

Indiana Election Commission

Minutes

MARCH 13, 2002

Members Present (Morning Session, 10:00 a.m.-11:55 a.m.): Dudley Cruea, Chairman of the Indiana Election Commission (the Commission); S. Anthony Long, Vice Chairman of the Commission; Butch Morgan, member of the Commission; Joseph M. Perkins, Jr., member of the Commission.

Members Absent: None.

Members Present (Afternoon Session, 1:05 p.m.-3:00 p.m.): Dudley Cruea, Chairman of the Commission; Andy O'Leary as proxy for S. Anthony Long, Vice Chairman of the Commission; Butch Morgan, member of the Commission; Shirley Baker as proxy for Joseph M. Perkins, Jr., member of the Commission.

Members Absent: S. Anthony Long and Joseph Mr. Perkins, Jr.

Staff Attending: J. Bradley King, Co-Director, Indiana Election Division of the Office of the Indiana Secretary of State (Election Division); Spencer Valentine, Co-Director of the Election Division; Kristi Robertson, Co-General Counsel to the Commission and Election Division; Dale Simmons, Co-General Counsel to the Commission and Election Division; Pam Potesta, Campaign Finance Director, Indiana Election Division; Michelle Thompson, Campaign Finance Director, Indiana Election Division.

Also Attending: Richard W. Gudal, Frederick A. (Tony) Zirkle, Matthew Lentsch, Kurt Babcock, Sean Gorman, John D. Blackburn, Michelle Blackburn, Seth Blackburn, Heidi Blackburn, Alex Blackburn, Abbey Blackburn, Kirk Mason, Joe Elfemi, Lacy M. Johnson, Dan Seitz, Kurt Humphrey, John Aguilera, David R. Larson, Joseph Schumpp, David L. Nicholson and Dean Beckner.

Morning Session

1. Call to Order

Dudley Cruea, Chairman of the Commission, called the March 13, 2002 meeting of the Commission to order at 10:05 a.m. at the Indiana Government Center South, Conference Center, Conference Room C, 302 West Washington Street, Indianapolis, Indiana. He noted that proper notice of the meeting had been given, as required by state law, and that a quorum was present.

A copy of the meeting notice and agenda is 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.]*

The Chair noted that Vice-Chairman S. Anthony Long was not present but had called and indicated that he was on his way to the meeting and should arrive in the next five to ten minutes.

2. Approval of the February 28, 2002 Regular Meeting Minutes

The Chair noted that the Commission would consider approval of the February 28, 2002 minutes. Mr. Perkins moved, seconded by Mr. Morgan, that the February 28, 2002 minutes be approved as presented. There being no further discussion, the Chair called the question, and declared that with three

members voting “aye” (Mr. Cruca, Mr. Morgan and Mr. Perkins), and no member voting “nay”, the motion was adopted.

3. Voting Systems

The Chair indicated that the Commission would wait for the arrival of Mr. Long to consider the candidate challenges on the agenda and indicated that the Commission would now receive a status report on applications for approval of voting systems.

The Chair recognized Mr. King who referred Commission members to their binders under the voting systems tab. Mr. King indicated that the Election Division received an application for voting system certification from vendor Election Systems and Software (“ES&S”). He explained that the application for approval is for a Model 100 version software upgrade to version 4.7.6. He stated that at the February 28, 2002 meeting the Commission approved a software upgrade for this voting system to version 4.7.5. He stated that this particular change was not part of the approval requested and granted at the February 28 meeting. He added that the application for approval submitted by ES&S for software version 4.7.6 would now be reviewed at the staff level and that he anticipated that staff would be reporting back to the Commission very soon.

Mr. King directed the attention of the Commission to a letter in the Commission’s binder from Wylie Laboratories, an Independent Testing Authority, indicating that Wylie Laboratories has reviewed software version 4.7.6 with regard to functional testing. He explained that the report confirms that the software complies with the FEC standards for voting systems.

Mr. King added that the binder also includes a copy of a software escrow agreement between MicroVote and Brambles MSD that reflects software that was approved by the Commission at a previous meeting.

Mr. King also directed the attention of the Commission to a letter at the very end of the documents under the voting system tab of the Commission’s binder. He stated that the letter is dated January 31, 2002 from Ms. Christie and Mr. Valentine as co-directors notifying Governmental Business Systems of the January 10, 2002 Commission vote with regard to the approval of the Diebold AccuVote TS (touch screen) DRE voting system.

Mr. King indicated that he would be happy to answer any questions that the Commission may have. He indicated the main item of business for today was to bring the attention of the Commission to the new application for the approval of a software upgrade filed by ES&S.

The Chair asked Commission members if there were any questions. Mr. Morgan asked whether staff had any more information on the update of the FEC voting system standards or any changes in the law that would impact approval of voting systems in Indiana. Mr. King answered that there has not been any additional information received in the last few months but he has been told that the FEC’s work is nearing completion.

4. Candidate Challenges

The Chair noted that Vice-Chairman S. Anthony Long had arrived and that the Commission would next consider candidate challenges. The Chair asked that all those present who anticipated testifying

before the Commission on the candidate challenges to stand for the administration of the oath. Kristi Robertson administered the oath.

The Chair recognized Ms. Robertson who directed the Commission to the tab in their binders marked "candidate challenges." She stated that there is various information contained in their binders organized under cause numbers 2000-48, 2000-49 and 2000-50. She indicated that the binders include a notice of hearing, a copy of the candidate challenge, and also, immediately behind that, a copy of the declaration of candidacy filed with the Election Division. She explained further that she included in the binders all other documents filed by the parties whether filed by FAX or by mail.

A. Challenge to the Declaration of Candidacy filed by Sean Gorman, State Representative District 61, administrative cause number 2002-48

The Chair recognized Ms. Robertson who stated that the Commission could begin with the first cause number, 2000-48, which is a challenge to the declaration filed by Sean Gorman for State Representative District 61. The Chair noted that the challenge had been filed by Richard Gudal and asked whether Mr. Gudal and Mr. Gorman were present. Both Mr. Gudal and Mr. Gorman indicated their presence.

The Chair indicated that the Commission would allow the challenger, Mr. Gudal, to present his side to the Commission first and asked that Mr. Gudal limit his remarks to five minutes. He commented that the Commission would then have an opportunity to ask questions before allowing Mr. Gorman five minutes to present his side. He said when Mr. Gorman was finished the Commission would again have an opportunity to ask questions and then the Commission would consider any further requests for additional time. The Chair requested that Mr. Gudal approach the Commission, state his name, and provide whatever information he wished to present to the Commission on the challenge.

The Chair recognized Mr. Gudal who introduced himself to the Commission. He stated that he lives at 206 South Main Street, Bloomington, Indiana and has lived at that address since 1978. He stated this address is located in House District 61 now held by state representative Mark Kruzan. He added that he is a Democratic precinct committeeman for Bloomington precinct 2, a position he has held since the late 1980's.

Mr. Gudal testified that at 11:00 a.m. on March 1, 2002 he received a call indicating that there was a question regarding the candidacy of Mr. Gorman. He explained that the caller indicated that Mr. Gorman filed to be a candidate in House District 61 and that he resided on North Woodburn Street in Bloomington. He stated that this address is in House District 61. He stated that he was not questioning Mr. Gorman's residency but at the time Mr. Gorman filed his declaration his voter registration indicated that he lived at another address, on Oakdale Drive, which is, to the best of his knowledge and information, not in House District 61, but in House District 60. He stated that in the supplemental affidavit that he filed he indicated that, under state election law, a candidate for state representative must be registered to vote in the district that he or she intends to represent. He concluded that, based on this information, there is a serious question regarding the legality of the candidacy filed by Mr. Gorman.

The Chair asked whether Commission members had any questions. There being none the chair asked Mr. Gorman to come forward.

The Chair recognized Mr. Gorman who introduced himself. He stated that he is a state representative candidate for House District 61. He stated that he filed declaration of candidacy on the deadline. He said he had received a call that the challenge was based on an oversight by Frank McCloskey, the

Monroe County Democratic Party chairman. He said that he did not know the law and that he was not a lawyer so he was not here to argue the law. He stated that he just wanted to address his intent. He said that he does live at 1009 North Woodburn Avenue and has lived there since August 1st of last year. He added that once he was notified of the challenge, he changed his voter's registration to his address in House District 61. He stated that if he is removed from the ballot then the people that lose are the democratic voters of Monroe County in House District 61, and all voters in that district, in that the republican will run unopposed in the general election.

The Chair asked if there were any questions. Mr. Perkins asked whether Mr. Gorman lived at the Woodburn address. Mr. Gorman indicated that he did.

The Chair observed that the copy of the voter registration in the Commission's binder indicates that Mr. Gorman has an address on Oakdale Drive. He asked Mr. Gorman if he was registered at the Oakdale Drive address. Mr. Gorman indicated that he was not registered there at this time. The Chair asked when Mr. Gorman changed his registration. Mr. Gorman stated that he changed it when he was notified of the challenge that he believed was March 3rd. The Chair asked Mr. Gorman if he changed his registration after the deadline for filing his declaration of candidacy. Mr. Gorman indicated that this was correct.

Mr. Morgan asked Mr. Gorman the address he stated on his declaration of candidacy. Mr. Gorman stated the address on his declaration is 1009 North Woodburn Avenue. He stated that this is where he lives. Mr. Morgan asked whether he changed his voter registration after he filed his declaration. Mr. Gorman indicated that he changed his voter registration after hearing about the candidate challenge.

The Chair asked whether, when Mr. Gorman filed his declaration, he lived at one address but was registered at another address. Mr. Gorman indicated that this was correct. Mr. Long asked whether Mr. Gorman was living in the district that he filed in but that his registration showed an address where he previously lived in another precinct. Mr. Gorman indicated that this was correct.

The Chair asked counsel whether this challenge fell under IC 3-8-1-1. Mr. Simmons and Ms. Robertson indicated that this was the correct statute. Mr. Simmons added that subsection (b) of the statute applied. Mr. Perkins asked whether this was the statute that applied in this case. Mr. Simmons and Ms. Robertson indicated that this was the correct statute to apply to the case.

Mr. Long asked whether Mr. Gorman contended that voter registration officials made an error with respect to how they listed his address on his voter registration. Mr. Gorman indicated that he did not contend that anyone made an error.

Mr. Perkins asked if the chronology of events were as follows: in August, 2001 Mr. Gorman moved from the Oakdale address into the Woodburn address and has lived there since, then in February, 2002 Mr. Gorman filed his declaration of candidacy for District 61, and then Mr. Gorman changed his voter registration. Mr. Perkins indicated he was still not clear exactly when the voter registration was changed. Mr. Gorman said March 1st was a Friday and he received a call that Friday notifying him of the challenge. Mr. Gorman stated that he changed his registration on the following Monday.

