MS. THOMPSON: Yes.

MR. BAUGHN: And I will be responsible for them going forward. Also for fear of having to come back here, I will make sure that I get it taken care of.

CHAIRMAN BENNETT: The Petroleum Marketers have been before us three times. This is their fourth.

VICE CHRMN PRO TEM CLAYTOR: The last one was nine years --

MR. BAUGHN: Yeah. I was going to say, for our current executive director's tenure, I don't think we've been -- been before you on either association, actually.

CHAIRMAN BENNETT: Propane is the same?

VICE CHRMN PRO TEM CLAYTOR: Mr. Chairman, to jump out on a branch and see if you want to cut it off, I'll make a motion on the first entity, Indiana Petroleum Marketers and Convenience Stores PAC. Because it's not the first time -- however, the last time was some time ago -- I would recommend that we do a 50 percent penalty.

CHAIRMAN BENNETT: I suppose we should take these one at a time.
Okay, there's a motion. Is there a second?

COMMISSION MEMBER OVERHOLT: I'm sorry.

That's for the Petroleum Marketers?

VICE CHRMN PRO TEM CLAYTOR: Yes.

CHAIRMAN BENNETT: Petroleum Marketers.

Did I hear a second?

COMMISSION MEMBER OVERHOLT: I'll second.

CHAIRMAN BENNETT: We have a motion and a second. Any discussion?

(No response.)

CHAIRMAN BENNETT: All in favor say aye.

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say nay.

(No response. Motion carried.)

CHAIRMAN BENNETT: Motion carried. Fine reduced by 50 percent for Petroleum.

MR. BAUGHN: Thank you, Mr. Chairman.

CHAIRMAN BENNETT: Now, with regard to Indiana Propane?

VICE CHRMN PRO TEM CLAYTOR: And then, Mr. Chairman, on the Indiana Propane Ed. PAC, similarly, it's been nine years. Although there were violations prior to that, I would recommend that we reduce the penalty by 50 percent.

I move that we reduce the penalty by 50
percent.

CHAIRMAN BENNETT: Is there a second for that motion?

COMMISSION MEMBER KLUTZ: Second.

CHAIRMAN BENNETT: We have a motion and a second. Any discussion?

(No response.)

CHAIRMAN BENNETT: Hearing none, all in favor say aye.

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say nay.

(No response. Motion carried.)

CHAIRMAN BENNETT: Motion carried. Fifty percent reduction for Indiana Propane PAC.

MR. BAUGHN: Thank you, Mr. Chairman, Members of the Committee.

CHAIRMAN BENNETT: Thank you.

(Discussion off the record.)


MS. THOMPSON: Mr. Chairman, that's on page 28.
CHAIRMAN BENNETT: Anything from the Division on this?

MS. THOMPSON: No.

CHAIRMAN BENNETT: You may proceed.

MR. KAZMIERCZAK: I'm sorry. I didn't know how many members there were, so I only have a couple of copies.

Inside this package you'll find a letter that was sent to the Indiana Election Division in reference to this penalty, and also the administrative cause.

This is in reference to -- I believe it was an annual report that was not submitted in proper time. When I found out that the annual report was due, I immediately contacted these two young ladies here and corrected the problem.

However, the treasurer that was active at the time retired abruptly, because he had kidney failure, from the fire department. He was a captain. And in doing so, there was a lapse and a gap in obtaining the correspondence from him and filing the proper paperwork in time.

If I could refer to the -- the third page is the email correspondence between Ms. Taylor, Ms. Tomkins, and myself.
The fourth page is off of your website. As of Monday morning, you'll see that our reports were current, minus the 2014 annual report.
And then on the fifth and sixth pages inside your packet here, I -- and there might be an additional one in there, so I apologize. I would also like to point out that when filing, the box was checked, "If this is a new address."
On the last two filings it was checked to put down my individual address, because everything -- all the correspondence had been going to a P.O. Box, which Jack Van Etten, the previous, had set up. So we would have been delinquent again had I not been diligent in trying to go to the P.O. Box and getting that.
So at this time I would ask the Board's approval or Commission's approval to waive the fee, or reduce it, but more on the waiver side.
CHAIRMAN BENNETT: Questions by the Commission?
MR. KAZMIERCZAK: And I would like to say I do apologize for any inconvenience we've caused. Not that that matters, but I'm just throwing that out there.
CHAIRMAN BENNETT: Any reply by the
Division? The reports are all -- are all the
reports up to date?

MS. THOMPSON: Yes.

CHAIRMAN BENNETT: The PAC is still active?

MR. KAZMIERCKAZ: Yes, sir.

CHAIRMAN BENNETT: And the accounts are
open?

MR. KAZMIERCKAZ: Yes, sir.

VICE CHRMMN PRO TEM CLAYTOR: And when was
the illness of the individual that ...

MR. KAZMIERCKAZ: I can't give you an exact
date. The filing that was not done was on -- he
was -- I believe he left in October. Therefore,
I believe the annual report was not due.

And then there was another report on top of
that one, because it was the October to
December, and then the annual that was not done
because he had left the department.

And I didn't -- I've been the chairman
since 2008. And I know ignorance is not an
excuse, but I was -- Jack was the one that was
handling all that. I did not know that those
were even to be done. But as soon as we
found out, I did it immediately.

VICE CHRMMN PRO TEM CLAYTOR: Mr. Chairman,
in an act of being totally inconsistent with
everything I've done yet today, I would move
that we reduce the fine to 25 percent.

CHAIRMAN BENNETT: Is there a second for
purposes of discussion?

