

INDIANA ELECTION COMMISSION

Minutes

DECEMBER 6, 2000

MEMBERS PRESENT: Dudley Cruea, Chairman of the Indiana Election Commission ("IEC"), Pat Terrell as proxy for Vice-Chairman S. Anthony Long, Marty Dezelan as proxy for Joseph M. Perkins, Jr., and Butch Morgan.

MEMBERS ABSENT: Joseph M. Perkins, Jr. and S. Anthony Long

STAFF ATTENDING: Candy Marendt, Co-Director, Election Division, Office of the Indiana Secretary of State ("Election Division"), Spencer Valentine, Co-Director, Election Division, Kristi Robertson, Co-General Counsel IEC and Election Division, Dale Simmons, Co-General Counsel IEC and Election Division, Pam Potesta, Co-Director, Campaign Finance, Election Division and Michelle Thompson, Co-Director, Campaign Finance, Election Division.

ALSO ATTENDING: Kristina Buchthal, Indianapolis Star reporter, Erick Berman, WIBC, Kim Brand, Tory Callaghan Castor, Donald Douglass and John Conlon for Safeco PAC, Jean Macdonald for IAHC PAC, Mike Claphan for Hoosier Osteopathic PAC, Rochy Genovese for Fidler/Doubleday, M. Smith, Steven Corey for Global Election Systems, Dean E. Jessup for Hoosiers for Jessup, Terry Burns for The Times, Sharon Lohrmann for the News Sentinel, Fay A. Neville, Kimberly Reed for Indiana Electric Association, Sherry Nickerson, Jeff Fites, Kerry Spradlin for Indiana BANKPAC, Mille Cox for Indiana Credit Union PAC, Renee W. Grant, Richard Gordon, Douglass T. Davidott for the Indiana Democratic Party, Michael D. Backlund for Committee to Elect Kris Backlund, Mark W. Rutherford and Brad Klopfenstein for the Libertarian Party of Indiana.

1. CALL TO ORDER

Chairman Dudley Cruea called the December 6, 2000 meeting of the IEC to order in Room 156C, Indiana State House, 200 West Washington Street, Indianapolis, Indiana. He noted that proper notice of the meeting had been given, as required by state law. He noted that Pat Terrell was serving as proxy for Vice Chairman S. Anthony Long and that Marty Dezelan was serving as proxy for Commission member Joseph M. Perkins, Jr. He noted that a quorum was present and that the Commission would proceed with the business on the agenda.

Copies of the meeting notice and agenda are incorporated by reference in these minutes. (*Copies of all documents incorporated by reference are available for public inspection and copying at the Election Division office.*)

2. APPROVAL OF THE SEPTEMBER 28, 2000 MINUTES

The Chair noted that each Commission member had previously received a draft of the proposed Commission minutes for the September 28, 2000 meeting. There being no corrections, Mr.

Morgan moved that the September 28, 2000 minutes be approved as submitted. Mr. Dezelan seconded the motion. There being no further discussion, the Chair called the question and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan and Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

3. CAMPAIGN FINANCE

The chair announced that the Commission would proceed with the campaign finance cases on the agenda.

The chair indicated that the Commission would start with the committees sitting in the front and work backwards. He explained that the Commission would hear all of the committees with representatives present first and then proceed to dispose of the cases involving committees with no representative present. He asked those present to come forward and state their name and the cause number of their case. He explained that staff would then give a brief explanation of the background on the case and then a committee representatives would have an opportunity to present whatever evidence they considered relevant. He requested that all those present to testify in campaign finance cases before the Commission stand for the administration of the oath. Kristi Robertson administered the oath.

A. VECTREN EMPLOYEES STATE PAC, CASE NO. 00-4576-188 SOUTHERN INDIANA GAS AND ELECTRIC CO. EMPLOYEES STATE PAC, CASE NO. 00-3262-168

The chair recognized Tory Callaghan Castor who stated that she represented two PACS: Vectren Employees State PAC, case number 00-4576-188, and Southern Indiana Gas and Electric Co. Employees State PAC, case number 00-3262-168

The chair recognized Ms. Potesta who stated that the Southern Indiana Gas and Electric Co. Employees State PAC, on page 4 of the spreadsheet, filed its report on October 30, 2000 and received notice on November 27, 2000. She stated that the proposed civil penalty and costs on this case is Five Hundred Two Dollars and Ninety-Eight Cents (\$502.98). She stated that this committee has been before the Commission two times before and that the committee has submitted a letter for the Commissions' review which could be found in the Commissions' packet under the campaign finance tab.

Ms. Potesta stated that the Vectren Employees State PAC, on page 11 of the spreadsheet, filed its report on October 27, 2000 and received notice on November 27, 2000. She stated that the proposed penalty is Three Hundred Fifty Two Dollars and Ninety-Eight Cents (\$352.98). She stated that this committee has no prior appearances before the Commission and that the committee has also submitted a letter for the Commissions' review, which could be found in the Commissions' packet under the campaign finance tab.

The chair then recognized Ms. Castor who stated that she was appearing on behalf of these two committees to, first of all, express their regrets that their campaign finance reports were not timely filed. She stated that these committees recognize the need and requirement to file these

reports in a timely manner. She explained that the purpose of her appearance today was to simply express sincere regret and to acknowledge that the committees are subject to penalty and will accept the penalty imposed. She said that she did wish to note that Vectren Corporation is the result of a merger between Indiana Energy and Southern Indiana Gas and Electric and that, as a result of that merger, it had to deal with about six different PAC's at one time. She stated that, due to the other administrative issues brought about by the merger, the failure to timely file these reports was inadvertent. She also stated that, with regard to the Vectren Employees State PAC, the PAC itself brought the violation to the attention of staff. She stated that the committees would make diligent efforts to assure that future campaign finance deadlines are met.

There being no further comments or questions, the chair then closed the hearing on case numbers 00-4576-188 and 00-3262-168. The chair moved that, based upon two prior appearances, the fine for Southern Indiana Gas and Electric Co. Employees State PAC be reduced to 75% of the proposed fine or Three Hundred and Seventy Five Dollars (\$375) plus Two Dollars and Ninety Eight Cents (\$2.98) in mailing costs for a total of Three Hundred Seventy Seven Dollars and Ninety-Eight Cents (\$377.98). With respect to the Vectren Employees State PAC, the chair moved that, based upon no prior appearances for this PAC, the fine should be reduced to 25% of the proposed fine or Eighty Seven Dollars and Fifty Cents (\$87.50) plus Two Dollars and Ninety-Eight Cents (\$2.98) in mailing costs for a total of Ninety Dollars and Forty-Eight Cents (\$90.48).

Mr. Morgan seconded both motions made by the chair. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

B. COMMITTEE TO ELECT BRAND, CASE NO. 00-4639-199

The chair recognized Kim Brand who stated that she represented Committee to Elect Brand, case number 00-4639-199.

The chair recognized Ms. Potesta who stated that the Committee to Elect Brand, on page 14 of the spreadsheet, filed its report on October 30, 2000 and received its notice on November 27, 2000. She stated that this is the first time that the committee has been before the Commission and that the committee has a proposed civil penalty plus costs of Five Hundred and Two Dollars and Ninety-Eight Cents (\$502.98).

The chair recognized Mr. Brand who stated that his failure to file was a simple oversight. He stated that he enjoyed being a candidate and enjoyed the race. He said that he felt like he got a high rate of return for his investment, which was zero, and that he would like to run for office again sometime. He asked the Commission members for their indulgence for this oversight.

There being no further questions or comments, the chair closed the hearing. Mr. Morgan moved that the fine be reduced to 25% of the proposed fine and costs, or the sum of One Hundred Twenty Seven Dollars and Ninety-Eight Cents (\$127.98). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four

members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

C. SAFECO POLITICAL ACTION COMMITTEE, CASE NO. 00-4367-176

The chair recognized Donald Douglas who stated that he represented Safeco Political Action Committee, case number 00-4367-176.

The chair recognized Ms. Potesta who stated that the Safeco Political Action Committee, on page 7 of the spreadsheet, filed its report on October 23, 2000 and received its notice on November 21, 2000. She stated that this is the first time that the committee has been before the Commission and that the committee has a proposed civil penalty and costs of One Hundred Fifty Two Dollars and Ninety-Eight Cents (\$152.98). She stated that this committee had also submitted a letter to the Commission, contained in its packet, for the Commissions' review.

