
24 contention that the certification says 498, and  
25 that's how many they've certified by adding the

1 totals?

2 MR. PATTON: Yes.

3 VICE CHAIRMAN LONG: And that the signature  
4 verification bears that out?

5 MR. PATTON: Yes, with this one discrepancy  
6 for the front page.

7 VICE CHAIRMAN LONG: With that amendment,  
8 if I went through and counted the ones that have  
9 a -- do or should have a 1 beside them, then  
10 there would be 498?

11 MR. PATTON: Correct.

12 VICE CHAIRMAN LONG: This is not a  
13 complicated issue, I believe.

14 COMMISSION MEMBER KLUTZ: Just a  
15 clarification on the SVRS. You said that at  
16 least three names on the SVRS were not -- were  
17 they not certified on the petitions, or their  
18 names weren't on there at all?

19 MR. PATTON: There were two that were not  
20 certified, and there was one that we could not  
21 find their name anywhere on any petitions.

22 COMMISSION MEMBER KLUTZ: Two were not  
23 certified on the petition here?

24 MR. PATTON: Correct.

25 COMMISSION MEMBER KLUTZ: And then one name

1 was in the SVRS, but not anywhere in the  
2 petitions that you found?

3 MR. PATTON: Correct.

4 CHAIRMAN BENNETT: Okay.

5 MR. BROOKS: Mr. Chairman, could I make one  
6 little suggestion?

7 CHAIRMAN BENNETT: Yes.

8 MR. BROOKS: If we can get an agreement  
9 from the Stutzman campaign that the page that we  
10 just went through, the person who had a  
11 clerical -- or the voter registration person had  
12 a clerical error, and that it should have been  
13 in District 1, and that that is -- we're all on  
14 the same page now with 498?

15 COMMISSION MEMBER KLUTZ: You're --

16 CHAIRMAN BENNETT: You're asking for a  
17 stipulation?

18 COMMISSION MEMBER KLUTZ: -- asking him to  
19 stipulate?

20 MR. BROOKS: Yeah, or just on the record.  
21 I've got to tell you why we've got a certain  
22 number of people that are -- that I believe are  
23 certified that they're not counting. So if I've  
24 got to make this argument again, I will.

25 But if they acknowledge that that should be

1 counted, then I've got one less set of documents  
2 to go through for you.

3 CHAIRMAN BENNETT: Mr. Bopp?

4 MR. BOPP: Our view -- and this has been  
5 the view of the Commission. In particular, I'm  
6 prepared to read the segment about the Nader  
7 campaign, that certification is up to the  
8 counties, and that you receive these  
9 certifications, and your job is to count the  
10 certifications, certified signatures.

11 If they want to dispute the county's  
12 certification, in the Nader case, for instance,  
13 they were advised by counsel for the Commission  
14 that if they had a problem with the failure of  
15 the voter registration people in the counties to  
16 certify signatures that they were required to  
17 certify, then their beef is with the counties,  
18 and then they could bring suit, or they could --  
19 you know.

20 And the second thing which we have alleged  
21 in our submission here is that if they want to  
22 bring that before this Commission, you know, we  
23 believe it's precluded by law. But if they want  
24 to bring it before this Commission, they have to  
25 challenge the failure to certify certain names.



1           The question, I think, before the  
2 Commission on whether it's 497 or 498 is which  
3 side of the form do you rely upon? Do you rely  
4 upon the back side, which provides the clerk's  
5 signature about the certification? And in that  
6 case, it would be 498.

7           Or do you rely on the front side, where  
8 they designate these certified signatures, which  
9 would be 497?

10          So I don't see anything in the law that  
11 tells me which side of this form -- which each  
12 side contains a certification, in a different  
13 way, obviously -- but which side of the form you  
14 rely upon.

15          But if you do rely upon -- the Commission  
16 relies upon the back side, well, then, it's 498.  
17 It's --

18          MR. BROOKS: May I --

19          MR. BOPP: -- a legal issue --

20          MR. BROOKS: -- comment?

21          CHAIRMAN BENNETT: Response?

22          MR. BROOKS: Let me start by saying that  
23 this notion that the SVRS is somehow not an  
24 official source of information for purposes of  
25 this inquiry is silly.

1           The same people who pull -- procedurally,  
2           the voter registration people sit there. They  
3           get your petition. They pull up names -- the  
4           name. They see it on the voter registration  
5           screen in the SVRS.

6           They then -- if the name is in there and  
7           they're going to certify it, they're doing two  
8           things. One is to make some notation on this  
9           petition. Two is to write it on the back. But  
10          three, they enter it right there at that time.

11          This is not like some random number. The  
12          very same people who filled out the front and  
13          the back of every one of these petitions also  
14          entered this data into the SVRS, which is an  
15          official set of documents entered by the same  
16          people.

17          So the notion that we somehow can't look at  
18          the SVRS and look at this in total to figure out  
19          what the intent was is silly. And there is no  
20          such restriction on your ability to look at  
21          those things and determine whether it makes  
22          sense. I believe it will make sense when we're  
23          done.

24          But I just want to dispel this notion that  
25          the actual information entered by the actual

1 people who filled these out is somehow  
2 irrelevant or not official.

3 CHAIRMAN BENNETT: I assume you'll have  
4 some evidence to present --

5 MR. BROOKS: I do.

6 CHAIRMAN BENNETT: -- in your case? So --

7 MR. BROOKS: I do. So as I understand  
8 it -- not to interrupt -- but then Mr. Bopp is  
9 not going to say that we're 498?

10 MR. BOPP: I think it's a legal question,  
11 and we're not -- and we don't -- we don't know a  
12 legal answer to that question, on whether or not  
13 the Commission should rely on the first page or  
14 the back page.

15 And I don't know a precedent for that.  
16 That's going to be what you're going to have to  
17 decide, I think. I'm not going to preempt that.

18 CHAIRMAN BENNETT: So is there anything  
19 more that should be presented on behalf of the  
20 challengers, any of the challengers, with regard  
21 to this count of 500 signatures?

22 MR. BOPP: Yes. We have a witness.

23 CHAIRMAN BENNETT: Mr. Patton, do you have  
24 a witness?

25 MR. BOPP: Oh, I'm sorry.

1 CHAIRMAN BENNETT: Go ahead.

2 MR. PATTON: If we're asking for  
3 stipulations, do we have a stipulation that if  
4 they're not on the SVRS, that they do not count?  
5 Because with all due respect, I don't believe I  
6 said that you shouldn't look at it. I said that  
7 the most reliable information is the actual  
8 petitions.

9 MR. BROOKS: I'm not going to assert that  
10 there are more than 501 certified names and  
11 signatures. Is that your question?

12 MR. PATTON: Well, no. I --

13 MR. BROOKS: But my point was that in  
14 determining whether or not there are 500 or 501,  
15 or whatever, that the SVRS is important  
16 information that should be considered by this  
17 Commission because it's entered by the very same  
18 people that filled this form out. In fact, it's  
19 done.

20 And let's just say -- Mr. Long has been  
21 doing this for a long time, I know. If we  
22 expect clerks and voter registration people to  
23 never make any mistakes, you know, we're living  
24 in a dream world.

25 So this is a great example right here,

1 where the Democrat party understands that that  
2 person was in Congressional District 1. Well,  
3 that person should have been certified. End of  
4 discussion.

5 And it was in the back. It's also on the  
6 SVRS list. It's a shame that the Stutzman  
7 campaign can't admit that somebody who was  
8 actually in the first congressional district  
9 shouldn't be counted, even though their name's  
10 on the SVRS. But we can come to that later.

11 So I'm not going to argue that there were  
12 more than 501 certifications, if that's your  
13 question.

14 MR. PATTON: My question was, would you  
15 stipulate that if their name is not on the SVRS,  
16 that they should not be counted?

17 MR. BROOKS: I'm not going to make an  
18 argument for anybody whose name is not on the  
19 SVRS list --

20 MR. PATTON: And that's a stipulation?

21 MR. BROOKS: -- or for certification,  
22 setting aside the argument that there may be  
23 some people that should have been certified that  
24 weren't.

25 My point is, when you're talking about

1 certified, I'm going to argue that -- I'm not  
2 going to argue that anybody that is not on the  
3 SVRS list was certified. I may argue at a later  
4 point that there are people that weren't  
5 certified that should have been.

6 I'm not trying to be tricky.

7 MR. PATTON: And that's why you should have  
8 filed a CAN-1. But you didn't.

9 MR. BROOKS: I'm --

10 CHAIRMAN BENNETT: Well, let's --

11 MR. BROOKS: -- a CAN-1 against my 501  
12 being --

13 CHAIRMAN BENNETT: Let's get on with some  
14 evidence here.

15 MR. PATTON: No witnesses.

16 CHAIRMAN BENNETT: No witnesses.

17 Mr. Bopp, do you have a witness?

18 MR. BOPP: Yes. I call Jodi Lohrman,  
19 please.

20 (Exhibits 1-Stutzman and 2-Stutzman were  
21 marked for identification.)

22 MR. BOPP: And you have been sworn?

23 MS. LOHRMAN: I have been.

24 MR. BOPP: Would you state your full name,  
25 please.

1 MS. LOHRMAN: My name's Jodi Lohrman,  
2 J-O-D-I, L-O-H-R-M-A-N.

3 MR. BOPP: Where are you employed?

4 MS. LOHRMAN: I'm employed with Stutzman  
5 for Senate.

6 MR. BOPP: And what's your responsibility?

7 MS. LOHRMAN: I'm his outreach coordinator  
8 for the campaign.

9 MR. BOPP: Now, are you active in the  
10 Republican party?

11 MS. LOHRMAN: I am. I am county chair in  
12 Clay County. I'm former district chair of the  
13 Republican party. I used to sit on the state  
14 committee, and I used to be a staff person for  
15 the Indiana Republican Party.

16 MR. BOPP: Now, as county chairman, have  
17 you had any responsibilities with circulating  
18 petitions in your county for this election?

19 MS. LOHRMAN: I have. And I even collected  
20 signatures for all of the U.S. Senate  
21 candidates; not just for Marlin Stutzman, but  
22 also for Todd Young and for Eric Holcomb.

