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THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

August 21, 2014

9:30 a.m.

Reported By:

Teri Veres, RMR

Certified Reporter 50687

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1 A PUBLIC MEETING, BEFORE THE CITIZENS CLEAN
 ELECTIONS COMMISSION, convened at 9:30 a.m. on
 2 August 21, 2014, at the State of Arizona, Clean
 Elections Commission, 1616 W. Adams, Conference Room,
 3 Phoenix, Arizona, in the presence of the following
 Board members:
 4
 Mr. Timothy Reckart, Chairperson
 5 Mr. Louis Hoffman
 Mr. Mitchell C. Laird (teleconference)
 6 Mr. Steve Titla
 Mr. Thomas J. Koester
 7
 8
 9 OTHERS PRESENT:
 10 Thomas M. Collins, Executive Director
 Paula Thomas, Executive Assistant
 11 Sara Larsen, Campaign Finance Manager
 Gina Roberts, Voter Education Manager
 12 Christopher Munns, Solicitor General's Office
 Brian Bergin, Legacy Foundation Action Fund
 13 Rachell Chuirazzi, Bergin, Frakes
 Steve Clawson, Moses Anshell
 14 Michael Liburdi, Ducey 2014
 Evan Wyloge, Arizona Capital Times
 15 Kathy Cline, KFYI AM 550
 Mary O'Grady, Osborn Maledon
 16 Joe Roth, Osborn Maledon
 Joseph Kanefield, Ballard Spahr
 17 Jason Torchinsky, LFAF
 Lee Miller, LaSota & Peters
 18 Howie Fisher, AP
 Chad Wilson, Moses Anshell
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 2 P R O C E E D I N G
 3
 4 CHAIRPERSON RECKART: I'll call the
 5 August 21st, 2014, public meeting of the State of
 6 Arizona Citizens Clean Elections Commission to order.
 7 As has been our practice, the Commission may vote to
 8 go into executive session, which will not be open to
 9 the public, for the purposes of obtaining legal advice
 10 on any item listed in the agenda pursuant to
 11 38-431.03(A)(3), and we also reserve the right to
 12 address matters in an order different from that which
 13 is listed in the agenda.
 14 That being said, thank you for
 15 everyone being here. My apologies for being a little
 16 late. The first -- or the next item after the Call to
 17 Order is the Discussion and Possible Action on the
 18 Commission Minutes for July 17th, 2014, meeting and
 19 the July 31st, 2014, meeting. I'll take those
 20 together unless somebody has a particular comment on
 21 one of those, but is there any discussion with regard
 22 to them or a motion?
 23 COMMISSIONER KOESTER: I move that we
 24 approve the minutes.
 25 (Jason Torchinsky joined meeting

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1 telephonically.)
 2 CHAIRPERSON RECKART: Okay. We have
 3 a motion to approve both sets of minutes. Is there a
 4 second? All right. I will second it. Commissioner
 5 Laird's not there. So all those in favor please
 6 indicate by saying "aye."
 7 (Chorus of ayes.)
 8
 9 CHAIRPERSON RECKART: All opposed?
 10 COMMISSIONER HOFFMAN: I vote aye on
 11 the meeting I was present at and abstain on the other
 12 one.
 13 CHAIRPERSON RECKART: Okay, fair
 14 enough.
 15 COMMISSIONER HOFFMAN: I think I
 16 was -- the first one I was there and the second one I
 17 wasn't.
 18 CHAIRPERSON RECKART: Yeah, I think
 19 that's correct.
 20 So that being the case, then the
 21 motion passes to approve those unanimously, except
 22 with respect to the July 31st minutes in which there
 23 was one abstention.
 24 Okay. Executive Director's report,
 25 Item III. Mr. Collins, if you would, please, sir.

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1 MR. COLLINS: Yeah, yes.
 2 Commissioner -- Mr. Chairman and
 3 Commissioners, I'll try to move through this quickly
 4 because I think that we are -- obviously, we've got a
 5 lot of stuff on the agenda.
 6 You see the primary election is on
 7 Tuesday. The qualifying period ended on Tuesday and
 8 the candidates have until the 26th to apply for
 9 funding. We will have a -- a last few folks here try
 10 -- getting their funds we hope shortly.
 11 We have -- you'll see there -- I want
 12 to make a quick note about independent expenditure
 13 reports. You'll see there identified a number of
 14 entities that have submitted exemption forms under
 15 Rule 109. We have two entities that haven't. I note
 16 there that we'll be reporting back to you on
 17 subsequent developments with respect to those. I just
 18 want to really quickly briefly note with respect to
 19 that, that that report will prob -- we'll need to look
 20 at things globally.
 21 Just as a aside, the Secretary of
 22 State asked for responses from a bunch of independent
 23 expenditure entities on some issues related to the
 24 statutes that -- that -- that are in -- in play there.
 25 They got back multiple

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1 interpretations of the statutes, and the guidance that
2 has -- is out there from the Secretary of State don't
3 really result -- resolve the confusion there. So when
4 we report back to you, it's going to be important that
5 we look at our rules and ensure that there's an
6 appropriate policy guidance in place.
7 So I -- I think that -- I just want
8 to say that, you know, we do -- as I say there, we do
9 have to report back to you in subsequent meetings
10 but -- but we need to make sure the scope of that
11 report is broad enough to recognize that there is
12 confusion out there right now in the regulated
13 community about how some of this stuff works.
14 You also see that we will be getting
15 some -- I will update -- the last item we will be
16 getting some information from the Attorney General's
17 Office regarding the amount of time that attorneys
18 have put in there with respect to the Interagency
19 Service Agreement. So we look forward to having that
20 so I can present to you some further information on
21 how to continue that -- how to -- how to go forward
22 with that contract, which is up currently.
23 I'll also just note that Mr. Ellman,
24 Solicitor General, would like to directly address the
25 Commission about the ISA when it is on the agenda.

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1 So that's really the high points of
2 my report at this point, but if there are any
3 questions --
4 (Commissioner Laird joined the
5 meeting telephonically.)
6 MR. COLLINS: -- it is noticed for
7 discussion I -- I think, so. . .
8 CHAIRPERSON RECKART: Okay. I think,
9 just for the record, Commissioner Laird has joined and
10 so we have a full -- full Commission here now
11 attending the meeting.
12 COMMISSIONER HOFFMAN: Mr. Chairman.
13 CHAIRPERSON RECKART: Yes, go ahead,
14 Mr. Hoffman.
15 COMMISSIONER HOFFMAN: Thank you,
16 Mr. Chairman.
17 Mr. Collins, I just wondered if the
18 Attorney General was also going to be providing us an
19 indication of what they worked on during the time
20 periods as opposed to just the raw amount of time?
21 MR. COLLINS: I think we're going to
22 start with the raw amount of time and then we'll
23 work -- then we'll work -- see what we have and go
24 from there. I -- I -- I think I -- I mean, I can tell
25 you that I've -- that my original request was for what

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1 and how much.
2 The response I've gotten is that it's
3 significantly easier for them to give us how much.
4 I'll have to evaluate that. If that gives us enough
5 context in order to -- for me to feel like I'm
6 advising you, then -- then -- then we'll have that;
7 and if we don't, then that's obviously a conversation
8 we can continue. We're -- we're entitled to both, I
9 mean, clearly.
10 COMMISSIONER HOFFMAN: Yeah, I mean,
11 I'm -- I'd be interested in knowing, like, what the --
12 even if it was just a list of what projects they
13 worked on untied to specific time for each project, do
14 you know what I'm saying? But it would be useful to
15 know what we're paying for as -- as -- as well as how
16 much we're paying for it. So just -- just a request.
17 MR. COLLINS: Sure.
18 COMMISSIONER HOFFMAN: I appreciate
19 the -- I appreciate your looking into it carefully.
20 CHAIRPERSON RECKART: Mr. Koester,
21 did you have a question?
22 COMMISSIONER KOESTER: No, not
23 really. You might tell Mitch Laird, though, what
24 we've covered so far.
25 CHAIRPERSON RECKART: Okay.

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1 Commissioner Laird?
2 COMMISSIONER LAIRD: Yes.
3 CHAIRPERSON RECKART: We've approved
4 the minutes. We are just going through the Executive
5 Director report, and I think you came in on part of
6 that. If you have any questions with regard to items
7 you may not have heard Mr. Collins report, then I --
8 I'll just direct you to him so we can move --
9 COMMISSIONER LAIRD: Very good, thank
10 you for the update. I appreciate it.
11 CHAIRPERSON RECKART: My -- my
12 pleasure. Thank you, Mr. Koester.
13 COMMISSIONER TITLA: Mr. Chairman.
14 CHAIRPERSON RECKART: Yeah,
15 Mr. Titla, please.
16 COMMISSIONER TITLA: Mr. Collins,
17 thanks for your report. It's a good report; and
18 following up on last month's meeting about, you know,
19 outreach to the voters of Arizona, including the
20 native tribes, we talked about reaching the native
21 tribes through their own language because I think they
22 would understand more information through their native
23 languages as we go into Arizona.
24 And somebody e-mailed me or contacted
25 me from the office regarding the follow-up on that.