The chair recognized Mr. Douglas who stated that the facts are simple. He stated that the committee had a report due on October 20, 2000, which was on a Friday. He stated that the report was timely filed and placed with a courier who was reliable but for some reason it was not delivered on time. He stated that it was not delivered until October 23, 2000. He indicated that he did not wish to make any particular legal argument, just to point out that Safeco wants to be a good corporate citizen in Indiana and made efforts to timely file their report and would ask the Commission to consider these circumstances in any decision they render.

The chair observed that it appeared that it was sent overnight by Airbourne Express. Mr. Douglas confirmed that it was.

Mr. Morgan asked whether Airbourne Express could explain the delay. Mr. Douglas indicated that they had contacted the company but received no explanation from them.

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs, or the sum of Forty Dollars and Forty Eight Cents (\$40.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

D. HOOSIERS HELPING HOME CARE COMMITTEE, CASE NO. 00-4228-173

The chair recognized Jean Macdonald who stated that she represented Hoosiers Helping Home Care Committee, case number 00-4228-173.

The chair recognized Ms. Potesta who stated that the Hoosiers Helping Home Care, on page 6 of the spreadsheet, filed its report on October 26, 2000 and received its notice on November 27, 2000. She stated that this is the second time that the committee has been before the Commission and that the committee has a proposed civil penalty and costs of Three Hundred and Two Dollars and Ninety-Eight Cents (\$302.98).

The chair recognized Ms. Macdonald who indicated that at the time of their first late filing they were a brand new PAC. She described the circumstances that caused confusion within the organization that lead to the inadvertent late filing of the report due in October.

There being no further questions or comments, the chair closed the hearing. Mr. Morgan moved that the fine be reduced to 50% of the proposed fine and costs, or the sum of One Hundred and Fifty Two Dollars and Ninety-Eight Cents (\$152.98). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

E. HOOSIER OSTEOPATHIC POLITICAL ACTION COMMITTEE, CASE NO. 00-4431-180

The chair recognized Mike Claphan who stated that he represented Hoosiers Osteopathic Political Action Committee, case number 00-4431-180.

The chair recognized Ms. Potesta who stated that the Hoosiers Osteopathic Political Action Committee, on page 8 of the spreadsheet, filed its report on October 30, 2000 and received its notice on November 27, 2000. She stated that this is the third time that the committee has been before the Commission and that the committee has a proposed civil penalty and costs of Five Hundred and Two Dollars and Ninety-Eight Cents (\$502.98).

The chair recognized Mr. Claphan who stated that he really had no excuse for filing the campaign finance report late except that it was an extremely busy period of time for him.

There being no further questions or comments, the chair closed the hearing. Mr. Terrell moved that the fine be reduced to 75% of the proposed fine plus costs, or the sum of Three Hundred and Seventy Seven Dollars and Ninety-Eight Cents (\$377.98). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

F. HOOSIERS FOR JESSUP COMMITTEE, CASE NO. 00-4622-197

The chair recognized Dean Jessup who stated that he was appearing on his own behalf in case number 00-4622-197.

The chair recognized Ms. Potesta who stated that the Hoosiers for Jessup Committee, on page 14 of the spreadsheet, filed its report on October 24, 2000 and received notice on November 24, 2000. She stated that this is the first time this committee has been before the Commission and that the committee has a proposed civil penalty and costs of Two Hundred and Two Dollars and Ninety-Eight Cents (\$202.98).

The chair recognized Mr. Jessup who stated that his treasurer had prepared the report in a timely manner and left the report with him to file. He stated that, at the time, as a legal investigator, he was preparing for several trials and his focus was on those trials. He stated that this was his mistake.

There being no further questions or comments, the chair closed the hearing. Mr. Morgan moved that the fine be reduced to 25% of the proposed fine plus costs, or the sum of Fifty-Two Dollars and Ninety-Eight Cents (\$52.98). Mr. Terrell seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

G. SEEDS COMMITTEE, CASE NO. 00-4514-182

The chair recognized Fay Neville who stated that she was appearing for the Seeds Committee, case number 00-4514-182.

The chair recognized Ms. Potesta who stated that the Seeds Committee, on page 9 of the spreadsheet, has filed no report and received notice on November 24, 2000. She stated that this is the first time this committee has been before the Commission and that the committee has a proposed civil penalty and costs of One Thousand Two Dollars and Ninety-Eight Cents (\$1002.98).

The chair recognized Ms. Neville who stated that this represented negligence on her part and she hoped the Commission would accept her apology.

The chair asked if she had prepared the report yet. Ms. Neville said no but that there was nothing to report. She stated that she has filed one report, but not the latest report. The chair indicated that a report must still be filed and he indicated that she should get with staff after the meeting to get the appropriate forms to make the required filing.

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs provided that the candidate files the report before the Commission has its next meeting. He said the fine, plus costs, would total Two Hundred Fifty Two Dollars and Ninety-Eight Cents (\$252.98). Mr. Terrell seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

H. CITIZENS TO ELECT SHERRY NICKERSON COMMITTEE, CASE NO. 00-4544-184

The chair recognized Sherry Nickerson who stated that she was appearing for her committee, case number 00-4544-184.

The chair recognized Ms. Potesta who stated that the Citizens to Elect Sherry Nickerson Committee, on page 9 of the spreadsheet, filed its report on November 3, 2000 and received notice on November 24, 2000. She stated that this is the first time this committee has been before the Commission and that the committee has a proposed civil penalty and costs of Seven Hundred and Two Dollars and Ninety-Eight Cents (\$702.98).

The chair recognized Ms. Nickerson who stated that the late filing was due to negligence on her part. She stated that she had not kept in touch with her campaign secretary to see that his was done.

There being no further questions or comments, the chair closed the hearing. Mr. Morgan moved that the fine be reduced to 25% of the proposed fine plus costs, in the sum of One Hundred Seventy Seven Dollars and Ninety-Eight Cents (\$177.98). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

I. INDIANA ELECTRIC ASSOCIATION PAC, CASE NO. 00-4187-172

The chair recognized Kimberly Reed who stated that she was appearing for the Indiana Electric Association PAC, case number 00-4187-172.

The chair recognized Ms. Potesta who stated that the Indiana Electric Association PAC, on page 5 of the spreadsheet, filed its report on October 20, 2000, however, the report was not filed until 12:04 p.m. She stated that the committee received notice on November 27, 2000. She stated that this is the second time this committee has been before the Commission and that the committee has a proposed civil penalty and costs of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

The chair recognized Ms. Reed who stated that they thought the report was filed on time but according to the time stamp at the Election Division it was stamped four minutes late.

There being no further questions or comments, the chair closed the hearing. Mr. Terrell moved that the fine be reduced to 50% of the proposed fine plus costs, in the sum of Twenty-Seven Dollars and Ninety-Eight Cents (\$27.98). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

J. INDIANA CREDIT UNION PAC, CASE NO. 00-349-159

The chair recognized Millie Cox who stated that she was appearing for the Indiana Credit Union PAC, case number 00-349-159.

The chair recognized Ms. Potesta who stated that the Indiana Credit Union PAC, on page 1 of the spreadsheet, filed its report on October 23, 2000 and received notice on November 27, 2000. She stated that this is the third time this committee has been before the Commission and that the

committee has a proposed civil penalty and costs of One Hundred Fifty Two Dollars and Ninety-Eight Cents (\$152.98).

The chair recognized Ms. Cox who stated that the report was late because their accounting department prepares the report and is always behind in getting these things done. She stated that when the accounting department finished the report it was brought to her to sign. She stated that, after reviewing the report, she caught what she thought was an error because she remembered a contribution that was not listed on the report. She said that she made inquiry but by the time she was shown that the candidate in question had returned the contribution check the reporting deadline had padded. She stated that ultimately it was their fault it was filed late.

There being no further questions or comments, the chair closed the hearing. Mr. Morgan moved that the fine be reduced to 75% of the proposed fine plus costs, in the sum of One Hundred Fifteen Dollars and Forty-Eight Cents (\$115.48). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

The chair recognized Mr. Spencer Valentine who explained to Ms. Cox that if, in the future, they are in the same position they can file the report as is and make an amendment to correct any error. He explained this would allow them to make a timely filing.

Ms. Cox indicated that she was concerned about signing the report under oath when she wasn't sure it was correct. Mr. Valentine indicated that they would have had the opportunity to amend the report before the case would go to a hearing before the Commission. Mr. Morgan quipped that, if you file timely under such circumstances, "you might go to jail for perjury but you won't have to pay a late fee."

K. INDIANA BANKPAC-STATE FUND, CASE NO. 00-884-161

The chair recognized Kerry Spradlin who stated that she was appearing for the Indiana BankPAC-State Fund, case number 00-884-161.