23 MR. BOPP: Have you had experience with  
24 candidates filing a declaration of candidacy  
25 that you thought was invalid or they didn't

1 qualify in some way?

2 MS. LOHRMAN: Yes. At a local level as  
3 county chair, I have.

4 MR. BOPP: And what do you do in those  
5 cases?

6 MS. LOHRMAN: In those cases I have talked  
7 with those candidates. I have not had to issue  
8 a formal challenge because they withdrew their  
9 candidacy themselves.

10 MR. BOPP: And why did you file this  
11 challenge?

12 MS. LOHRMAN: I filed this challenge  
13 because I went in to count, along with Josh  
14 Kelley, our campaign manager, and Alex Johnson.  
15 And we went to the Election Commission last  
16 Friday morning, February 12, and we each  
17 individually counted the signatures in the first  
18 district for Todd Young.

19 MR. BOPP: Did you create a record for  
20 that?

21 MS. LOHRMAN: I did.

22 MR. BOPP: And did you bring that record  
23 with you?

24 MS. LOHRMAN: I did.

25 MR. BOPP: And I have copies of the page of



1 her notebook for everyone.

2 Would you pass those up to the Commission,  
3 please.

4 And for purposes of identification, could  
5 we mark this as Exhibit 3? We have submitted  
6 Exhibits 1 and 2.

7 (Exhibit 3-Stutzman was marked for  
8 identification.)

9 MR. BOPP: Is Exhibit 3 a record of the  
10 counts that you made on February 12 --

11 MS. LOHRMAN: Yes, it is.

12 MR. BOPP: -- when you went to the Election  
13 Division?

14 MS. LOHRMAN: Yes, it is.

15 MR. BOPP: And when you got to the  
16 Division, who did you talk to about getting a  
17 copy of the original petition?

18 MS. LOHRMAN: It was Dale Simmons.

19 MR. BOPP: What was your conversation with  
20 him? What was your discussion?

21 MS. LOHRMAN: Well, at one point in the  
22 conversation, we discussed whose responsibility  
23 it was to make sure that the proper number of  
24 signatures were submitted.

25 And Dale responded to the three of us that

1 it is up to the individual campaigns to count  
2 and make sure that they submit, physically, at  
3 the time of filing, the number of 500-plus for  
4 each congressional district.

5 He informed us that the Election Commission  
6 does not count and they do not verify, the  
7 Election Commission, itself, at the time of  
8 filing, the number of signatures.

9 MR. BOPP: So there had to be on these  
10 petitions a minimum of 500 per congressional  
11 district of certified signatures?

12 MS. LOHRMAN: That is correct.

13 MR. BOPP: Now, did he also provide you the  
14 original petitions?

15 MS. LOHRMAN: Yes.

16 MR. BOPP: For Todd Young?

17 MS. LOHRMAN: Yes.

18 MR. BOPP: All right. Now, there are, of  
19 course, three counties in the first  
20 congressional district. And on the top of your  
21 record, you have LaPorte County.

22 Now, before we get to the totals, I note  
23 that you have signaled here that there was one  
24 petition that you saw a discrepancy?

25 MS. LOHRMAN: Correct.

1 MR. BOPP: And what was that?

2 MS. LOHRMAN: I used the first person's  
3 name to sign the signature to signify that  
4 particular petition, and that was Thomas  
5 Cashbaugh.

6 MR. BOPP: And what did you find on the  
7 front and what did you find on the back?

8 MS. LOHRMAN: On the front, there were four  
9 that were marked that they resided in  
10 District 1, and four that resided in District 2.

11 MR. BOPP: Now, did you next proceed to  
12 count all the signatures that were submitted,  
13 whether they were certified or not?

14 MS. LOHRMAN: I did.

15 MR. BOPP: And that number is?

16 MS. LOHRMAN: In LaPorte County -- do you  
17 want them by county, or do you want them by  
18 total?

19 Okay, the total that was submitted to  
20 LaPorte County was 71, total submitted to Lake  
21 County was 393, and total submitted to Porter  
22 County was 154.

23 MR. BOPP: Now, did you also count -- and  
24 you mentioned you were assisted by two other  
25 people?

1 MS. LOHRMAN: Correct.

2 MR. BOPP: Did they also count and  
3 cross-verify?

4 MS. LOHRMAN: Yes.

5 MR. BOPP: All right. How many certified  
6 signatures on the front did you identify?

7 MS. LOHRMAN: 497.

8 MR. BOPP: I'm sorry. For each --

9 MS. LOHRMAN: In total? Oh, okay, for --

10 MR. BOPP: For each county, how many?

11 MS. LOHRMAN: In LaPorte County,  
12 District 1, 22; in Lake County, we got 344; and  
13 in Porter County, 131.

14 MR. BOPP: And then, if you would, I guess,  
15 add in the back side of that one, instead of  
16 497, which you testified to already, you would  
17 have had 498; is that right?

18 MS. LOHRMAN: That is correct.

19 MR. BOPP: All right. I have no further  
20 questions.

21 CHAIRMAN BENNETT: Any cross-examination?

22 MR. BROOKS: A couple of quick questions.  
23 Would you describe what it is you did to  
24 determine whether somebody was certified or not?

25 MS. LOHRMAN: Yes. In the last column --

1 well, in the last two columns, they would mark  
2 whether the person was certified, or whatever.  
3 And then also, too, the count on the back.

4 MR. BROOKS: So would you have counted one  
5 that said "duplicate," for example?

6 MS. LOHRMAN: No.

7 MR. BROOKS: Or one that was just blank?

8 MS. LOHRMAN: No.

9 MR. BROOKS: So going back to  
10 Mr. Neiswinger, the one that was listed as  
11 Congressional District 2, if you were to find  
12 out that Mr. Neiswinger was entered by the voter  
13 registration team or person into the SVRS system  
14 so that he's listed as a certified voter, and  
15 you were to find out that, in fact,  
16 Mr. Neiswinger was in the first congressional  
17 district, I assume you would agree that he  
18 should be counted toward the number of certified  
19 petitioners, correct?

20 MS. LOHRMAN: No. Since there's a  
21 discrepancy, I would want to actually see that.

22 MR. BROOKS: I'm not saying that you  
23 wouldn't want to see it.

24 I'm saying if it is shown that his name is  
25 on the SVRS list as being certified, and it

1 would be shown conclusively that he was in the  
2 first congressional district, would you not  
3 agree that he should be certified?

4 MS. LOHRMAN: No, I would not, with that.

5 MR. BROOKS: Okay. So I just noticed on  
6 Marlin Stutzman's website where he was saying  
7 that he absolutely didn't want to disenfranchise  
8 anybody.

9 But you're saying here today that  
10 Mr. Neiswinger, through no fault of his own, a  
11 clerk made a clerical error and entered one, he  
12 would disenfranchise him, even though he was  
13 clearly qualified to sign this petition?

14 MR. BOPP: That's argumentative. She's --

15 MR. BROOKS: No, I think --

16 MR. BOPP: -- asked and answered the  
17 question --

18 MR. BROOKS: -- we need to know that --

19 MR. BOPP: -- for final argument.

20 CHAIRMAN BENNETT: You've made your  
21 objection.

22 You may answer the question.

23 MS. LOHRMAN: I would want to see it  
24 firsthand instead of relying on that --

25 MR. BROOKS: Fair enough. But I'm not

1 going to get to ask you the question again.

2 I'm asking you to assume that he's on the  
3 list, and that I can produce a voter  
4 registration record that shows he's in  
5 Congressional District 1. So --

6 MS. LOHRMAN: I -- I don't --

7 MR. BROOKS: -- if that's true --

8 MS. LOHRMAN: I don't feel comfortable  
9 assuming. I would want to know --

10 MR. BROOKS: Would you please direct her --

11 MS. LOHRMAN: -- that before I --

12 MR. BROOKS: -- that assumption?

13 CHAIRMAN BENNETT: Well, he can ask you a  
14 hypothetical question, and you can assume what  
15 he says is true. You don't have to agree with  
16 it, but you can assume, for purposes of your  
17 answer, that what he's saying is true, and you  
18 can answer the hypothetical question.

19 MS. LOHRMAN: If I saw with my own eyes and  
20 knew it to be true, then yes, it should count.

21 MR. BROOKS: And if there was a blank --  
22 well, let me strike that.

23 When you went through all these petitions  
24 and you counted, did you notice that there was  
25 either a precinct designation, which generally

1 means that they're certified, or a reason for  
2 rejection?

3 MS. LOHRMAN: Can I -- can I have like an  
4 example of what you're referring to so I can  
5 look at it? Because I don't feel comfortable  
6 answering without actually knowing what it is  
7 that you're talking about.

8 MR. BROOKS: Well, let me -- you didn't --  
9 after going through all of these where there  
10 were, what, well over 600 submittals, you claim  
11 there's only 497, or perhaps 498, you can't tell  
12 this Commission that you noticed that there were  
13 reasons for rejection?

14 MS. LOHRMAN: Oh, yes. I noticed that  
15 they wrote down notations of why they were being  
16 rejected.

17 MR. BROOKS: So in most cases you can  
18 expect to see a list of a precinct, which is an  
19 indication of certification, or a reason for  
20 rejection, right?

21 MS. LOHRMAN: Yes.

22 MR. BROOKS: Did you -- would you have  
23 counted one that was blank that didn't have a  
24 reason for rejection or a precinct?

25 MS. LOHRMAN: I -- I'll be honest. I



1 don't -- I don't remember seeing one of those.

2 MR. BROOKS: If there was a blank, and that  
3 name was on the SVRS list as a certified voter  
4 and was qualified by being a registered voter,  
5 would you agree that that ought to be counted  
6 toward the number of certified petitions?

7 MR. BOPP: You know, that's really a vague  
8 question. She --

9 MR. BROOKS: I can ask it again, if it was  
10 a bad question.

11 MR. BOPP: Certified by whom? It should  
12 have been certified by the county voter  
13 registration people if the guy was a bona fide  
14 registered voter. Well, of course, the voter  
15 registration people could have done that. But  
16 that's not -- you know, he didn't file a CAN-1  
17 about that.

18 MR. BROOKS: I don't have to file a CAN-1.

19 CHAIRMAN BENNETT: Yeah, we don't need that  
20 argument. Just make an objection to the  
21 question, and we can move on.