COMMISSION MEMBER KLUTZ: I'll second.

CHAIRMAN BENNETT: We have a motion and a
second.

What about the four previous times?

VICE CHRMN PRO TEM CLAYTOR: That's why I
said I'm totally inconsistent with what I've
done so far today.

COMMISSION MEMBER KLUTZ: Well, I would
support it because it sounds like, since he's
become treasurer -- that was after -- right
after 2008?

MR. KAZMIERCZAK: Jack? No, that's -- I
became chairman in 2008. Jack's been the
treasurer for --

COMMISSION MEMBER KLUTZ: Was there a
change in 2008 in the structure, or not?

MR. BAUGHN: I became chairman, yes.

That's the only structural change. He was
always the treasurer -- secretary/treasurer,
excuse me.
COMMISSION MEMBER KLUTZ: So since 2008, have there been any reports late under your watch?

MR. KAZMIERCZAK: None to my knowledge.

MS. THOMPSON: No.

COMMISSION MEMBER KLUTZ: That's why I was asking.

MR. KAZMIERCZAK: Except this -- well, the two, the combined, the October to December, and then the annual report.

MS. THOMPSON: That's just the same.

MR. KAZMIERCZAK: Or, yeah, it's the same one. I'm telling you I'm naive today.

COMMISSION MEMBER OVERHOLT: But it's the secretary/treasurer who retired?

MR. KAZMIERCZAK: Yes. He was the one that was doing all the reporting.

COMMISSION MEMBER OVERHOLT: So when did -- so now you're -- who's doing the reporting now?

MR. KAZMIERCZAK: I am now.

COMMISSION MEMBER OVERHOLT: And you started doing that in 2014?

MR. KAZMIERCZAK: I took it over at the end of -- where are we? In '15? Yes, in '14, because as soon as he left, once we found out,
we made correspondence, and I took it over and handled it from there.

CHAIRMAN BENNETT: Do we have any further discussion or questions?

(No response.)

CHAIRMAN BENNETT: We have a motion and a second for a 25 percent fine. All in favor say.

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say nay.

(No response. Motion carried.)

CHAIRMAN BENNETT: Motion carried. Reduced to 25 percent.

MR. KAZMIERCZAK: Thank you.

MS. TAYLOR: This is Friends to Elect Debra S. Jenkins, on page 84.

Cause No. 2015-6581-111. Proposed civil penalty of $1,000.49, and it's a late CFA-11 supplemental report.

MS. JENKINS: Good afternoon, Mr. Chairman and Commission. My name is Debra Jenkins. I stand before you. I filed my annual report, and at that time my report included all correspondence and funds that had been received during the calendar year prior.

I received a letter in March from Elaine
and Abbey's office stating that I did not file a supplemental report.

I made a copy of my supplemental report and went to the office and said, "Yes, I did."

And they said, "No, you didn't, this other report." What that other report was was an in-kind contribution that I did not know until January, when I filed my report, that that was paid on October 16. So immediately when they told me, I filed it in their office.

So I stand before you. I am a county-elected official. First time running for state office. I'm not used to the 24-hour reporting. I've been in office, my seventh year.

So I stand before you and ask for your forgiveness and a dismissal of this, and a lesson well-learned.

CHAIRMAN BENNETT: Okay. Any reply by the Division?

(No response.)

CHAIRMAN BENNETT: Any questions?

VICE CHRMN PRO TEM CLAYTOR: What was the in-kind?

MS. JENKINS: It was a mailing done by a
local mayor in the district -- the house
district that I ran. He did a mailing, and he
paid for that. And I didn't know until January
when he paid and how much he paid.

VICE CHRMN PRO TEM CLAYTOR: Okay. So he
did not --

MS. JENKINS: He did not let me know when
and how much until January. He was going to get
with his treasurer. It went on and on and on.
I did it in my annual report, there again, you
know, putting October 16. You know, yeah, it
was done. So ...

COMMISSION MEMBER KLUTZ: Mr. Chairman, I'm
not sure how you would report an in-kind
contribution if you didn't know you received it.
I'd make a motion to waive the proposed
penalty.

VICE CHRMN PRO TEM CLAYTOR: Second.

CHAIRMAN BENNETT: We have a motion and a
second. Any discussion?

(No response.)

CHAIRMAN BENNETT: All in favor say aye.

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say nay.

(No response. Motion carried.)
CHAIRMAN BENNETT:Penalties waived. Case dismissed.

MS. JENKINS: Thank you so much.

Thank you, ladies.

MS. TAYLOR: You're welcome.

(Pause.)

MR. NARLA: Hi. This is regarding Administrative Cause 2015-6623-58 and 157, two of them.

My name is Om Narla, spelled as N-A-R-L-A, last name. First name Om, spelled as O-M.

I started this --

CHAIRMAN BENNETT: Hang on. Let us get the file first.

MR. NARLA: Sure.

MS. TAYLOR: It's on page 53. This is Victory Hoosier, Cause No. 2015-6623-58,

proposed civil penalty of $50.49.

And the second on page 105,

Cause No. 2015-66-23-157, with a proposed civil penalty of $1,000.49. And the committee is closed.

CHAIRMAN BENNETT: Okay. You may proceed.

MR. NARLA: I formed this company last year. I used an outside consultant. We formed
it. There was no activity. We never started --
we never opened a bank account.

And because this is new to me, I was not
aware of all the rules. I did -- I did receive
notification that I should file the notice, I
should file the annual report. But -- I told my
consultant, but obviously they did not file it,
and I did not know.