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1 I'm glad you guys are following up on that. They said
 2 that they were going to concentrate on Navajo
 3 language, and I wonder if you would clarify that?
 4 MR. COLLINS: Sure. In fact,
 5 actually, Commissioner Titla, if I may, Chairman
 6 Reckart, the substance of our -- of our presentation
 7 later in this agenda on the -- updating the voter
 8 education for this year includes the language issues,
 9 and we'll be talking about that and getting feedback
 10 on that on another agenda item. So that is -- that
 11 will be later in the meeting.
 12 COMMISSIONER TITLA: Thank you.
 13 MR. COLLINS: Yep.
 14 CHAIRPERSON RECKART: Okay.
 15 Mr. Collins, just quickly. One is
 16 kudos to you and the staff on the -- the education
 17 efforts, including the debates and the information
 18 pamphlet. I've been through mine. I voted early so I
 19 -- I've already looked at it and I was -- I thought it
 20 was well done, which is nice knowing that my name was
 21 on it so anyway. . .
 22 Sara, thank you for making sure that
 23 all candidates participated in their education
 24 session. I know that was something you were
 25 bird dogging; and then just a quick question,

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1 Mr. Collins.
 2 The confusion over independent
 3 expenditure reports --
 4 MR. COLLINS: Yes.
 5 CHAIRPERSON RECKART: -- is that --
 6 is that -- so it's a statutory interpretation issue
 7 right now, is that what it --
 8 MR. COLLINS: Well, I think -- yeah,
 9 and I would -- and this is distinct from -- and I --
 10 and I want to make this very clear because we have a
 11 different agenda item that relates to a different
 12 issue.
 13 What we're talking about here is
 14 those entities that are filing reports under -- under
 15 -- pursuant to 16-941(D) and 16-914.02 --
 16 CHAIRPERSON RECKART: Uh-huh.
 17 MR. COLLINS: -- not those entities
 18 that purport to not have to file anything anywhere.
 19 CHAIRPERSON RECKART: Right.
 20 MR. COLLINS: So -- so that's where
 21 we need to kind of look and see we have -- I -- I -- I --
 22 would -- the Secretary's Office sent out a bunch of
 23 letters to entities. They got responses back that
 24 demonstrate that different entities have very
 25 different views of how those statutes worked specific

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1 -- especially when the obligation under 914.02 becomes
 2 a broader obligation --
 3 CHAIRPERSON RECKART: Uh-huh.
 4 MR. COLLINS: -- to make other
 5 reports and so, you know, it seems to me -- what the
 6 Secretary did is they launched a -- a reasonable cause
 7 against a -- an entity already.
 8 I'm -- I think that, you know -- and
 9 I don't want to get further than this, but next month
 10 I think we need to look at this from the perspective
 11 of whether or not you want to -- you -- you -- you
 12 enforce first and ask questions later or make pol --
 13 you know, because generally you should make policy not
 14 as an ad hoc enforcement matter.
 15 CHAIRPERSON RECKART: Uh-huh, agreed.
 16 MR. COLLINS: And -- and so I would
 17 like -- I just wanted to signal to you that when we
 18 talk about next steps, you know, I don't know what
 19 that looks like yet but it -- but -- but -- but I just
 20 wanted to make sure that you knew that -- what would
 21 be coming is we need to look at it globally.
 22 CHAIRPERSON RECKART: Would -- in
 23 terms of the Commission and its understanding or
 24 interpretation of the statutes what -- should we be
 25 looking for, example, an Attorney General opinion?

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1 What should we be looking to do in terms of guidance?
 2 Your -- your views? I mean, I just want to know
 3 how --
 4 MR. COLLINS: Sure.
 5 CHAIRPERSON RECKART: -- we should
 6 proceed?
 7 MR. COLLINS: Well, if I can -- I
 8 want to make sure I can get -- I don't know if I can
 9 go this far into the -- into the substance of that.
 10 Well, let me just say this about
 11 that: This agency is charged with making policy and
 12 enforcing the statutes and enforcing the Clean
 13 Elections Act. So I -- I -- I -- my own view is that
 14 we should make policy and not -- and if we get to a
 15 place in any given situation where we believe we need
 16 official -- an official Attorney General's opinion,
 17 that's a different question; but I am not at that
 18 point at all, and I believe that this agency has to
 19 take its policy role first and then -- and then see if
 20 there's anything -- any further needs but that's --
 21 that's ultimately the Commission calling a subsequent
 22 meeting that's --
 23 CHAIRPERSON RECKART: Uh-huh, okay --
 24 MR. COLLINS: -- noted for that.
 25 CHAIRPERSON RECKART: -- fair. And I

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1 just wanted to get a sense of where we go with this,
2 so thank you.
3 Just one note that I meant to do
4 early on is we have a gentleman here to the right
5 and --
6 MR. COLLINS: Oh, sorry.
7 CHAIRPERSON RECKART: -- if you
8 wouldn't mind, please introduce yourself.
9 MR. MUNNS: Christopher Munns with
10 the Solicitor General's Office.
11 CHAIRPERSON RECKART: Okay. You're
12 sitting as our counsel for --
13 CHRISTOPHER MUNNS: Yes.
14 CHAIRPERSON RECKART: -- the meeting?
15 Thank you, sir.
16 MR. COLLINS: I thought -- I though
17 you all had met Chris. I apologize if I didn't --
18 CHAIRPERSON RECKART: I don't think I
19 have, but anyway good to see you. Thank you, welcome;
20 and, Commissioner Hoffman, do you have a point?
21 COMMISSIONER HOFFMAN: Yes. I just
22 wanted to say that the independent expenditure -- you
23 know, our statute is -- is -- is very clear on --
24 16-941 says notwithstanding any law to the contrary,
25 any person who makes independent expenditures related

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1 to a particular office cumulatively exceeding \$500 in
2 an election cycle with certain expec -- certain
3 exceptions shall -- which I'm not going to read --
4 shall file reports with the Secretary of State in
5 accordance with 16-958 so indicating identifying the
6 office and the candidate or group of candidates whose
7 election or defeat is being advocated and stating
8 whether the person is advocating election or
9 advocating defeat.
10 So that's all we're doing and, you
11 know, all this stuff about other statutes is us trying
12 to not require excess paperwork from entities that
13 would fall within that statute but are already
14 otherwise reporting.
15 So I -- I just wanted to -- to make
16 it clear that I don't think we need a whole lot of
17 advice on --
18 CHAIRPERSON RECKART: On our own.
19 COMMISSIONER HOFFMAN: -- on, you
20 know, enforcing a statute of that nature which
21 basically says you should be reporting.
22 MR. COLLINS: Yeah. And, again, I --
23 I just want to say that the substance of this will be
24 at a -- at a further meeting and the only point was to
25 say, you know -- was to -- was to, you know, basically

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1 highlight the point of the report -- my report which
2 is -- which is written that says what the next steps
3 are.
4 CHAIRPERSON RECKART: Okay. Thank
5 you, Tom. Appreciate that.
6 Okay, Agenda Item No. IV. This is
7 the Litigation Report. Again, as I mentioned earlier,
8 the Commission may choose to go in executive session
9 on this item for consultation with attorneys regarding
10 pending or contemplated litigation in order to
11 consider its position and instruct its attorneys.
12 The item before us is the Arizona
13 Secretary of State's Office vs. The Committee for
14 Justice and Fairness, Item A, and I think
15 Mr. Kanefield is here to discuss that. Did you have
16 -- or, Mr. Collins, I'll open the floor to you first
17 and then we'll invite Mr. Kanefield to come.
18 MR. COLLINS: Sure. And just to put
19 this opinion in context, the State's 2010 expenditure
20 by this entity called The Committee for Justice and
21 Fairness respecting then candidate for Attorney
22 General Tom Horne there was an enforcement action that
23 resulted in a -- in a -- in a Maricopa County Superior
24 Court judge saying that part of the Clean Elections
25 Act, in his view, was -- was not constitutional.

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1 That was challenged on appeal by the
2 Maricopa County Attorney's Office. The result was an
3 opinion that issued that says that we -- that, in
4 fact, that statute is constitutional.
5 Mr. Kanefield represented the
6 Commission for purposes of filing an amicus brief in
7 both the Superior Court and in the -- and in the Court
8 of Appeals and so he's here and available for any
9 questions about the opinion if you have -- if you have
10 them and whatever the appropriate context he advises
11 in terms of executive session or not but that's the --
12 that's -- that's the situation.
13 CHAIRPERSON RECKART: Is there
14 anything for discussion on the Secretary of State vs.
15 CJF that the Commissioners would like? I have none so
16 I -- we could ask Mr. Kanefield to address any
17 questions but I -- I think it was -- the opinion was
18 fairly clear. They gotta go through the -- the rest
19 of the -- the litigation at this point, but we know at
20 least we're dealing with a constitutional statute
21 so. . .
22 MR. KANEFIELD: I'll give you just a
23 quick update on it.
24 CHAIRPERSON RECKART: Okay,
25 Mr. Kanefield, sure, please, please so. . .