22 MR. BOPP: Yeah. It doesn't say that --  
23 certified that -- by whom it should have been  
24 certified --

25 MR. BROOKS: Well, yeah. The name is

1 listed as certified by voter registration on the  
2 SVRS. So I would submit to you that there's --  
3 there is evidence of certification.

4 But I'm asking her, if that name is on  
5 there as listed as should have been certified,  
6 or was certified by the local voter registration  
7 people, and there was a blank, and the guy was a  
8 perfectly qualified voter, would you not agree  
9 that that should be counted as a certified  
10 voter?

11 MR. BOPP: That's a compound question.

12 MR. BROOKS: Do you want me to slow it down  
13 for you? I'd be happy --

14 MR. BOPP: No. I want you to ask --

15 MR. BROOKS: If she doesn't understand --

16 MR. BOPP: -- your questions in a way --

17 MR. BROOKS: -- tell me she doesn't  
18 understand the question.

19 MR. BOPP: She's not a lawyer.

20 MR. BROOKS: If she doesn't understand my  
21 question -- you don't have to be a lawyer.

22 Do you understand the question? I'm happy  
23 to ask it again.

24 MS. LOHRMAN: No, based on what -- what we  
25 were told at the Election Division, that it is

1 these signature forms.

2 MR. BROOKS: No, I understand that you're  
3 looking at the signature forms.

4 Are you saying that the Election Division  
5 told you that the SVRS list is not an official  
6 record?

7 MS. LOHRMAN: Yes.

8 MR. BROOKS: Could we ask Mr. Simmons to  
9 address that? I mean obviously, it's the SVRS  
10 system. It is an official record.

11 MR. SIMMONS: The SVRS is an official  
12 record of voters in Indiana. There's a statute  
13 that backs that up. But --

14 MR. BROOKS: And to -- and to the extent  
15 that the voter registration --

16 MR. BOPP: He didn't finish his answer.

17 MR. SIMMONS: No, that was the end of the  
18 answer.

19 We have a statute, 3-7-26.3. It says that  
20 the Statewide Voter Registration System has the  
21 official list of registered voters in Indiana.

22 MR. BROOKS: Sure. And to the extent that  
23 the voter registration entered that they had  
24 them up on the screen, looked at their name on  
25 the petition, and that they were certified is

1 also an official record, correct?

2 MR. SIMMONS: Well, it is a record we keep  
3 in the SVRS, the Statewide Voter Registration  
4 System.

5 MR. BROOKS: Sure.

6 MR. SIMMONS: So I'm not sure what -- I  
7 think that's up to the Commission to determine  
8 what that significance is.

9 MR. BROOKS: Fair enough.

10 CHAIRMAN BENNETT: In fairness, let me ask  
11 Angela if she wants to respond to the comments.

12 MS. NUSSMEYER: Sure. I think the report  
13 you're referring to is the petition signature  
14 count report that the Statewide Voter  
15 Registration System creates?

16 MR. BROOKS: Yes, ma'am.

17 MS. NUSSMEYER: Okay. It's been my  
18 understanding since I started -- and I've only  
19 been with the division now for about five or six  
20 months -- but anytime I circulated that  
21 document, I was to instruct anyone who was  
22 looking at it that it is not an official record  
23 of the office; that it is there purely for  
24 assistance to campaigns and others who want  
25 to get an idea of where their signature counts

1 may be.

2 MR. BROOKS: It's not an official record of  
3 the Election Division because you don't have the  
4 data. I've got that.

5 But it's an official record of what the  
6 voter registration people did. The voter  
7 registration office enters those names.

8 MS. NUSSMEYER: But not every -- not every  
9 county participates in using SVRS in this way.

10 MR. BROOKS: I get that. But in this case,  
11 all three of our counties did. So --

12 MS. NUSSMEYER: I'll take your word.

13 MR. BROOKS: That's fine. But I guess what  
14 I'm saying is, when you say it's not an official  
15 record of your office, you're saying that  
16 because you -- your office doesn't enter it.  
17 You're not saying that it's not an official  
18 record as entered by the voter registration,  
19 right? Because they did enter it.

20 MS. NUSSMEYER: Them or their staff, sure.

21 MR. BROOKS: Right, okay.

22 MS. NUSSMEYER: But is it an official  
23 document that I would stand behind as a  
24 co-director? No, it is not.

25 MR. BROOKS: But you did just say that you

1 give it to candidates so they'll know what the  
2 count is, right?

3 MS. NUSSMEYER: An unofficial count,  
4 correct. And all of my disclaimer language to  
5 my candidates was, anything filed with the  
6 office, what matters is the paper record that is  
7 filed with the Election Division.

8 VICE CHAIRMAN LONG: Well, she also does  
9 that when she circulates it to me.

10 MR. BROOKS: I'm sorry?

11 VICE CHAIRMAN LONG: She also puts that  
12 disclaimer on it when she sends it out to  
13 Commission members. I ask her --

14 MR. BROOKS: Sure.

15 VICE CHAIRMAN LONG: -- so I can stay up on  
16 it myself.

17 MR. BROOKS: Sure. And I'll come back and  
18 address that situation.

19 CHAIRMAN BENNETT: Go ahead.

20 MR. BROOKS: Now, you've got -- if the  
21 voter registration officials enter the name onto  
22 the voter registration system as having been  
23 certified, and that voter was a registered  
24 voter, I'm asking you if you could see that,  
25 would you want to disenfranchise that person, or

1 would you want to consider them to be certified?

2 MS. LOHRMAN: I feel like -- I'm not a  
3 clerk. That's not a decision for me to make. I  
4 feel like that this is -- this is a question for  
5 the Commission.

6 MR. BROOKS: Well, do you --

7 MS. LOHRMAN: Is that something I -- I --

8 MR. BROOKS: You made the count.

9 CHAIRMAN BENNETT: You can answer for  
10 yourself.

11 MR. BROOKS: Yeah.

12 MS. LOHRMAN: I just would want to know for  
13 sure that I -- that everything was --

14 COMMISSION MEMBER KLUTZ: The purpose of  
15 this question --

16 MR. BROOKS: Assume that.

17 COMMISSION MEMBER KLUTZ: He's saying  
18 you're assuming that the person is registered to  
19 vote.

20 MS. LOHRMAN: Yes.

21 COMMISSION MEMBER KLUTZ: I'm very curious  
22 for your answer.

23 MS. LOHRMAN: If they're registered to  
24 vote, if they've gone through the election --

25 COMMISSION MEMBER KLUTZ: Yes.

1 MS. LOHRMAN: -- have been verified, yes.

2 COMMISSION MEMBER KLUTZ: And it's blank,  
3 but everything else is factual, yes, it counts?

4 I'm just clarifying what I thought I heard  
5 you say.

6 MS. LOHRMAN: I -- if it's blank, then how  
7 can you tell what the count is? I mean except  
8 for what's on the back. I guess that's what the  
9 provision of the back is.

10 MR. BROOKS: It's only a question about do  
11 you disenfranchise this person, or do you think  
12 it should be certified when you know that  
13 they're on the SVRS list, and you know that  
14 they're properly registered and qualified to  
15 sign this petition, and be certified. What --

16 VICE CHAIRMAN LONG: What possible  
17 difference can it make today what she thinks?  
18 You're beating this horse to death, and I'm  
19 really anxious to --

20 MR. BROOKS: All right. I'll --

21 VICE CHAIRMAN LONG: It's a -- it's a  
22 count. What she thinks doesn't --

23 MR. BROOKS: I'll stop.

24 VICE CHAIRMAN LONG: -- control us.

25 MR. BROOKS: I'll stop, okay.



1 MS. LOHRMAN: Thank you.

2 CHAIRMAN BENNETT: Anything else? Any  
3 other questions?

4 MR. BROOKS: No. I just -- I think -- I  
5 didn't get a chance to cross-examine because you  
6 didn't really have a witness.

7 But I'll just ask you guys. Did you guys  
8 make an effort to figure out from the SVRS  
9 system the names that you found out where they  
10 were and whether or not they were registered or  
11 would have been qualified?

12 MR. PATTON: There were, as I believe I  
13 stated, two names on the SVRS document. And I  
14 believe the co-director stated the actual name  
15 of that document. It's not the whole SVRS.

16 There were two names on this document that  
17 the names were also on the petition, but were  
18 not certified.

19 MR. BROOKS: Yeah. I guess I'm just  
20 asking, for those two names, did you make any  
21 effort to figure out whether they were  
22 registered voters who qualified?

23 MR. PATTON: I did not. And then there was  
24 one name on the SVRS --

25 MR. BROOKS: I understand.

1 MR. PATTON: -- that was not on any  
2 petitions. And again, you did not determine  
3 whether or not she was registered because her  
4 name was even not on any petitions.

5 MR. BROOKS: Right. I understand.

6 MR. BOPP: Could we have a little more  
7 evidence on our submission?

8 CHAIRMAN BENNETT: Are you finished with  
9 this witness?

10 MR. BOPP: Yes.

11 MR. PATTON: I don't have any  
12 cross-examination.

13 CHAIRMAN BENNETT: Okay. So next witness?

14 MR. BOPP: Thank you. I want to now  
15 circulate what should be marked as Exhibit 4.

16 COMMISSION MEMBER KLUTZ: Exhibit 4?

17 MR. BOPP: Yes, 4.

18 (Exhibit 4-Stutzman was marked for  
19 identification.)

20 MR. BOPP: This is the printout from the  
21 SVRS system which comes from the module that  
22 county voter registration people can voluntarily  
23 use to create a record of the number of  
24 signatures that they have -- that they have  
25 certified.

1           You will note at the bottom left, this  
2 was taken -- this printout occurred on  
3 February 8, 2016. And it reports on the total  
4 number of signatures in that system of voters  
5 that had been certified by the county, all  
6 right?

7           And you'll see under Todd Young that in  
8 Lake County, they certified that this record or  
9 printout says there were 357 signatures that  
10 were certified by the counties. Now -- and then  
11 24 for LaPorte, and then 124 for Porter.

12           Now, you just received testimony of  
13 somebody that has actually counted what was  
14 submitted by the campaign with the declaration  
15 of candidacy, which was a total of either, if  
16 you look at the front side, 497; if you look at  
17 the back side, 498. She also gave you the  
18 specific totals for county.