The chair recognized Ms. Potesta who stated that the Indiana BankPAC-State Fund, on page 2 of the spreadsheet, filed its report on October 20, 2000 at 1:27 p.m. and received notice on November 27, 2000. She stated that this is the second time this committee has been before the Commission and that the committee has a proposed civil penalty and costs of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

The chair recognized Ms. Spradlin who stated that their PAC was late once about three years ago by about 2 minutes. She said she remembered because she was pregnant with her daughter who is with her today and she is three years old. She explained that, as before, her daughter caused the late filing because she was home sick with her daughter the day the report was due. She stated that she tried to file by fax but was unsuccessful because the Election Division fax line was busy. She said that she finally gave up and was not able to get the report filed until shortly after the deadline.

There being no further questions or comments, the chair closed the hearing. Mr. Terrell moved that the fine be reduced to 50% of the proposed fine plus costs in the sum of Twenty-Seven Dollars and Ninety-Eight Cents (\$27.98). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

L. COMMITTEE TO ELECT KRIS BACKLUND, CASE NO. 00-4611-195

The chair recognized Michael Backlund who stated that he was appearing for the Committee to Elect Kris Backlund, case number 00-4611-195.

The chair recognized Ms. Potesta who stated that the Committee to Elect Kris Backlund, on page 13 of the spreadsheet, filed its report on October 23, 2000. She stated that there is no indication of whether or not this committee received notice. She stated that this is the first time this committee has been before the Commission and that the committee has a proposed civil penalty and costs of One Hundred Fifty Two Dollars and Ninety-Eight Cents (\$152.98).

The chair recognized Mr. Backlund who stated that the first week of September his mother became ill and that she has since been in and out of the hospital. He stated that with everything going on with his family, this report got overlooked. He stated that this was his responsibility since he was chairman of the committee. He said that he was notified of today's hearing yesterday because his aunt had gone to the post office box and received the certified letter.

There being no further questions or comments, the chair closed the hearing. Mr. Morgan moved that the fine be reduced to 25% of the proposed fine plus costs, in the sum of Forty Dollars and Forty-Eight Cents (\$40.48). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

M. LIBERTARIAN COMMITTEES

The chair recognized Brad Klopfenstein, executive director of the Libertarian Party, who stated that he was appearing for five Libertarian party candidates. He indicated that two of these candidates were present at the Commission meeting. He requested permission to address all five of these committees in two separate groups. The Commission consented.

Mr. Klopfenstein said the first group included the Star Nelson for Senate Committee, case number 00-4642-200; Committee to Elect Dan Headlee, case number 00-4629-198; and the Renee Grant for Indiana House, case number 00-4597-191.

The chair recognized Ms. Potesta who stated that these committees appear on pages 12, 14 and 15 of the spreadsheet. She stated that on page 12 is the Renee Grant for Indiana House Committee, which filed its report on October 23, 2000 and received its notice on November 25,

2000. She stated that this is the second time this committee has been before the Commission and that the committee has a proposed civil penalty and costs of One Hundred Fifty Two Dollars and Ninety-Eight Cents (\$152.98).

She stated that on page 14 the spreadsheet the Commission would find listed the Committee to Elect Dan Headlee, which filed its report on October 20, 2000 at 3:16 p.m. and received notice on November 27, 2000. She stated that this is the first time this committee has been before the Commission and that the committee has a proposed civil penalty and costs of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

She stated that on page 14 of the spreadsheet the Commission would find listed the Star Nelson for Senate Committee, which filed its report on October 30, 2000 and received notice on November 25, 2000. She stated that this is the first time this committee has been before the Commission and that the committee has a proposed civil penalty and costs of Five Hundred Two Dollars and Ninety-Eight Cents (\$502.98).

Mr. Klopfenstein indicated that he was not aware that Renee Grant had been before the Commission on a prior occasion. Ms. Grant, who was present, also indicated that she did not believe she had ever been before the Commission before.

Kristi Robertson indicated that staff would pull her file and review it.

Mr. Klopfenstein indicated that Star Nelson and Dan Headlee neither raised nor spent money for their campaigns. He stated further that their reports were either a couple of hours or a couple of days late. He requested relief from all fines. He added that since these committees neither raised nor spent money, he did not believe the committees had to file campaign finance reports.

There being no further questions or comments with respect to the Nelson and Headlee committees, the chair closed the hearings in case numbers 00-4629-198 and 00-4642-200. Mr. Morgan moved that the fine for these two committees be reduced to 25% of the proposed fine plus costs, namely, the sum of Fifteen Dollars and Forty-Eight Cents (\$15.48) for case number 00-4629-198 involving Mr. Headlee and One Hundred Twenty Seven Dollars and Ninety-Eight Cents (\$127.98) for case number 00-4642-200 involving Ms. Nelson. Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

The chair recognized Michelle Thompson who stated that the file for Renee Grant had been located and that this committee was before the Commission for the post convention report which was an untimely filed report that was brought before the Commission but dismissed.

Mr. Klopfenstein stated, again, Ms. Grant neither raised nor spent any money and he believes that the committee missed the post convention report deadline because of some confusion resulting from an ambiguity in the statutes.

There being no further questions or comments with respect to this committees, the chair closed the hearing in case number 00-4597-191. The chair moved that the fine be reduced to 25% of the proposed fine, plus costs, because the prior time the committee appeared before the Commission, the case was dismissed. He stated that his motion would result in a fine of Forty Dollars and Forty-Eight Cents (\$40.48). There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

The chair recognized Mr. Klopfenstein who stated that he wished to address two other committees: Cicak for Senate, case number 00-4610-194 and Gordon for Indiana Senate, case number 00-4596-190.

The chair recognized Ms. Potesta who stated that theses committees appear on pages 11 and 13 of the spreadsheet. She stated that on page 11 is the Gordon for Indiana Senate Committee, which filed its report on October 23, 2000. She stated that staff has no indication that the committee received its notice. She stated that this is the second time this committee has been before the Commission and that the committee has a proposed civil penalty and costs of One Hundred Fifty Two Dollars and Ninety-Eight Cents (\$152.98). She stated that on page 13 is the Cicak for Senate Committee, which filed its report on November 1, 2000. She stated that this is the second time this committee has been before the Commission and that the committee has a proposed civil penalty and costs of Six Hundred and Two Dollars and Ninety-Eight Cents (\$602.98).

The chair asked staff whether the prior appearances for these two committees were on cases the Commission dismissed. Staff indicated that they were cases that were dismissed.

Mr. Klopfenstein stated that Mr. Gordon neither raised nor spent money and was confused about when to file the post convention report. He stated that Mr. Cicak neither raised nor spent money and has, in fact, been in Chicago the last two months producing a movie which is probably why he has not received notice. Mr. Klopfenstein asked for relief from all fines for these two committees.

The chair asked counsel whether they could proceed with these cases without a showing that they have been served with notice. Ms. Robertson stated that it was up to the Commission, but that since Mr. Klopfenstein was appearing on their behalf, they do have representation at this meeting. Mr. Simmons asked Mr. Klopfenstein whether he was appearing on behalf of these two Libertarian candidates and Mr. Klopfenstein indicated that he was.

There being no further questions or comments with respect to these committees, the chair closed the hearing in Cicak for Senate, case number 00-4610-194 and Gordon for Indiana Senate, case number 00-4596-190. Mr. Terrell moved that the fines for these committees be reduced to 25% of the proposed fines, plus costs, because the prior times the committees appeared before the Commission the cases were dismissed. He stated this would reduce the fine for Cicak for Senate, case number 00-4610-194, to One Hundred and Fifty Two Dollars and Ninety-Eight Cents (\$152.98), and reduce the fine for Gordon for Indiana Senate, case number 00-4596-190, to Forty

Dollars and Forty-Eight Cents (\$40.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

The chair called for any other persons present with a campaign finance case before the Commission to so indicate. There being no response, the chair indicated that he wished to make a motion to dispose of the remainder of the campaign finance cases based upon the information provided by staff in the spreadsheet.

The chair then moved to reduce the proposed fine against the committees in the following cases to 25% of the proposed fine, plus costs: 00-1106-162, 00-1979-165, 00-2063-166, 00-3853-170, 00-4269-174, 00-4411-178, 00-4424-179, 00-4496-181, 00-4550-185, 00-4452-186, 00-4582-189, 00-4601-192, and 00-4618-196. Mr. Morgan seconded the motion. The chair asked if there was any discussion.

The chair recognized Mr. Terrell who stated that he felt that it was unfair to treat the committees who came to the hearing the same as the committees who did not bother to appear before the Commission.