The Chair asked counsel to indicate the deadline for filing a declaration of candidacy. Mr. Simmons indicated that the deadline was noon February 22, 2002. The Chair asked whether Mr. Gorman's voter registration was changed then after this filing deadline. Mr. Gorman indicated that this was true.

Mr. Morgan indicated that the Monday following March 1 would have been March 4. Mr. Gorman indicated that this was correct.

There being no further questions the Chair closed the hearing on administrative cause number 2002-48. Mr. Perkins moved that, based upon the chronology of events, and what appears to be a clear statement in Indiana Code 3-8-1-1(b), the Commission uphold the challenge to this candidate. Mr. Long seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Mr. Perkins), and no member voting “nay”, the motion was adopted.

B. Challenge to the Declaration of Candidacy filed by Dean M. Beckner, Circuit Court Judge, Carroll County, administrative cause number 2002-49

The Chair recognized Ms. Robertson who stated that the next cause number was 2002-49, a candidate challenge to Dean M. Beckner, candidate for Circuit Court Judge, Carroll County. She indicated that in the Commissions’ binder there are copies of the challenge, declaration of candidacy, and a request filed by Dean M. Beckner, received by the Election Division by FAX yesterday afternoon, stating that Mr. Beckner would not be able to attend the Commission meeting at 10:00 a.m. and requesting that the case be heard by the Commission at 1:00 p.m. She also indicated that the binder contains a FAX from the Carroll County republican county chairman.

The Chair asked whether the candidate, Dean Beckner, or the challenger, John Blackburn, were present. Mr. Blackburn indicated that he was present.

The Chair recognized Ms. Robertson who stated that it might be helpful to provide the Commission some background as to the legal basis of this challenge. She stated the challenge is based on the party affiliation statute that went into effect July 1, 2001. She added that this is the first election where the statute would apply. She explained that the specific code citation is 3-8-2-7(a)(4). She stated that this section requires a candidate to indicate his or her party affiliation, which is deemed under the statute, to be the party the candidate voted for in the last primary election in which the candidate voted. She stated that if a candidate has never vote in a primary election then the candidate’s declaration determines his or her party affiliation. She added that if a candidate has voted for a different party in the last primary in which the candidate voted than the candidate claims affiliation with on his or her declaration, the candidate can still establish party affiliation by obtaining the certification of the county chairman of the party the candidate claims affiliation with in the county where the candidate resides.

The Chair indicated that the Commission should first determine whether they would continue the hearing and asked how the candidate would be informed whether the hearing was continued or not. Ms. Robertson stated that Mr. Valentine spoke with Mr. Beckner over the phone and indicated that notice of the hearing was sent to Mr. Beckner by overnight mail. She said that Mr. Beckner’s FAX requesting a postponement was sent at 4:40 p.m. yesterday afternoon.

Mr. Long asked whether there was a certification of Mr. Beckner’s voting history in the file. Mr. Blackburn stated that he had a certified copy of Mr. Beckner’s voting history. Mr. Morgan asked whether that had been provided to the Commission yet. Mr. Blackburn indicated that it had not. Mr. Long asked to see the voting history indicating that he believed in the law and would instruct his proxy to sustain the challenge based on the voting history of Mr. Beckner if the case was continued to the afternoon.

The Chair recognized Mr. Morgan who indicated that he had some questions for the legal staff. Mr. Morgan asked what the timetable was now to make a challenge based upon party affiliation. Ms. Robertson indicated that this type of challenge operates like any other challenge. She stated that the

deadline for filing a challenge was noon March 1 and that the deadline for determining a candidate challenge is this Friday, March 14 at noon. She said that there is no deadline in the statute for the county chair to certify a candidate. She added that the statute does not require such a certification to be filed with a declaration of candidacy.

Mr. Morgan stated that he could not determine the date of the challenge. Mr. Long stated that the document indicates the challenge was filed on February 22, 2002.

The Chair indicated that the law was pretty clear and suggested that the Commission could go ahead with the challenge now. Mr. Long indicated that he did not have a preference for hearing it now or continuing it to the afternoon. Mr. Long indicated that he appreciated everyone moving the meeting up from 1:00 p.m. to 10:00 a.m. to accommodate his schedule but he did not have a problem based on the evidence to submit it for hearing it now.

Mr. Perkins asked whether the Commission needed to take action on the written request for postponement filed by Mr. Beckner. Mr. Simmons indicated that he thought it would be appropriate to rule on the request by motion.

Mr. Perkins moved that the Commission proceed to hear administrative cause number 2002-49, the challenge to the candidacy of Dean Beckner. 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. Long, Mr. Morgan and Mr. Perkins), and no member voting "nay", the motion was adopted.

The Chair then asked Mr. Blackburn to proceed on his challenge. Mr. Blackburn asked the Commission whether they had a copy of his challenge and the Commission indicated that they did. He referred the Commission to IC 3-8-2-7 and stated that, based on Mr. Beckner's voting history; Mr. Beckner is affiliated with the Democratic Party and not the Republican Party.

Mr. Perkins asked if Mr. Blackburn would identify himself for the record. Mr. Blackburn indicated his name is John Blackburn and that he resides at 6358 West, 1100 North, Delphi, Carroll County. Mr. Long asked Mr. Blackburn whether he was a registered voter. Mr. Blackburn indicated that he was a registered voter in Carroll County at that address.

The Chair asked Mr. Blackburn whether the Commission could enter the certified voting history of Mr. Beckner into the record. Mr. Simmons asked if this could be shown as entered into evidence in this case by consent of the Commission. The Chairman and Commission members indicated that the certified voting history of Mr. Beckner was entered into evidence by the consent of the Commission.

Mr. Blackburn asked whether Mr. Beckner's declaration of candidacy was also of record before the Commission. The Chair indicated that it was. Mr. Blackburn stated that there were two declarations filed, an original declaration and an amended one. He stated that the basis of his challenge was the party affiliation claimed on the declaration. He stated that Mr. Beckner indicated his party affiliation as republican on his declaration for the office of circuit court judge. He added that below place on the declaration to indicate party affiliation there is a paragraph that states that the candidate swears that he complies with all the requirements of law including having voted for the candidates of the party listed above in the most recent primary in which the candidate voted, unless the candidate has not voted in any previous primary, or the candidate has been certified by the chair of the county where the candidate resides as a member of the party. Mr. Blackburn stated the certified voting history shows that Mr. Beckner has voted for candidates of the Democratic Party since 1968 in any primary that he has voted in. Mr. Blackburn indicated that there is also a letter submitted by the republican county chairman in Carroll County indicated that the chairman did not certify Mr. Beckner as a member of the republican

party. Mr. Blackburn stated that he had talked to the republican county chairman who also indicated to him that he would not certify Mr. Beckner as a member of the Republican Party even if he were asked to do so. Mr. Blackburn indicated that he felt like the legal basis of his challenge was clear-cut and that he had no further evidence but that he would be happy to respond to any questions.

There being no further questions the Chair closed the hearing on administrative cause number 2002-49.

Mr. Long moved that the challenge to Mr. Beckner's candidacy in administrative cause number 2002-49 be upheld. Mr. Perkins seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. Long, Mr. Morgan and Mr. Perkins), and no member voting "nay", the motion was adopted.

C. Challenge to the Declaration of Candidacy filed by Frederick Anthony Zirkle, Prosecuting Attorney, St. Joseph County, administrative cause number 2002-50

The Chair recognized Ms. Robertson who stated that the next cause number was 2002-50, a candidate challenge to Frederick Anthony Zirkle, candidate for Prosecuting Attorney, St. Joseph County. She indicated that there are copies of the challenge and declaration of candidacy in the Commissions' binder. She added that the challenger is Matthew Lentsch.

The Chair asked if Mr. Lentsch was present. The Chair recognized Mr. Lentsch who thanked Commission members for the opportunity to present his candidate challenge. He stated that his challenge was straightforward. Mr. Lentsch indicated that he lived at 121 Wabash Avenue, Mishawaka, Indiana in St. Joseph County. He indicated that he is the county chairman of the Republican Party in St. Joseph County and that he is a registered voter in Mishawaka, St. Joseph County. He stated that he is also a precinct committeeman in Mishawaka.

Mr. Lentsch stated that his challenge is based on the fact that Mr. Zirkle moved himself and his family to Lake County. He stated that, according to the election code, Mr. Zirkle has abandoned his residence in St. Joseph County and has established a clear and permanent residence in Lake County. He explained that in the Indiana candidate guide it describes the qualifications for a prosecuting attorney. He indicated that it says that a candidate for the office of prosecuting attorney must be admitted to the practice of law. He stated that on page 34 of the candidate guide it cites Indiana code 3-8-1-1 that states that a person is not qualified to run for local office unless the person is registered to vote in the election district that the person seeks to represent not later than the deadline for filing a declaration of candidacy. He added that he contends that, as of the deadline for filing his declaration of candidacy for prosecutor, Frederick Anthony Zirkle was not, and is not now, a registered voter of St. Joseph County, and that Mr. Zirkle knowingly misrepresented his residency status on his declaration of candidacy.

Mr. Lentsch indicated that he discovered through public records obtained at the Lake County Recorder's office that Mr. Zirkle recently purchase a \$203,000 home at 10541 Park Place in Crown Point, Lake County, Indiana. He stated that Mr. Zirkle's driver's license has the Park Place residence in Crown Point as his address. He stated that Mr. Zirkle's place of employment is currently the Lake County Prosecutor's office. He added that another piece of information that he recently submitted to the Commission by FAX is the fact that Mr. Zirkle's wife Michelle recently registered to vote in Lake County. He stated that Mr. Zirkle is not a resident of St. Joseph County. He added that Mr. Zirkle does

not live at the address he stated on his declaration of candidacy, 20080 Crosswell Road, Southbend, Indiana, and that this address is his sister's residence.

Mr. Lentsch stated further that he would note that in Mr. Zirkle's declaration of candidacy, in both the one he filed in St. Joseph County and the one he filed with the Election Division, that Mr. Zirkle makes a notation where he signs the declaration that raises the question about whether the information provided in his declaration is correct. He explained that Mr. Zirkle put his sister's address on his declaration, not his own. He stated that Mr. Zirkle resides at 10541 Park Place, Crown Point, Lake County and this fact establishes that Mr. Zirkle is not properly registered to vote in St. Joseph County. He stated that the law as stated in IC 3-8-1-1 clearly demonstrates that Mr. Zirkle is therefore not qualified to run for the office of prosecuting attorney in St. Joseph County.