But when I saw this, I thought I would come
here. I would like to request you to waive it
since we closed the committee and we never had
any activity on this.

CHAIRMAN BENNETT: Any reply by the
Division?

(No response.)

CHAIRMAN BENNETT: Questions from the
Commission?

COMMISSION MEMBER KLUTZ: No contributions
received?

MR. NARLA: No, no --

COMMISSION MEMBER KLUTZ: No expenditures
made or --

MR. NARLA: -- no, no --

COMMISSION MEMBER KLUTZ: -- or no
contributions made to the candidates?
MR. NARLA: No.

CHAIRMAN BENNETT: Motion?

VICE CHRMN PRO TEM CLAYTOR: Mr. Chairman,

I move we dismiss.

CHAIRMAN BENNETT: Second?

COMMISSION MEMBER KLUTZ: Second.

CHAIRMAN BENNETT: We have a motion and a

second. Any discussion?

(No response.)

CHAIRMAN BENNETT: All in favor say aye.

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say nay.

(No response. Motion carried.)

CHAIRMAN BENNETT: Motion carried. Case

dismissed.

MR. NARLA: Thank you. Thank you very

much.

CHAIRMAN BENNETT: Is anyone left for

campaign finance?

(No response.)

MS. THOMPSON: We have some cleanup to do.

CHAIRMAN BENNETT: I would ask the Campaign

Finance Staff to identify any matters for which

a motion for continuance was received for

today's meeting.
MS. THOMPSON: Yes. On page 38, we have a continuance. Friends of Andrew Wilson has filed a motion to continue, Cause No. 2015-5928-16. He has a proposed civil penalty of $1,000.49 and couldn't be here today. That was it.

CHAIRMAN BENNETT: There's only one?

MS. THOMPSON: Well, that's one.

And then I have one on page 57. This is the Constitution Party of Indiana. They've asked for a telephonic hearing. In case this was denied, they asked for a continuance.

CHAIRMAN BENNETT: Did they say why they needed a continuance?

MS. THOMPSON: They just -- I don't ...

MR. KING: Mr. Chairman, Members of the Committee, I had some correspondence with the chair of this committee who filed a motion for a telephonic hearing, which the Commission has never conducted before.

And counsel may have thoughts about what is appropriate and possible under AOPA. But I did advise the chair that if the Commission denied the motion for telephonic hearing, that the committee might wish to request a continuance.

CHAIRMAN BENNETT: Okay. Are there any
MS. THOMPSON: That's it.

COMMISSION MEMBER KLUTZ: Mr. Chairman, I may have messed up a little. When I walked in, I saw a representative of Friends of Jim Banks, which I have a conflict with. So I told him that I would be recusing myself, and that it would be addressed when a proxy could be appointed.

But I mean the person didn't seek a continuance, but I guess I inferred that it would be continued by my statement.

So I guess I would make a motion that this matter be continued until I can have a proxy at the next meeting.

CHAIRMAN BENNETT: All right. So we'll add Friends of Jim Banks to the list of continuances.

COMMISSION MEMBER KLUTZ: Yeah.

CHAIRMAN BENNETT: Any objection?

VICE CHRMN PRO TEM CLAYTOR: No.

COMMISSION MEMBER OVERHOLT: No.

CHAIRMAN BENNETT: Okay. So we have three motions for continuance. I guess I would entertain motions for all three of them.
VICE CHRMN PRO TEM CLAYTOR: So moved.

CHAIRMAN BENNETT: Is there a second?

COMMISSION MEMBER OVERHOLT: Second.

CHAIRMAN BENNETT: We have a motion and second to continue the three cases that we've discussed.

Hearing no further discussion, all in favor say aye.

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say nay.

(No response. Motion carried.)

CHAIRMAN BENNETT: The ayes have it. The three cases are continued.

VICE CHRMN PRO TEM CLAYTOR: Mr. Chairman, just a technical point. Do we need to actually deny the telephonic hearing for Constitution Party of Indiana since we've already continued them?

CHAIRMAN BENNETT: That's an excellent segue to the next item on our agenda.

Committee has filed a motion requesting the Commission to conduct a hearing by telephone and an enforcement action, which was scheduled for today.

I'll ask the Campaign Finance Staff to
identify the action from which the motion was received, and to refer the Commission to the text of this motion for review.

So do you have that motion to continue that was filed by...

MS. THOMPSON: Is this what you're looking for (indicating)?

CHAIRMAN BENNETT: So I have a motion for a telephonic hearing in the matter of the Constitution Party of Indiana from Evansville, Indiana. And due to the shortness of time -- it's simply a motion for telephonic hearing.

I think this might be an appropriate time to recognize counsel to discuss for us briefly the AOPA requirements, or lack thereof, with regard to telephonic hearings.

Is there any provision for such a thing?

MR. SIMMONS: Mr. Chairman, and Members of the Commission, I looked at both what I thought would be applicable to Open Door Law, which was amended in 2013 to permit certain members of a state commission to participate telephonically, but it provides no provision for parties to a matter before a commission to appear telephonically.
In AOPA, Administrative Orders and
Procedures Act, the only mention I found in
those series of statutes was with respect to if
the Commission were to hold a pretrial
conference, for instance, it could allow the
parties to participate by telephone.

CHAIRMAN BENNETT: Okay. But there's
nothing to indicate that a campaign finance
matter could or should be held by telephone?

MR. SIMMONS: I never found anything.

CHAIRMAN BENNETT: Any other thoughts on
that, counsel?