The chair indicated that the Commission has had the discussion on this point before. He indicated that it would be very time consuming to have all of the committees present to testify and then when the committees call the Election Division staff informs them that they do not have to appear. He stated that staff indicates to these committees that the Commission is inclined to rule on these cases in a consistent manner. He stated that they do not, however, discourage people from coming in and some people may, in fact, have extraordinary circumstances justifying dismissal that they feel would be better presented in person.

There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

The chair then moved to reduce the proposed fines against the committees in the following cases to 50% of the proposed fine, plus costs: 00-3756-169, 00-4515-183, 00-4557-187 and 00-4605-193. Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

The chair then moved to reduce the proposed fines against the committees in the following cases to 75% of the proposed fine, plus costs: 00-3181-167, 00-4023-171 and 00-4316-175. Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

The chair then moved, with respect to the remaining cases listed on the spreadsheet, that the fines and costs be imposed as proposed, namely, case numbers: 00-66-158, 00-395-160, 00-1538-163,

00-1828-164, and 00-4370-177. Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

The dispositions made by the motions described above, based upon the record before the Commission, is more specifically set forth below in detail as to each identified committee.

N. INSURANCE POLITICAL ACTION COMMITTEE, CASE NO. 00-1106-162

The record showed that the Insurance Political Action Committee, on page 2 of the spreadsheet, filed its report on October 20, 2000, received notice November 27, 2000, has never before appeared before the Commission, and has a proposed civil penalty including costs of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Fifteen Dollars and Forty-Eight Cents (\$15.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

O. NATIONAL FEDERATION OF INDEPENDENT BUSINESS COMMITTEE, CASE NO. 00-1070-165

The record showed that the National Federation of Independent Business Committee, on page 3 of the spreadsheet, filed its report on October 23, 2000, received notice November 27, 2000. has never before appeared before the Commission, and has a proposed civil penalty including costs of One Hundred Fifty Two Dollars and Ninety Eight Cents (\$152.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Forty Dollars and Forty-Eight Cents (\$40.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

P. MUNCIE FIREFIGHTERS PAC, CASE NO. 00-2063-166

The record showed that the Muncie Firefighters PAC on page 3 of the spreadsheet, filed its report on October 30, 2000, received notice November 27, 2000, has never before appeared before the Commission, and has a proposed civil penalty, including costs, of Five Hundred Two Dollars and Ninety Eight Cents (\$502.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of One Hundred and

Twenty Seven Dollars and Ninety-Eight Cents (\$127.98). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

Q. COMMITTEE TO ELECT DAN STEVENSON, CASE NO. 00-3853-170

The record showed that the Committee to Elect Dan Stevenson, on page 5 of the spreadsheet, filed its report on October 20, 2000, received notice November 21, 2000, has never before appeared before the Commission, and has a proposed civil penalty, including costs, of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Fifteen Dollars and Forty-Eight Cents (\$15.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

R. FRIENDS OF KAREN BUYER BURKHARDT COMMITTEE, CASE NO. 00-4269-174

The record showed that the Friends of Karen Buyer Burkhardt Committee, on page 6 of the spreadsheet, filed its report on October 20, 2000, received notice November 27, 2000, has never before appeared before the Commission, and has a proposed civil penalty, including costs, of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Fifteen Dollars and Forty-Eight Cents (\$15.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

S. SMITH FOR SENATE COMMITTEE, CASE NO. 00-4411-178

The record showed that the Smith for Senate Committee, on page 7 of the spreadsheet, filed its report on November 13, 2000, received notice November 24, 2000, has never before appeared before the Commission, and has a proposed civil penalty, including costs, of One Thousand Two Dollars and Ninety Eight Cents (\$1002.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Two Hundred Fifty Two Dollars and Ninety-Eight Cents (\$252.98). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting

"aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

T. NEW DEMOCRAT NETWORK COMMITTEE CASE NO. 00-4424-179

The record showed that the New Democrat Network Committee, on page 8 of the spreadsheet, filed its report on October 24, 2000, has never before appeared before the Commission, and has a proposed civil penalty, including costs, of Two Hundred and Two Dollars and Ninety Eight Cents (\$202.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Fifty Two Dollars and Ninety-Eight Cents (\$52.98). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

U. CAMPAIGN FOR INDIANA'S FUTURE COMMITTEE, CASE NO. 00-4406-181

The record showed that the Campaign for Indiana's Future Committee, on page 8 of the spreadsheet, filed its report on October 20, 2000, has never before appeared before the Commission, and has a proposed civil penalty, including costs, of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Fifteen Dollars and Forty-Eight Cents (\$15.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

V. CHARZALLA GOODLOE-COLE ELECTION COMMITTEE, CASE NO. 00-4550-185

The record showed that the Charzalla Goodloe-Cole Election Committee, on page 10 of the spreadsheet, filed its report on October 27, 2000, received notice on November 24, 2000, has never before appeared before the Commission, and has a proposed civil penalty, including costs, of Three Hundred and Fifty Two Dollars and Ninety-Eight Cents (\$352.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Ninety Dollars and Forty-Eight Cents (\$90.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

W. FRIENDS OF GARY LOVELESS COMMITTEE CASE NO. 00-4552-186

The record showed that the Friends of Gary Loveless Committee, on page 10 of the spreadsheet, filed its report on October 21, 2000, received notice on November 30, 2000, has never before appeared before the Commission, and has a proposed civil penalty, including costs, of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Fifteen Dollars and Forty-Eight Cents (\$15.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

X. METROPOLITAN LIFE INSURANCE COMPANY POLITICAL FUND, CASE NO. 00-4582-189

The record showed that the Metropolitan Live Insurance Company Political Fund, on page 11 of the spreadsheet, filed its report on October 23, 2000, has never before appeared before the Commission, and has a proposed civil penalty, including costs, of One Hundred Fifty Two Dollars and Ninety-Eight Cents (\$152.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Forty Dollars and Forty-Eight Cents (\$40.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

Y. CONLEY FOR LIFE AND LIBERTY COMMITTEE, CASE NO. 00-4601-192

The record showed that the Conley for Life and Liberty Committee, on page 12 of the spreadsheet, failed to file a report as of the date of the Commissions' December 6, 2000 meeting, has never before appeared before the Commission, and has a proposed civil penalty, including costs, of One Thousand and Two Dollars and Ninety-Eight Cents (\$1002.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Two Hundred and Fifty Two Dollars and Ninety-Eight Cents (\$252.98). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

Z. BEV HANNER FOR STATE REPRESENTATIVE COMMITTEE, CASE NO. 00-4618-196

The record showed that the Bev Hanner for State Representative Committee, on page 13 of the spreadsheet, filed its report on October 20, 2000, has never before appeared before the Commission, and has a proposed civil penalty, including costs, of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 25% of the proposed fine plus costs in the sum of Fifteen Dollars and Forty-Eight Cents (\$15.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

AA. SAFE PAC, CASE NO. 00-3756-169

The record showed that Safe PAC, on page 4 of the spreadsheet, filed its report on October 23, 2000, has appeared before the Commission one prior time, and has a proposed civil penalty, including costs, of One Hundred Fifty Two Dollars and Ninety-Eight Cents (\$152.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 50% of the proposed fine plus costs in the sum of Seventy Seven Dollars and Ninety-Eight Cents (\$77.98). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

BB. COMMITTEE FOR JOHN AGUILERA, CASE NO. 00-4515-183

The record showed that the Committee for John Aguilera, on page 9 of the spreadsheet, filed its report on October 20, 2000, received notice on December 1, 2000, has appeared before the Commission one prior time, and has a proposed civil penalty, including costs, of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 50% of the proposed fine plus costs in the sum of Twenty Seven Dollars and Ninety-Eight Cents (\$27.98). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

CC. MILAN KESIC FOR STATE REPRESENTATIVE COMMITTEE, CASE NO. 00-4557-187

The record showed that the Milan Kesic for State Representative Committee, on page 10 of the spreadsheet, filed its report on October 20, 2000, received notice on November 27, 2000, has appeared before the Commission one prior time, and has a proposed civil penalty, including costs, of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 50% of the proposed fine plus costs in the sum of Twenty-Seven Dollars and Ninety-Eight Cents (\$27.98). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

DD. AMY FOR INDY COMMITTEE, CASE NO. 00-4605-193

The record showed that the Amy for Indy Committee, on page 12 of the spreadsheet, filed its report on October 20, 2000, received notice on November 25, 2000, has appeared before the Commission one prior time, and has a proposed civil penalty, including costs, of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 50% of the proposed fine plus costs in the sum of Twenty Seven Dollars and Ninety-Eight Cents (\$27.98). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