19           Now, let's compare that. Let's compare  
20 what the candidate actually submitted, which we  
21 contend is the legal requirement and the only  
22 document that you should consult.

23           For Lake County, this printout says 357.  
24 But what was presented to this Commission is  
25 344, all right? So that is 13. It's off by 13.

1 LaPorte, it says 24. Now, if you agree  
2 it's 22 or 23, because of that one anomaly, it's  
3 also wrong by one or two.

4 And if you look at Porter, it says 120.  
5 But if you count the petitions, as she did,  
6 there's 131. So there's actually 11 more  
7 submitted by the candidate on the petition, the  
8 certified petition, than this report suggests.

9 So what we have is a totally unreliable  
10 system that -- where voter registration people  
11 voluntarily enter this information.

12 We then have the law that says not to go  
13 create -- you know, look at this printout,  
14 which, as can be, has already been demonstrated,  
15 is totally wrong in every respect. Every figure  
16 regarding the Congressional District 1 and Young  
17 by this printout is wrong. Every one. But  
18 we -- but to rely upon the actual certified  
19 petitions themselves, that's what the law  
20 requires, to be filed with the candidacy.

21 Now, this issue of this printout came up  
22 during the McCain challenge in 2008. And the  
23 minutes of this Election Commission on March 12,  
24 2008, has a description by Tobin McClamroch, the  
25 lawyer for McCain, a description of this module

1 for which this printout occurs.

2 And he says the voter registration system  
3 has a module attached to it that provides for an  
4 opportunity for information at the county level  
5 to be submitted directly to the state. That  
6 system, in my view, is outside the framework,  
7 the statutory framework for how you're supposed  
8 to be certified on the state level.

9 And let me explain this to you. The  
10 process is very simple in this. It's set forth  
11 in Indiana law. It's cited, 3-8-3-1, which is  
12 this. The candidates are responsible for going  
13 out between January 1 and the 10 days before the  
14 filing deadline to have the petition signed.

15 And then 10 days before the filing  
16 deadline, for a declaration of candidacy, they  
17 are to submit those to the county voter  
18 registration boards. And then, for the purpose  
19 of certifying, for the voter registration boards  
20 to certify those, that then happens. These are  
21 certified.

22 It is then the responsibility of the  
23 candidate to take those petitions to the  
24 Election Division here in Indianapolis. There  
25 is a module that -- attached to the Statewide

1 Voter Registration System, that allows, on a  
2 voluntary basis, for a number of certifications  
3 to be tracked up. And the Division understands  
4 that a lot more than I do. But that information  
5 is recorded directly. But it is voluntary, and  
6 it is outside the statutory framework.

7 As he would characterize it, he said it's a  
8 voluntary, nonstatutory tracking software that  
9 simply gives the candidate some idea.

10 But it is so outside of the statutory  
11 requirement that it is -- that we have already  
12 heard that the Election Division instructs  
13 candidates, and would have instructed them, that  
14 this printout is not to be relied upon.

15 And so his point about this printout that  
16 shows 501, yeah, it does. Well, that is  
17 demonstrably false information. And all they  
18 had to do to find out whether they had submitted  
19 enough certified petitions is count the  
20 petitions. That's it.

21 This is just like, "Well, you know, my  
22 birthday is -- you know, I'll only be 29, but  
23 I'm running for United States Senate, and it's  
24 only a couple days beforehand."

25 It's the rule of law. It's, what, 15 other

1 candidates fulfilled these requirements. They  
2 take the law seriously. They understand that  
3 it's all about the petitions and certified  
4 petitions, that it has nothing to do with this  
5 aid, at most, that is provided by the computer.

6 We have no further evidence.

7 CHAIRMAN BENNETT: Anything else from any  
8 of the petitioners?

9 MR. PATTON: No, sir.

10 CHAIRMAN BENNETT: We would ask for the  
11 respondents, now, to --

12 MR. BROOKS: Yeah. I mean we have a  
13 problem, now, because in terms of the amount of  
14 evidence, the Stutzman campaign is sitting over  
15 there saying that the report is totally  
16 unreliable because they counted 11 votes too  
17 short in Lake County, and 11 votes too many in  
18 Porter County, which means not that this report  
19 is unreliable. It means the Stutzman campaign  
20 can't -- isn't capable of keeping track of which  
21 signatures are in which county.

22 I mean I'm sitting here, and -- prepared to  
23 agree with the Democrat party, who obviously  
24 spent a lot more time with this than the  
25 Stutzman campaign.

1           But these numbers are simply -- they're  
2           just wrong. They add up, but she's counted 11  
3           too many in Porter and 11 too few in Lake  
4           County. That's what's unreliable.

5           So now what do we have to do? Go through  
6           all of those again because they can't keep track  
7           of the counties?

8           I don't know. Do you guys have a -- I have  
9           your chart that says how many certified  
10          signatures were in Porter. It says 120. I  
11          agree with that. And it also says 120 on the  
12          SVRS. So I'm prepared to go through and show  
13          you the evidence on the three.

14          But if we're going to consider that,  
15          because the Stutzman campaign can't keep track  
16          of what county is what county, that we've got to  
17          go back and prove the right numbers, is silly.

18          MR. PATTON: If you're asking me --

19          MR. BROOKS: That's not a --

20          MR. PATTON: If you're asking me a  
21          question, I guess --

22          MR. BROOKS: Yeah.

23          MR. PATTON: -- my answer is, are you the  
24          pot or the kettle?

25          MR. BROOKS: The question is, do you not



1 agree that what you wrote on here is what you  
2 verified?

3 You submitted to the Commission a list of  
4 what you believe the certified petitions are.  
5 And it's -- while they offered this, I'm  
6 suggesting that based on the criteria you used,  
7 you were right.

8 Before you want to know whether I'm the pot  
9 or the kettle, I'm trying to say you're right.

10 MR. PATTON: About the 497 or 498?

11 MR. BROOKS: No. I'm saying that the  
12 way -- by the way you count, that I get how you  
13 got the --

14 MR. PATTON: Are you -- are you --

15 MR. BROOKS: Yeah.

16 MR. PATTON: So the document you're  
17 referencing --

18 MR. BROOKS: Yeah. All I'm saying --

19 MR. PATTON: -- certified petitions --

20 MR. BROOKS: That's what --

21 MR. PATTON: -- you're agreeing with us  
22 that it's 498 total?

23 MR. BROOKS: I'm agreeing with you, by the  
24 way you count, how you got to 498.

25 I believe there are three more votes which

1 I'm going to do, which --

2 MR. PATTON: Which I --

3 MR. BROOKS: I think the ones you counted  
4 were certified, but you didn't count three more.

5 But that's not my point for purposes of  
6 going forward.

7 MR. PATTON: But are you --

8 MR. BROOKS: I'm trying to --

9 MR. PATTON: -- asking me a question? I'm  
10 trying to figure that out.

11 MR. BROOKS: I've asked you a question.

12 I'll ask it again.

13 MR. PATTON: When you quit talking, I'll  
14 answer it.

15 We stand by the documents that were  
16 attached to the CAN-1.

17 MR. BROOKS: Right. So here's the  
18 question. What do we want to do? Do you have  
19 documentation other than this? Because the  
20 Stutzman campaign has said there are 11 too few,  
21 11 votes fewer in Lake County than you counted,  
22 and 11 more votes in Porter County than you  
23 counted, and are using that as a basis to say  
24 that the SVRS system is screwed up.

25 So we can only do this one of two ways, it

1 seems to me. And I'm asking you for your help  
2 because I'm agreeing with you.

3 We can sit down and pull out Porter County  
4 and go through and manually count, and manually  
5 count the ones in Lake County.

6 Or, if you have something else that's of  
7 assistance, otherwise, that's what we're going  
8 to have to do, because the Stutzman campaign  
9 can't keep track of what votes are in what  
10 county.

11 MR. BOPP: We'd be perfectly happy for this  
12 Commission to pull out the original petitions  
13 and count the front and then count the back.

14 And we have -- our -- the only person that  
15 has yet to testify that they have performed that  
16 count with three other people says it's 497 on  
17 the front and 498 on the back.

18 I understand the petitions are part of the  
19 record, right, the original petitions?

20 MR. BROOKS: No one with the Stutzman --

21 MR. BOPP: And I am perfectly happy for you  
22 to count. The Election Division has not  
23 performed that count. They never perform that  
24 count.

25 CHAIRMAN BENNETT: Is there any reason that

1 we shouldn't hear the rest of your evidence  
2 before we decide this question?

3 MR. BROOKS: Well, I can give you the rest  
4 of my evidence on the three that I think are not  
5 included in theirs that should be counted.

6 But in order to rebut their irresponsible  
7 statement, the Stutzman's irresponsible  
8 statement that the SVRS is totally inaccurate,  
9 because of this count, because they couldn't  
10 keep track of the counties, the only way I can  
11 do that is to go -- have you go back through and  
12 count, which I think is a sad exercise. But  
13 they're making the allegation.

14 CHAIRMAN BENNETT: But if you accept the  
15 497, and you have three more that should have  
16 been counted --

17 MR. BROOKS: I've got four. I've got --

18 CHAIRMAN BENNETT: That would solve the  
19 problem, wouldn't it, without having to recount  
20 everything?

21 MR. BROOKS: It would solve the problem,  
22 except for the attack on the accuracy of the  
23 SVRS system, which is what they're claiming,  
24 because their counts are so radically different  
25 than the Democrats' count and my count.

1 VICE CHAIRMAN LONG: I just counted the  
2 ones from LaPorte County, and my count agreed  
3 with hers.

4 MR. BROOKS: In LaPorte? Well, there's  
5 no -- we're not disputing -- the two that are  
6 way off are Lake and Porter.

7 VICE CHAIRMAN LONG: Well, it doesn't  
8 matter. If it's off, it's off. Miss is as good  
9 as a mile. If there's 22, it should have said  
10 22. If there's 24, it should have said 24.

11 MR. BROOKS: No, no. I get that.

12 But what they're saying is that there are  
13 only 344 signatures, certified signatures in  
14 Lake. There are 355 by their count, and I'm  
15 going to introduce some evidence to show that  
16 it's higher.