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1 And then just a note to -- to the
 2 folks on the phone, we're hearing some paper shuffling
 3 and other noise. So you may want to mute until you
 4 talk, if you would, thank you.
 5 MR. KANEFIELD: Mr. Chair, Members of
 6 the Commission, I don't have anything substantively to
 7 add about the Court of Appeals opinion. It was issued
 8 on August 7th. There's a 30-day period for The
 9 Committee for Justice and Fairness to file a petition
 10 for a review with the Supreme Court. So that would
 11 put that in early September.
 12 They could also ask for
 13 reconsideration, but that period of time may have
 14 already passed. It's fifteen days. So we'll -- we'll
 15 monitor whether a Petition for Review is filed, and if
 16 one is filed then we will, obviously, want to revisit
 17 the case with the Commission as to whether or not the
 18 Commission would want to file an amicus -- another
 19 amicus brief at the Supreme Court.
 20 CHAIRPERSON RECKART: Okay. You --
 21 you might as well just stay up there, please, just
 22 because we'll talk now about Horne v. Citizens Clean
 23 Elections Commission.
 24 Mr. Collins, you introduce and then
 25 we'll give it to Mr. Kanefield again, please.

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1 MR. COLLINS: Sure. Mr. Chairman and
 2 Members, this case, as you all probably are familiar
 3 with, we have been in a couple -- I think it was a
 4 month and a half ago now the Commission authorized an
 5 inquiry with respect to Mr. Horne's campaign.
 6 Mr. Horne on July 3rd filed a lawsuit seeking to
 7 enjoin that inquiry.
 8 We briefed and argued -- or
 9 Mr. Kanefield briefed and argued the preliminary
 10 injunction. It was argued on the 11th, and we
 11 received the minute entry from the Judge, I think,
 12 what, two days ago now which we think -- or at least
 13 -- well, in our view thoroughly rebuffed Mr. Horne's
 14 claims in efforts to -- to enjoin the Commission's
 15 inquiry and -- and so that's -- that's where we are
 16 procedurally on that case.
 17 CHAIRPERSON RECKART: Okay. Again,
 18 whoever's on the phone, if you could mute, please,
 19 because we're hearing background noise, paper
 20 shuffling, pen chewing or something like that, I don't
 21 know; but, in any event, okay, Mr. Kanefield, please,
 22 if you would.
 23 MR. KANEFIELD: Mr. Chair, Members of
 24 the Commission, as Mr. Collins said, we are pleased
 25 with the result in the case. The Court denied

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1 Mr. Horne's request for a preliminary injunction to
 2 stop the inquiry that's currently under way, but more
 3 fundamentally the Court agreed with the Commission's
 4 position with respect to its jurisdiction over
 5 non-participating candidates in the context of this
 6 particular inquiry.
 7 At this point, the Court has asked us
 8 to lodge a post form of judgment and -- which we will
 9 do shortly. The Court wanted -- actually asked for
 10 that judgment to be lodged promptly so we are working
 11 to get that done.
 12 Once -- the judgment merely will --
 13 will -- will reflect the Court's minute entry, and
 14 then once the Judge signs the judgment then it's final
 15 and then the time to appeal that ruling will start to
 16 run.
 17 So other than that, unless there's
 18 any specific questions about any of the substance of
 19 the Court's ruling. . .
 20 CHAIRPERSON RECKART: If -- if you --
 21 just briefly, and I mean briefly, just review the --
 22 the points considered by the Court in its opinion. I
 23 mean, I've read it and I just -- I want to be reminded
 24 and see if there's anything that the Commissioners
 25 want to address with you in -- in executive section.

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1 MR. KANEFIELD: Yes, Mr. Chair. So
 2 the issue before the Court was really focused on
 3 whether the Commission could enforce the pro -- the
 4 contribution limit statute 16-941(B), which is in the
 5 Act, against a non-participating candidate like
 6 Mr. Horne.
 7 The allegations, if proved to be
 8 true, would result in an in-kind contribution that may
 9 exceed the limits and invoke some of the penalty
 10 provisions under the Act.
 11 So the core question the Court was
 12 considering that was raised by Mr. Horne, his
 13 attorneys in the amicus that appeared in support of
 14 his position through Sandra Pierce, was that even
 15 though the statute that imposes limits on
 16 non-participating candidates as set forth in -- in the
 17 Clean Elections Act apply -- ostensibly applies to
 18 non-participating candidates, the language in that
 19 statute, as argued by the plaintiff, removed the
 20 jurisdiction from the Commission with respect to
 21 contribution limits and placed it only in the hands of
 22 the Attorney General and the Secretary of State.
 23 But that was certainly not the way we
 24 read the statute and the -- and the act as a whole and
 25 the Judge agreed with us and -- and rejected

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1 Mr. Horne's arguments and -- and pretty clearly held
2 that -- that the provisions in 16-941 do apply to
3 non-participating candidates and the penalties for
4 violating that statute as set forth in 16-942 also
5 apply.
6 CHAIRPERSON RECKART: Do you
7 anticipate an appeal?
8 MR. KANEFIELD: I -- I don't know,
9 Mr. Chair. Just --
10 CHAIRPERSON RECKART: That just don't
11 happen to be relevant at the time?
12 MR. KANEFIELD: Yeah, just -- just --
13 I mean, it's a pure question of law. As the Court
14 noted. So I don't anticipate any issues with respect
15 to the final judgment, getting that signed, and if --
16 if the judge -- once the judgment's signed, if I
17 recollect, they will have 30 days to then file their
18 notice of appeal with the Court of appeals, and then
19 we'll find ourselves briefing this case and appearing
20 back before you with the status at that time.
21 CHAIRPERSON RECKART: Thank you.
22 Do the Commissioners have any
23 questions for Mr. Kanefield?
24 Mr. Hoffman?
25 COMMISSIONER HOFFMAN: Not -- not for

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1 Mr. Kanefield, but for Mr. Collins, if it's okay.
2 CHAIRPERSON RECKART: Sure. Just --
3 before we do that, I would ask inasmuch as the AZ --
4 Arizona Secretary of State Office vs. CJF has some --
5 has some decisions that may affect -- or that may
6 pertain to some of the issues we're dealing with in
7 the LFAF case, I'd like you to hang around. I don't
8 know if you were planning to leave yet --
9 MR. KANEFIELD: Okay.
10 CHAIRPERSON RECKART: -- but just if
11 you could stay through for that because I think we're
12 going to go into executive session -- at least I'm
13 going to ask for it -- and then we'll -- we'll have
14 Ms. O'Grady and you comment on some things so. . .
15 MR. KANEFIELD: Okay.
16 CHAIRPERSON RECKART: Thank you.
17 Go ahead, Mr. Hoffman.
18 COMMISSIONER HOFFMAN: I did have one
19 thing to say to Mr. Kanefield, which is
20 congratulations.
21 CHAIRPERSON RECKART: Yeah, well
22 done.
23 COMMISSIONER HOFFMAN: On both of
24 these items, to you and -- and Beau did a great job on
25 the two cases.

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1 So could you remind me, Mr. Collins,
2 what the status is of the Horne investigation?
3 MR. COLLINS: It -- it is ongoing.
4 COMMISSIONER HOFFMAN: Okay.
5 MR. COLLINS: And -- and when there's
6 an appropriate time we'll -- we'll -- we'll have a
7 report back to you.
8 COMMISSIONER HOFFMAN: Okay. So it's
9 not in -- in today's agenda?
10 MR. COLLINS: That is correct.
11 COMMISSIONER HOFFMAN: Okay. I
12 just -- I just wanted to say that the -- I -- there
13 were some allegations related to Mr. Horne's race, I
14 should say -- put it that way, with regard to the 2010
15 race, some of which are still unresolved, and I would
16 like to see us move in -- in real time on any
17 allegations.
18 You know, we -- we have the ability
19 to, you know, act a lot more promptly and this kind of
20 -- the kind of stalling for four years shouldn't, you
21 know -- isn't good and I'd like to see us, you know,
22 move forward as promptly as -- as -- as -- reasonable
23 and -- and prudent.
24 So I thank you for your efforts and
25 I'll look forward to seeing what happens one way or