Mr. Lentsch also referred the Commission to Indiana Code 3-5-2-42.5. He explained that this section provides the legal definition of residence as the place where a person has the person's true, fixed and permanent home and principal establishment to which the person, whenever absent, has the intention of returning. He stated that it was indisputable that Mr. Zirkle recently purchased a true, fixed and permanent home in Lake County and has therefore set up a principal establishment at his new Crown Point address. He added that chapter 5 of the election code provides standards for determining residency. He argued that the purpose of Indiana Code 3-5-5 is to determine the residency of a voter, a person applying to register, a candidate, or a person who is holding elected office. He stated that Indiana Code 3-5-5-4 provides a clear standard for determining when a residence has been abandoned. He said that a person retains residency in a precinct until that person abandons the residence by having the intent to abandon the residence, the intent to establish a new residence, and acting consistent with that intent by establishing a residence in a new precinct. He stated that Mr. Zirkle demonstrated his intent to abandon his St. Joseph County residence and the intent to establish a new residence in Lake County and acted on this intent by purchasing a home in Lake County, by moving his wife and family into this home in Lake County, by taking employment in Lake County, and by changing his driver's license to his Lake County address. He added also, again, that Mr. Zirkle's wife changed her voter registration to Lake County.

He concluded, that based on the foregoing, Mr. Zirkle should not be considered a properly registered voter of St. Joseph County as of the deadline for filing a declaration of candidacy, and therefore, Mr. Zirkle is not a qualified candidate for circuit court judge in St. Joseph County.

Mr. Lentsch indicated he also wished to cite to Indiana Code 3-5-5-10. He explained that this section provides that when a person moves into another precinct in Indiana with the intention of making that precinct the person's residence then the person loses residency in the precinct the person left. He stated that Mr. Zirkle moved himself from a residence in St. Joseph County to his residence in Lake County.

Mr. Lentsch added that his position is not only based on the evidence he has submitted in support of his challenge but also upon Mr. Zirkle's own admissions. Mr. Lentsch then presented the Commission with a copy of a lawsuit filed by Mr. Zirkle in St. Joseph County on March 11, 2002 and asked that it be made a part of the record on his challenge. Mr. Zirkle indicated that he had no objection to admitting the lawsuit into evidence before the Commission and the lawsuit was accepted into evidence by consent of the Commission. The Chair directed that staff make the document a part of the record.

Mr. Lentsch apologized for being a little nervous and not being an attorney. Mr. Morgan advised Mr. Lentsch that he should never apologize for not being an attorney. The Chair added that, of the Commission members, he and Mr. Morgan were not attorneys.

Mr. Lentsch indicated that he highlighted the parts of the lawsuit that he would like to review with the Commission. He directed the Commission to page 3 of the lawsuit where it indicates:

“Mr. Zirkle was domiciled at 52324 Chatem Court, Granger, Indiana from March 1, 1999 to about August, 2001. This is the address that Mr. Zirkle maintained his domicile at when he ran for State Representative in 2000. Mr. Zirkle, because of lost medical coverage and a lower salary, was forced to sell his home and moved to a rental house at 20080 Crosswell, South Bend, Indiana where he and his wife signed a lease. He moved in August, 2001. He remained there until the end of November, 2001 where his sister took over the lease for the reasons that are stated below. His sister’s lease ends on November 30, 2002 which is just after the election and before Mr. Zirkle would start as the St. Joseph County Prosecutor.”

Mr. Lentsch stated that the intent the Commission should consider is, not future intent, but the intent in the here and now. He asked the Commission to consider that as they look at the facts and the election code as it applies to Mr. Zirkle’s own statements.

Mr. Lentsch then referred the Commission to page 4 of the lawsuit. He said he highlighted the following passage:

“Mr. Zirkle then learned that the Lake County Prosecutor’s office was looking for deputy prosecutors. Mr Zirkle interviewed and was hired in late October, 2001.”

Mr. Lentsch then referred the Commission to page 5 of the lawsuit and the passage:

“His intention was to stay in his Clay Township, St. Joseph County address, however, that arrangement was not working well for his family and which will be noted below. Mr. Zirkle also learned that interest rates were at a 30 year low and that he would be foolish not to act now to take advantage of the low rates. Mr. Zirkle began to look for a house in Crown Point, near his employment. Mr. Zirkle purchased the Crown Point residence that the defendants have cited on December 17, 2001 and has admitted that fact from the very beginning of this controversy. Mr. Zirkle and his wife decided that they needed to move to Crown Point and they did.”

Mr. Lentsch emphasized this last statement as a very definitive statement of intent made by Mr. Zirkle himself. Mr. Lentsch went on to cite the following passages on page 4 of the lawsuit:

“Mr. Zirkle was so busy that he forgot to change his wife’s voter’s registration from Granger to South Bend and he forgot to tell her not to change it from St. Joseph County when she went to the license branch around January 10, 2002. He also had to renew his license plates, which expired October 31, 2001 and was having difficulty getting to the South Bend license branch during business hours. He had to change his driver’s license to get plates in Crown Point for the car his wife drives.

Mr. Lentsch stated that he would leave it at that even though there are other passages in the lawsuit that he has highlighted. He concluded that Mr. Zirkle does not qualify as a candidate for prosecuting attorney in St. Joseph County under the Indiana election code and he asked the Election Commission to uphold his challenge.

The Chair asked if Commission members had any questions. Mr. Morgan indicated that he did not have any questions of Mr. Lentsch at this time but would reserve his questions until after Mr. Zirkle’s presentation. Mr. Perkins indicated that he would do the same.

The Chair recognized Mr. Zirkle who introduced himself and indicated that he would not apologize for being a lawyer because Mr. Lentsch was trying to take away his right to vote and that he is, therefore, glad that he is a lawyer because sometimes you have to have some tools to defend yourself. He stated that the right to vote, one of the most important rights we have next to religion, is so important that he asked to Commission to consider this challenge very seriously before depriving him of his suffrage right.

Mr. Zirkle stated the case boils down to the confusion between domicile and residency. He stated that this distinction is something that this challenger does not understand. He stated that the Indiana Supreme Court has defined domicile in *State Election Board v. Bayb*, 521 N.E.2d 1313. He said that it doesn't matter where you live, it matters only where your domicile is. He said that your domicile never changes unless you have the intent to leave and abandon it. He stated that he remembered in his constitutional law class in law school, a class he worked hard in and got the highest grade, that Article 5, Section 7 of the Indiana Constitution says "no person shall be eligible for the office of governor or lieutenant governor without being a resident of the State of Indiana." He stated that the Indiana Supreme Court determined that the Indiana Constitution was, in fact, referring to domicile when it referred to residence. He added that if you go to law school and you take civil procedure this is crystal clear, however, if you haven't gone to law school it is confusing. He continued that in *Black's Law Dictionary* it indicates under the definition of residence that this is something often confused with domicile.

Mr. Zirkle stated that his domicile is in St. Joseph County while his residence is in Lake County. He said that domicile is the test to apply in this case. He stated that when the Commission members have time to read his brief they will find that he has cited many different statutes, however, he would like to make a couple of points before addressing those statutes.

Mr. Zirkle explained that, prior to addressing the statutes, he wished to address notice requirements for this hearing. He stated that he received a call Monday advising him that he was being given 48 hours notice. He stated that if he hadn't checked his phone message he wouldn't have known this hearing was moved from 1:00 p.m. to 10:00 a.m. today. He said a lot of prosecutors do not get their messages for days and that he could have easily missed this notification. He said that he thought that the Commission needed to give a little bit more notice.

Mr. Long indicated that the rescheduling was his fault. He stated that the meeting was moved to accommodate him so that he could catch a plane this afternoon. He stated that he is also a lawyer and that the change in schedule allowed him to be here today so that he could vote on this case.

Mr. Zirkle indicated that he was also in the middle of spring break so that if he would have gone somewhere for spring break he wouldn't have even gotten the notice last Friday. He asked if the Commission would consider giving a little more notice. He stated that if the Commission is tempted the least bit in denying him his right to vote that the Commission should follow the Indiana Supreme Court case of *State Election Board v. Bayb*. He said that he filed a declaratory judgment action in St. Joseph County because this a complex issue that cannot be resolved in a five minute speech and he asked the Commission to defer to the trial court for a full hearing. He said due process, the right to be heard, is a fundamental right in our legal system. He stated that due process goes all the way back to biblical times where it says in the book of *John*: "does our own law judge a man before we hear him?" He stated that the Commission could not know all about his life in five minutes.

Mr. Zirkle explained that when he left high school he attended the Naval Academy at Annapolis, Maryland for 2 years before coming back to Indiana. He stated that he went to I.U. at Kokomo and

then back to Georgetown University in D.C. He said from there he went up to Anders in Michigan for a couple of years for some more education before going to law school in Bloomington. He said from there he went to Ft. Wayne and clerked for a judge. He stated that he then went back to South Bend where he remains and maintains his domicile even though he has recently moved to Lake County. He stated that his residence could be anywhere in the world but he is domiciled in St. Joseph County. He stated, as far as his driver's license goes, he has had a license in D.C., a license in Michigan, and that he is required by law to do that. He said, however, he has never changed his domicile. He said the fact that his license is at his address in Crown Point is of no effect. He explained that a person is required to have a license where you reside. He said that you are not required to have your license where you are domiciled.

Mr. Zirkle stated that he would also like to challenge the standing of the challenger. He stated that Mr. Lentsch is not the candidate. He admitted that he did not know if he was correct about that point on the law or not but the principle in constitutional law is that you have to have a party in interest before you can bring a legal proceeding.

He said that he has not made misleading statements even though his challenger has accused him of perjury. He stated that he has not hidden anything from anybody. He also stated that Mr. Lentsch was inconsistent in that he had given a statement in the press that there was a conspiracy between Mr. Zirkle and the democrats of St. Joseph County and Lake County and that the only reason he was hired in Lake County was because they don't like Chris Toth, the prosecutor in St. Joseph County. He stated that it was inconsistent for Mr. Lentsch to claim that he went to Lake County to develop a platform to run in St. Joseph County and also claim that he intends to become a permanent resident of Lake County. He said that Mr. Lentsch did not provide the Commission with all the information relevant to his declaration in that Mr. Lentsch only provided the Commission a copy of his declaration that was filed in St. Joseph County and not the one he filed at the Election Division.

Mr. Zirkle stated that he talked to someone with the Election Division; he thinks it was Kristi, who told him that his residency in Lake County was a temporary residency by statute and does not disqualify him from running for office in South Bend. He argued that he ought to be able to rely on statements made to him by the Election Division because he detrimentally relied on those statements. He stated that, based upon those representations, he chose not to obtain another apartment in St. Joseph County prior to the deadline for filing his declaration of candidacy.