EE. C & L INDIANA PAC, CASE NO. 00-3181-167

The record showed that the C & L Indiana PAC, on page 4 of the spreadsheet, filed its report on October 31, 2000, received notice on November 27, 2000, has appeared before the Commission two prior times, and has a proposed civil penalty, including costs, of Five Hundred Fifty Two Dollars and Ninety-Eight Cents (\$552.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 75% of the proposed fine plus costs in the sum of Four Hundred and Fifteen Dollars and Forty-Eight Cents (\$415.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

FF. INDIANA ACADEMY OF FAMILY PHYSICIANS COMMITTEE, CASE NO. 00-4023-171

The record showed that the Indiana Academy of Family Physicians Committee, on page 5 of the spreadsheet, filed its report on October 20, 2000, received notice on November 29, 2000, has appeared before the Commission two prior times, and has a proposed civil penalty, including costs, of Fifty Two Dollars and Ninety-Eight Cents (\$52.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 75% of the proposed fine plus costs in the sum of Forty Dollars and Forty-Eight Cents (\$40.48). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

GG. DEARBORN COUNTY BETTERMENT FOUNDATION COMMITTEE, CASE NO. 00-4316-175

The record showed that the Dearborn County Betterment Foundation Committee, on page 6 of the spreadsheet, filed its report on November 22, 2000, received notice on November 30, 2000, has appeared before the Commission two prior times, and has a proposed civil penalty, including costs, of One Thousand and Two Dollars and Ninety-Eight Cents (\$1002.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine be reduced to 75% of the proposed fine plus costs in the sum of Seven Hundred and Fifty Two Dollars and Ninety-Eight Cents (\$752.98). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

HH. INDIANA DEALERS ELECTION ACTION FOR SURVIVAL COMMITTEE, CASE NO. 00-66-158

The record showed that the Indiana Dealers Election Action for Survival Committee, on page 1 of the spreadsheet, filed its report on October 26, 2000, received notice on November 27, 2000, has appeared before the Commission three prior times, and has a proposed civil penalty, including costs, of Three Hundred Two Dollars and Ninety-Eight Cents (\$302.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine and costs be imposed as proposed in the sum of Three Hundred and Two Dollars and Ninety-Eight Cents (\$302.98). Mr. Morgan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

II. UNTIED MINE WORKERS OF AMERICA COAL MINERS PAC, CASE NO. 00-395-160

The record showed that the United Mine Workers of America Coal Miners PAC, on page 1 of the spreadsheet, filed its report on October 23, 2000, received notice on November 27, 2000, has appeared before the Commission four prior times, and has a proposed civil penalty, including costs, of One Hundred Fifty Two Dollars and Ninety-Eight Cents (\$152.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine and costs be imposed as proposed in the sum of One Hundred Fifty Two Dollars and Ninety-Eight Cents (\$152.98) Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

JJ. INTERNATIONAL BROTHERHOOD OF PAINTERS AND ALLIED TRADES COMMITTEE, CASE NO. 00-1538-163

The record showed that the International Brotherhood of Painters and Allied Trades Committee, on page 2 of the spreadsheet, filed its report on October 24, 2000, has appeared before the Commission four prior times, and has a proposed civil penalty, including costs, of Two Hundred and Two Dollars and Ninety Eight Cents (\$202.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine and costs be imposed as proposed in the sum of Two Hundred and Two Dollars and Ninety-Eight Cents (\$202.98). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

KK. INTERNATIONAL CHIROPRACTORS ASSOCIATION OF INDIANA, CASE NO. 00-1826-164

The record showed that the International Chiropractors Association of Indiana Committee, on page 3 of the spreadsheet, filed its report on October 25 2000, received notice on November 27, 2000, has appeared before the Commission four prior times, and has a proposed civil penalty, including costs, of Two Hundred and Fifty Two Dollars and Ninety-Eight Cents (\$252.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine and costs be imposed as proposed in the sum of Two Hundred and Fifty Two Dollars and Ninety-Eight Cents (\$252.98). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

LL. CAMPAIGN FOR HOOSIER FAMILIES COMMITTEE, CASE NO. 00-4370-177

The record showed that the Campaign for Hoosier Families Committee, on page 7 of the spreadsheet, failed to file its report as of the date of the Commissions' December 6, 2000 meeting, received notice on November 24, 2000, has appeared before the Commission five prior times, and has a proposed civil penalty, including costs, of One Thousand and Two Dollars and Ninety-Eight Cents (\$1002.98).

There being no further questions or comments, the chair closed the hearing. The chair moved that the fine and costs be imposed as proposed in the sum of One Thousand and Two Dollars and Ninety-Eight Cents (\$1002.98). Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

MM. APPROVAL OF FINAL ORDERS 2000-162 THROUGH 2000-167

The chair recognized Kristi Robertson who stated that the Commission had approved motions with respect to the campaign finance cases at its last meeting. She stated that these rulings have been formalized in final orders 2000-162 through 2000-167 which may now be approved by the Commission at its pleasure.

The chair called for discussion. There being none, the chair moved that orders 2000-162 through 2000-167 be approved and adopted by the Commission. Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted.

NN. CASES FOR REFERRAL TO THE ATTORNEY GENERAL

The chair recognized Michelle Thompson who stated that the Commission packets contain a list of committees that were assessed civil penalties and have not paid the penalties assessed. She stated that she would like to report to the Commission that those cases will be turned over to the Attorney General for collection.

The chair inquired as to whether this required in any formal Commission action. Ms. Thompson indicated that it did not, that she was just reporting the referral to the Commission.

OO. CAMPAIGN FINANCE COMPLAINTS

Kristi Robertson stated that the campaign finance complaints on the agenda that would be addressed at today's meeting are simply the complaints that the Election Division has received since the last Commission meeting. She stated that no notice has been given to any of the interested parties identified in the complaints. She stated that since there has no notice given to these parties they have not been given the opportunity to be present for a full hearing. She stated that these complaints are complaints that staff wanted to share with the Commission and enter into the record.

She stated that complaint identified on the agenda as “Sustain: The Environmental Information Group” was brought to the Commissions’ attention at the last meeting. She explained that, because of the election, staff had not had the opportunity to investigate this and follow up on it. She stated that it is the intention of staff to follow up on this complaint and report to the Commission at the Commissions’ next meeting. She stated, after staff’s report, the Commission may determine whether a hearing is warranted and, at that time, notice would then be provided to all interested parties and a hearing could be scheduled.

The chair asked Ms. Robertson whether, in the past, it was the Commissions’ practice to refer such complaints to the staff to check into the legalities of the complaint and then report back for a determination of whether the Commission needed to schedule any hearings on it or take any further action. Ms. Robertson stated that was correct.

Ms. Robertson also stated that, in the Commissions’ materials, was a complaint filed with the Vanderburg County Election Board. She stated that the Commission was copied on this complaint. She stated that the complaint involves a disclaimer issue on political advertisement made in a county commissioner’s race. She stated that the Commission does not have jurisdiction over such complaints involving county level offices and that the complaint was properly before the county election board. She stated further that since the complaint involved a disclaimer, there was a possible criminal penalty involved. She stated that any criminal violation would have to be referred to the prosecutor. She stated that staff could prepare a letter on behalf of the Commission indicating that the complaint had been received and that the complaint was properly before the county election board.

The chair stated that he thought a letter should be sent to the complainant as described. The other Commission members indicated their agreement.

Ms. Robertson asked whether the chair would want to address the complaint against the U.S. Chamber of Commerce. Ms. Robertson indicated that, as background, this is a complaint the Election Division received from the state democratic party since the last Commission meeting. The complaint has attachments to it. She stated that Mr. Shaw Friedman has appeared as counsel for the democratic state party in this case and a letter from him is also on the Commissions’ packet. She stated that, for the record, there has been no notice given to any of the interested parties identified in the complaint.

The chair then explained to Shaw Friedman that no notice has been given to the U.S. Chamber of Commerce and that what the Commission has done with such complaints in the past is to ask staff to investigate it to see if any laws have been violated and then staff reports to the Commission at its next meeting and advises as to the appropriate action, that is, whether the Commission should hold a hearing on the Complaint and, if so, notice would be give to all parties at that point.

The chair recognized Mr. Friedman who asked whether he could briefly address the issue without getting into the substance of the allegations. He stated that he understood that you would need all parties present for a hearing but he wanted to provide a brief context for the Commission.

The chair indicated that Mr. Friedman could make a brief statement but that he would have to be sworn in. Ms. Robertson administered the oath to Mr. Friedman.