MR. KOCHEVAR: The only other thought I
have is that in AOPA, Section 15, which is
titled Participation in Proceedings, which
essentially states that any party can
participate in person or through counsel.

And I will also note, as Mr. Simmons has
pointed out, that while telephonic conferences
are afforded under statute to preliminary
hearings, no such statute is found in hearings
before administrative law judges, as you're
acting as now, during regular hearings.

So I would say that statute does not speak
on it, and may go so far as to say that it is
not allowed under statute.

CHAIRMAN BENNETT: Okay. Thank you, counsel.

Is there a motion to either grant or deny the request for hearing by telephone?

COMMISSION MEMBER OVERHOLT: I'd move to deny the request.

CHAIRMAN BENNETT: Is there a second?

COMMISSION MEMBER KLUTZ: Second.

CHAIRMAN BENNETT: We have a motion and second. All in favor say aye.

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say nay.

(No response. Motion carried.)

CHAIRMAN BENNETT: The ayes have it.

Motion for telephonic hearing denied.

The Campaign Finance Staff has received correspondence from some committees which have not appeared at today’s meeting. I guess I’d like to give the members an opportunity to review that correspondence, which is included in the binders, to identify any matters which may require Commission consideration, other than having a default entered against the committee for failing to appear.
So if you can direct the Commissioners' attention to which tab?

MS. THOMPSON: The blue one, the dark blue.

CHAIRMAN BENNETT: The dark blue one. It appears that many of them were here today.

MS. THOMPSON: Some of them were here today, yes.

CHAIRMAN BENNETT: We're just looking at the ones who were not here.

COMMISSION MEMBER KLUTZ: I guess I thought it was our past practice that we did not consider requests made in correspondence to continue, as opposed to their personal attendance.

CHAIRMAN BENNETT: How was a motion for continuance -- these aren't motions for continuances. They're ...

I tend to agree with Commissioner Klutz. You either file a motion to continue, or you show up.

COMMISSION MEMBER KLUTZ: When you file a continuance, you show up at the scheduled hearing date. But we can't go through all these letters, paragraph by paragraph, and make their arguments for them or try to interpret what's on
this paper. I mean that's just my feeling.

CHAIRMAN BENNETT: I concur with that.

Well, does anyone want to make a motion generally on this, or should we just deal with what we have in front of us and say there's no reason not to default?

(Discussion off the record.)

CHAIRMAN BENNETT: Well, there's no one present to testify on any remaining campaign finance hearings scheduled for today, and I declare that the hearings on all the remaining campaign finance matters scheduled for today closed.

Is there a motion to impose the entire amount of the proposed penalty, plus mailing costs, in all remaining campaign finance enforcement actions?

VICE CHRMN PRO TEM CLAYTOR: So move.

MS. THOMPSON: Well, we have a couple more that we need to address before you do a mass --

CHAIRMAN BENNETT: Okay, okay.

MS. THOMPSON: We had two committees from the last meeting, Green, Citizens for Robert Green, who's on like the first 10 pages or so.

He was to close his committee. If he closed his
committee, we would dismiss these, was what was
on the table last time, which he has closed.

CHAIRMAN BENNETT: Wasn't he here today?

MS. THOMPSON: He was not here.

CHAIRMAN BENNETT: So that should be added
to the list.

MS. THOMPSON: And I have one more,
page 75, which is Richard Mourdock for State
Treasurer, was another one that was asked to be
continued to close, and he did close it.

And page 18 is Columbus Firefighters. That
was a continued to close, and they did close it.

CHAIRMAN BENNETT: Any others?

MS. THOMPSON: Those were the only ones
that -- I do have one other one on page 18. No,
page 26. This is Committee to Re-elect Sue
Landske. Mr. Landske could not make it today.
I did work with him to get the senator's report
closed, and we did get it closed.

And so I told him that I would bring this
before the Commission this afternoon.

CHAIRMAN BENNETT: For dismissal, along
with the three others that you mentioned?

MS. THOMPSON: Yeah.

CHAIRMAN BENNETT: So we have four:
Columbus Firefighters, Robert Green, Richard Mourdock, Sue Landske who we were waiting for closure. Those closures have occurred. And I guess I would ask if there's a motion to dismiss those cases.

COMMISSION MEMBER KLUTZ: So move.

CHAIRMAN BENNETT: We have a motion. Is there a second?

VICE CHRNM PRO TEM CLAYTOR: Second.

CHAIRMAN BENNETT: All in favor say aye.

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say nay.

(No response. Motion carried.)

CHAIRMAN BENNETT: Motion carried. Those four are dismissed.

Now we're back to the default issues. And those are in the royal blue tab in your binder. We've all had an opportunity to look at those. And I would ask if there's a motion to impose the entire amount of the proposed penalty, plus mailing costs, in those remaining campaign finance enforcement actions.

VICE CHRNM PRO TEM CLAYTOR: Did none of those letters ask for continuance?

MS. TAYLOR: That's correct.
VICE CHRMN PRO TEM CLAYTOR: Those have all been handled?

MS. TAYLOR: Yes.

CHAIRMAN BENNETT: As a motion for continuance.

COMMISSION MEMBER KLUTZ: As a follow-up to that question, when we receive these letters, do we send them anything back to say that we don't accept these as testimony? Or I mean...

MS. TAYLOR: We preemptively try to tell them, "You can send a letter," because I can't tell them they can't send a letter.

COMMISSION MEMBER KLUTZ: Right.

MS. TAYLOR: But we say, "The Commission generally doesn't consider letters, but you are welcome to send them."