Mr. Zirkle indicated that this issue could take three days to fully explore in a jury trial. He said that no one had questioned his domicile until recently. He said he ran for state representative in 2000 and there was not question at that time about his domicile. He asked the Commission to examine his brief. Mr. Long asked Mr. Zirkle where his brief was. Mr. Zirkle said it was the document that Mr. Lentsch had provided the Commission. Mr. Long asked if he meant his lawsuit. Mr. Zirkle said it was a declaratory judgment action, not a suit for money.

Mr. Zirkle argued that IC 3-5-5-6 indicates that the code lists rebuttable presumptions for domicile. He stated that one of the rebuttable presumptions listed in IC 3-5-5-7 states that a person does not gain residency in a precinct in which a person moves for: 1) temporary employment; or 2) educational purposes. He argued that this is what he did when he moved to Lake County. He stated that he did not lose his domicile when he moved to Lake County to take temporary employment.

Mr. Zirkle explained that he would be employed in Lake County until he moves back to St. Joseph County if he is elected. He also argued that he is in the seminary trying to get his masters in divinity. He said that after he left the St. Joseph County Prosecutor's office he went into private practice with the Rowe & Rowe law firm in South Bend from June until late October. He stated that the law firm

indicated that he could not continue his education in the seminary because they wanted him to work in the law firm full time. He explained that he made a decision at that point to accept employment with the Lake County Prosecutor's office since they would cooperate with him in continuing his seminary education. He said that Anders University, where he attends seminary, is far closer to South Bend than it is to Lake County so it would be much better for me to live in St. Joseph County. He added that he can't get a job as a prosecutor in St Joseph County because he and the prosecutor had a disagreement. He added that serving, as a prosecutor in Lake County is probably the best experience he could get in all of Indiana for dealing with drug crime. He said that this was a valid reason for him to go to Lake County. He added that the legal presumptions are in his favor. He cited the Indiana Supreme Court in *State Election Board v. Bayb*: "the defendants cannot rebut this presumption with merely self serving statements." He argued that this is all that the challenger has in this case, self-serving statements.

Mr. Zirkle argued that Mr. Lentsch also confuses the issue of whether the prosecutor is a local office. He argued that a prosecutor does not hold a local office. He explained that a prosecutor is a constitutional office so it is not under the same statute. He stated that he could live in Marshall County and run for prosecutor in St. Joseph County. He said that when January 1st of next year comes around, he would, if elected, have to be physically present in St. Joseph County. He added that he is a valid registered voter in St. Joseph County. He stated that he checked with State Representative Bob Kuzman who told him that it is your voter registration that counts. He said he checked with the clerk in St. Joseph County who also indicated that he is qualified to run in St. Joseph County. He also stated that his sister has given him a bedroom in the rental house in St. Joseph County and that he can stay there any time he wants. He stated his satellite dish is attached to that house and that he has personal clothing and belongings in the house.

He concluded that his domicile is in St. Joseph County. He, therefore, asked the Commission not to deny him the right to run as a candidate in St. Joseph County. He quoted that *Bayb* case stating "democracy works best on maximum participation, not minimum." He said that if he were denied the right to vote, or the right to run, there would be minimum participation. He stated that both parties only have one candidate. He stated that this involves the right to vote. He added that people have fought and died to preserve this right.

The Chair asked if there were any questions. Mr. Long indicated that he had none. Mr. Morgan asked if it was appropriate to have counsel address cases that have come up in the past similar to this.

The Chair recognized Ms. Robertson who stated that she could not speak to the *Bayb* case but can recall some residency cases that have come up before the Commission. She said that in 1998 a prosecuting attorney candidate was challenged in Crawford County. She indicated that in 2000 there was a residency challenge to a state representative candidate Terry Goodin. Mr. Long asked if that was the school principal case. Ms. Robertson indicated that it was. She stated that both of those cases involved a candidate moving into a district but that the cases involve the same basic issue and the same statutes on residency. She said it comes down to, in general, whether you have the intent to make a place your fixed home and permanent residence and whether, when absent, you have the intent of returning. She said that one also has to consider the conduct to carry out that intent. She indicated that each case is a little different but in both of the prior cases the Commission decided to keep the candidate on the ballot. She said the only other case that she recalled involved a prosecuting attorney candidate who, by his own admission, did not yet live in the county. She stated that the Commission voted to remove the candidate from the ballot. Mr. Morgan asked where that candidate was registered. Ms. Robertson indicated that in that case the candidate was registered to vote in another county and the candidate did not even know he had to live in the county before being elected.

The Chair recognized Mr. Simmons who stated that one of the issues raised was whether a prosecutor is a local office. He stated, that with respect to the domicile and residency issue, that the Commission should apply the statutes that have been cited. He explained that the *Bayb* case was interpreting the term “residence” as used in the Indiana Constitution and concluded that when the constitution talks about residence it means domicile. He added that the case indicated that when you are determining a privilege or the exercise of a franchise the terms residence and domicile are the same thing. He added that in the *Bayb* case the court held that domicile means the place a person has his true, fixed and permanent residence and to which the person has, when absent, the intention of returning. He continued that this is the exact definition of “residence” adopted by the General Assembly in Indiana Code 3-5-2-42.5. He added that the *Bayb* case makes it clear, however, that intent, standing alone, is not sufficient to establish domicile.

Mr. Simmons also indicated that the statute in issue, IC 3-8-1-1, does apply to local office. He stated that an argument has been made that a prosecutor is not a local office. However, for purposes of applying the election code, and specifically, IC 3-8-1-1, a prosecutor is considered a local office because local office is specifically defined in IC 3-5-2-29 as including a “circuit office” and a prosecutor, as well as a judge, is a circuit office.

The Chair recognized Mr. Lentsch who asked for permission to make a final remark. He said he wanted to emphasize that the Commission should look at present intent and not future intent. He said that Mr. Zirkle’s has demonstrated his residency in Lake County and that his intent is clearly reflected in both his conduct and also by his own statements contained in his lawsuit.

The Chair then recognized Mr. Zirkle who stated that there is a saying that “the devil himself knows not the mind of a man.” He said Mr. Lentsch does not know his intent. He said he alone knows his intent and he asked the Commission not to deny him his right to vote and the right to run for public office.

The Chair recognized Mr. Perkins who indicated that he had a question for counsel. Mr. Perkins noted that both parties had cited different code sections and he asked counsel if they thought that there were certain code sections that the Commission should review in making its decision.

Mr. Simmons indicated that one code section to keep in mind is the one that indicates that a person can have his residence in only one precinct. He stated that, other than this section, the statutes set forth rebuttable presumptions. He pointed out, as an example, that the place where a person’s immediate family resides is the person’s residence unless the family’s residence is temporary. He said that the statutes simply create general rules; they do not give any specific direction as to how to apply them to a specific case.

Ms. Robertson stated that, in general, the standards for determining residency are contained in IC 3-5-5. Mr. Perkins said that this is where he has been hanging out in the code but it wasn’t giving him any specific guidance.

The Chair recognized Mr. Morgan, who asked Mr. Lentsch if Mr. Zirkle was correct in stating that Mr. Lentsch had been quoted in press accounts as saying that a “conspiracy” existed between Mr. Zirkle and Lake County and St. Joseph County Democrats in this matter. Mr. Lentsch responded that he believed that cooperation and coordination was certainly possible, but that any press reference to a conspiracy was inaccurate and out of context.

The Chair asked if there were any other questions. There being none he closed the hearing on administrative cause number 2002-50.

Mr. Long said that he recalls that in the Crawford County prosecutor case the candidate lived in Harrison County and had a home there but had placed a mobile home on a vacant lot in Crawford County and the Commission held that it was his intent to establish residency in Crawford County. He also recalls the school principal case where the candidate had an apartment rented in some building and that his family lived in another district. He stated that that case turned on the intent of the candidate and that is what key is in this case. He stated that in this case, Mr. Zirkle, but for the fact that he was fired from his job by the St. Joseph County prosecutor, would have been a resident of St. Joseph County. He said that Mr. Zirkle had a wife who was expecting and needed health insurance so Mr. Zirkle got a job in another county and moved his family there. He said the candidate has consistently maintained his voter registration in St. Joseph County. He said he accepted the candidate's explanations that he intended to keep St. Joseph County as his residence and intends to relocate his physical residency there on his successful election.

Mr. Long then moved that the challenge be denied and that the candidate be allowed to proceed with his candidacy. Mr. Morgan seconded the motion. The Chair asked if there was any further discussion. There being none the chair called the question and the vote on the motion was two "ayes" (Mr. Long and Mr. Morgan) and one "nay" (Mr. Perkins). The Chair stated that he has not yet voted because he was working through the legal issues and, not being an attorney, found the issues difficult. He stated that the other cases the Commission considered involved candidates who were establishing a new residency in the county that they wanted to run in. He said that, to him, this was a case where the candidate lived in the county he wanted to run in but subsequently moved out. He said it seemed to him that Mr. Zirkle lost his job in St. Joseph County and has established residency in Lake County by moving there and taking a job there. He concluded by saying that he was voting "nay" on the motion and therefore the motion would not carry. He stated, however, that since the Commission was deadlocked two to two there was no official action. He explained that this would result in the candidate remaining on the ballot. He asked counsel to confirm that this was the legal affect of the vote and both counsel did confirm that the candidate would remain on the ballot under the circumstances.

5. Litigation Update

The Chair recognized Mr. Simmons who stated that there has been no action taken on the *Leaf* case, which is the disclaimer case. He stated that there has likewise been no action on the *Majors* and *Williamson* cases involving he challenge by Libertarian candidates to the requirement that they file campaign finance reports even when they do not raise or spend more than \$100. He stated that there was some movement on the *Toth v. Gilroy* case, the case that requests a court order to require Indiana to replace punch card voting systems. He said that the last time he reported on the case there was a stipulation of dismissal agreement that was being circulated that would call for the dismissal of the case and the submission of the issue of attorney fees to the court. He said that to prove they were entitled to attorney fees they would have to show that they were a prevailing party and that they would attempt to do so by showing that the General Assembly enacted legislation that addressed the replacement of punch card voting systems in response to the lawsuit. He stated that the stipulation of dismissal, however, was prepared by the plaintiffs and contained a clause that indicated that the attorney fee issue would be decided pursuant to a specific case. He explained that, after consulting with counsel from the attorney general's office, counsel agreed that we should not execute the stipulation with that case in it so we removed the reference to the case and forwarded a new stipulation without the case to plaintiffs' counsel. He stated that plaintiffs' counsel refused to sign the revised stipulation. He said that the other case that the Commission has pending is the *Hawkins* case, the case that involves the ballot order of candidates in the primary. He explained that there has been no further action taken in that case. He said

that there has been a pre-trial conference that establishes deadlines to complete discovery and file motions but nothing other than that. He stated that this concluded his litigation report.