17 VICE CHAIRMAN LONG: I would recommend that  
18 you do that. The Chairman has said it -- it's  
19 academic. If you've got enough to get you over  
20 the top of 500, that's what I'd want to hear, or  
21 what I would want to be presented if I were a  
22 congressman.

23 MR. BROOKS: I've got it.

24 VICE CHAIRMAN LONG: You can do what you  
25 want to do.

1 MR. BROOKS: Well, let me first go to one  
2 we've already talked about.

3 (Discussion off the record.)

4 MR. BROOKS: At some point I'll find the  
5 box.

6 Let me start with a case that we referred  
7 to earlier, where the congressional district was  
8 listed as 2, and it's 5 on the back. So let me  
9 give you -- how do you want me to mark these?

10 CHAIRMAN BENNETT: Young 1, Young 2.

11 MR. BROOKS: Okay.

12 (Exhibits 1-Young and 2-Young were marked  
13 for identification.)

14 CHAIRMAN BENNETT: Is this Young 1?

15 MR. BROOKS: Yes, except I'm going to run  
16 out. So I have printouts which I'm planning to  
17 give you more of.

18 COMMISSION MEMBER KLUTZ: Mr. Bopp, I want  
19 to make sure, when you say the petition has been  
20 submitted into evidence, you have -- your client  
21 has 51 numbers representing the 51 petitions.  
22 And in my packet I have 53 petitions for Lake  
23 County. And I just want to make sure I have --  
24 we're all looking at the same book.

25 Your numbers aren't designated by petition

1 number, or any other thing. So the only thing I  
2 can do --

3 MS. LOHRMAN: There were no petition  
4 numbers on the --

5 COMMISSION MEMBER KLUTZ: Okay, there's no  
6 designation. All I know is -- and check me out,  
7 but I counted 51 separate numbers.

8 When I go through my petitions, I have 53  
9 petitions in Lake County.

10 VICE CHAIRMAN LONG: As do I.

11 MS. LOHRMAN: You know, I'll be honest. I  
12 don't have an answer for that. It could be that  
13 I combined two. That's why I'm anxious to see  
14 the count, too, because --

15 COMMISSION MEMBER KLUTZ: What other --

16 MS. LOHRMAN: -- I know --

17 COMMISSION MEMBER KLUTZ: What other  
18 counties did you combine?

19 MS. LOHRMAN: Oh, it could have been --

20 COMMISSION MEMBER KLUTZ: What other  
21 counties did you --

22 MS. LOHRMAN: I'm not even confident I did  
23 that. I'm just offering that as an explanation  
24 for why -- and that's why I --

25 MR. BROOKS: I've got the same number in

1 Lake as she's got in Porter. She's got 11  
2 petitions from Porter that should be in Lake,  
3 because --

4 COMMISSION MEMBER KLUTZ: That's how come  
5 the Porter number is so much off?

6 MR. BROOKS: Exactly.

7 COMMISSION MEMBER KLUTZ: So that's why  
8 you're saying -- at the end of the day, that's  
9 why we're off, the 498, 497 number?

10 MR. BROOKS: Yeah. And my point there is  
11 that they can't use her inability to keep track  
12 of what county is --

13 COMMISSION MEMBER KLUTZ: Yeah, I heard  
14 that. I --

15 MR. BROOKS: -- SVRS system --

16 COMMISSION MEMBER KLUTZ: I heard that.

17 MR. BROOKS: That's all I'm saying.

18 COMMISSION MEMBER KLUTZ: But on a more  
19 kind note, what we're all saying is, we have  
20 these petitions. And whether they're in the  
21 right county or not, at the end of the day, it's  
22 497, 498, according to both of the counties?

23 MR. BROOKS: Yeah, I understand that. All  
24 I just want to say is that the SVRS system is  
25 right. I'm going to say it's right altogether.



1 I understand that the Democrats cite two, three  
2 other names.

3 What I've done is give you a page. We've  
4 got three different variations of the SVRS data  
5 with the names. Some of them I have a statewide  
6 number, but it doesn't break out LaPorte. I  
7 have this number, this page that I just gave  
8 you, which doesn't have -- you know, but  
9 nevertheless, the names are all the same.

10 CHAIRMAN BENNETT: Is the page you just  
11 handed out to be labeled Young Exhibit 2?

12 MR. BROOKS: Yes. I'm sorry.

13 (Exhibits 3-Young, 4-Young, and 5-Young  
14 were marked for identification.)

15 MR. BROOKS: This is 3.

16 CHAIRMAN BENNETT: And this is No. 4?

17 MR. BROOKS: Yes. And this is 5.

18 So in Exhibits Young 1 through 5, what  
19 you've got is the page that shows that the  
20 congressional district was listed as No. 2.

21 Your Exhibits 2, 3, and 4 are three  
22 variants of the way we had the data from the  
23 SVRS system spit out. But it's all the same  
24 data. And I'm just giving it to you to show you  
25 that that name is listed by the voter

1 registration officials as someone that was  
2 certified for LaPorte County in Congressional  
3 District 1.

4 And the last one, No. 5, is the SVRS sheet  
5 showing Mr. Neiswinger as being registered in --  
6 on the first page -- I think I highlighted it --  
7 it says he lives in Congressional District 1.

8 So we believe that that moves the number  
9 from the 497 that the Stutzman people indicated,  
10 and that I think is now consistent with what the  
11 Democrat party says.

12 CHAIRMAN BENNETT: Moves it from 497 to  
13 what?

14 MR. BROOKS: Pardon?

15 CHAIRMAN BENNETT: You say it moves the  
16 number from 497 to what?

17 MR. BROOKS: From their 497 to the 498,  
18 that the Democrats are. So we're short three to  
19 get to 501 now.

20 CHAIRMAN BENNETT: Okay.

21 (Exhibit 6-Young was marked for  
22 identification.)

23 MR. BROOKS: I'll give you what's now been  
24 marked as Young 6. And I believe you will note  
25 that this is on the LaPorte petition.

1           And unlike -- and you'll see that where  
2   it's highlighted, it doesn't have a precinct  
3   designation, nor does it have a rejection, and  
4   that it's blank.

5           COMMISSION MEMBER KLUTZ: Mr. Brooks, so  
6   everything, 1 through 5, all pertains to --

7           MR. BROOKS: To Mr. Neiswinger, if I'm  
8   saying it right.

9           MS. NUSSMEYER: It's LaPorte 11 in your  
10   packet, I believe, No. 7.

11           (Exhibits 7-Young, 8-Young, 9-Young, and  
12   10-Young were marked for identification.)

13           MR. BROOKS: This is similar to the other  
14   package, No. 7. This is No. 8, this is No. 9,  
15   this is No. 10.

16           So again, with respect to Mr. Bross  
17   (phonetically), who was not counted in the  
18   certified count by either the Democrats or the  
19   Stutzman campaign, you'll see that this person  
20   was entered into the SVRS system as having been  
21   certified.

22           And you will also see that -- from the  
23   voter registration page, that he is a registered  
24   voter in Congressional District 1, and therefore  
25   should have been certified.

1 This is actually very similar to, in a  
2 sense, to the last one we did, Mr. Neiswinger,  
3 who, there's a minor clerical error in listing  
4 the wrong congressional district.

5 This is a minor clerical error because they  
6 didn't write yes or no, right or wrong, in the  
7 blank. But we know that they entered him into  
8 the SVRS system as having been certified.

9 COMMISSION MEMBER OVERHOLT: May I ask a  
10 question of Matt? Mr. Chairman, is it all right  
11 if I ask a question of Matt?

12 CHAIRMAN BENNETT: Yes.

13 COMMISSION MEMBER OVERHOLT: What does it  
14 mean that -- when it says, "Inactive due to VLM  
15 2014 statewide mailing list," on this report,  
16 apparently, from the Statewide Voter  
17 Registration System? What does that mean?

18 MR. KOCHEVAR: Mr. Chairman, Members of the  
19 Commission, what it means when it says,  
20 "Inactive, VLM 2014," it means that during our  
21 Voter List Maintenance Program that was  
22 conducted in 2014, a statewide program, this  
23 person was -- when it went through the entire  
24 process, was deemed under law to be made  
25 inactive.

1           Essentially, they were sent a first  
2 mailing, which got returned by the United States  
3 Postal Service. They were sent a second mailing  
4 in which they were asked to verify that the  
5 information in their voter registration record  
6 was correct.

7           And due to whatever reason, either they did  
8 not return that card or it was returned and not  
9 filled out in a certain way, the law requires  
10 that their designation be made inactive.

11           COMMISSION MEMBER OVERHOLT: So does that  
12 mean that if someone is made inactive, that they  
13 have to re-register?

14           MR. KOCHEVAR: No. They are still  
15 considered a registered voter in this state.  
16 There are a number of ways that they can be  
17 removed from inactive status to active status.

18           COMMISSION MEMBER OVERHOLT: So they're  
19 still qualified to -- okay.

20           MR. SIMMONS: And I concur with that  
21 analysis, Mr. Chairman.

22           CHAIRMAN BENNETT: Thank you.

23           (Exhibit 11-Young was marked for  
24 identification.)

25           MR. BROOKS: This is 11.

1 CHAIRMAN BENNETT: I'm trying to keep a  
2 tally here. If Mr. Bross is counted, what does  
3 that take our count to?

4 MR. BROOKS: 499.

5 CHAIRMAN BENNETT: Okay.

6 MR. BROOKS: And I'll just draw your  
7 attention to Robert Wozniak (phonetically), who  
8 obviously is highlighted. You'll see that it  
9 says D-U, and a question mark, which is a  
10 duplicate indication, with the question mark  
11 after it.

12 VICE CHAIRMAN LONG: Where is the question  
13 mark? That looks like a "P" to me. Where I  
14 come from, that's a "P."

15 COMMISSION MEMBER OVERHOLT: I would agree  
16 it's a duplicate.

17 MR. BROOKS: It looks, to me, like a  
18 question mark. Either way, I'll address that.

19 This is 12.

20 (Exhibit 12-Young was marked for  
21 identification.)