Mr. Friedman introduced himself and indicated that he was legal counsel for the Indiana Democratic Party. He stated that on October 27, 2000 a complaint was filed with the Commission requesting that the Commission review and investigate the complaint regarding the U.S. Chamber of Commerce's role in the 2000 contest for Indiana Attorney General.

He argued that he believed a television advertising buy of at least \$200,000 may have violated Indiana campaign finance laws. He indicated that he is prepared to present evidence and testimony at whatever later date the Commission deems appropriate to support their position. He indicated that a decision involving the U.S. Chamber of Commerce, handed down by Federal Judge Henry Wingate in the Southern District of Mississippi on November 2, 2000, offers considerable guidance to the Commission. He stated that the key legal question that the Commission will be looking at is whether the Chamber of Commerce ads constituted issue advocacy or constituted the express advocacy of the election or defeat of a specifically identified candidate. He stated that in the federal decision that was issued just last month in Mississippi, the judge was clear in his belief that the U.S. Chamber expenditures in Mississippi on the state supreme court campaign constituted express advocacy and that the expenditures were, therefore, subject to the campaign finance laws in Mississippi.

He stated further that the Commissions' counterparts in Ohio, in a vote of 3 to 2, found probable cause to believe that the U.S. Chamber of Commerce expenditures in that state's supreme court campaign also constituted express advocacy. He stated that he is convinced that the evidence will support his contention that the expenditures against Karen Freeman-Wilson were for ads that engaged in express advocacy designed to help assist in her defeat and that such expenditures should in fact be subject to the campaign finance laws and disclosure laws under Indiana statute. He indicated that he is prepared to be at any subsequent meeting or hearing to present evidence.

The chair indicated that the staff attorneys would be in touch with Mr. Friedman and get information together to make a recommendation to the Commission about whether the Commission should have a hearing or not.

4. REPORT BY CO-DIRECTORS

The chair recognized Candy Marendt who addressed the Commission on the continuing operations of the Election Division. Ms. Marendt stated that staff was glad that they did not work in Florida's counterpart to the Election Division. Ms. Marendt reported that staff was preparing for the January Election Administrator's Conference. She reported that information packets had been sent out to clerks, voter registration officials and party officials; that an agenda for the conference was finished; and that all arrangements for lodging and reservation of conference facilities had been made. She reported that the Election Division has received a good response with reservations for the conference so far.

The chair asked whether staff planned to have a session with the clerks on voting systems and the concerns of the Commission on voting system issues. Ms. Marendt indicated that staff planned to discuss these issues at the conference. Ms. Marendt said, in addition, staff would present materials on new legislation, including potential future legislation, on voting systems and voter registration issues. She stated that she hoped that the Commission members would encourage their county elected officials and party officials to attend. Mr. Valentine indicated that the conference would be especially helpful for newly elected officials.

The chair asked whether it would be a good idea to have a Commission meeting the morning of the Election Administrator's conference to sign campaign finance orders. Staff indicated that this would be a good idea.

The chair recognized Mr. Valentine who indicated that he would report on Election Day wrap up issues. He stated that election results were posted on the Election Division's website. He stated that he wished to thank two governor's fellows, Michelle Misiukiewicz, who is a governor's fellow from the region, and Kelly Tingle. He stated that these two governor's fellows helped staff tremendously the week of, and the week prior to the election, in organizing the election night website and organizing the effort in obtaining election night results from the county clerks. He stated that the Election Division was pretty successful in getting an early election night canvass of votes and posting the results on the website throughout the evening.

Mr. Valentine stated that the Election Division has certified the election results and prepared commissions for all offices commissioned by the governor. He stated that the governor has signed the presidential elector commissions and the certificates of ascertainment for the electors have been prepared and signed. He stated that preparations for Indiana's meeting of presidential electors on December 18 have been made and he anticipates no problem with that meeting. Mr. Valentine stated that the legal team deserves a great deal of credit for those preparations, as does Bruce Northern who provided computer assistance for the preparation of the certifications and commissions.

The chair then recognized Ms. Marendt who indicated that staff was very busy on Election Day with numerous NVRA issues, many issues specifically tied to the Bureau of Motor Vehicles. She indicated that she felt that there is a breakdown of communication with the BMV. She stated that she and Mr. Valentine were asked by the budget committee about the BMV's testimony before that committee that voter registration forms are delivered from the BMV to the offices of the Election Division.

Mr. Valentine indicated that this testimony came from the Secretary of State. Mr. Valentine indicated that, nonetheless, there is some breakdown in that some of the voter registration forms are not making it from the BMV to the counties. He indicated that BMV registrations constitute roughly between 40% to 42% of all the registrations processed in the state. He stated, therefore, a breakdown in that system, even a small one, can have a substantial impact.

Ms. Marendt indicated that a certain amount of the breakdown can be documented by instances where the voter shows up on election day and their name is not on the poll list even though the voter has a receipt from the BMV showing that the voter registered at the BMV. She indicated

that a certificate of error should document these instances. She indicated that, more problematic, are the voters who have registered at the BMV, are not on the poll list, and do not have a receipt to show at the polls when they go to vote. She says that the Election Division received anecdotal evidence of this through many phone calls received on Election Day. She stated that these individuals are, in essence, disenfranchised.

The chair asked whether voters are given a receipt at the BMV when they register there.

Mr. Valentine indicated this was the case and that the Election Division had received anecdotal evidence that voters had been told by persons working at the BMV that they would not need the receipt and, therefore, many voters did not save the receipt.

The chair recognized Commission member Pat Terrell who asked staff whether the BMV employees were given any training on these issues. Ms. Marendt indicated that they were, however, that these are not highly compensated employees and that there is high turnover.

Mr. Morgan added that voter registration was not the primary function of the BMV.

Mr. Valentine also stated that technology has not kept pace with the requirements of the NVRA. He indicated that there is ongoing discussion, prompted by these problems, about transitioning to a statewide voter registration file. He indicated that the Co-Directors had been contacted by several legislators, from both sides of the aisle, interested in trying to deal with these issues. He also indicated that both parties had presented testimony to the Census Data Advisory Committee in support of a statewide voter file. He stated that he hoped that a proposal to create an electronic link between the BMV and that voter registration system would be a part of any solution proposed. He stated that he felt that the system needed to be less of a paper system and more of an electronic system.

Mr. Morgan asked for a clarification of the problems people are having with a registration system based on paper.

Mr. Valentine indicated that when paper forms are used by BMV, the forms are being shoved into an envelope and sent to a county voter registration office. He said, while the BMV can document that they sent a number of forms to the county, they cannot specifically identify the registrations sent in a specific delivery. He stated that, in an electronic system, each registration would be data entered at the BMV and transmitted by electronic link directly to a voter registration system accessible by the counties and the state.

Mr. Morgan asked whether BMV officials have been invited to the Election Administrator's Conference.

Mr. Valentine stated that inviting them to the conference is a good idea and that he would look into it.

Mr. Valentine also indicated that he had a meeting tomorrow with intelenet who had contacted him about internet voting. He indicated that this was premature but he was glad to talk to them

about other voting registration issues as they relate to the Internet. He stated that there is also a committee being put together between the secretary of state's office and the governor's office to talk about voter registration issues.

The chair stated that he was not sure that it was the state BMV who needed to talk with the clerks at the Election Administrator's Conference. He said that in his county they had over 50 people who claimed to have registered at the BMV who were not on the list. He said the local license branch manager is a friend of his and she said she personally drives the registrations from the BMV branch to the courthouse in Covington. He stated that he did not know what the problem was.

Ms. Marendt indicated that she thought there are a number of problems, including: 1) registration papers that get lost in the shuffle of papers; or 2) the registrant picks up his own registration and walks out with it.

The chair stated that he thought the license branch forwarded the registrations to the state BMV and that the state forwarded them on to the counties. He said his friend says that she personally drives them from the branch to the county.

Kristi Robertson indicated that some state agencies work that way. For example, in the Department of Workforce Development registrations are sent to the state as a clearinghouse and then forwarded to the counties. She stated that, with the BMV, the local branches deliver the registrations directly to the counties.

The chair stated, in that case, he was unsure what good having officials for the state BMV at the Election Administrator's Conference would do. Mr. Valentine stated that, in the past, Jim Staples, the director of the state BMV, has come to the conference and taken the heat from the clerks. He stated that, in his opinion, when there is someone who says they registered at the BMV and they do not appear on the poll list, the initial response is that the BMV made a mistake. He stated that might be the case in many instances but that it may not always be the case.

The chair indicated that he was sure that in many instances the BMV blames the clerk's office and the clerk's office blames the BMV.