6. Report by Co-Directors

The Chair recognized Mr. Valentine who thanked the Commission for cooperating so that a meeting could be scheduled before the deadline for deciding candidate challenges. He reminded the Commission of the regularly scheduled meeting on March 28 and that we would need that meeting for campaign finance issues. He said that if there were no pressing issues then there might not be an April meeting. He apologized for not attending the last meeting due to illness. He wished to officially welcome Brad King to the position of Co-Director. He said that Brad has returned from Minnesota where he was the Elections Director and that he looked forward to working with Brad. He said that he looked forward to a long and positive partnership. He added that the Commission members should note that some of the upcoming meetings will be held in training room 6 which is across the hall.

The Chair recognized Mr. King who thanked Mr. Valentine for his welcoming remarks. He said that he and Spence had gotten off to a good start and that he was looking forward to a long partnership as well. He said that he also thanked each of the Commission members for individually welcoming him back to Indiana and he pledged to do his level best not to bring any more Minnesota weather with him. He offered to do anything he could to facilitate a meeting schedule that would accommodate all members.

The Chair asked if anyone had a problem with the schedule. He added that if a meeting is not needed in a particular month then they could cancel the meeting. Mr. Long said that, on its face, the schedule looked good to him and that he would send it to his office to make sure there were no problems with his calendar. The Chair asked Commission members to let Mr. King or Mr. Valentine know if they had a problem with any of the dates.

The Chair noted that the only other item on the agenda was campaign finance and asked if there was a motion to recess for lunch. Mr. Long moved that the Commission recess for lunch. Mr. Perkins seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. Long, Mr. Morgan and Mr. Perkins), and no member voting “nay”, the motion was adopted and the Commission was recessed.

Afternoon Session

Preliminary Remarks

The Chair called the afternoon session of the Commission to order. The Chair indicated that Mr. King had some remarks about voting systems and recognized Mr. King who stated that, in response to Mr. Morgan’s question about voting system standards, he spoke over lunch with an FEC staff member. He stated that this person indicated that Mr. Morgan’s question was timely in that the FEC staff met and tentatively set the first week of May for a final FEC vote on the new voting system standards. He said that the current draft of the FEC voting system standards are available on the FEC’s website as well as the comments the FEC has received on the proposed standards. Proxies for Ms. Baker and Mr. O’Leary are incorporated by reference in these minutes.

The Chair asked the record to reflect that during the afternoon session two members of the Commission have returned from the morning session, the Chair and Mr. Morgan, but that Shirley

Baker was serving as a proxy for Commission member Joe Perkins and Andy O’Leary was serving as a proxy for Vice-Chairman Anthony Long.

7. Campaign Finance

The Chair recognized Pam Potesta who indicated that people in the front should go first this time but she had a preliminary matter she wished to bring to the Commission’s attention. The Chair indicated that, prior to the preliminary matter, the oath should be administered to those present who intend to testify before the Commission. Kristi Robertson then administered the oath.

The Chair then recognized Ms. Potesta who directed the Commission’s attention to **Cause number 4683-43 (Northeast Indiana Political Action Committee for Better Government, LLC)**. She stated that this committee is requesting a continuance of their hearing and she directed the Commission’s attention to a letter in their binder requesting the continuance.

After Commission members reviewed the letter the Chair asked if there was a motion on the request for continuance. The Chair moved that the continuance be granted in cause number 4683-43 and that the matter be placed on the Commission’s agenda for March 28. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

The Chair then requested that persons present on behalf of a committee, starting in the front row, should approach the Commission and state their name and the cause number of their case. He said that staff should then give a brief description of the case and, after that, the person could testify. He asked that remarks be limited to two or three minutes. He said that, after those remarks, the Commission might then ask questions.

- a. **Hoosiers for Indiana Committee, Cause No. 02-3253-7**
- b. **Citizens for Excellence in Government, Cause No. 02-3984-13**

The Chair recognized Lacy Johnson who identified himself as the an attorney representing two committees, the Hoosiers for Indiana Committee, Cause No. 02-3253-7 and the Citizens for Excellence in Government, cause number 02-3984-13.

The Chair recognized Ms. Potesta who stated that the Hoosiers for Indiana Committee filed its report on January 16, 2002 at 12:11 p.m., that the committee has never been before the Commission before, and that the committee has a proposed civil penalty of Fifty Dollars (\$50.00).

Ms. Potesta stated that Citizens for Excellence in Government committee also filed its report on January 16, 2002 at 12:11 p.m. , that the committee has never been before the Commission before, and that the committee has a proposed civil penalty of Fifty Dollars (\$50.00).

The Chair recognized Mr. Lacy who stated that while there was a reason for the late filing of the reports, there was no excuse. He explained that it was a clerical mistake in filing the reports 11 minutes late but that the committees had never been late before and he apologized for the late filing.

Mr. Morgan requested that the Commission’s policy of imposing fines be explained and he deferred to the Chair for that explanation. The Chair explained that the Commission’s practice was to impose fines based upon the number of times a committee has previously appeared before the Commission, absent

some extraordinary circumstances. He explained that the normal practice has been to reduce the fine to 25% of the proposed fine for a committee's first appearance before the Commission, reduce the fine to 50% of the proposed fine for a committee's second appearance, and reduce the fine to 75% of the proposed fine for a committee's third appearance. He stated that it has been the Commission's practice to impose the maximum proposed fine if a committee has had more than three appearances before the Commission.

The Chair then closed the hearing. Mr. Morgan moved that the proposed fines for the Hoosiers for Indiana Committee, cause number 02-3253-7, and the Citizens for Excellence in Government, cause number 02-3984-13, each be reduced to 25% of the proposed fine or Twelve Dollars and Fifty Cents. (\$12.50) plus mailing costs of Seventy Five Cents (\$.75) for a total of Thirteen Dollars and Twenty Five Cents (\$13.25) Mr. O'Leary seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

c. Indianapolis Colts, Inc. Political Action Committee, Cause No. 02-4459-24

The Chair recognized Dan Seitz who introduced himself as the representative of Indianapolis Colts, Inc. Political Action Committee, Cause number 02-4459-24.

The Chair recognized Ms. Potesta who stated that the Indianapolis Colts, Inc. Political Action Committee filed its report on January 29, 2002, that the committee has never been before the Commission before, and that the committee has a proposed civil penalty of Six Hundred Fifty Dollars (\$650.00). She indicated that there was also a letter in the Commission's packet regarding this case.

The Chair recognized Mr. Sietz who indicated that he felt that the letter was self-explanatory. He stated that the investigation into the matter. He stated that Mr. Kirk Humphrey was here and that he would ask that Mr. Humphrey, the treasurer of the Committee, address the Commission on what happened and what they will do in the future.

The Chair recognized Mr. Humphrey who stated that the filing was late. He said the notice and report mailed out by the Election Division was addressed to the Colts but did not have his name on it so that it was not routed to him in their office. He said that he advised the mailroom that any mail from the Election Commission should be routed to him immediately. He said that he remembered to file the report, although late, when he received a notice from the Federal Election Commission. He said, at that time, he realized he had not filed with the Commission and they prepared and filed the report immediately. He said that he obtained a schedule for the filing dates this year and that the reports would be filed in a timely manner from now on.

Mr. Morgan asked whether this would constitute an incomplete pass or a fumble. Mr. Humphrey suggested it may have been a punt but indicated that he hoped, in any event, that they had retained possession.

The Chair then closed the hearing and moved that the proposed fines for the Indianapolis Colts, Inc. Political Action Committee, cause number 02-4459-24, be reduced to 25% of the proposed fine to One Hundred and Sixty Two Dollars and Fifty Cents. (\$162.50) plus mailing costs of Seventy Five Cents (\$.75) for a total of One Hundred and Sixty Three Dollars and Twenty Five Cents (\$163.25). 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. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

d. Franklin Township Firefighters District PAC, Cause Number 02-4716-46

The Chair recognized Joe Schupp who introduced himself as present on behalf of Franklin Township Firefighters District PAC, cause number 02-4716-46.

The Chair recognized Ms. Potesta who stated that the Election Division has not yet received the report for Franklin Township Firefighters District PAC, that the committee has never been before the Commission before, and that the committee has a proposed civil penalty of One Thousand Dollars (\$1,000.00).

The Chair recognized Mr. Schupp who indicated that a report was filled out and sent in by regular mail. He said he contacted Indianapolis Firefighters Local 416 who indicated that Local 416 had filed their reports with the Franklin Township Firefighters District PAC.

The Chair asked to see the form that Mr. Schupp had with him and noted that it did not have a file stamp on it. The Chair asked Ms. Potesta's office file for this PAC contains the report. Ms. Potesta indicated that it did not. The Chair suggested that if the two reports were filed together then they might have been put in the file for Local 416 and he asked Ms. Thompson to accompany Mr. Schupp to the office of the Election Division to determine if the report is in the file for Local 416.

When Ms. Thompson and Mr. Schupp returned Ms. Thompson reported that they did not find the report in the file for Local 416. Mr. Schupp then requested a continuance to investigate further the information he received over the phone that the report had been filed with the report for Local 416. The Chair moved that cause number 02-4716-46 be continued until the Commission's March 28 meeting. Mr. O'Leary seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

e. Indiana State Employees Association, Inc. Committee, Cause Number 02-3439-8

The Chair recognized David Larson who introduced himself and indicated he was the executive director for the Indiana State Employees Association, Inc. and was appearing on cause number 02-3439-8.

The Chair recognized Ms. Potesta who stated that the Indiana State Employees Association, Inc. Committee, cause number 02-3439-8 filed its report on January 23, 2002, that the committee has never been before the Commission before, and that the committee has a proposed civil penalty of Three Hundred and Fifty Dollars (\$350.00).

The Chair recognized Mr. Larson who explained that his organization is a small not-for-profit corporation. He said that he knows that it is the committee's obligation to file these reports but that they rely on the state on getting the forms and schedules to them. He didn't know where the forms went but indicated that he had not received them. He said once he got notification that the report was late, he called and had the Election Division fax the forms to him and he filled out the forms and filed the report on the same day. He said that his committee had always been on time before and requested the maximum in forgiveness on any fine.

The Chair then closed the hearing. Mr. Morgan moved that the proposed fines for the Indiana State Employees Association, Inc. Committee, cause number 02-3439-8, be reduced to 25% of the proposed fine to Eighty Seven Dollars and Fifty Cents (\$87.50) plus mailing costs of Seventy Five Cents (\$.75) for a total of Eighty Eight Dollars and Twenty Five Cents (\$88.25). Mr. O'Leary seconded the motion.

There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruza, Mr. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

Mr. Larson asked if the fine could be paid out of the PAC fund and the Chair indicated that it could.