COMMISSION MEMBER KLUTZ: I wonder if we should be more --

MS. TAYLOR: I believe we've changed the hearing notice to kind of reflect that from the last time, because we used to say, "Go ahead and send a letter."

And now we say, "You can send a letter to supplement your in-person testimony."

CHAIRMAN BENNETT: Now it says that?
MS. TAYLOR: I believe so.

CHAIRMAN BENNETT: "The letter can be used to supplement your in-person testimony"?

"Letters will not be accepted as testimony. You have to appear in person"?

MS. THOMPSON: It doesn't quite say that.

COMMISSION MEMBER KLUTZ: I think we should say that. I mean I just don't want somebody to send a letter and -- thinking that it's going to be considered, and then therefore, they don't show up.

COMMISSION MEMBER OVERHOLT: Well, should we even just be more clear and say, "You either have to appear in person or specifically request a continuance"?

CHAIRMAN BENNETT: Well, that's ...

MR. KING: Mr. Chairman, Members of the Commission, we'd be happy to revise the letter to read however you'd like it to read.

CHAIRMAN BENNETT: I think that makes sense. It makes it very clear. Those are the only options. We will not consider their case on the merits based on a letter.

COMMISSION MEMBER KLUTZ: I guess that may be -- if -- affirmatively that they could
request a continuance if -- if that's all they
have to do, and they -- they're constantly
continuing these --

CHAIRMAN BENNETT: Well, the continuance
can be denied.

COMMISSION MEMBER KLUTZ: Yeah, that's
true, that's true.

CHAIRMAN BENNETT: They have no assurances
that it won't be denied, particularly after the
second one or something.

So we still need a -- a motion, or -- did
we get a second to the motion to impose the
entire amount of the proposed penalty, plus
mailing costs on the remaining campaign finance
enforcement actions?

COMMISSION MEMBER KLUTZ: Second.

CHAIRMAN BENNETT: We have a motion and a
second. Any further discussion?

VICE CHRMN PRO TEM CLAYTOR: Can I ask a
question again? I'm sorry I'm such a rookie at
this. I'm sorry to throw wrenches in.

But it's come up a couple times today on
addresses and issues. And I noticed one of the
very last things in here is someone filing an
appearance, and then there's a notice sent to
the entity again.

Are we also sending notice to attorneys who file appearances before us, or do we just send it to the entity?

CHAIRMAN BENNETT: I think we should communicate with counsel directly. Do we do that?

MS. THOMPSON: We usually do that.

VICE CHRMN PRO TEM CLAYTOR: Okay. So in addition to the person we're asking to appear, we do send it to their attorney of record.

MS. TAYLOR: I think this one in the back is, "I appointed you attorney. You sent your appearance, but you included your appearance with the notice of hearing."

And then we ask for an appearance by the attorney. We won't then send the attorney another hearing notice because they've sent us their appearance, I think is what this last one is. If we have the attorney on file, we will absolutely send them the hearing notice ahead of time.

VICE CHRMN PRO TEM CLAYTOR: So the notice of appearance was sent as a result of the hearing notice being sent to the client?
MS. TAYLOR: Yeah.

VICE CHRMN PRO TEM CLAYTOR: Okay. That's good.

CHAIRMAN BENNETT: So we still have a motion and a second.

VICE CHRMN PRO TEM CLAYTOR: I'm sorry.

CHAIRMAN BENNETT: No, that was a good discussion. Any further discussion?

(No response.)

CHAIRMAN BENNETT: All in favor of the motion as stated signify by saying aye.

THE COMMISSION: Aye.

CHAIRMAN BENNETT: All opposed say nay.

(No response. Motion carried.)

CHAIRMAN BENNETT: Motion carried.

Penalties imposed.

At the Commission's September 3, 2014 meeting, we received a status report from the Election Division concerning certain campaign finance complaints filed as of that date.

And I understand that the Election Division has since received additional complaints which may allege violations of certain campaign finance requirements.

I would ask that the Co-directors inform us
about the status of these complaints, beginning
with the first set of documents in our binders.

MR. KING: Mr. Chairman, Members of the
Commission, Ryan and myself will defer to our
counsels to address them. So I will yield to
them at this time.

MR. SIMMONS: Matthew and I had a
discussion about presenting those, and I took a
couple and he took a couple. And then if we had
anything to add to each other's comments, we
proposed to chime in on that, if that's okay.

CHAIRMAN BENNETT: Okay. Very good.

MR. SIMMONS: Did you want to start with
any particular one?

CHAIRMAN BENNETT: Well, Carmichael is
first on my list.

MR. SIMMONS: Prior to the September 3
meeting, Mr. Carmichael, as president of the
Indiana Beverage Association, had complained by
letter dated August 4, and sent that to all
Commission members, that there was a violation
of campaign finance law committed by Vision
Concepts, which is an LLC, and Monarch Beverage,
a company which is a corporation.

And more specifically, they're saying that
Vision Concepts is making contributions in the name of Monarch, which is a violation that's both a fineable offense and a class B misdemeanor.

And they're also saying if you properly attribute contributions made by Vision Concepts, LLC to Monarch, the corporation, Monarch has exceeded its corporate contribution limits. And that's both a civil fineable offense and a class B misdemeanor as well.

And not to repeat what's in the correspondence, but there's several factors that Mr. Carmichael presents in support of his allegations, some sharing of space, sharing of personnel. He questions the legitimacy of transactions made between Vision Concepts and Monarch.

But after that meeting, and I think at that meeting, the Commission said, "Well, let's send the -- have the Co-directors send both Vision Concepts, LLC and Monarch the complaint." And that was done after the meeting.