22 MS. NUSSMEYER: Mr. Chairman, I believe  
23 that's Page 32 in your packet of materials.

24 It's Lake County 32.

25 VICE CHAIRMAN LONG: Lake 32.

1 MS. NUSSMEYER: It's right next to the  
2 county name at the top. You'll see a 45 off to  
3 the corner there.

4 VICE CHAIRMAN LONG: Yeah.

5 MS. NUSSMEYER: I believe that's the  
6 corresponding page.

7 (Exhibits 13-Young and 14-Young were marked  
8 for identification.)

9 MR. BROOKS: This is 13. This is 14.

10 So what you will see from this series of  
11 exhibits regarding Mr. Wozniak from Lake County  
12 is that he is definitely listed on the SVRS  
13 system as having been certified by the local  
14 voter registration people. He is qualified as  
15 a -- because of voter registration.

16 But there is no duplicate in there. So  
17 unfortunately, I can't prove a negative. You'll  
18 have to look through there.

19 But there is no original signature.  
20 There's not another signature for Mr. Wozniak in  
21 the Lake County petitions.

22 COMMISSION MEMBER KLUTZ: The review  
23 process is certainly different for us, though.

24 MR. BROOKS: Pardon?

25 COMMISSION MEMBER KLUTZ: The review

1 process is certainly different for us than the  
2 other one, where we can --

3 MR. BROOKS: Yeah. Because it says  
4 "duplication," and the indication, we know that  
5 voter registration certified him. But there is  
6 no duplicate.

7 There's another possibility to this, and  
8 I'm going to come to this in a second. And I'll  
9 just tell you what it is, and I've got a fair  
10 amount of evidence to supply you.

11 Lake County Voter Registration numbered  
12 their pages, which, unfortunately, is not the  
13 same numbering system that Mr. Zody used, just  
14 because it would have been simpler.

15 But in the lower right-hand corner of every  
16 page -- it's in the original that's in blue --  
17 is numbered. There were 54 pages turned over to  
18 our campaign, according to Lake County. And  
19 I'll get you an affidavit on all of that  
20 momentarily. But I'm just using it as an  
21 example to explain here.

22 And the 54th page does not have a number on  
23 it because it came in after the first batch of  
24 54. But I'm going to give you an affidavit that  
25 tells you what voter's on that last page so it



1 will be easy to find. It's the only one without  
2 a number of 1 through 54 on it.

3 What you will find is that there is no  
4 page 51. It is missing. And the -- and again,  
5 I'm going to come through this in a little more  
6 full detail when I get to the next one.

7 But there were two -- presumably two  
8 certified votes on that petition. One was  
9 Mr. Melcher, who they've indicated they couldn't  
10 find on the petitions. And the reason is, that  
11 page is gone.

12 The other possibility -- the reason I raise  
13 it now in the context of Mr. Wozniak is because  
14 there's a possibility that his original was  
15 there on that page, and was counted, which is  
16 why it's entered on the SVRS system.

17 But in any event, whether he had an  
18 original on Page 51, or they just thought it  
19 might have been a duplicate and there wasn't, he  
20 is entitled to be counted. He was certified by  
21 the local board people. He's qualified.

22 And either there was a duplicate and it  
23 should have been counted anyway, or there wasn't  
24 a duplicate and it was counted. Either way, I  
25 believe that gets you to 500.

1 COMMISSION MEMBER OVERHOLT: It sounds like  
2 you just argued that he ought to be counted  
3 twice, then.

4 MR. BROOKS: No, I'm not arguing that.

5 COMMISSION MEMBER OVERHOLT: Well, that's  
6 what it sounded like.

7 MR. BROOKS: No. I think --

8 COMMISSION MEMBER OVERHOLT: Because if he  
9 was a duplicate, then that means he was on there  
10 twice.

11 MR. BROOKS: No. There's one of two things  
12 that happened, I think, here. Either there was  
13 not another one -- if you look through there,  
14 there is not another Robert Wozniak signature.  
15 So what's in your hands would indicate that it  
16 was not a duplicate, because it's the only one  
17 there.

18 The other possibility is that it's on the  
19 missing Page 51, and it was counted on that  
20 page.

21 So either way, he gets the count. Whether  
22 it's because he wasn't a duplicate and the voter  
23 registration certified him, or he was on the  
24 other one. But either way, he's been certified.  
25 He's eligible and should be counted.

1 Are you guys wanting to page through to see  
2 if you can find Wozniak? Like I said, I can't  
3 prove a negative for you. I don't believe he's  
4 on there twice.

5 CHAIRMAN BENNETT: Well, I think it's --

6 MR. BROOKS: In fact, I'm certain --

7 CHAIRMAN BENNETT: -- responsibility --

8 MR. BROOKS: -- of it.

9 CHAIRMAN BENNETT: If anybody finds it, let  
10 me know.

11 I think the petitioners do have access to  
12 the materials. They can look as well. So I'd  
13 ask everybody involved in the room to thumb  
14 through and see if we find Wozniak twice.

15 MR. BROOKS: What number are we on, Dale?

16 MR. SIMMONS: I've got 15.

17 (Exhibit 15-Young was marked for  
18 identification.)

19 MR. BROOKS: And this is 16 and 17.

20 (Exhibits 16-Young and 17-Young were marked  
21 for identification.)

22 MR. BROOKS: The two affidavits I've given  
23 you contain, largely, the same information, but  
24 it's from -- I wanted you to have it from two  
25 different members of the voter registration

1 office in Lake County.

2 But essentially, to summarize, without  
3 going through and giving you all the names,  
4 there were 53 pages that were turned in at once.  
5 They were numbered. Then the names on the  
6 petitions were looked up on the SVRS, which is  
7 just what I told you.

8 Then they marked them on the petition.  
9 They checked them on the SVRS system, finished  
10 up the back side.

11 Then one additional sheet came in. You'll  
12 notice that on No. 17 of both petitions, it  
13 tells you the name of the voters. It's a single  
14 voter that was certified that came in on the  
15 single page after the first 53 pages.

16 So when we get to numbering these Lake  
17 County petitions, as I said, there's one that  
18 doesn't have a number on it. But it is that  
19 last page because it's got that voter on it.

20 And both of them are certifying to you that  
21 the verified signature petitions was 357, and  
22 the number entered into the SVRS system was 357,  
23 which is two more than were counted by the  
24 Democrats and two more than counted by the  
25 Stutzman campaign, subject to their one that had

1 Congressional District 1 on it.

2 So you now have sworn testimony that that  
3 was the number. It also importantly tells us  
4 that they numbered those pages, and that there  
5 were 54 pages total.

6 Now, I can give you a copy of -- if it's  
7 simpler, of the numbered pages in order, as  
8 numbered by Lake County, but also with  
9 Mr. Zody's numbering on it. I don't know if  
10 that helps you.

11 But at the end of the day, you'll have to  
12 look through. And if you've got them in the  
13 right order, you will see there's a gap.  
14 There's a missing Page 51.

15 CHAIRMAN BENNETT: And what is the  
16 importance of that missing page?

17 MR. BROOKS: Well, it's my contention that  
18 you've got -- in Lake County, you've got two  
19 more names certified than the Democrats counted  
20 and the Stutzman campaign counted.

21 And so it's certified those names, but you  
22 can't find -- one of them was a duplicate. So  
23 we can find it. It doesn't matter if it's on  
24 that page.

25 But the last one I'm going to come to in a

1 second is Casey Melcher, who was certified, but  
2 is not on there. And we believe it would have  
3 to be because page 51 is missing. I think it's  
4 likely that the original of Mr. Wozniak is on  
5 there, too, but it -- like I said, for counting  
6 purposes, it doesn't matter. He was certified.  
7 He either gets counted once, because it was not  
8 a duplicate, or he needs to get counted once on  
9 the page that's missing. He gets counted once,  
10 and that's all we're counting.

11 CHAIRMAN BENNETT: Wozniak gets us to 500.  
12 And then these affidavits ...

13 MR. BROOKS: Those are just procedural so  
14 that you understand where I'm getting up to for  
15 my argument that Casey Melcher should also be  
16 included, and that's your 501. And I'm trying  
17 to give you a chain of custody.

18 (Exhibit 18-Young was marked for  
19 identification.)

20 MR. BROOKS: This is 18. Young Exhibit 18  
21 is an affidavit from Trevor Foughty, who's the  
22 campaign manager for the Todd Young campaign.  
23 And basically, it outlines where -- what  
24 happened to those petitions when we picked them  
25 up from Lake County. They went to a young lady

1 named Rachel Kantrowitz, and then were given to  
2 Trevor.

3 Trevor went through the number of certified  
4 signatures and counted the pages and verified  
5 that there were 501 -- or not 501 -- 357, before  
6 he turned them in to the State, because he had  
7 found out that there weren't 357, which is --  
8 combined with the other two counties, gets to  
9 501, they wouldn't have turned them in at that  
10 point, because these were turned in in January,  
11 all very early.

12 So basically, this is saying that  
13 Mr. Foughty went through, all 54 pages were  
14 there. There were 357 certified petitioners --  
15 or -- yeah, petitioners. And then he delivered  
16 them to the Election Division.

17 And I will just comment on that, just  
18 briefly. I mean if you've been through a few  
19 elections, you'll get, occasionally, something  
20 that falls into the category of "stuff happens,"  
21 sometimes more colorfully put.

22 So can I say for sure what happened to that  
23 Page 51? I cannot. But I think Dale can attest  
24 to you that these petitions were handled  
25 multiple times. They were reviewed by the

1 Democrats. Copies were made. The press  
2 reviewed them. The staff scanned them.

3 So in this process, you know, without  
4 alleging any nefarious activities, so Page 51  
5 got stuck to Page 50 when they were copying, or  
6 it fell out. I mean things ...

7 But the fact of the matter is, the evidence  
8 in front of you, the sworn testimony is that  
9 there were 54 pages, and you have a missing  
10 page. And the extra two names on the SVRS  
11 system are from Lake County. So it all meshes  
12 in, except for the mystery of where Page 51  
13 disappeared to.

14 (Exhibits 19-Young, 20-Young, 21-Young, and  
15 22-Young were marked for identification.)