Candidate Challenge Issue

The Chair recognized Dean Beckner who asked for a clarification on the status of the challenge to his candidacy that was pending before the Commission. He said that he received a call yesterday indicating the time for his hearing was changed from 1:00 p.m. to 10:00 a.m. and that he could not attend because he had a court hearing but he had requested a continuance by fax yesterday afternoon.

The Chair explained that the hearing on the matter was held in the morning and that the Commission voted four to zero to hold the hearing and deny the continuance and four to zero to sustain the challenge, the total effect of which was to remove Mr. Beckner from the ballot. He stated that the Commission examined the law and it appeared to be clear that if you were deemed affiliated with the party that you last voted for in the primary, and that you claim affiliation with a different party on your declaration, you are subject to challenge and removal unless the county chair in the county where you resides certifies you as a member of the party.

Mr. Beckner asked if that was due process. The Chair deferred to counsel. Mr. Beckner stated that he did not want to hear from the attorneys, he wanted to hear from the Commission since they were the ones who made the decision. He stated that he felt that the purpose of the statute was to punish a person who switched his party vote in the primary and to prevent such a person from running for the party he used to vote for in the primary. He said that if a person can’t switch parties as he did then that puts an unconstitutional requirement on a person. He said he would be unable to switch parties for another six years if he is running for judge. He said in Carroll County there are already three candidates running for the republican nomination and he asked the Commission whether they thought the county chair would certify him as a member of the republican party under those circumstances.

The Chair stated that the Commission was bound to follow the law.

Mr. Beckner stated that he deplored the way this was handled. He said he should have received a call back indicating his continuance would not be granted.

The Chair stated that the Commission did not meet until 10:00 a.m. so could not have been able to take a vote on the request for continuance before that time. Mr. Beckner asked why someone didn’t call him to tell him to be here this morning. Mr. Beckner stated that attorneys don’t deal with each other this way, it’s called “backdooring” or “snafuing.” Mr. Beckner said that the Commission would see an article in the *Indianapolis Star* on this.

f. Friends of Dave Nicholson Committee, Cause Number 02-587-3

The Chair recognized David Nicholson who stated that he was appearing on cause number 02-587-3.

The Chair recognized Ms. Potesta who stated that the Friends of Dave Nicholson Committee filed its report on January 18, 2002, that the committee has been before the Commission on one other occasion, and that the committee has a proposed civil penalty of One Hundred Dollars (\$100.00).

The Chair recognized Mr. Nicholson stated that the late filing was an oversight but to understand why it was late would take some understanding of what he went through last year. He said that he would attempt to give the Commission a brief summary. He stated that last year his wife had cancer, in July he was laid-off and he is still unemployed, and then his wife died in September. He said since his wife died he has had difficulty putting his life back together. He said he did receive the forms from the Election Division in December and he intended to get his reports in on time, however, he had some other things going on that took precedence and the late filing was an oversight. He stated that the last time he was before the Commission the Commission showed no leniency toward anyone and he received the full fine.

The Chair asked Mr. Nicholson when he ran for office last. Mr. Nicholson said it was 1992. Mr. Morgan asked Mr. Nicholson when he was last before the Commission. Mr. Nicholson indicated that it was in 1997. Staff indicated that the Commission had not adopted its current policy at that time.

The Chair then closed the hearing. Mr. Morgan indicated that, in light of the extreme circumstances indicated by Mr. Nicholson, he would move that the proposed fines for this committee be waived but that the record should show that Mr. Nicholson was here and that this appearance would count against him if he appeared before the Commission again. He explained that, under his motion, another appearance would constitute a third appearance. Mr. O'Leary seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

g. Milan Kesic for State Representative, Cause Numbers 02-4557-34 and 02-4557-47

The Chair recognized Ms. Thompson who stated that cause number 02-4557-47 involves a defective campaign finance report. She indicated that the defective report relates to the 2000 election and the proposed fine is One Hundred Dollars (\$100.00) She said that this was brought to the attention of the Election Division in January of this year. She explained that she sent the committee a letter on January 24, 2002 advising the committee that the report was defective and advised the committee to file an amended report or the Commission could fine the committee. She stated that Mr. Kesic filed an amended report for the committee on March 1, 2002 which was more than five calendar days after the committee received notice of the defective report. She explained that this makes the committee subject to the proposed fine.

The Chair asked Ms. Thompson to explain how the report was defective. Ms. Thompson explained that the committee failed to itemize receipts and expenditures. She explained that the committee had simply submitted a summary page without the supporting schedules with itemization.

The Chair recognized John Aguilera, State Representative, District 12, who stated that this report has been defective for over a year and that he pointed this out a year ago and did not know why there hasn't been anything done about it before now. He said he was here as a state representative held to accountability. He indicated that he had reviewed this committee's 2001 campaign finance report and stated that the numbers in that report do not add up either. He stated that he is looking for accountability in this case. He asked how the defective report impacts this candidate's ability to run for public office. He said that the declaration of candidacy filed by this candidate indicates that he has complied with the campaign finance laws. He said that he is held accountable and that this candidate should be held accountable also. He stated that he was from the City of East Chicago. He said this was his sixth election in ten years. He indicated that they play politics in that city and that this is their candidate.

The Chair indicated that part of the problem was that the legislature had not provided sufficient funds so that the Election Commission could have enough staff to check every report.

Mr. Aguilera said that this report is intentionally defective and that this committee should get the maximum fine.

The Chair asked if the report is now correct. Ms. Thompson said that it is now correct.

Mr. Morgan asked if Mr. Aguilera had asked the prosecutor to do anything with this. Mr. Aguilera indicated that that would be his next step but that the Commission should not allow people to play games with the system.

Mr. Morgan moved that this case be continued so that staff could investigate the additional accusations made by Mr. Aguilera.

The Chair recognized Ms. Robertson who indicated that the case before the Commission today involved the 2000 annual report. She added that there might be a defect in the 2001 report but that this particular case has not been brought before the Commission yet.

The Chair added that he was concerned with continuing the current violation for the 2000 report and expressed an interest in going forward with the disposition of this violation. Mr. Morgan agreed and requested that his motion to continue the case be withdrawn. The Commission consented to this withdrawal. The Chair suggested that the Commission fine the committee and, if the committee comes before the Commission again, the committee will receive the maximum fine because today's appearance is the committee's third appearance before the Commission.

Ms. Potesta indicated that this committee was also before the board for filing a late campaign finance report in 2001 under cause number 02-4557-34. Ms. Potesta noted that the report was filed on January 17, 2002 and the committee has a proposed fine of Fifty Dollars (\$50.00). The Chair clarified that this late filing is the committee's second time before the Commission and that the defective report case is the third time before the Commission.

The Chair moved that that for the 2001 late report the Milan Kesic for State Representative Committee, cause number 02-4557-34 be fined Thirty Seven Dollars and Fifty Cents (\$37.50) plus mailing costs of Seventy Five Cents (\$.75) for a total of Thirty Eight Dollars and Twenty Five Cents (\$38.25) and that for the 2000 defective report under cause number 02-4557-47 the fine be the full fine of One Hundred Dollars (\$100.00) plus mailing costs of Seventy Five Cents (\$.75) for a total of One Hundred Dollars and Seventy Five Cents (\$100.75) 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. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

The Chair also directed staff to examine the 2001 report for this committee to determine if it is a defective report. The Chair deferred to counsel on further legal action.

Ms. Robertson indicated that the Commission does have civil penalty authority but indicated that there are possible criminal penalties as well. She said that it is a class D felony to file a fraudulent report and a class A misdemeanor to file an incomplete or inaccurate report. She added that the enforcement of criminal penalties is an issue for the prosecuting attorney. She explained that the Election Commission does not have the authority to impose criminal penalties.

Mr. Aguilera asked whether the fact that this candidate has signed his declaration of candidacy indicating that he has complied with the campaign finance laws could subject this candidate to being removed from the ballot.

Ms. Robertson indicated that it might be possible to raise this kind of issue in a candidate challenge. She added that the Commission has never had a candidate challenge on this issue before.

Mr. Simmons indicated that the Commission might want to reserve judgment on this issue until such time the issue is before the Commission. He added that the deadline for filing a candidate challenge was noon March 1 and that this deadline has passed.

Mr. Aguilera stated that he sent an email to the Commission regarding this committee and he thought that this was his opportunity to bring this issue before the Commission. He wondered how he missed the deadline.

Ms. Robertson stated that Mr. Aguilera had not missed any deadline with respect to raising campaign finance issues but that the deadline to file a candidate challenge was noon March 1.

Mr. Aguilera stated that he wanted to challenge the ability of Milan Kesic to be on the ballot because he has filed inaccurate reports. He said that if it had been made clear to him that he had to file something else to raise this issue then he would have filed something else.

Mr. Simmons explained that there is a specific process in state statute that sets forth the procedure for filing a candidate challenge and it provides that a sworn statement from a voter of the election district that the candidate seeks to represent challenging the candidate must be filed by noon March 1. He explained that until the time such a challenge is filed the Commission does not have the discretion, or more accurately, the jurisdiction or legal authority, to consider a candidate challenge.

Mr. Aguilera asked whether there was any chance he could make his challenge at this point. Mr. Simmons stated that for candidate challenges it is a jurisdictional issue, that is, the Commission simply does not have the legal authority to consider a candidate challenge at this point.

Mr. Aguilera stated that he finds it disheartening that people can work around the system. He said that if there is something he could do as a state legislator to address this issue he will do that. He complained that the Commission has allowed the City of East Chicago to change their precincts. He indicated that the Commission should be ashamed of that action. He indicated that this action resulted in picking on a minority community. He claimed that this was borderline racism. He concluded by thanking the Commission for its time.

h. Andrews for State Representative Committee, cause number 02-4507, and South Bend Firefighters PAC, cause number 02-1871-5

The Chair reviewed the remainder of the campaign finance cases and asked about the Andrews for State Representative Committee, cause number 02-4507-27. He indicated that he thought this case involved an erroneous filing with the county election board instead of with the Election Division. He stated that he thought it was the Commission's practice to not fine committees in this situation.

Mr. Morgan asked if there was a letter in the binder on the South Bend Firefighter PAC. Ms. Potesta answered that the cause number was 02-1871-5 and that there was a letter in the binder from this PAC.

Mr. Morgan remarked that it appeared that the fire station changed locations. The Chair asked if the committee filed a change of address. Ms. Potesta stated that they did.

Mr. Morgan asked the Commission to consider forgiving the fines on this PAC and the other PAC involving firefighters. He indicated that he thought the failure to file might be the change of location of the fire station. He proposed that, in light of what firefighters have been through with the terrorist attack of September 11, the Commission be lenient with respect to the firefighters. He stated that the other PAC was also a new PAC and he thought it unfortunate under the circumstances to impose such a large fine.