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1 the other, whether it's to clear Mr. Horne's name
2 or -- or impose penalties it should be -- we should be
3 moving as soon as possible.
4 CHAIRPERSON RECKART: Okay, thank
5 you.
6 Let's go to Item No. V and, again,
7 this may be a situation in which we'd like to go into
8 executive session for consultation with our attorneys
9 inasmuch as this item deals with some litigation
10 involving the Commission.
11 Mr. Collins, if you would introduce
12 it for us, please.
13 MR. COLLINS: Sure.
14 CHAIRPERSON RECKART: And this
15 relates, I think, to Item V(A), the MUR 14-007.
16 MR. COLLINS: Yeah. So insofar as
17 we're dealing with V(A), I just would note to recap
18 where we were last month the Commission received a
19 complaint respecting an expenditure by the Legacy
20 Foundation Action Fund.
21 The Commission received a
22 recommendation that, in part, you know, that as I --
23 as I said at the time was -- at the timing of it was
24 related to the -- the lawsuit that the Legacy
25 Foundation Action Fund filed with relatively short

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1 order after the complaint itself was filed.
2 That recommendation went through some
3 issues detailing the terms of expressed advocacy and
4 that recommendation did not address the question,
5 which was also in the allegations, of -- of
6 coordination between the Legacy Foundation Action Fund
7 and the Ducey -- and Ducey 2014.
8 To -- Chairman and Commissioners,
9 kind of -- just assuming -- to sort of cut to the
10 chase here for today, the recommendation that is
11 before you on this matter is to now resolve the
12 question of the coordination and say -- my
13 recommendation is that the -- that with respect to
14 Ducey 2014 there is not coordination for the reasons
15 outlined in the memo, which you've received, which
16 Ducey 2014 has received and which, I think, everybody
17 -- every party to the -- to the matter has received.
18 So that's -- that's there.
19 I'm happy to take any questions about
20 that if that's how you want to proceed with that
21 aspect of it before the other one. I think the agenda
22 item is set up to allow that to -- to take place.
23 CHAIRPERSON RECKART: Yeah, and I --
24 I would like to deal with them separately because I
25 think I want to go into executive -- I'm going to ask

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1 for executive session on Item B.
2 I note Mr. Liburdi is here. Did you
3 have anything that you wanted to say on this item?
4 MR. LIBURDI: Mr. Chairman,
5 Commissioners, thank you. You've heard a lot from me,
6 verbally and in writing. So unless Commissioner
7 Hoffman has any -- would like me to repeat my points I
8 will since you weren't here. Sorry, Mr. -- sorry,
9 Commissioner Hoffman, but you -- you have before you
10 the Executive Director's recommendation. We agree
11 with the recommendation, and you have a lot of
12 correspondence from me.
13 So unless you have any other
14 questions, I'd be happy to answer them for you.
15 CHAIRPERSON RECKART: Thank you. And
16 I -- I just -- I keep wanting to call you, you know,
17 Vince Lombardi's son and I apologize, so Liburdi.
18 MR. LIBURDI: That's okay,
19 Mr. Chairman.
20 CHAIRPERSON RECKART: All right,
21 thank you.
22 MR. LIBURDI: I'll take it, it's a
23 compliment.
24 CHAIRPERSON RECKART: I note that
25 Mr. Torchinsky's on the phone. I imagine you will

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1 want to comment on Item B when we get to that, but do
2 you have anything to say on Item V(A)?
3 MR. TORCHINSKY: Other than the
4 Executive Director's report didn't address the
5 additional letter we sent addressing the CJF case, but
6 it sounds to me like there's no recommendation in
7 front of the Commission with respect to our case so I
8 don't really have too much to add --
9 CHAIRPERSON RECKART: Okay, thank
10 you.
11 MR. TORCHINSKY: -- other -- other
12 than I support the recommendation to dismiss the
13 coordination allegation.
14 CHAIRPERSON RECKART: Okay. Thank
15 you, sir.
16 COMMISSIONER HOFFMAN: Mr. Chair, is
17 anybody who -- present who is arguing that there was
18 coordination?
19 CHAIRPERSON RECKART: No, my
20 understanding is there -- there is none that have been
21 presented, nor is there any factual affidavits or
22 anything to that effect to -- to --
23 MR. COLLINS: No, there's -- I mean,
24 if anyone is here who represents the complainant they
25 can raise their hand, but I haven't seen them.

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1 CHAIRPERSON RECKART: Yeah, so that's
2 my understanding.
3 MR. COLLINS: I -- I -- I want to
4 make one thing clear with respect to the -- I mean,
5 with respect to the agenda item. I mean, if -- if --
6 if you want to talk about LFAF itself, Mr. Torchinsky
7 is absolutely correct that there is -- that I have not
8 made a further written recommendation respecting his
9 additional submission which you all do have but -- but
10 if you -- you know, for the -- just the way -- if you
11 want to -- if you want to address that at all, the
12 sub -- sub part (2) of (A), I guess it would be under,
13 the -- under the V(A), you know. I just want to make
14 sure you understand that.
15 CHAIRPERSON RECKART: To -- to my
16 recollection, Mr. Collins, that -- the LFAF portion
17 would still be open with regard to the original
18 complaint. We -- we are just dealing with the
19 coordination issue at this point.
20 MR. COLLINS: That -- that is -- I --
21 I -- I -- yes, that's exactly right. I just want to
22 make that clear then.
23 CHAIRPERSON RECKART: Yeah, moving
24 the Ducey campaign along, getting them out of the
25 picture, now we're gonna -- to the extent there --

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1 anything remains it's with regard to whether or not
2 there was express advocacy within the actions of LFAF,
3 and that's what remains in that complaint --
4 MR. COLLINS: Agreed.
5 CHAIRPERSON RECKART: -- based on --
6 on your recommendation if we were to adopt that.
7 MR. COLLINS: Correct, and I just
8 want to make sure --
9 COMMISSIONER HOFFMAN: I'm sorry, I
10 didn't understand any of that.
11 MR. COLLINS: Okay, so let -- if I
12 may --
13 COMMISSIONER HOFFMAN: Clarify,
14 please.
15 MR. COLLINS: Yes, if I may,
16 Mr. Chairman.
17 CHAIRPERSON RECKART: Please.
18 MR. COLLINS: The way that this
19 agenda item is set up and the way that the complaint
20 is framed, it alleges two things: It alleges that the
21 Legacy Foundation Action Fund made independent
22 expenditure that triggered reporting requirements and
23 that though -- and that -- or, essentially,
24 alternatively, that those independent expenditures
25 were coordinated with the Ducey campaign and triggered

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1 requirements on the Ducey campaign.
2 As I noted -- so there's two separate
3 questions. Question -- the question with respect to
4 the Ducey campaign is whether or not there's
5 coordination. The -- the recommendation is on -- is
6 on that to -- to -- to essentially terminate that part
7 of the complaint, but that does leave the leading part
8 of the complaint whether or not the LFAF expenditure
9 was an independent expenditure that triggered
10 reporting requirements open and in -- in front of the
11 Commission.
12 CHAIRPERSON RECKART: Okay. And --
13 and as I understand, Mr. Collins, the -- that
14 question, there's a predicate question, which is
15 whether or not there was a -- what the -- the
16 communication was express advocacy and then if it was,
17 does it constitute an independent expenditure.
18 MR. COLLINS: Correct.
19 CHAIRPERSON RECKART: Okay.
20 MR. COLLINS: That is correct.
21 CHAIRPERSON RECKART: Yeah, and
22 that -- that was why I made reference to the --
23 Mr. Hoffman, to the express advocacy issue.
24 COMMISSIONER HOFFMAN: Okay, so I
25 understand that. Could you remind me what -- what is

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1 the complainant alleging the coordination was?
2 MR. COLLINS: Sure. So the -- the --
3 the coordination alleged is -- effectively what the --
4 what I think the complaint alleges is something about
5 whether or not there is a -- a legal coordination.
6 In other words, because of -- the
7 upshot is that -- to the extent that there is a shared
8 agent employee or officer between a -- a candidate
9 campaign and an independent expenditure entity, does
10 that constitute coordination?
11 And then there's a -- secondarily --
12 I only say secondarily because it comes next in order
13 in the statute, if there is information being
14 transmitted between the campaign to the independent
15 expenditure group.
16 The point to take the legal --
17 MR. HOFFMAN: I'm sorry, could you
18 just tell me factually what the allegation is?
19 MR. COLLINS: Yeah, they shared an
20 agent.
21 COMMISSIONER HOFFMAN: Okay, so --
22 MR. COLLINS: That's the allegation.
23 COMMISSIONER HOFFMAN: "They" meaning
24 that the LFAF --
25 MR. COLLINS: The independent