16 MR. BROOKS: This is 19, 20, 21, and 22.

17 So with respect to Mr. Melcher, which is  
18 the last several exhibits that I've given you,  
19 you can see plainly that the voter registration  
20 people entered Mr. Melcher's name into the SVRS  
21 system as having been certified. And you can  
22 see from the voter registration that he is  
23 qualified.

24 And again, I wish I could give you Page 51  
25 to show you where he signed in on the petition,



1 but that page is missing. So I'm going to give  
2 you my copy of -- I think ...

3 (Discussion off the record.)

4 MR. BROOKS: I'll go ahead and make this an  
5 exhibit because it may help.

6 (Exhibit 23-Young was marked for  
7 identification.)

8 MR. BROOKS: So I'm just going to give you  
9 one copy. You guys have this. All I've done  
10 with this is take Mr. Zody's Lake County  
11 petitions -- his are numbered up here.

12 But the number that matters is this number  
13 in the lower right-hand corner. So I have  
14 reordered these by the numbering system that was  
15 used by Lake County.

16 But if you want to cross-reference where  
17 you might elsewhere find it, it's up in the  
18 upper right-hand corner.

19 And again, it's a matter of going through  
20 and making sure that Page 51 is not in there.  
21 But I'd be really delighted if one of you did  
22 find it.

23 I've got one more exhibit to give you.  
24 Unfortunately, I don't have a hard copy of it.  
25 So what I'm going to do is show you a screenshot

1 of it. And I will give you an original of it,  
2 and other copies. It's actually very short.

3 It's just an affidavit from Brad King  
4 indicating, consistent with Mr. Foughty's  
5 affidavit, that before we filed, that he  
6 informed Mr. Foughty, Trevor Foughty that ...

7 (Discussion off the record.)

8 (Exhibit 24-Young was marked for  
9 identification.)

10 MR. BROOKS: In any event -- in any event,  
11 Exhibit 24, I only have one.

12 MR. PATTON: Can I show it to him real  
13 quick? And then you guys can circulate it.  
14 Sorry. I apologize.

15 (Discussion off the record.)

16 MR. BROOKS: That is all of the evidence  
17 that I have. I'm happy to -- I know I asked  
18 counsel for the Democrat party questions, and he  
19 was kind enough to answer them. I'm happy to,  
20 even though I'm not a witness, answer questions  
21 that the other parties may have, if that's  
22 helpful.

23 And then at this point I believe that it's  
24 appropriate to determine that there were 500 --  
25 in excess of 500 -- 500 or more legitimate

1 names. Every single one that is on that SVRS  
2 system is accounted for, subject, sort of, to  
3 the fact that Page 51 is missing.

4 So we know he's qualified, and we know that  
5 the voter registration people entered him into  
6 the system as having been certified.

7 So that gets us up to 501, and I believe is  
8 dispositive of the case. And I'm happy to make  
9 an argument on that -- on that point, a short  
10 one, subject to if counsel for either party is  
11 going to ask me a question.

12 CHAIRMAN BENNETT: Yeah. I suppose,  
13 procedurally, there's a cross-examination  
14 opportunity here, if anybody wants to.

15 Otherwise, we probably should proceed to  
16 final arguments.

17 MR. PATTON: I do have some questions.

18 CHAIRMAN BENNETT: Okay. Proceed.

19 MR. PATTON: Mr. Brooks, on Young Exhibit 6  
20 of LaPorte County, the David Bross petition,  
21 would you agree with me that only four voters  
22 were certified in the first congressional  
23 district?

24 MR. BROOKS: Yeah, I believe that's the  
25 case. And I might -- well, the voter -- the

1 SVRS says there were 24, and that would -- if  
2 that was added in, it would bring it up to 24.

3 MR. PATTON: But you would agree with me  
4 that on your exhibit, Young Exhibit 6, there's  
5 only four certified signatures?

6 MR. BROOKS: There is -- on that exhibit,  
7 it would not -- is that the one with a blank?  
8 Yeah, that one doesn't have an indication  
9 whether it was certified or rejected.

10 MR. PATTON: And so if you know, when the  
11 Young campaign received this CAN-4 form back  
12 from the LaPorte County Clerk's Office saying  
13 that there was only four certified signatures,  
14 did they question that determination, or  
15 otherwise try to get the LaPorte County clerks  
16 to amend their determination?

17 MR. BROOKS: Each of the different people  
18 that picked up those --

19 MR. PATTON: If you know.

20 MR. BROOKS: Well, I do know. Each of the  
21 people that picked up -- it wasn't the same  
22 person that picked up from each county --  
23 confirmed with the county registration people  
24 how many certified petitions there were. And  
25 they relied on that.

1           And those numbers are consistent with  
2           our -- with what is in the SVRS.

3           MR. PATTON: Okay. So you never disputed  
4           this form with the LaPorte County Clerk's Office  
5           to say, "You should have counted this one when  
6           you didn't"?

7           MR. BROOKS: That's correct.

8           MR. PATTON: And with regard to Young  
9           Exhibit 11, Robert Wozniak, where it has "dup.",  
10          same question. If you know, did the Young  
11          campaign ever dispute the -- that determination  
12          from the Lake County Board of Election Voter  
13          Registration?

14          MR. BROOKS: That's the same situation.  
15          The Young campaign asked the clerk's office how  
16          many certified petitions there were. They were  
17          told the answer to that question. They  
18          confirmed that in the SVRS system, and those  
19          numbers match.

20          MR. PATTON: And would you agree with me  
21          that it would be a good practice of any campaign  
22          to keep records of documents that they turn over  
23          to the voter registration office?

24          MR. BROOKS: I'm only doing -- I would  
25          assume -- I would argue that some would keep

1 records, I suppose.

2 MR. PATTON: And when those records were  
3 received back from the voter register office,  
4 would you also agree with me that it would be a  
5 good practice to compare what was received back  
6 from the voter registration office with a copy  
7 of what you gave them?

8 MR. BROOKS: Perhaps.

9 MR. PATTON: And also, when the documents  
10 are ultimately turned in to the Election  
11 Division, would you agree with me that it's also  
12 a good practice to keep a record and a photocopy  
13 of all the documents that were turned over to  
14 the Election Division before they're looked over  
15 by the Democratic party, the Stutzman campaign,  
16 and the media?

17 MR. BROOKS: Perhaps. But we're not in  
18 custody of those documents.

19 MR. PATTON: So if the --

20 MR. BROOKS: The document that is missing  
21 was -- occurred out of our hands.

22 MR. PATTON: So that --

23 MR. BROOKS: Had -- had Lake County not  
24 numbered the pages, we would not know. But  
25 fortunately, we know for certain that a page is

1 missing because Lake County numbered them.

2 MR. PATTON: And you argued that there's  
3 been a lot of human error on some of these  
4 things.

5 Couldn't there also be human error in the  
6 chronology of numbering these pages?

7 MR. BROOKS: Not according to the sworn  
8 testimony of the Lake County Voter Registration  
9 officials.

10 MR. PATTON: And so if this missing page  
11 had been photocopied by the Young campaign, you  
12 would have a copy, a photocopy -- maybe not the  
13 original, but a photocopy -- to share with us.

14 MR. BROOKS: Or, in the alternative, when  
15 the Democratic party was reviewing it, they  
16 could have made photocopies. And then we'd have  
17 one if it got lost at a later point.

18 MR. PATTON: But ultimately, the documents  
19 began with the Young campaign before they were  
20 turned over to any voter registration office,  
21 correct?

22 MR. BROOKS: They began -- that's -- well,  
23 yeah, of course.

24 MR. PATTON: They began with the petition  
25 carriers for the Young campaign?

1 MR. BROOKS: Of course, yeah.

2 MR. PATTON: And so you're asking the  
3 Commission to essentially certify at least two  
4 signatures that we don't even have a copy of --

5 MR. BROOKS: No, that's not true.

6 MR. PATTON: -- Mr. Melcher --

7 MR. BROOKS: That's not true. You've got a  
8 copy of the signature of Mr. Wozniak.

9 MR. PATTON: Do we have a copy of the  
10 signature of Mr. Melcher?

11 MR. BROOKS: No.

12 MR. PATTON: And the copy of the signature  
13 for Mr. Wozniak is not certified, correct?

14 MR. BROOKS: It's listed as a duplicate,  
15 but it's not --

16 MR. PATTON: It's not certified, though,  
17 correct?

18 MR. BROOKS: -- duplicate.

19 And it is certified because it's on the  
20 SVRS list.

21 CHAIRMAN BENNETT: Let me interpose this  
22 question. At this point in time, has anybody  
23 found the Wozniak duplication?

24 COMMISSION MEMBER OVERHOLT: No.

25 CHAIRMAN BENNETT: Well, let me ask



1 everyone here to look. I'm curious if anyone  
2 has seen that.

3 So no one has seen the duplicate signature  
4 for Mr. Wozniak.

5 Anything further?

6 MR. PATTON: And would you agree with me  
7 it's the responsibility of the campaign and the  
8 candidate to actually submit the correct number  
9 of -- or the 500 or more certified signatures,  
10 and not the responsibility of the election  
11 officials in the counties?

12 MR. BROOKS: No, I don't agree with that.

13 This Commission has long ruled that it is  
14 not the responsibility of the campaigns to go  
15 back and try to verify numbers and documents  
16 that were done by the voter registration.

17 In fact, when I get to my argument, I'll  
18 give you a couple of quotes on it.

19 MR. PATTON: And with regards to this last  
20 exhibit from Brad King, the affidavit, doesn't  
21 that affidavit indicate that that 501 signatures  
22 is just based on the SVRS document that was  
23 created, but not on the -- that the 501 is not  
24 based on the actual certified signatures on the  
25 petitions?

1 MR. BROOKS: Well, I think we've been  
2 through this about five times.

3 MR. PATTON: I'm asking you about your  
4 exhibit.

5 MR. BROOKS: No. I've said there is -- if  
6 you're asking about the Melcher signature, there  
7 isn't one.

8 MR. PATTON: If I may approach and see  
9 Exhibit 24, the Brad King exhibit?

10 Doesn't Mr. King's Paragraph 4 say that the  
11 total certified signatures for the Todd Young  
12 campaign, as reflected on the SVRS, not as  
13 reflected on the --

14 MR. BROOKS: Of course it says that.  
15 Everybody here can read it. I've said nothing  
16 different.

17 MR. PATTON: No further questions.

18 MR. BOPP: I have no questions.

19 CHAIRMAN BENNETT: No questions, you say?

20 MR. BOPP: No questions.

21 CHAIRMAN BENNETT: Anything else before  
22 final summations?

23 COMMISSION MEMBER KLUTZ: Yes.

24 CHAIRMAN BENNETT: Go ahead.

25 COMMISSION MEMBER KLUTZ: Young Exhibit 1,

1 Neiswinger. What was your -- you're stating  
2 here that he was incorrectly listed in  
3 Congressional District 2? Is that your position  
4 on this one?