The Chair moved that on Andrews for State Representative, cause number 02-4507, and on the South Bend Firefighters PAC, cause number 02-1871-5, the fines be waived with the provision that the appearance of the South Bend Firefighters PAC would count against the PAC as an appearance before 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. Cruea, Mr. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

The Chair recognized Mr. O’Leary who asked if the other firefighter PAC should be made a part of this motion. The Chair responded that it should not at this point since that case had already been continued. Mr. Morgan indicated that he was inclined to make the same motion with respect to the other firefighter PAC.

There being no other individuals present to offer testimony, and after Commission members reviewed all documents submitted by the parties, the Chair proposed to make one motion to dispose of the remainder of the cases. The Chair then moved that the fines of the following committees be reduced to 25% of the proposed fine plus costs of mailing: 1) Greater Indianapolis Republican Finance Committee, cause number 02-116-1; 2) Prokopowicz for State Senate Committee, cause number 02-450626; 3) Friends for Clarence “Bud” Hood, cause number 02-4516-29; 4) The Committee to Elect Sherri Emerson, cause number 02-4522-30; 4) Committee to Elect Noel Carpenter State Representative, cause number 02-4530-31; 5) Committee to Elect Mary Wheeler, cause number 02-4547-32; 6) Miller’s PAC, cause number 02-4625-39; 7) Democratic Governors’ Association-Indiana Committee, cause number 02-4626-40; 8) Purdue University Calumet Equity Education PAC, cause number 02-4666-41; 9) Hoosier Project Committee, cause number 02-4667-42; 10) Paul Hager Secretary of State 2002, cause number 02-4685-44; and 11) Friends for O’Connor, cause number 02-4686-45. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

The Chair then moved that the fines of the following committees be reduced to 50% of the proposed fine plus costs of mailing: 1) National Federation of Independent Businesses, cause number 02-1979-6; 2) Abate-PAC, cause number 02-3472-9; 3) Miller for Indiana, cause number 02-3688-10; 4) Sandra Dempsey for Indiana Senate, cause number 02-3777-11; 5) Indiana Association of HMO’s PAC, cause number 02-4148-15; 6) Karl Radtke for State Representative, cause number 02-4189-16; 7) Partners for Growth and Jobs, cause number 02-4315-19; 8) Eugene P. Dooley for State Representative ’96, cause number 02-4351-20; 9) Wilson for District 66, cause number 02-4504-25; 10) Taylor for House District 71, cause number 02-4551-33; 10) Committee to Elect Raymond Crawford, cause number 02-4562-36; and 11) Metropolitan Life Insurance Company Political Fund, cause number 02-4582-38. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

The Chair then moved that the fines of the following committees be reduced to 75% of the proposed fine plus costs of mailing: 1) MidAmerica PAC, cause number 02-3982-12; 2) Indiana Family and Freedom Committee, cause number 02-4231-18; 3) Nicholas J. Gasparovic for State Representative 19, cause number 02-4352-21; 4) Grassroots Action Committee PAC, cause number 02-4455-23; 5) Kevin J. Duda Committee, cause number 02-4512-28; and 6) Vectren Employees State PAC, cause number 02-4576-37. Mr. O'Leary seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

The Chair then moved that the entire amount of the proposed fines for the following committees be imposed plus costs of mailing: 1) United Mine Workers of America Coal Miners PAC, cause number 02-395-2; 2) Jones for State Representative, cause number, 02-1728-4; 3) Citizens for Chocho, cause number 02-4105-14; 4) Indiana Association of Mortgage Brokers Political Action Committee, cause number 02-4207-17; 5) Clay for the Legislature Committee, cause number 02-4403-22; and 6) Woolery for State Senate Committee, cause number 02-4559-35. 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. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

These cases were disposed as is set forth in more detail hereinbelow:

i. Greater Indianapolis Republican Finance Committee, cause number 02-116-1

The record showed that the Greater Indianapolis Republican Finance Committee, cause number 02-116-1, filed its report January 17, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00)

The Chair moved that a fine of Twelve Dollars and Fifty Cents (\$12.50) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Thirteen Dollars and Twenty Five Cents (\$13.25), be imposed on the Greater Indianapolis Republican Finance Committee under cause number 02-116-1. 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. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

j. Prokopowicz for State Senate Committee, cause number 02-4506-26

The record showed that the Prokopowicz for State Senate Committee, cause number 02-4506-26, filed its report January 18, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is One Hundred Dollars (\$100.00)

The Chair moved that a fine of Twenty Five Dollars (\$25.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Twenty Five Dollars and Seventy Five Cents (\$25.75), be imposed on the Prokopowicz for State Senate Committee under cause number 02-450626. 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. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

k. Friends for Clarence "Bud" Hood, cause number 02-4516-29

The record showed that the Friends for Clarence “Bud” Hood committee, cause number 02-4516-29, filed its report January 22, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Three Hundred Dollars (\$300.00)

The Chair moved that a fine of Seventy Five Dollars (\$75.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Seventy Five Dollars and Seventy Five Cents (\$75.75), be imposed on the Friends for Clarence “Bud” Hood committee under cause number 02-4516-29. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

l. The Committee to Elect Sherri Emerson, cause number 02-4522-30

The record showed that The Committee to Elect Sherri Emerson, cause number 02-4522-30, filed its report January 18, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is One Hundred Dollars (\$100.00)

The Chair moved that a fine of Twenty Five Dollars (\$25.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Twenty Five Dollars and Seventy Five Cents (\$25.75), be imposed on The Committee to Elect Sherri Emerson under cause number 02-4522-30. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

m. Committee to Elect Noel Carpenter State Representative, cause number 02-4530-31

The record showed that the Committee to Elect Noel Carpenter State Representative, cause number 02-4530-31, has not filed its report, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of Two Hundred Fifty Dollars (\$250.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Two Hundred Fifty Dollars and Seventy Five Cents (\$250.75), be imposed on the Committee to Elect Noel Carpenter State Representative under cause number 02-4530-31. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

n. Committee to Elect Mary Wheeler, cause number 02-4547-32

The record showed that the Committee to Elect Mary Wheeler, cause number 02-4547-32, filed its report on January 19, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is One Hundred Fifty Dollars (\$150.00)

The Chair moved that a fine of Thirty Seven Dollars and Fifty Cents (\$37.50) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Thirty Eight Dollars and Twenty Five Cents (\$38.25), be imposed on the Committee to Elect Mary Wheeler, cause number 02-4547-32. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

o. Miller’s PAC, cause number 02-4625-39

The record showed that the Miller’s PAC, cause number 02-4625-39, filed its report on January 25, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Four Hundred Fifty Dollars (\$450.00)

The Chair moved that a fine of One Hundred Twelve Dollars and Fifty Cents (\$112.50) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of One Hundred Thirteen Dollars and Twenty Five Cents (\$113.25), be imposed on the Miller’s PAC under cause number 02-4625-39. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

p. Democratic Governors’ Association-Indiana Committee, cause number 02-4626-40

The record showed that the Democratic Governors’ Association-Indiana Committee, cause number 02-4626-40, filed its report on February 6, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of Two Hundred Fifty Dollars (\$250.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Two Hundred Fifty Dollars and Seventy Five Cents (\$250.75), be imposed on the Democratic Governors’ Association-Indiana Committee under cause number 02-4626-40. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

q. Purdue University Calumet Equity Education PAC, cause number 02-4666-41

The record showed that the Purdue University Calumet Equity Education PAC, cause number 02-4666-41, filed its report on January 23, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Three Hundred Fifty Dollars (\$350.00)

The Chair moved that a fine of Eighty Seven Dollars and Fifty Cents (\$87.50) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Eighty Eight Dollars and Twenty Five Cents (\$88.25), be imposed on the Purdue University Calumet Equity Education PAC under cause number 02-4666-41. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

r. Hoosier Project Committee, cause number 02-4667-42

The record showed that the Hoosier Project Committee, cause number 02-4667-42, has not filed its report, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of Two Hundred Fifty Dollars (\$250.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Two Hundred Fifty Dollars and Seventy Five Cents (\$250.75), be imposed on the Hoosier Project Committee, cause number 02-4667-42. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

s. Paul Hager Secretary of State 2002, cause number 02-4685-44

The record showed that the Paul Hager Secretary of State 2002, cause number 02-4685-44, filed its report on January 17, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00)

The Chair moved that a fine of Twelve Dollars and Fifty Dollars (\$12.50) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Thirteen Dollars and Twenty Five Cents (\$13.25), be imposed on the Paul Hager Secretary of State 2002 under cause number 02-4685-44. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

t. Friends for O’Connor, cause number 02-4686-45

The record showed that the Friends for O’Connor, cause number 02-4686-45, filed its report on January 22, 2002, that this is the first time this committee has appeared before the Commission, and that the proposed fine for this committee is Three Hundred Dollars (\$300.00)

The Chair moved that a fine of Seventy Five Dollars (\$75.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Seventy Five Dollars and Seventy Five Cents (\$75.75), be imposed on the Friends for O’Connor under cause number 02-4686-45. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

u. National Federation of Independent Businesses, cause number 02-1979-6

The record showed that the National Federation of Independent Businesses, cause number 02-1979-6, filed its report on January 23, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of Five Hundred Dollars (\$500.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Five Hundred Dollars and Seventy Five Cents (\$500.75), be imposed on the National Federation of Independent Businesses under cause number 02-1979-6. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

v. Abate-PAC, cause number 02-3472-9

The record showed that the Abate-PAC, cause number 02-3472-9, filed its report on January 25, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Four Hundred Fifty Dollars (\$450.00)

The Chair moved that a fine of Two Hundred and Twenty Five Dollars (\$225.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Two Hundred Twenty Five Dollars and Seventy Five Cents (\$225.75), be imposed on the Abate-PAC, cause number 02-3472-9. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

w. Miller for Indiana, cause number 02-3688-10

The record showed that the Miller for Indiana committee, cause number 02-3688-10, filed its report on January 23, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Three Hundred Fifty Dollars (\$350.00)

The Chair moved that a fine of One Hundred and Seventy Five Dollars (\$175.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of One Hundred Seventy Five Dollars and Seventy Five Cents (\$175.75), be imposed on the Miller for Indiana committee, cause number 02-3688-10. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

x. Sandra Dempsey for Indiana Senate, cause number 02-3777-11

The record showed that the Sandra Dempsey for Indiana Senate committee, cause number 02-3777-11, has not filed its report, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of Five Hundred Dollars (\$500.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Five Hundred Dollars and Seventy Five Cents (\$500.75), be imposed on the Sandra Dempsey for Indiana Senate committee under cause number 02-3777-11. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

y. Indiana Association of HMO’s PAC, cause number 02-4148-15

The record showed that the Indiana Association of HMO’s PAC, cause number 02-4148-15, filed its report on January 22, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Three Hundred Dollars (\$300.00)