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1 expenditure --
2 COMMISSIONER HOFFMAN: -- agent --
3 the independent expenditure company LFAF --
4 MR. COLLINS: Yes.
5 COMMISSIONER HOFFMAN: -- used the
6 same advertising company as the Ducey campaign?
7 MR. COLLINS: Correct, yes.
8 COMMISSIONER HOFFMAN: Okay. And the
9 thought is that perhaps the -- that advertising agent
10 knows exactly what Ducey wants and, therefore,
11 communicates that to the outside -- supposedly
12 independent expenditure company. Is that the concept?
13 MR. COLLINS: Well, I don't know what
14 the --
15 COMMISSIONER HOFFMAN: I mean, that's
16 the concern?
17 MR. COLLINS: That is a concern.
18 COMMISSIONER HOFFMAN: Okay. All
19 right, so -- and you're saying that the -- your -- the
20 basis of your recommendation is not that, you know,
21 this Nebraska thing or anything that -- you don't
22 agree with what they're arguing there. What you're --
23 you're saying -- your recommendation is simply that
24 just because they hired the same company, that doesn't
25 constitute coordination under --

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1 CHAIRPERSON RECKART: Per se.
 2 COMMISSIONER HOFFMAN: 14(C) because
 3 there's -- because the advertising agency is not a
 4 officer, director, employee of the Ducey campaign and
 5 he's also not an agent, and the reason he's not an
 6 agent is because he doesn't have authority to make
 7 expenditures.
 8 MR. COLLINS: In this state.
 9 COMMISSIONER HOFFMAN: In this state.
 10 MR. COLLINS: For candidates in this
 11 state.
 12 COMMISSIONER HOFFMAN: Okay. So
 13 meaning to make expenditures for Ducey's --
 14 CHAIRPERSON RECKART: Ducey.
 15 COMMISSIONER HOFFMAN: -- campaign in
 16 the state?
 17 MR. COLLINS: Or -- or -- yeah,
 18 right, that's right.
 19 COMMISSIONER HOFFMAN: Okay. And so
 20 -- and -- and there's no evidence that we -- brought
 21 to our attention by complainant that the -- that there
 22 was actual communication of facts through
 23 Mr. McCarthy?
 24 MR. COLLINS: Correct.
 25 COMMISSIONER HOFFMAN: Okay.

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1 CHAIRPERSON RECKART: All righty.
 2 COMMISSIONER HOFFMAN: I understand
 3 now, thank you.
 4 CHAIRPERSON RECKART: Thank you.
 5 Good we have it understood, because we're going to
 6 vote on it here.
 7 COMMISSIONER HOFFMAN: That's always
 8 -- it's always good to know what I'm voting on.
 9 CHAIRPERSON RECKART: Yeah, we
 10 advocate voter education so best that we follow it.
 11 Ms. O'Grady, did you have anything
 12 that you wanted to comment on this?
 13 MS. O'GRADY: No.
 14 CHAIRPERSON RECKART: "No," okay,
 15 thank you. Well, that being said, then I'll entertain
 16 motion -- a motion to adopt the recommendation of the
 17 Executive Director with regard to MUR 14-007.
 18 Do I have such a motion?
 19 COMMISSIONER KOESTER: Yes, I would
 20 move to dismiss the allegation of coordination on the
 21 MUR 14-007 Ducey campaign versus Smith.
 22 COMMISSIONER LAIRD: Second.
 23 CHAIRPERSON RECKART: Okay, all
 24 righty. Is there any discussion?
 25 COMMISSIONER HOFFMAN: Yeah, I'd just

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1 briefly like to comment that if -- if a independent
 2 expenditure agency and a campaign hired the same
 3 person, there is a risk that information can be used
 4 by one to the other, and if evidence of that comes to
 5 the attention of the Commission we might have a
 6 different case; but we don't have that here so -- but
 7 it -- it sure is something that is fraught with peril.
 8 So, you know, I don't want this to be
 9 seen as some sort of pass that you always can do this
 10 because, you know, if, in fact, information is passed
 11 through a conduit like that it would be quite
 12 disturbing.
 13 CHAIRPERSON RECKART: Well, and I
 14 also note from Mr. Collins' analysis that if LFAF is
 15 -- is deemed to be a political act -- a political
 16 committee, we may have a different view -- conclusion,
 17 but for the time being we haven't reached that. So
 18 that being said, any further discussion?
 19 There being none, all those in favor
 20 of the motion please say "aye."
 21 (Chorus of ayes.)
 22
 23 CHAIRPERSON RECKART: Okay, I don't
 24 -- all those opposed?
 25 Mr. Laird, I didn't hear your -- your

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1 vote, I'm sorry.
 2 COMMISSIONER LAIRD: Yeah, I was on
 3 mute. I said "aye," but the "aye" didn't do me any
 4 good.
 5 CHAIRPERSON RECKART: Okay.
 6 COMMISSIONER LAIRD: Aye.
 7 CHAIRPERSON RECKART: Yeah, thank
 8 you, sir. All right, the motion passes unanimously.
 9 Move on to item -- Agenda Item V(B),
 10 the Procedural Status, Commission Interests and
 11 Related Legal Actions in LFAF vs. Citizens Clean
 12 Elections Commission. We'll start with Mr. Collins
 13 and, Ms. O'Grady, I'll ask you to please come up and
 14 comment.
 15 MR. COLLINS: Yeah, just real
 16 briefly, you know, we -- we had a -- a status
 17 conference essentially with the Court. I can't
 18 remember what day it was on anymore, and there is a
 19 briefing schedule in place on the underlying lawsuit.
 20 The lawsuit -- I'll let Mary describe
 21 it. I think the lawsuit effectively says this is that
 22 the Commission lacks authority to do -- to -- to be
 23 regulating independent expenditures I -- I think, or
 24 something like that. I don't -- I'm just -- I'll let
 25 Mary characterize it and, obviously, Mr. Torchinsky's

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1 on the phone.

2 You know, Mary can review the

3 procedural status with you and then I think to the

4 extent that there's any guidance you want to give her,

5 I probably should recommend we go into executive

6 session.

7 CHAIRPERSON RECKART: Okay.

8 Okay, please, Mary.

9 MS. O'GRADY: Good morning. Thank

10 you, Mr. Chair, Commissioners. As Tom mentioned,

11 there was a scheduling conference. So we do have a

12 briefing schedule for our motion to -- our planned

13 Motion to Dismiss based on failure to exhaust

14 administrative remedies, and so we'll file that motion

15 September 5th. The response is due the 10th.

16 Briefing will close the 17th, and then we have oral

17 arguments set on that for September 23rd, and then

18 where it goes from there depends on, obviously,

19 whether our motion is granted.

20 In terms of the nature of the

21 lawsuit, it challenges this Commission's jurisdiction

22 over the complaint and also the constitutionality of

23 901.01, the statute described defining express

24 advocacy. So that's the nature of the lawsuit, and

25 then anything beyond that I'll probably reserve for

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1 executive session.

2 CHAIRPERSON RECKART: Okay. All

3 righty, thank you very much.

4 MR. O'GRADY: Sure.

5 CHAIRPERSON RECKART: Mr. Torchinsky,

6 you have the mic.

7 MR. TORCHINSKY: I don't have

8 anything to add to what anybody said at this point.

9 CHAIRPERSON RECKART: Okay. Great,

10 thank you, appreciate that.

11 All righty. I would like to have us

12 consider going into executive session, if we would,

13 please. Do I have a motion in support of that?

14 COMMISSIONER HOFFMAN: I move to go

15 into executive session to discuss legal Commission

16 interests -- procedural status, Commission interests

17 and related legal actions in LFAF vs. Citizens Clean

18 Elections Commission in the Maricopa County Superior

19 Court.

20 CHAIRPERSON RECKART: Okay. Is there

21 a second?

22 COMMISSIONER KOESTER: I second.

23 CHAIRPERSON RECKART: Okay, move and

24 seconded. All those in favor?

25 (Chorus of ayes.)

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1 CHAIRPERSON RECKART: Okay. Opposed?

2 Carries. We're in executive session,

3 thank you.

4 MR. TORCHINSKY: Again, I'll be

5 dropping off the phone. Thank you --

6 CHAIRPERSON RECKART: Thank you.

7 MR. TORCHINSKY: -- Chairman Reckart

8 for letting me appear by phone.

9 CHAIRPERSON RECKART: Thank you,

10 Mr. Torchinsky.

11 MR. TORCHINSKY: Sure, bye-bye.

12 (Whereupon the public retires from

13 the meeting room.)

14 (Whereupon the Commission is in

15 executive session from 10:18 a.m. until 10:58 a.m.)

16 *****

17 (Whereupon all members of the public

18 are present and the Commission resumes in general

19 session.)

20 CHAIRPERSON RECKART: All righty,

21 we're back from executive session. I want to invite

22 any motions that might -- as a consequence of

23 executive session.

24 COMMISSIONER HOFFMAN: Mr. Chair, I

25 move we direct our attorney to proceed with the

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1 litigation LFAF vs. Clean Elections Commission in

2 accordance with instructions in the executive session.

3 CHAIRPERSON RECKART: Okay.

4 COMMISSIONER KOESTER: I second.

5 CHAIRPERSON RECKART: Okay, it's been

6 moved and seconded. Any further discussion?