5 MR. BROOKS: Yes. That was -- yes.

6 COMMISSION MEMBER KLUTZ: So he is situated  
7 similarly as Bross in LaPorte?

8 MR. BROOKS: No. Bross, I believe, is the  
9 one that had a blank. And I can look back.

10 But you've got three situations. One says  
11 the wrong congressional district, one is a  
12 blank, and one said duplicate when it wasn't.

13 CHAIRMAN BENNETT: Bross was blank.

14 MR. BROOKS: But all of those names were  
15 on the SVRS as certified by the local voter  
16 registration.

17 CHAIRMAN BENNETT: Any other questions?

18 (No response.)

19 CHAIRMAN BENNETT: Hearing none, why don't  
20 we have, if petitioners would like, a brief  
21 summation from both petitioners, and then we'll  
22 hear from the candidate.

23 MR. BROOKS: All right.

24 MR. BOPP: Thank you. If you look at the  
25 statute, your job is very simple. There's

1 clearly a division of responsibility.

2 Your responsibility, when there's a sworn  
3 statement that has been filed, a CAN-1 as we  
4 have done, is to, quote, "Determine the validity  
5 of the questioned declaration of candidacy."

6 MR. BROOKS: I'm sorry. Where are you  
7 reading from?

8 MR. BOPP: 3-8-1-2, subsection (f).  
9 "Determine the validity of the questioned  
10 declaration of candidacy."

11 COMMISSION MEMBER KLUTZ: Mr. Young's  
12 declaration of candidacy?

13 MR. BOPP: Yes. And in this case it's  
14 Mr. Young's, filed on January 21.

15 Now, that section goes on into subsection  
16 (a), which says -- or subsection (g), where it  
17 says that, "The Commission shall deny a filing  
18 if the Commission determines that the candidate  
19 had not complied with the applicable  
20 requirements for the candidate set forth in  
21 this -- in this title."

22 And that title is that he is to file a  
23 declaration of candidacy. And in this case,  
24 under Section 3-8-2-8, a declaration of  
25 candidacy for the office of the United States

1 Senate must be accompanied by a petition signed  
2 by at least 4,500 voters in this state,  
3 including at least 500 voters from each  
4 congressional district.

5 So did he file with his declaration of  
6 candidacy on January 25 a petition which  
7 included 500 voters from each congressional  
8 district?

9 Now, the statute could have imposed that  
10 duty on you. It could have said, "You go  
11 determine whether or not a particular name on  
12 the petition is a registered voter at the time  
13 the petition was filed." But, of course, it  
14 doesn't.

15 Under 3-8-2-9, it says that the voter  
16 registration office in the county where the  
17 petitioner is registered must certify whether  
18 each petitioner is a voter at the residence  
19 address listed in the petition at the time the  
20 petition is being processed.

21 The voter registration office must certify  
22 that the person is a registered voter. And it  
23 tells that that certification must accompany and  
24 be part of the petition.

25 So the petition is to be filed. The person

1 who certifies whether or not the person is a  
2 voter is the voter registration office. And  
3 that's it.

4 Now, obviously, there's a big problem with  
5 the Young campaign. And it's their gross  
6 negligence that they want you to fix.

7 Every other candidate that does voter  
8 petitions knows that there is human error in  
9 this process. They work with the voter  
10 registration offices. They actually look at the  
11 petitions once they are certified. They  
12 actually count how many certified petitions --  
13 or certified signatures there are on these  
14 petitions.

15 And if they don't have enough, you know,  
16 and if they're concerned about being too close  
17 to the line, they distribute more signatures --  
18 petitions. They present more petitions to the  
19 county for certification.

20 They could have done that up until  
21 February 2. If they would have bothered, I  
22 suppose, (1) to make a copy of the petitions  
23 that they were filing, which they have not  
24 presented to you, but still claiming there's a  
25 page with two voters you're to count. But

1     apparently, they didn't make copies of what they  
2     submitted to the Election Division.

3             So now they're saying, I guess, they didn't  
4     forget or they didn't -- you know, maybe you are  
5     the ones that screwed up, and that you're to be  
6     blamed, and you're -- you know, rather than  
7     their failure to ensure that what they presented  
8     met the legal requirements.

9             So that's the first thing that they want  
10    to do. They want to make it your job to certify  
11    signatures with the -- and not the voter  
12    registration offices.

13            The second thing they want to do is to  
14    substitute the certified petitions for this new  
15    Statewide Voter Registration Computer System  
16    that has information on it, certainly, with  
17    respect to certification of signatures.

18            But as has been explained, it's purely  
19    voluntary. It does not constitute a  
20    certification of how many signatures are  
21    presented on the petition, as opposed to what is  
22    being manipulated by the -- the voter  
23    registration people to do this on a volunteer  
24    basis. They are not required to use that module  
25    that generates that report. They're not

1 required to use it.

2 And if you would count the number of  
3 signatures that have actually been certified and  
4 presented to you and filed with the election  
5 board, you would find that each county's number  
6 that was in the system is actually wrong in  
7 terms of comparing the certified signatures with  
8 this voluntary, unofficial process of  
9 generating -- it may be helpful information to a  
10 campaign, but it's not -- it's not meeting their  
11 legal requirements.

12 Now, they had until February 22 to get  
13 around to counting their signatures that were  
14 verified on their petitions. And they have  
15 found out they have 497, or look at the back  
16 side, they had 498.

17 So they had two more weeks to fix that  
18 problem. They could have passed around  
19 petitions. They could have filed them with the  
20 voter registration by February 2.

21 And then they could have filed, as in the  
22 Santorum case, a supplemental declaration of  
23 candidacy with those additional petitions. And  
24 they would -- then, if they were over 500, they  
25 would have met the statutory requirements.



1           Now, in the Nader case in 2000 -- in  
2   2000 -- in the minutes of August 24, you know,  
3   the chairman explained to the Nader campaign --  
4   and this is a write-in candidate -- they had a  
5   big job of getting a lot of signatures around  
6   the state.

7           They said -- the chair clarified that it  
8   is not the Commission or the Election Division  
9   that certifies the number of valid signatures on  
10   a candidate's petition. He states that the  
11   county clerk certifies the number of valid  
12   signatures, and that the Commission accepts the  
13   certification.

14          Now, if he wanted to contest what the  
15   Commission -- what the -- the results of the  
16   certifications of their petitions, he could have  
17   gone to the counties and said, "Wait a second.  
18   You didn't deal with this one," or, "Wait a  
19   second. Where is this page?"

20          You know, these are the problems -- he  
21   wants you to think that whatever the counties  
22   did or for whatever reason that they did it,  
23   that it was wrong, when we don't even know why  
24   they said it was a duplicate. Was there a name  
25   change by the person? Does anybody know that?

1 I don't know. But they did it for a reason.

2 Why wasn't there this page that could have  
3 just been misnumbering -- why wasn't that  
4 submitted? You know, why were other people  
5 simply not dealt with?

6 These are all things that the candidate has  
7 a responsibility to go to the applicable party,  
8 who, under the statute, has the responsibility  
9 to certify whether or not these names on the  
10 petition are -- are registered voters, not the  
11 Commission.

12 So they had ample time to simply get around  
13 to figuring out that they had a problem, which  
14 is they were doggone close to the line and that  
15 they better at least count their own petitions.  
16 But instead, they come here, and, in my view,  
17 make a farce of the process.

18 This is the rule of law. How many  
19 candidates have fulfilled this obligation over  
20 all these years, at the expense of -- both  
21 financial and attention of their staff and their  
22 field people, to make sure that the county --  
23 that they get sufficient certified signatures  
24 from the counties?

25 Why wouldn't it be just fine for the next

1 person running for secretary of state to just  
2 not have any certified signatures? Why not  
3 file, like the Stutzman campaign in -- in  
4 Congressional District 1 had over 700 names on  
5 their petitions. Why don't they just file those  
6 with the Election Division?

7 CHAIRMAN BENNETT: One minute.

8 MR. BOPP: Thank you.

9 Why don't they just file that with the  
10 Election Division, and then make somebody come  
11 in and challenge them? And then, of course,  
12 attack them in the press for their own failures.

13 And then say, "Well, see, here's thousands  
14 of voter registration records that we want to  
15 show you now that shows that if we would have  
16 gotten around to having them certify these, and  
17 if we had bothered to count, you know, we --  
18 here, you should certify them." That's what  
19 they're doing here.

20 That is an unacceptable inversion of the  
21 process, the rule of law. The counties are to  
22 certify.

23 Their job is to file enough certified  
24 signatures not to have you fix their problems.  
25 That's what they're asking you to do.

1 CHAIRMAN BENNETT: Thank you, Mr. Bopp.

2 Any summation from the Democratic Party?

3 MR. PATTON: Thank you. The CAN-4 form is  
4 a two-sided form. The certification is on the  
5 back. When you count up the number of certified  
6 signatures from Lake County, LaPorte County, and  
7 Porter County, it's 498.

8 You don't have to count the front of every  
9 page. The Young campaign could have just looked  
10 at the back page and counted up and arrived at  
11 that 498 number.

12 They want to rely on this SVRS, and, out of  
13 thin air, come up with a few more signatures  
14 that aren't there.

15 As Mr. Bopp said, it's not your job to  
16 certify signatures. That's the job of the local  
17 officials. The local officials certified 498  
18 signatures.

19 The Young campaign wants you to certify  
20 signatures that we don't even have. Not one of  
21 these duplicates, not one of these -- that's --  
22 there's no designation made. A signature that's  
23 not even on a piece of paper that we have. And  
24 they're asking you to certify that to get to the  
25 500.