The Chair moved that a fine of One Hundred Fifty Dollars (\$150.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of One Hundred Fifty Dollars and Seventy Five Cents (\$150.75), be imposed on the Indiana Association of HMO’s PAC under cause number 02-4148-15. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

z. Karl Radtke for State Representative, cause number 02-4189-16

The record showed that the Karl Radtke for State Representative committee, cause number 02-4189-16, filed its report on January 17, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00)

The Chair moved that a fine of Twenty Five Dollars (\$25.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Twenty Five Dollars and Seventy Five Cents (\$25.75), be imposed on the Karl Radtke for State Representative committee under cause number 02-4189-16. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

aa. Partners for Growth and Jobs, cause number 02-4315-19

The record showed that the Partners for Growth and Jobs, cause number 02-4315-19, filed its report on January 18, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is One Hundred Dollars (\$100.00)

The Chair moved that a fine of Fifty Dollars (\$50.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Fifty Dollars and Seventy Five Cents (\$50.75), be imposed on the Partners for Growth and Jobs, cause number 02-4315-19. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

bb. Eugene P. Dooley for State Representative ’96, cause number 02-4351-20

The record showed that the Eugene P. Dooley for State Representative ’96 committee, cause number 02-4351-20, filed its report on January 17, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00)

The Chair moved that a fine of Twenty Five Dollars (\$25.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Twenty Five Dollars and Seventy Five Cents (\$25.75), be imposed on the Eugene P. Dooley for State Representative ’96 committee under cause number 02-4351-20. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

cc. Wilson for District 66, cause number 02-4504-25

The record showed that the Wilson for District 66 committee, cause number 02-4504-25, filed its report on January 18, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is One Hundred Dollars (\$100.00)

The Chair moved that a fine of Fifty Dollars (\$50.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Fifty Dollars and Seventy Five Cents (\$50.75), be imposed on the Wilson for District 66 committee under cause number 02-4504-25. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

dd. Taylor for House District 71, cause number 02-4551-33

The record showed that the Taylor for House District 71 committee, cause number 02-4551-33, filed its report on February 12, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of Five Hundred Dollars (\$500.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Five Hundred Dollars and Seventy Five Cents (\$500.75), be imposed on the Taylor for House District 71 committee under cause number 02-4551-33. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

ee. Committee to Elect Raymond Crawford, cause number 02-4562-36

The record showed that the Committee to Elect Raymond Crawford, cause number 02-4562-36, filed its report on January 28, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is Six Hundred Dollars (\$600.00)

The Chair moved that a fine of Three Hundred Dollars (\$300.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Three Hundred Dollars and Seventy Five Cents (\$300.75), be imposed on the Committee to Elect Raymond Crawford under cause number 02-4562-36. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

ff. Metropolitan Life Insurance Company Political Fund, cause number 02-4582-38

The record showed that the Metropolitan Life Insurance Company Political Fund, cause number 02-4582-38, filed its report on February 22, 2002, that this is the second time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of Five Hundred Dollars (\$500.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Five Hundred Dollars and Seventy Five Cents (\$500.75), be imposed on the Metropolitan Life Insurance Company Political Fund under cause number 02-4582-38. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

gg. MidAmerica PAC, cause number 02-3982-12

The record showed that the MidAmerica PAC, cause number 02-3982-12, filed its report on January 28, 2002, that this is the third time this committee has appeared before the Commission, and that the proposed fine for this committee is Six Hundred Dollars (\$600.00)

The Chair moved that a fine of Four Hundred Dollars and Fifty (\$450.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Four Hundred and Fifty Dollars and Seventy Five Cents (\$450.75), be imposed on the MidAmerica PAC under cause number 02-3982-12. Mr. O’Leary seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

hh. Indiana Family and Freedom Committee, cause number 02-4231-18

The record showed that the Indiana Family and Freedom Committee, cause number 02-4231-18, filed its report on February 7, 2002, that this is the third time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of Seven Hundred Fifty Dollars (\$750.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Seven Hundred Fifty Dollars and Seventy Five Cents (\$750.75), be imposed on the Indiana Family and Freedom Committee under cause number 02-4231-18. Mr. O’Leary seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

ii. Nicholas J. Gasparovic for State Representative 19, cause number 02-4352-21

The record showed that the Nicholas J. Gasparovic for State Representative 19 committee, cause number 02-4352-21, filed its report on January 28, 2002, that this is the third time this committee has appeared before the Commission, and that the proposed fine for this committee is Six Hundred Dollars (\$600.00)

The Chair moved that a fine of Four Hundred Fifty Dollars (\$450.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Four Hundred Fifty Dollars and Seventy Five Cents (\$450.75), be imposed on the Nicholas J. Gasparovic for State Representative 19 committee under cause number 02-4352-21. Mr. O’Leary seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

jj. Grassroots Action Committee PAC, cause number 02-4455-23

The record showed that the Grassroots Action Committee PAC, cause number 02-4455-23, filed its report on January 16, 2002, that this is the third time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00)

The Chair moved that a fine of Thirty Seven Dollars and Fifty Cents (\$37.50) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Thirty Eight Dollars and Twenty Five Cents (\$38.25), be imposed on the Grassroots Action Committee PAC under cause number 02-4455-23. Mr. O’Leary seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

kk. Kevin J. Duda Committee, cause number 02-4512-28

The record showed that the Kevin J. Duda Committee, cause number 02-4512-28, has not filed its report, that this is the third time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of Seven Hundred and Fifty Dollars (\$750.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Seven Hundred Fifty Dollars and Seventy Five Cents (\$750.75), be imposed on the Kevin J. Duda Committee under cause number 02-4512-28. Mr. O'Leary seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

ll. Vectren Employees State PAC, cause number 02-4576-37

The record showed that the Vectren Employees State PAC, cause number 02-4576-37, filed its report January 17, 2002, that this is the third time this committee has appeared before the Commission, and that the proposed fine for this committee is Fifty Dollars (\$50.00)

The Chair moved that a fine of Thirty Seven Dollars and Fifty Cents (\$37.50) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Thirty Eight Dollars and Twenty Five Cents (\$38.25), be imposed on the Vectren Employees State PAC, cause number 02-4576-37. Mr. O'Leary seconded the motion. There being no further discussion, the Chair called the question, and declared that with four members voting "aye" (Mr. Cruea, Mr. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

mm. United Mine Workers of America Coal Miners PAC, cause number 02-395-2

The record showed that the United Mine Workers of America Coal Miners PAC, cause number 02-395-2, filed its report January 23, 2002, that this is the sixth time this committee has appeared before the Commission, and that the proposed fine for this committee is Three Hundred Fifty Dollars (\$350.00)

The Chair moved that a fine of Three Hundred Fifty Dollars (\$350.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Three Hundred Fifty Dollars and Seventy Five Cents (\$350.75), be imposed on the United Mine Workers of America Coal Miners PAC under cause number 02-395-2. 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. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

nn. Jones for State Representative, cause number, 02-1728-4

The record showed that the Jones for State Representative committee, cause number, 02-1728-4, has not filed its report, that this is the fourth time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of One Thousand Dollars (\$1000.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of One Thousand Dollars and Seventy Five Cents (\$1000.75), be imposed on the Jones for State Representative committee under cause number, 02-1728-4. 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. O'Leary, Mr. Morgan and Ms. Baker), and no member voting "nay", the motion was adopted.

oo. Citizens for Chochos, cause number 02-4105-14

The record showed that the Citizens for Chochos committee, cause number 02-4105-14, has not filed its report, that this is the fifth time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of One Thousand Dollars (\$1000.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of One Thousand Dollars and Seventy Five Cents (\$1000.75), be imposed on the Citizens for Chochos committee under cause number 02-4105-14. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

pp. Indiana Association of Mortgage Brokers Political Action Committee, cause number 02-4207-17

The record showed that the Indiana Association of Mortgage Brokers Political Action Committee, cause number 02-4207-17, filed its report on January 23, 2002, that this is the fourth time this committee has appeared before the Commission, and that the proposed fine for this committee is Three Hundred Fifty Dollars (\$350.00)

The Chair moved that a fine of Three Hundred Fifty Dollars (\$350.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of Three Hundred Fifty Dollars and Seventy Five Cents (\$350.75), be imposed on the Indiana Association of Mortgage Brokers Political Action Committee, cause number 02-4207-17. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

qq. Clay for the Legislature Committee, cause number 02-4403-22

The record showed that the Clay for the Legislature Committee, cause number 02-4403-22, has not filed its report, that this is the fourth time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of One Thousand Dollars (\$1000.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of One Thousand Dollars and Seventy Five Cents (\$1000.75), be imposed on the Clay for the Legislature Committee, cause number 02-4403-22. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

rr. Woolery for State Senate Committee, cause number 02-4559-35

The record showed that the Woolery for State Senate Committee, cause number 02-4559-35, has not filed its report, that this is the fourth time this committee has appeared before the Commission, and that the proposed fine for this committee is One Thousand Dollars (\$1000.00)

The Chair moved that a fine of One Thousand Dollars (\$1000.00) and mailing costs in the amount of Seventy Five Cents (\$.75), for a total of One Thousand Dollars and Seventy Five Cents (\$1000.75), be imposed on the Woolery for State Senate Committee under cause number 02-4559-35. 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. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted.

8. Other Business

The Chair recognized Mr. Valentine who indicated he wished to clarify the notice issue that was raised by Mr. Beckner for the Commission. He stated that Mr. Beckner was contacted Monday morning, well before 48 hours before the meeting. He stated that notice was posted of the meeting in accordance with the Open Door Law. Ms. Robertson stated that she sent written notice by overnight mail on Monday so that the parties would have received that on Tuesday. She stated that there was no response from Mr. Beckner until shortly before 5:00 p.m. last evening.

Mr. Valentine also advised that Commission that Mr. Aguilera’s email was included in the Commission’s binder. He indicated that this email is not in proper form to be considered a candidate challenge but he wanted to inform the Commission of this fact.

9. Adjournment

The Chair asked if there was any further business. There being no response, Mr. O’Leary moved, seconded by Ms. Baker, that the Commission adjourn. There being no further discussion, the Chair called the question, and declared that with four members voting “aye” (Mr. Cruea, Mr. O’Leary, Mr. Morgan and Ms. Baker), and no member voting “nay”, the motion was adopted. The Commission then adjourned at 3:10 p.m.

Respectfully submitted,

J. Bradley King
Co-Director

Spencer Valentine
Co-Director

Approved,

Dudley Cruea, Chair