7 There being none, I'll call for a

8 vote. All those in favor please indicate by saying

9 "aye."

10 (Chorus of ayes.)

11

12 CHAIRPERSON RECKART: It passes

13 unanimously, thank you. Okay, that concludes Item

14 V(B).

15 Item VI, Discussion and Possible

16 Action on MUR 14-009 Justin Pierce and Candidate

17 Committee(s); Gary Pierce. Mr. Collins.

18 MR. COLLINS: Yes. Commissioners,

19 and I'll try to make this brief. We received a

20 complaint alleging, essentially, that a person who was

21 asked -- Justin Pierce is a can -- a participating

22 candidate for Secretary of State. The allegation was

23 that a person was asked for a five dollar

24 qualification form and was told they wouldn't have to

25 submit the five dollars, which would be a violation.

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1 We provided an opportunity for Mr. --
 2 Justin Pierce and Gary Pierce to respond per the terms
 3 of how the complaints are handled. They did that.
 4 The recommendation recognizes that, in fact, there's
 5 no evidence that the complainant actually signed this
 6 form or that the form was included in anything that
 7 was used to obtain the Clean Elections funding and so
 8 it's -- we -- I would just recommend that we conclude
 9 the complaint.
 10 I don't know if the complainant is
 11 here. I rather doubt it, and Mr. Lee Miller, who is
 12 an attorney who represents Mr. Pierce's campaign, is
 13 here if you have any questions for him; but my
 14 recommendation would simply be that you take -- that
 15 this complaint be resolved and no action be taken.
 16 CHAIRPERSON RECKART: Okay. In light
 17 of that, do you have any comments, sir?
 18 MR. MILLER: Thank you, Mr. Chairman,
 19 Members, Lee Miller on behalf of Justin Pierce for
 20 Arizona. I simply -- I simply wanted to note that
 21 Gary Pierce very much wanted to be with you this
 22 morning to address any questions you might have.
 23 Unfortunately, Commissioner Pierce is
 24 next door and the Corporation Commission is likewise
 25 in session this morning so he's unable to be here.

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1 That being said, we stand by the response we provided
 2 and I'm available for any questions.
 3 CHAIRPERSON RECKART: Are there any
 4 questions for Mr. Miller?
 5 COMMISSIONER HOFFMAN: I -- I think
 6 it's a good excuse if you're a Commissioner and
 7 attending a Commission meeting.
 8 CHAIRPERSON RECKART: Mitch, we're
 9 hearing some of that background noise. If you could
 10 mute again, I'm sorry to do that to you.
 11 COMMISSIONER LAIRD: Sure.
 12 CHAIRPERSON RECKART: Thank you.
 13 All righty, I don't hear that there
 14 are any questions, so thank you.
 15 MR. MILLER: Thank you.
 16 CHAIRPERSON RECKART: All righty.
 17 Are there any motions in regard to the recommendation
 18 of the Executive Director? All right, guys, let's
 19 move it. I'll move that we adopt the Executive
 20 Director's recommendation to take no action with
 21 respect to MUR No. 14-009. Is there a second?
 22 COMMISSIONER HOFFMAN: I second.
 23 CHAIRPERSON RECKART: Okay, thank
 24 you. All those in favor please indicate by saying
 25 "aye."

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1 (Chorus of ayes.)
 2
 3 CHAIRPERSON RECKART: Okay. All
 4 opposed? Being none, it carries unanimously.
 5 All right. Thank you, everyone.
 6 Thank you, Mr. Miller.
 7 COMMISSIONER HOFFMAN: Thank you,
 8 Lee.
 9 CHAIRPERSON RECKART: Next item on
 10 Agenda, Item No. VII -- let me get to it, sorry.
 11 COMMISSIONER HOFFMAN: Yeah.
 12 CHAIRPERSON RECKART: MUR 14-010
 13 Jamescita Peshlakai.
 14 If you could introduce, Mr. Collins,
 15 and I don't know if there's anyone here for the
 16 complainant or for the respondent.
 17 MR. COLLINS: Sure. Chairman,
 18 Commissioners, Candidate Peshlakai, who's also a State
 19 representative, this is an internal complaint. She
 20 missed a debate that she was mandated to attend under
 21 the Commission -- under the Act and rules.
 22 She contacted us and let us know that
 23 she had, in fact, missed the debate. She also
 24 provided a doctor's excuse, essentially, for -- for
 25 having been sick and missed it, which was acceptable

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1 and, therefore, we -- we -- we do the internal
 2 complaint because that's the process that we have in
 3 place; but we just would ask that you take no further
 4 action because she has explained -- you know,
 5 explained properly why she wasn't at the debate.
 6 CHAIRPERSON RECKART: Thank you, sir.
 7 Is there anyone --
 8 COMMISSIONER HOFFMAN: Mr. Chair, I
 9 move to --
 10 CHAIRPERSON RECKART: Okay, just --
 11 COMMISSIONER HOFFMAN: Oh.
 12 CHAIRPERSON RECKART: Is there no
 13 comment? No one here to comment?
 14 Okay. I'll invite a motion then,
 15 thank you.
 16 COMMISSIONER HOFFMAN: Mr. Chair, I
 17 move we take no action on MUR 14-010.
 18 CHAIRPERSON RECKART? Okay. Do I
 19 have a second?
 20 COMMISSIONER KOESTER: I second.
 21 CHAIRPERSON RECKART: All right,
 22 thank you. Been moved and seconded. All those in
 23 favor please indicate by saying "aye."
 24 (Chorus of ayes.)
 25

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1 CHAIRPERSON RECKART: It carries
 2 unanimously, thank you.
 3 Now I move to Item No. VIII,
 4 Discussion and Possible Action on MUR 14-011 Scott
 5 Smith and Candidate Committee(s).
 6 Mr. Collins, please introduce it,
 7 please.
 8 MR. COLLINS: Yes. Mr. Chairman,
 9 Commissioners, this is an allegation -- I'm going to
 10 try to summarize it really briefly. It's in the
 11 recommendation. However, you had an advertisement
 12 that was done by a group called The Business -- I
 13 think either Better Leaders or Business Leaders of
 14 Arizona that discussed another candidate, Doug Ducey,
 15 and involved a gentleman who has -- says he has a
 16 complaint against the -- how he was as a franchisee
 17 with a company Mr. Ducey used to run.
 18 That same person then appears in a
 19 press release put forward by Mr. Smith's campaign.
 20 The allegation was that under the test -- under the
 21 test, similar to the -- the things we discussed in --
 22 in the -- with respect to the earlier complaint that
 23 there was either actual coordination or legal
 24 coordination. We have, you know, no evidence of
 25 actual coordination and -- and, similarly, an -- an

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1 absence of evidence of legal coordination and so,
 2 therefore, I -- you know, the recommendation is that
 3 we dismiss the complaint there as well.
 4 CHAIRPERSON RECKART: Okay. Anyone
 5 here for the complainant or --
 6 MR. COLLINS: Not -- to my --
 7 surveying the room, neither the complainant nor the
 8 respondent are here.
 9 CHAIRPERSON RECKART: Okay, thank
 10 you. All righty, any discussion from the Commission
 11 or I'll entertain a motion?
 12 COMMISSIONER HOFFMAN: Mr. Chair,
 13 Mr. Collins, is -- your investigation seem to suggest
 14 that the candidate contacted -- the candidate's
 15 representative contacted Mr. Red only after seeing the
 16 independent expenditure?
 17 MR. COLLINS: That's what -- that's
 18 what -- yes, that's correct.
 19 COMMISSIONER HOFFMAN: The
 20 independent expenditure ad, right?
 21 MR. COLLINS: Correct.
 22 COMMISSIONER HOFFMAN: Okay.
 23 CHAIRPERSON RECKART: Yeah.
 24 COMMISSIONER HOFFMAN: So in that --
 25 in that case, I move that -- if a motion's

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1 appropriate, I move that we take no further action on
 2 MUR 14-011.
 3 CHAIRPERSON RECKART: Do we have a
 4 second?
 5 COMMISSIONER KOESTER: I second.
 6 CHAIRPERSON RECKART: Okay, it's been
 7 moved and seconded. All those in favor please
 8 indicate by saying "aye."
 9 (Chorus of ayes.)
 10
 11 CHAIRPERSON RECKART: Okay, and it
 12 carries unanimously. All right, thank you.
 13 Item No. IX, Discussion and Possible
 14 Action on Report on Voter and Public Education
 15 Activities in the Primary Election and Planning for
 16 the General Election.
 17 Mr. Collins.
 18 MR. COLLINS: Yes. Commissioners, if
 19 you -- if you would, we wanted to do this on the 28th,
 20 but with the Commission meeting adjustment we wanted
 21 to -- we do want to get this in front of you. This is
 22 -- Gina's been working very hard on putting together a
 23 -- a look at some of the issues that the Chairman and
 24 Mr. Titla have raised and -- around language and
 25 generally looking at a recap of where we've been.