And then, on August 7 -- and I think those letters are in your materials as well -- in response to that forwarding of that complaint,
Ice Miller responded on behalf of Monarch. And that's in your materials. It's a letter dated August 15. That has several arguments regarding, "We are separate. Monarch and Vision are separate legal entities." There's no -- there's kind of a legal argument about there's no law that you can attribute contributions made by one to the other, these separate legal entities.

And then on September 12, Baker & Daniels responded on behalf of Vision Concepts, LLC, essentially repeating the same legal arguments. But it also addressed a factual issue raised by the original complaint letter, and indicated that, "Well, Monarch isn't our only account. We have 1,200 accounts." So there's some both some legal and some factual responses.

So those responses were forwarded to Mr. Carmichael at Indiana Beverage Alliance, who, again, responded with an October 24 letter. I think that one was addressed to the chairman.

And then a February 27, 2015 letter was sent by Mr. Carmichael. And that letter enclosed draft subpoenas in case, and it suggested that the Commission may not have
sufficient resources to draft discovery, but
requested that no hearing be called until
information asked in those subpoenas was
provided by Monarch, Vision, and another entity
called EF Transit.

And then there was yet another May 7 letter
from Mr. Carmichael inquiring as to the status
of the claim.

Then, Mr. Chairman, there's your letter in
the materials of June 1, indicating that
consistent with Mr. Carmichael's request, no
hearing had been set, and then advising that for
the Commission to issue subpoenas, it would take
a meeting of that Commission and affirmative
vote. And a majority of the Commission members,
after a hearing, properly noticed to have those
subpoenas issued.

That's the last of the correspondence and
the status currently.

CHAIRMAN BENNETT: So we haven't heard back
from them, anyone, in response to the letter?

MR. SIMMONS: Right.

CHAIRMAN BENNETT: Matthew, do you have
anything to add to that?

MR. KOCHEVAR: I have nothing to add to the
facts. But if I'm called upon for analysis of
how to move forward, I'll be happy to answer
questions then.

CHAIRMAN BENNETT: Very well. Thank you.
I guess we can move on to Kolbe.

MR. SIMMONS: Kolbe. There was a letter
dated August 17, 2014, and I believe that was
brought to the Commission's attention at that
time, complaining that the Elkhart Circuit Court
clerk's website contained a logo for C-Tech
Solutions, and that the logo was a live link
that if you clicked on it, it transferred you to
the C-Tech Solutions website.

C-Tech Solutions happened to be owned by a
candidate for legislature, Kurt Nisly. And at
some point there was some election -- what I
call electioneering material on that company
website.

And then, let's see. There was also an
allegation that there may have been a defect in
the campaign finance report of Mr. Nisly in that
it did not properly indicate that he received --
or he paid C-Tech or his campaign website. So
those were basically -- well, actually, the
third concern was that C-Tech had access to
voter registration information from the clerk that he, as a candidate -- Mr. Kolbe was a candidate for House District 22, as well as Mr. Nisly -- didn't have access to, and that he raised concern about Mr. Nisly having access to vote center technology as well.

After the September 3 hearing, those were forwarded to the circuit court clerk. That complaint was forwarded to the circuit court clerk of Elkhart County, as well as Candidate Nisly, and we received responses from both of them.

Wendy Hudson, who's the clerk of the circuit court, responded by letter -- and I believe this is in your materials -- dated September 10, acknowledging that the C-Tech company had designed the website, but had designed it before Mr. Nisly became a candidate, and that the website was -- indeed had a logo that was a live link to the company website.

And when she learned of it, she demanded the link be disabled. And by all accounts from everyone, even the complainant, it was disabled on or about August 13, before August 14, somewhere around there.
Then Mr. Nisly responded by letter dated September 18, indicating much of what Wendy had contained in her letter, and indicating, as well as Wendy did, that he has no access to voter registration information any more than any other candidate does, and that he had no access to the vote center technology. Both Wendy and he said the same thing on that matter.

And then he explained the campaign expenditure was properly entered on his report because it was actually invoiced by a subcontractor of C-Tech, who actually provided the services. So he indicated that as why it was reported that way.

So that brings us up to date.

CHAIRMAN BENNETT: Okay. Very good. What about Heitzman? Do we have a report on that?

MR. KOCHVAR: Yes. I refer to it as the Royal Tiger PAC, the PAC that was complained against.

As you see in your materials, just to reiterate the fact, it's that a number of emails were first sent to the Hamilton County Election Board alleging or making complaints against the Royal Tiger PAC. These complaints were alleging
that this PAC was charging membership to people
in Hamilton County, of which they would be
invited to events hosted by that PAC, the
organization that founded it. And at that --
those meetings, they would be able to speak to
public officials for the then Town of Fishers,
now the City of Fishers, as well as members of
the Hamilton County government.

The Hamilton County Election Board
considered the complaint. Since the PAC was
filed as a statewide PAC with the Division, they
forwarded it to us. A similar complaint was
also filed with the Co-directors, with the same
information as the complaint that was filed with
Hamilton County.

I will note that through reading the
correspondence, I've not been able to find
either a particular reference to a violation of
Title III, nor in the references by the
complainant to anything that would help me
pinpoint an exact section of the Code, either a
crime listed in 314, or other acts throughout
Title III.

Unless I'm missing something in the facts,
that's what I have so far. And I'll defer to
Mr. Simmons.

CHAIRMAN BENNETT: Anything else?

(No response.)

CHAIRMAN BENNETT: Okay. What about Barry?