Ms. Marendt indicated that one of the things that can be done is to encourage the clerks to develop a relationship with their local BMV branches and meet with the managers of those branches. She said that many of these branches deliver the registrations by mail and, while we like to think that this is a reliable method of delivery, her experience with the duplicate elimination program has shown her that not all mail is delivered.

Mr. Terrell observed that BMV employees are often faced with an overwhelming number of people to service at the branch. Ms. Marendt concurred and indicated that she felt, because of the press of business, many of the BMV employees do not have the time to ask a registrant for a previous address to assist in the administration of the duplicate elimination program and that

what gets put on the registration card is simply what is printed on the driver's license and that does not include a previous address.

The chair indicated that it might be a better idea to invite district managers to talk with the clerk's at the Election Administrator's Conference so that they can go back and talk to their local branch managers and try to work out problems.

Mr. Terrell indicated he thought it might be helpful if the managers would be more attentive in training branch employees and explaining the importance of the voter registration mission of the BMV.

Ms. Marendt indicated that one thing that might be helpful is to have BMV employees make clear to its customers that they are not registering to vote, that instead they are applying to register. She suggested that maybe we could work with the BMV to post a notice at the branches which indicates that "You are not registered, you are applying for registration, and that if you do not receive a registration confirmation within a few weeks you need to call your local county registration office."

Ms. Robertson stated that perhaps this could also be made more prominent on the receipt that a registrant at the BMV receives.

Ms. Marendt stated it was difficult on Election Day dealing with all of these problems. She indicated that the Election Division's voice mail was constantly filled to capacity with messages from people experiencing problems and that she personally finds it frustrating since these people are so interested in voting and all we hear about is voter apathy.

The chair asked staff to contact the BMV to see if they could obtain appropriate representation for the BMV at the Election Administrator's Conference.

Mr. Valentine indicated that his discussion of poll worker education sort of dovetailed with this discussion. He indicated that there are certain fail-safe procedures in place. He stated that these procedures are described in the Election Division's Election Day handbook. He said, one of the fail-safe procedures relevant to this discussion is that a voter can vote on a BMV receipt whether or not the voter is in the poll books on Election Day. He said that some voters were not allowed to vote on the receipt and that the Election Division needs to do more outreach on this issue to help ensure that poll workers receive the appropriate training. He said that there are other fail-safe procedures also. He said, for example, if you have moved, but moved within the same congressional district and county, you can still vote.

Mr. Valentine indicated that he was going to let Ms. Robertson describe some complaints filed with the election division at this point.

The chair recognized Ms. Robertson who indicated that some complaints had been filed with the Election Division that relate to campaign finance that staff wanted to make a part of the record. She stated that she does not think the Commission needs to act on these complaints but since

they have been filed with the Commission she thought that they should be made a part of the record.

She explained that the Election Division was copied on a letter to the Lake County Combined Election Board regarding some election issues. She explained that staff would send a letter to the complainant and advise her that we did receive her letter and that the matter was properly before the Lake County Combined Board of Elections.

Mr. Simmons stated that he talked to this complainant on Election Day and he said the complaint may have been the result of a misunderstanding. The complainant was the administrator of a nursing home and it was her understanding that when her residents were registered that the absentee traveling board would vote them. He stated that it was not clear from the discussion that the complainant knew that her residents not only had to be registered but that they had to separately make an application to vote by traveling board in order for the board to respond. He explained that he suggested to the complainant to refer her complaint to the Lake County Combined Election Board and he stated that he did think it was appropriate to follow up with a letter to the complainant acknowledging her letter and explaining that she had properly referred the matter to the Lake County Combined Election Board.

Ms. Robertson stated that the other complaints that she wished to bring to the attention of the Commission were three letters addressed to the Morgan County Election Board that were copied to the Election Division. She said that she was personally involved in this case. She said that after absentee voting had begun in Morgan County and before Election Day it was discovered that there was a ballot error. She said that the democrats were listed ahead of the republicans on the ballot.

She explained that under state law the party that won the most votes for secretary of state in the last election in that county gets to be listed first on the ballot in that county. She said that the Republican Party had won the most votes for secretary of state in Morgan County in the last election so that listing the democrats first was an error. She stated that her advise to Vikki Kivett, the Morgan County Circuit Court Clerk, was to redo the ballots and switch the ballot order for Election Day. She said that there was not time to send out replacement ballots for the absentee voters but in her opinion, and in the opinion of the Morgan County Election Board, this was not something that would cause such voter confusion as to require new absentee ballots to be sent.

She said that the letters she is bringing to the attention of the Commission are from voters who expressed some concern about the change in ballot order between the absentee voting and Election Day. She explained that a candidate could use the state contest procedures for ballot printing errors and that the standard for that procedure is: "was the mistake of such a nature that you could not tell the outcome of the election?" She said that the remedy for a contest would be to have a special election and that she did not think that anybody felt that the remedy was necessary or appropriate under these circumstances and that no contest was, in fact filed after the election in Morgan County.

The chair asked whether these complaint letters were addressed to the Morgan County Election Board and copied to the Commission. Ms. Robertson indicated that this was correct.

The chair then recognized Ms. Marendt who stated that the division received a rash of angry phone calls on Election Day regarding a ballot in St. Joseph's County that highlighted the candidates for the Democratic Party in bright yellow. She said that she received a copy of the ballot label used and wanted to bring this to the attention of the commission. She said that counsel could speak to the statute.

Mr. Simmons explained that state statute provided that ballot labels should be black printing on white background. He stated that this ballot label does not conform to state law. He explained that this has been communicated to the St. Joseph's County Election Board.

He indicated that he also received a call from an attorney who represented voters in the county about what remedies the voters may have under state law. He said that he explained the contest procedures to the attorney making the inquiry but he had received no indication that a contest was filed.

Mr. Morgan said that he was familiar with this since he is from that area. He said calls started coming in on Election Day. He said that this ballot was consistent with the policy in the past and that the county election board had approved the ballot. He said that this was not a spontaneous protest, this was something that was organized beforehand. He said that the republican chairman had stated it was this way when the republicans had the top spot also. He said that he told the county election board that whatever they came up with was fine, that there was nothing going on here but following past procedures. He said this was not secret, this had been out there for months. The fact that they had banners made up for the protest indicates that there was some forethought that went into this demonstration.

Mr. Simmons asked whether, since this ballot practice conflicted with state statute, the county would revisit their ordinance providing for ballot highlighting. Mr. Morgan said that they were absolutely looking at that. He said that he advised the county election board that they should talk with the county and take steps to make sure this is not an issue anymore.

Ms. Marendt indicated that staff had provided the county with the statutory citations. She said that other ballot uniformity issues came up and that she wished to report to the commission that the Election Division made an offer to the county clerks to review their ballots for compliance with state statute prior to printing. She said that many clerks had taken the division up on this offer and that in many instances staff found both minor and substantial problems that needed changing in the ballots submitted.

The chair said that what he found helpful in his county is that the clerk and election board members and both county chairs sign off on the ballot form before it goes to printing.

Ms. Marendt also said she would encourage voting system vendors to maintain regular contact with the division to keep abreast of issues that come to the division's attention as well as keeping advised of changes in the statutes.

Mr. Valentine stated that the final item under co-director's report was voting systems. He said that the division has had a number of inquiries about punch card systems and chads. He said that the Commission had already asked for a tabulation showing which counties were using which type of voting system. He said that staff had compiled that for the Commission and he provided that for the Commission. He said that there are still 10 counties using the lever system. He said that many media inquiries have been received on this subject also. He said that the division had also received inquiries from representatives at the division's budget session in terms of how many counties and how much it would cost per precinct to replace existing voting systems. He said that at the National Association of State Election Administrator's board meeting last week he discussed proposed federal legislation that either banned certain types of existing systems or created a timetable for retiring old systems. He said there is some legislation in the works to create block grants to replace outdated systems. He said that there are a great deal of proposals being discussed at both the state and federal level and that there is probably some discussion by county commissioners as well.

Mr. Terrell asked Ms. Robertson whether, when the list was compiled, she got the impression that counties were getting close to wanting to replace their systems. Ms. Robertson stated that St. Joseph, Elkhart and Vanderburg counties are looking at new systems. She added that many counties are now working on their budgets for the next two years and since there is no election next year they may be looking at obtaining new systems for the 2002 election.

Mr. Valentine stated that this might impact the Commissions' discussion of approving upgrades to existing punch card voting systems. He stated that he did not know why a county would purchase an upgrade now, in a non-election year, when there are so many legislative proposals on the table.