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1 I like to think of this as the good
 2 news part of the -- of the -- of the agenda and I
 3 think that as everybody understands that the voter
 4 education and public education purposes of the Act
 5 are -- are very important to the Commission and we
 6 need to -- and so we will -- we do have some time we
 7 want to spend on that. I think that -- well, I'll
 8 just turn to it over to Gina and then we'll go -- go
 9 from there.
 10 COMMISSIONER HOFFMAN: You're not
 11 suggesting the previous part was the bad news part,
 12 right?
 13 CHAIRPERSON RECKART: This is the
 14 good part. This is the feel good part.
 15 MR. COLLINS: The feel feel good. I
 16 don't know, whatever you want to call it.
 17 MS. ROBERTS: Okay, I'm happy I could
 18 be the feel good portion.
 19 Mr. Chairman, Commissioners, thank
 20 you for allowing me to present today. For the record,
 21 my name is Gina Roberts. I'm the Voter Education
 22 Manager, and I joined the staff about two and a half
 23 months ago so I'm excited for my first presentation
 24 before you; and, Commissioner Titla, I was the one
 25 that e-mailed you earlier.

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1 So what we'll get started on today is
 2 a brief recap of what we've done with our voter
 3 education efforts to date, and then we'll transition
 4 into our responses to the Commission's request for
 5 information on Native American language and usage and
 6 some of the ideas that we have.

7 So, a few reminders as we get
 8 started. All of this is centered around the fact that
 9 low information voting can be detrimental to the
 10 voter, and our goal is to put the facts within the
 11 reach of the voter; and with all of the information
 12 that's out there, most of it is biased, it's coming
 13 from the candidates themselves. It can be very
 14 difficult to feel like an educated voter and to have
 15 confidence when you're filling out your ballot.

16 So, in 2012 it became really evident
 17 that there was a greater need for voter education and
 18 we saw this through issues that happened in the
 19 general election. There were a record number of
 20 provisional ballots. There was a low understanding
 21 from independent voters that they can actually vote in
 22 the primary election, and it just seemed really
 23 difficult for voters to be able to separate fact from
 24 partisanship; but thankfully we feel that there are
 25 solutions that we can provide to the voters and that

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1 includes encouraging voters to complete their early
 2 ballots correctly and on time and that independents do
 3 have the constitutional right to vote in the primary
 4 election, and we'd also like to direct voters to our
 5 web site so they can obtain the facts.

6 This approach, it's -- it's an
 7 umbrella effort and, basically, we want to position
 8 Clean Elections as the non-partisan resource, as the
 9 trusted resource of voters, and we did this in
 10 conjunction with two time specific tactical spots that
 11 we created. One was focused on the early voting
 12 issue, and the second was on primaries and independent
 13 voters.

14 In your packets you have a media grid
 15 that I won't spend too much time on discussing; but,
 16 basically, this shows you what the campaigns are that
 17 we have going and the outlets that we have them aired
 18 on from TV to print to on-line.

19 So going back to the creative, the
 20 platforms that we discussed with the early ballots and
 21 the independent voters, again, in 2012 there was a
 22 high increase of provisional ballots and this was
 23 because voters -- they were on the permanent early
 24 voting list. They received their early ballot, but
 25 they chose to not vote that early ballot and instead

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1 go to the polls. That would result in a provisional
 2 ballot and most people -- we heard from voters that
 3 they didn't even realize they were on the permanent
 4 early voting list so we saw a problem here. We wanted
 5 to educate voters about how the early ballot process
 6 works.

7 The other issue was there's a low
 8 turnout of independents in primary elections and in --
 9 this year, in 2014, independents actually became the
 10 highest voting block in the State; and so to help
 11 encourage and inform voters of their rights, these
 12 independent voters, we also developed a tactical spot
 13 to educate them on their right that they can vote in
 14 the primary and these direct voters to the Clean
 15 Election web site so they can get additional
 16 information.

17 So I'd like to play those spots that
 18 we have. The first one is for early voting.

19 (Video played.)

20 MS. ROBERTS: The next spot that we
 21 have is targeting the independent voters.

22 (Video played.)

23 MS. ROBERTS: So these are really
 24 alert-style messaging and it's -- it captures the
 25 voters' attention and ultimately it says, "Hey, this

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1 is the information. This is what you're entitled to
 2 do. Go to Clean Elections web site to get more
 3 information on this subject," and to -- I kind of
 4 think of it as a trifecta.

5 We have our "Cut Through It" campaign
 6 that we also created and this corresponds to our Voter
 7 Education Guide, and it's really about cutting through
 8 all of the information, all of the bias, the partisan
 9 information, the negative information that is out
 10 there, cutting straight through that and getting the
 11 facts, going -- hearing directly from the candidates
 12 in our Voter Education Guide so you can feel confident
 13 and informed as a voter.

14 You know, unfortunately, as I just
 15 mentioned, a lot of the messaging that we see out
 16 there from candidates and political committees,
 17 unfortunately it's negative; and so this really can
 18 result in voter apathy, distrust. Voters want the
 19 information, but they want it on their own time as
 20 well. Voters don't like to be interrupted during
 21 dinner with their families when they get a phone call
 22 from a candidate committee.

23 So what we have is the Cut Through It
 24 campaign, and that just encourages voters to basically
 25 skip through all of that messaging that you're

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1 getting, the biased information, and use your Voter
2 Education Guide, go to Clean Elections and get the
3 facts; and so we have our Cut Through It campaign
4 right here. This is a 60 second spot that we have
5 that is airing in theaters and TV.
6 (Video played.)
7 MS. ROBERTS: I've seen that several
8 times, and I still think it's funny; and the dog, I'd
9 like to mention, actually belongs to Tom that was in
10 the beginning, very cute dog.
11 But, really, that focuses on our hero
12 voter and he goes throughout his day and he hears all
13 of this information coming at him regarding the
14 election. It's overwhelming and the actors are
15 speaking gibberish; but, really, at the end of the day
16 when he's at the polls and he's voting he's got all of
17 this information he's trying to sift through in his
18 head, but then you have that confident voter next to
19 him who has her Voter Education Guide and she's
20 smiling, she's sure of herself, she's sure of her
21 vote; and so that was really the focus of this Cut
22 Through It campaign, and we have those in 30 second spots
23 as well that we're running on TV and radio, and we do
24 have these in English and Spanish.
25 These are some examples of the

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1 statewide print ads that we have. So that follows the
2 gibberish theme; and in addition to print, we also
3 have our on-line ads as well and, again, all of this
4 points -- it directs voters back to the Clean
5 Elections web site to get the information, to get the
6 facts.
7 So how is this doing? How's it
8 working? Is the campaign successful? And this
9 chart -- if you look at the orange line that has the
10 dots on it, that shows how many web site hits that
11 we're receiving; and you can see it's trending really
12 nicely at the beginning, but if it hasn't captured
13 your attention already, I want to point you to that
14 very top dot and that shows how many hits that we got
15 when our campaigns were running on TV and you're
16 looking at over 9100 hits.
17 So that's really impressive, and that
18 tells us something very important. It tells us it's
19 working. Voters are seeing our ads and they are going
20 to our web site to get the information. So it's
21 really positive feedback that this is working. That's
22 a brief recap of what we've done so far, in addition
23 to our Voter Education Guide and the debates that
24 we've had.
25 So at the July Commission meeting

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1 staff heard from the Commission you wanted to get some
2 information on the languages -- the Native American
3 languages and the number of speakers, and so I was
4 able to find a lot of information on -- on the web. I
5 think Commissioner Hoffman had mentioned, you know,
6 the web site that would have a lot of information; but
7 what I wanted to focus on today is the data that we
8 were able to get from the US Census Bureau and you
9 have that information in your packets as well, but
10 what I wanted to highlight in the slide are the top
11 Native American languages that are spoken.
12 And so the American Community Survey,
13 which was released by the US Census Bureau in April of
14 2010, it identifies Navajo as the top Native American
15 language that is spoken with 88,251 speakers. We also
16 have Apache, Pima and Hopi.
17 So these are the ones that were
18 identified in the survey as the top Native American
19 languages that are spoken, and we have some ideas on
20 how we can increase our outreach to, one, Native
21 Americans across the state, but we do have some ideas
22 as well that will specifically target the Navajo
23 speakers.
24 And what we've done so far with our
25 paid media is we have print and radio ads that are

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1 currently out there and so we're -- those are the
2 newspapers that we're hitting and the tribes that
3 they're effecting, the outreach, and the stations as
4 well; but I just want to point out that what we've
5 done so far, these print and radio ads, they've been
6 in English.
7 So one of the options that we want to
8 explore is actually having them spoken in the native
9 tongue. So we would like to explore translating them
10 into Navajo to target that large group of speakers,
11 and we would also use our contacts with the County
12 Recorder's Office and the chapter houses to reach out
13 directly to the voters.
14 In particular, Apache County,
15 Coconino and Navajo County, they are and have agreed
16 to be great partners with us to help get this
17 information out -- get the Navajo translation out to
18 voters, and on these radio stations they actually have
19 translators on site. So they will take our
20 information and translate it and it will be broadcast
21 in the Navajo language.
22 On the PR side of things, when we do
23 our press releases we do target Native American
24 communities, and so this is just a listing of who we
25 include. To increase our efforts, we are actually