MR. KOCHEVAR: Yes. The next complaint was filed by the chairman of the state Republican party, Mr. Barry, against the Beth White Campaign for Secretary of State. They are alleging that on one of her mailers, it did not include the disclosure that is required by Indiana Code 3-9-3-2.5.

They also included in their materials the mailer referenced to, as well as a Twitter post by Beth White of her campaigning in Clark County, and I believe apparently handing out that brochure to a voter.

I will also note that my records show that we, the Division, have not reached out to the Beth White Campaign or Ms. White about this complaint. I do know from previous Commission meetings that has been asked by the Commission as a step forward.

And if wished by the Commission, we can send out that notification. That complaint was filed against her and her campaign.
CHAIRMAN BENNETT: Okay. And the last one is Cooley?

MR. KOCHEVAR: Yes. The last one is a complaint filed by Mr. Tyler Cooley. He alleges that -- four different complaints.

The first one is that Governor Pence's campaign committee had received an in-kind contribution of signs during the 2013 legislative session. That would be a violation of Indiana Code 3-9-2-12.

The second complaint is that the organization that produced these signs, Indiana Coalition to Protect Religious Freedom, was acting as a PAC, campaigning for a presumed candidate or public question -- that has not been made clear in the complaint -- of which, then, they did not file their CFA-2 to form a PAC, which is a violation of 3-9-1-3, and carries a civil penalty under 3-9-4-16(a)(2), and Subsection (b), and also carries a criminal penalty under 3-14-1-14.

The last two complaints are similar. They state that both the governor's campaign committee and the Indiana Coalition to Protect Religious Freedom did not include a disclaimer.
on the signs in question. They're included in your packet as Exhibit 2. The sign is Protect Religious Freedom, and under that is Hoosier Rights of Conscience, Indiana Constitution, Article I, Section 3.

I will also make note that there was no public question regarding religious freedom, or anything that would be close to that subject, that was on a ballot in 2013, as there was no election, nor in 2014, as public records would show.

CHAIRMAN BENNETT: Okay.

MR. KOCHEVAR: I would defer to Mr. Simmons if I've missed anything.

MR. SIMMONS: No.

CHAIRMAN BENNETT: Well, thank you for those reports. They were very helpful.

MR. KOCHEVAR: I'm sorry. I have one last addendum to that.

As with the previous complaint against Beth White, both the governor's campaign committee nor the Indiana Coalition for Religious Freedom, I don't have any correspondence that we sent to them saying that a claim was filed against them. And I --
MR. SIMMONS: March 23.

MR. KING: There is.

MR. KOCHEVAR: There is? Okay. I'm sorry.

I didn't have those in my materials, so I apologize.

MR. KING: Mr. Chairman, Members of the Commission, these are the last two pieces of paper in the binder in front of the advisory opinion.

MR. KOCHEVAR: My apologies.

MR. KING: No problem.

CHAIRMAN BENNETT: Okay. Is there any discussion from the Commission on these reports?

(No response.)

CHAIRMAN BENNETT: I think that you both covered all of the correspondence up to date; is that correct? Is there anything further, or has it already been discussed?

MR. KOCHEVAR: Yes.

MR. SIMMONS: Yes.

CHAIRMAN BENNETT: So those are all up to date, real time, okay.

Well, hearing no discussion or motion on those reports, let's move to the next item on the agenda, which is the Campaign Finance
Advisory Opinion 2015-1, Impersonation of an Officeholder.

At the Commission's September 3, 2014 meeting, we received an inquiry regarding the requirements of Indiana Code 3-9-3-5, the state law which prohibits an individual from falsely representing, in paid political advertising or campaign material, that the candidate in any election is or has been an officer -- I'm sorry -- an officeholder, meaning a person who holds elective office.

The Co-directors had agreed to submit a draft advisory opinion on this issue for further consideration by the Commission.

At this point I would recognize our Co-directors to present the document titled Advisory Opinion 2015-1 to the Commission for its consideration.

MR. KING: Mr. Chairman, Members of the Commission, in your binders behind the tab labeled Advisory Opinion 2015-1 are a number of documents.

The first is a draft advisory opinion. Let me begin by noting that on a couple of occasions, although not in the recent past, the
Commission has adopted advisory opinions where campaign finance legislation did not provide sufficient clarity, but the Election Division received frequent inquiries from committees, parties, and others about how to comply with the requirements of the law.

Following that is an excerpt of the transcript from the September 3, 2014 meeting which describes in more detail what the chairman has just summarized. We indicated, Mr. Deckard and I, that we would come back to the Commission with a draft opinion, which is what you have before you.

The principal issue addressed in this advisory opinion is whether there are magic words like "for," F-O-R, or "elect" that are necessary to prevent a violation of the statute.

The final set of documents behind this tab shows some bumper stickers, some car tire wheel covers that contain a candidate's name and an office, but do not contain the word "for" or "elect," or anything else.

And so the advisory opinion as drafted would specify that in terms of giving guidance to individuals who make inquiry about this law,
that the Commission directs us to indicate that
it is not necessary to include the word "for" or
the word "elect" on its own, to avoid a
violation of the statute.

I'll be happy to answer questions.

CHAIRMAN BENNETT: Is the concept that the
average person would, by reading a sign that
says, for example, "Chip Perfect Indiana State
Senate," would know that he's not necessarily a
senator, but he's a candidate? Is that ...

MR. KING: Mr. Chairman, I think that is a
fair summary.