The chair recognized Mr. Simmons who stated that a related issue is an issue that the Commission asked staff to address in the update of the CEB-9 report submitted to the division by the counties. He said that this form was modified by the Commission to include a space for the counties to describe problems they experienced with their voting systems. He stated that while he was reviewing the reports submitted by the counties he noticed that there was some documentation about problems with voting systems on Election Day. He asked the Commission if they were interested in a report from staff on those problems.

The chair indicated that he would like to see a report in some form.

The chair recognized Ms. Marendt who stated that one of the things that vendors had assured the Commission of is that these upgrades would not affect the vote totals. She stated that Marion County had experienced problems with the software that resides on the PC. She stated that they had problems with this software as it related to the tabulation of the vote totals. She said that Marion County Clerk Sarah Taylor had e-mailed her that the problem had been caused by a software problem which led Marion County to request the Election Division to pull the Marion County results from the division's website until they could sort the problem out. She said that she would encourage the Commission to take a very serious look at these issues.

Mr. Valentine stated that he thought that he and Ms. Marendt were both leaning more towards not making recommendations on approving software upgrades without some independent testing authority review.

The chair indicated that he would like to see some compilation of the problems reported by the clerk's with their voting systems on Election Day.

Mr. Valentine stated that, as a final item under the Co-Director's report, he would like to announce that this is his last meeting as a single man. He said that the next time the Commission sees him he would be wipped into shape.

Ms. Marendt said that she would like to take the opportunity to publicly thank staff for long hours under very trying circumstances.

5. LITIGATION UPDATE

The chair recognized Mr. Simmons who stated that there are several outstanding cases pending against the Commission. He indicated that he has reported several of these cases to the Commission in prior meetings. He stated that there are also two new cases.

He stated the *Leaf versus Able* case, the disclaimer case, was still pending in federal court before Judge McKinney on motions for summary judgment. He said that there have been a couple of rulings on pending matters since he last addressed the Commission on the case. He said the individual capacity claims against the Commission members were dismissed in a ruling issued on September 29. He indicated that the court also held a hearing on the request for preliminary injunction in the case on October 26. He said that there has not been a ruling on the request yet but that the judge indicated to our counsel that he would try to rule prior to the election. He stated, however, that there had not yet been such a ruling as of today's meeting.

He explained that another case that he has been reporting to the Commission is the *Majors versus Indiana Election Commission*. He stated that this case involves challenges to campaign finance fines imposed against Libertarian candidates. He explained that the Libertarian's claim in that lawsuit is that since they did not raise money for their campaigns, they did not have to file campaign finance reports. He stated that there is a pending dispositive motion in this case that still has not been ruled upon.

He advised that the third case that he has been reporting to the Commission on in the last few meetings is the Marion County Committee of the Democratic Party case challenging the date for filling ballot vacancies. He explained that this case involved a deadline for filling vacancies that was moved up to June 1 for legislative offices for major parties. He explained that the plaintiff challenged the statute as discriminatory because the Libertarians have longer under the election statutes to fill candidate vacancies. He stated that the statute was challenged under the Equal Protection Clause and the First Amendment to the U.S. Constitution. He stated that this case was initially heard on a motion for preliminary injunction. He stated that this motion was denied by the court on August 3rd and that the court's decision on preliminary injunction has already been provided to the Commission. He stated that after this ruling the case was still technically

pending on plaintiff's request for a declaratory judgment and a permanent injunction. He stated that, at this point, all defendants in the case, including the Commission and the Marion County Election Board, have filed a motion to dismiss. He stated that this motion basically reiterated the grounds stated in opposition to the request for preliminary injunction. He said, that in response to this motion to dismiss, the attorney representing the Marion County Democratic Party agreed to stipulate to dismiss the case. He stated that a stipulation of dismissal with prejudice is being circulated among counsel at this point and would be provided to the Commission once it is signed and executed by the court.

He said the other case he had to report on is captioned *Conrad v. Sammon*. He said that this case is actually comprised of two related cases. He said that the underlying dispute in this case that started in September involved the death of the Newton County Circuit Court Judge on February 25 of this year. He stated that because the death occurred after the declaration filing date, there were no candidates that ran in the primary for the office. He stated that when a judge dies, the governor may appoint a replacement to fill the vacancy. He explained that the Republican Party filed paperwork to fill a ballot vacancy and run a candidate for the office of circuit court judge in the November election. The vacancy papers were filed prior to the June 6 deadline. The argument between the republican candidate for judge, who at this point has gone through the election and received between 3500 and 3600 votes, and the governor's appointee, is over who legally holds the office as of January 1, 2001. He stated that the governor's appointee claims that his appointment does not expire until the election in 2002. He said that there is a statute that talks about the length of the term of the governor's appointee as until the "next election." The parties are basically arguing whether the next election, as set out in the statute, refers to the November 2000 election or the November 2002 election.

He explained that the Commission is not a party to the *Conrad v. Sammons* case. He stated that this case is primarily between the two competing judges. He explained that the Commission was named in a related case filed in Lake County. He stated that the democratic member of the Newton County Election Board sued the Commission in Lake County. He said that this lawsuit was filed after the *Conrad v. Sammons* case had been filed. He said that the court in the Lake County case issued a ruling enjoining the Newton County clerk from placing the republican candidate for judge on the ballot. He stated that this ruling was vacated because the Lake County judge did not have jurisdiction over the case. He said, at this point, the underlying issue about who will properly hold office on January 1, is being litigated in the *Conrad v Sammons* case pending in Newton County.

The chair recognized Ms. Robertson who stated that staff included in the Commission packet the judgment in the *Conrad v. Sammons* case where the Commission was not a party because there was a discussion and a decision in this case from the trial court involving the ballot certifications of the co-directors. She explained that there was one certification that went to Newton County without the republican judge on it signed by both co-directors and that there was a certification that went out with the republican judge on it signed only by Ms. Marendt. She said that the Commission was discussed in that case as an arbiter for deciding such a dispute between the co-directors.

Ms. Robertson stated that it was her understanding that the Indiana Supreme Court would now hear this matter.

The chair asked whether the judge ruled in the case that the judge that was elected in the November election would take office January 1, 2001. Mr. Simmons indicated that this was the ruling on the underlying merits. He added that as part of that case is the issue of the co-director certification. He explained that within the division there was an agreement to disagree. He stated that the democratic co-director did not want to certify the republican candidate but Ms. Marendt did go ahead and certify the candidate to the Newton County Circuit Court Clerk who did place the candidate on the ballot.

He said further that this case is now on the fast track for a decision in the Indiana Supreme Court. He said that the Supreme Court has indicated that they will have a decision in the case by January 1, 2001.

Mr. Simmons stated that the other case on the agenda for today's meeting is the *Osbourne vs. Indiana Election Commission* case. He said that the unsuccessful democratic candidate in the primary in the third congressional district filed this case against the successful candidate. Mr. Osbourne filed this lawsuit to remove Tim Roemer from the ballot for the reason that there was an alleged defect in the declaration filed by Roemer in the primary. He indicated that the trial court denied Osbourne's request to remove Roemer from the ballot. He stated that staff had not yet received a copy of the ruling from its counsel but that the ruling would be provided to the Commission as soon as it was received.

6. OTHER BUSINESS

The Chair recognized Kristi Robertson who stated that while the Commission informally approved the revised CEB-9 form containing the new voting systems report, the Commission had not formally adopted an order approving the revised form. She said that in the Commissions' packets was order 2000-168 for that purpose and that this order may be adopted at the Commissions' pleasure.

She said that she has prepared another order approving a form, order 2000-169, which is an order approving revised presidential elector forms which will be used in the December 18, 2000 meeting of presidential electors. These forms were revised to simply update the dates on the forms and the current electors names have been included on these forms. She stated that both of these orders can now be approved at the pleasure of the commission.

Mr. Terrell moved that orders 2000-168 and 2000-169 be approved and adopted by the Commission. Mr. Morgan seconded the motion. There being no further discussion, the chair called the question and declared that with four members voting aye (Mr. Cruca, Mr. Morgan, Mr. Dezelan and Mr. Terrell) and no member voting nay, the motion was adopted and the orders were approved.

7. ADJOURNMENT

The chair asked if there was any further business. There being no response, Mr. Morgan moved that the Commission adjourn. Mr. Dezelan seconded the motion. There being no further discussion, the chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Morgan, Mr. Dezelan and Mr. Terrell), and no member voting "nay", the motion was adopted. The Commission then adjourned.

Respectfully submitted,

Laurie Christie
Co-Director

Spencer Valentine
Co-Director

APPROVED:

Dudley R. Cruea, Chair