The core behavior that the statute is
apparently designed to prevent occurred from a
campaign several years ago in Howard County,
where a candidate used the word "re-elect"
followed by their name, when they were not, in
fact, the officeholder. And ironically, that
did involve a former state senator. So I think
it's fairly clear in our understanding what does
constitute a violation of the statute.

This is more of the gray area where we
certainly received a good number of questions
about it, including the one that was presented
to the Commission at the September meeting, as
to whether it's necessary to be explicit in
adding the words "for" or "elect," or similar
words.

CHAIRMAN BENNETT: Any other questions or
comments on this issue?

(No response.)

CHAIRMAN BENNETT: Then as I understand the
procedure, then the -- well, tell us what
happens from here.

MR. KING: Mr. Chairman, if the Commission
and its members are willing to proceed, we have
an order drafted for your approval and would
circulate it for signatures.

CHAIRMAN BENNETT: So we need a motion to
adopt the advisory opinion?

MR. KING: If that's the pleasure of the
Commission.

COMMISSION MEMBER KLUTZ: I've reviewed the
advisory opinion. I mean it appears to be
fairly narrow. It says that campaign material
does not have -- we do not have to -- or
candidates do not have to use the word "elect"
or "for" in order to not be in violation of this
section.

I mean there are still ways to violate it.
I'm not saying -- you know, we still have a second look at certain things.

But in terms of these specific questions, does a candidate sign have to have "elect" or "for," or say no --

MR. KING: That's correct.

COMMISSION MEMBER KLUTZ: I agree with that. I would be in support of this advisory as drafted.

CHAIRMAN BENNETT: Is that a motion to adopt?

COMMISSION MEMBER KLUTZ: Yes. I make a motion to adopt as drafted.

CHAIRMAN BENNETT: Is there a second?

VICE CHRMN PRO TEM CLAYTOR: I'll second for the purpose of asking a question.

Is it clear enough that it is not a violation if it happens to be the office you're running for? Because, you know, I -- I shouldn't have spent all that money putting "for" on my yard signs.

But it's obvious, John Doe, County Assessor. But could he put John Doe, County Assessor, Running for County Auditor? And would that be violative of the statute if he was not,
in fact, county assessor? Are we giving him a
sneaky little out?

MR. KING: Mr. Chairman, Mr. Commissioner,
that would be a peculiar situation.

But even in that peculiar situation, I
don't think it would be a violation. But it's
something where we can certainly add language to
further clarify, if that's the will of the
Commission, or address it in a subsequent
opinion, whatever your preference would be.

VICE CHRMN PRO TEM CLAYTOR: My only
question is do you feel, and do our attorneys
feel, that this is clear enough for what we're
talking about? And I'd certainly yield to them.

MR. SIMMONS: Yeah. It came about because
dthis is consistent with the way we were
interpreting it. Because it is a penal statute,
we thought it should be narrowly construed. You
know, is -- John Doe Sheriff. Is he advertising
he holds the office of sheriff here in October
before the November election, or does he want
you to vote for him? That kind of thing.

And we were of the opinion that well before
you penalize somebody for exercising a first
amendment conduct, we think you need a clear
violation.

   No, I think we would read it, if John Doe is not the sheriff, John Doe Sheriff, as indicating he wants you to vote for him. It's around election time. We don't need the magic words "for," and it's not a violation of that particular statute.

   But I had not thought of the scenario you thought of. So I mean if you think there's additional language -- I've not heard of that sign.

   I mean it does come up with "re-elect" in a different context. If you've not been the sheriff for a while, but you were 20 years ago, and you say Re-elect Sheriff, is that indicating you're the current officeholder? Well, nothing dishonest about that, really.

   But I've not thought about your scenario.

   But I think it answers 99.9 percent of the questions I've dealt with.

   COMMISSION MEMBER KLUTZ: So you're getting specific questions, "Do signs need or campaign literature need the words, 'Elect, vote, or for?'"

   And what we're doing is trying to prepare
an advisory opinion to point them to, to give
them comfort that, "No, it doesn't"?

MR. SIMMONS: Right. Does it need to
contain that magic word in order to avoid the
application of 3-9-3-5, yes, that's what we're
trying to do.

CHAIRMAN BENNETT: Do you have any comments
on this?

MR. KOCHEVAR: You've raised an interesting
question that I also have not considered. So I
would follow with what -- I will agree with
everything that Mr. Simmons has said on this
point.

To risk sounding like I -- you know, to
bumble through an answer, I think that it's
best that I -- I would have nothing to add on
this.

But I will say one thing, though, is that
we do have 92 different counties with 92
different election boards. They also consider
the same statutes and rules that we do.

And so as time goes on -- and I've only
been here at the Division for six months. I've
seen many things. And I suspect, as we go on,
there may be a complaint along your lines or
along the lines that we haven't thought of, which, then, will more inform of us of how the statute can be stretched, interpreted, and used in the future.

But I do think that this advisory opinion is a good first step. It's logical, moving forward. And as more facts become available, as the statute gets used more, then we can adjust as-needed.

VICE CHRMN PRO TEM CLAYTOR: I also like the fact that you're asking the legislature to re-look at the statute. I think that's a very good idea.

CHAIRMAN BENNETT: It is a matter of Sheriff John Doe, who's not a sheriff, or John Doe, Sheriff, you know, that's not what you usually --

COMMISSION MEMBER OVERHOLT: Although that does lead to confusion. I mean --

CHAIRMAN BENNETT: But that doesn't really -- it's not addressed one way or the other here, except you couldn't say that it was wrong because it doesn't have those other words.

COMMISSION MEMBER OVERHOLT: Right, right.

CHAIRMAN BENNETT: So we have a motion and