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1 going to start reaching out to 21 of the
2 Federally-recognized tribes in Arizona. We're going
3 to reach out directly to their chairs and their
4 leadership, and for those communities that don't have
5 traditional newspaper and radio stations we'll try to
6 reach them through their newsletters.
7 So we're going to reach out to them.
8 We're going to see what are the best ways that we can
9 provide them with voter information; but, basically,
10 that's going to be one of our first steps is
11 developing that partnership, reaching out to them.
12 One of the ideas that we have that
13 we're very excited about -- and this involves
14 Commissioner Titla, and this is in regards to the
15 e-mail that I had sent you, Commissioner Titla. We
16 would like to organize an event where Commissioner
17 Titla would go out and he would represent Clean
18 Elections and discuss the resources that we can
19 provide to voters and -- and provide more voter
20 general election information, and we would do this
21 through a trip where we can, of course, schedule a
22 teleconference as well; but we would reach out to the
23 local media in those areas and contact the tribal
24 leaderships and, basically, just have a presence and
25 say, "We're Clean Elections. We're here. We can

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1 provide you with information," and we just -- again,
2 we want to start building those partnerships with the
3 Native American communities so they can feel that they
4 can turn to Clean Elections for information.
5 I had the opportunity to attend a
6 work session that was conducted by the Secretary of
7 State's Office on August 1st, and essentially what the
8 Secretary's Office does is for their pamphlet that
9 they send out for the general election, which includes
10 the ballot measures, they translate those into the
11 Navajo language; and the process for doing that, it
12 involves a paid State contract translator, but they
13 also have employees at the County Recorders from
14 across the State, in particular Apache, Coconino,
15 Navajo Counties where these folks come down, they sit
16 in a room and they go word by word through all of the
17 ballot measure texts and they translate it together.
18 And the reason why they do that is
19 so, one, there's consistency. When this election
20 staff member is walking door to door and they're --
21 they're educating voters in the Native American
22 community, they're translating it the same way
23 across -- across the State.
24 So it's a really -- it's very
25 interesting. I was happy to attend. It's a beautiful

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1 language to hear them speak it. I didn't understand a
2 word of it, but it was very -- it was very beautiful
3 to hear them speak that language.
4 And in the lower right-hand corner is
5 the Apache County Recorder. That's LeNora Fulton, and
6 so at this work session I was able to develop
7 partnerships with these individuals that were there.
8 There were about 13 folks there, and it included
9 county recorders and election officials, and it also
10 had the head of the Navajo Election Administration.
11 So through them I hope that we can
12 reach the chapter houses and, of course, with the
13 assistance of the Secretary of State's Office as well
14 that we have these direct contacts that we can use to
15 get voter education information out to the Native
16 American communities.
17 So one of the things that they
18 expressed that they would like to see from our office
19 is just basic general election information. They
20 really don't have a lot of resources, and so they were
21 really happy to hear that Clean Elections is willing
22 to help and they are more than willing to do the leg
23 work in distributing this information. They just need
24 resources, and so that's where they would like to turn
25 to Clean Elections to help provide that information.

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1 One of the ideas that we have from
2 this from attending that work session is we would like
3 to translate the statewide and LD 6 and 7 portions of
4 the candidate's statement pamphlet into Navajo. Those
5 legislative districts would be the districts that have
6 the highest speakers in Navajo.
7 CHAIRPERSON RECKART: That's sort of
8 where I was going with my question. I was going to
9 ask, because it seemed to be best rather than expend
10 resources for districts where it has no relevance at
11 all to the Navajo communities.
12 MS. ROBERTS: Exactly, that's exactly
13 correct and that is the sentiment that we heard from
14 the translator herself as well. It would not be
15 cost-effective, and it is very time-consuming to
16 actually translate into Navajo as well. So in order
17 for us to provide this service for the general
18 election, we just want to focus on the applicable
19 districts and the statewide contest as well; and, in
20 addition, we just want to provide general information
21 on Clean Elections as well to these folks.
22 So it was a great meeting, and I was
23 really happy to work one on one with these folks and
24 develop this partnership. With that, I am happy to
25 answer any questions and I welcome your feedback on

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1 directions you'd like the staff to take further.
2 CHAIRPERSON RECKART: Okay. Any
3 questions for Mr. Roberts?
4 MR. COLLINS: Mr. Titla, you had a
5 question around the question of how we're
6 triaging between -- how we're making decisions around
7 different -- different tribal communities -- different
8 communities. Did you want --
9 COMMISSIONER TITLA: Chairman, thank
10 you, Ms. Roberts, for all the good work you've been
11 doing. This is a very impressive presentation that
12 you've done.
13 With regard to the translation
14 efforts that you're working on, I think that that's a
15 positive development for Clean Elections because I've
16 been reading the statute here, the statute that we're
17 working under, and the effort is -- it says that we
18 have an effort to reach all communities in the State
19 of Arizona, and I think that you mention in your
20 outreach efforts that you're gonna have the
21 translation into Navajo language.
22 Would there be other translation to
23 other tribes?
24 MS. ROBERTS: We can certainly
25 explore that. As of right now through the contacts

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1 that I have from the Secretary of State's work session
2 that was focused on Navajo, we felt that in time for
3 the general election, since we're on such a short time
4 frame, we felt that translating the pamphlet into
5 Navajo language, and especially since that is the
6 highest number of speakers, we thought that was a
7 measure that we could put into place immediately.
8 We are not looking to be exclusive by
9 any means. We can certainly see what other
10 translating options we have on State contracts and we
11 can get quotes on those, but with our budget right now
12 and with the time frame from the general election we
13 felt that it would be best to focus on the Navajo
14 language for now, but we are certainly open to
15 exploring future languages.
16 COMMISSIONER TITLA: Yeah, there are
17 other tribes in Arizona besides the Navajo. So I
18 think that it would be important to reach to other
19 tribes also because the other tribes will say that,
20 "We are not Navajo and that we are our own tribes with
21 our own distinctive language."
22 So I would encourage Mr. Collins and
23 all the staff at Clean Elections to look at the other
24 languages. For example, you have the Apache tribes,
25 the Hopi tribes, and if you look at the map you had up

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1 there, the Arizona map --
2 MS. ROBERTS: Uh-huh.
3 COMMISSIONER TITLA: -- you had
4 the -- the large reservations: Navajo and Hopi and
5 White Mountain Apache, San Carlos Apache, Tohono
6 O'dham down there in Sells, Gila River south of here,
7 Phoenix, and some of those larger tribes. I think it
8 would be good to have some translation. Not to the
9 extent that you translate all the pamphlets or
10 anything, but I think it would be important to
11 translate the -- that the Clean Elections exists and
12 that the purpose and the message that Clean Elections
13 is doing, I think would be important to put that in
14 the -- in the radio at least for these distinctive
15 tribes.
16 In Apache, for example, you could
17 have announcements in Apache radio saying what Clean
18 Election does and what the purpose of it is because I
19 haven't heard it -- I haven't heard Clean Elections on
20 any radio yet, on any Apache radio, or on any Navajo
21 radio because I listen to that sometimes when I go
22 up -- go up to a meeting up there. I put the Navajo
23 radio on.
24 And I don't know if you know that,
25 but Apache tribes and Navajo tribes have the same

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1 linguistic base, which is Athabaskan, Athabaskan
2 linguistic base for Navajo, Apaches and Athabaskans in
3 Alaska and Athabaskans in northwest territories of
4 Canada. All they -- they have the same linguistic
5 base so I can kind of follow along what the Navajos
6 are talking about on the radio, but not everything,
7 just a little bit; but with regard to the Hopis and
8 the Pima tribes and the others, they sound like
9 Russian to me. I don't understand anything with those
10 tribes.
11 So I would encourage that for this
12 election that you put some -- put some messages on the
13 radio in the Apache language and the Hopi language and
14 the Pima languages with regard to Clean Elections. It
15 doesn't have to be an extensive pamphlet-wise
16 translation, but can just message Clean Elections
17 saying Clean Elections is about this, this is what
18 they do, because I think that that's what we do in the
19 English language and you do that to the Spanish
20 language, too. I think it's on the radio.
21 MS. ROBERTS: Uh-huh.
22 COMMISSIONER TITLA: So I think it's
23 very important, very critical that we do that so that
24 we can follow up on all the -- the goals and
25 objectives of the Clean Elections law and act that was

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1 put forth by the citizens, thank you.
2 MS. ROBERTS: Absolutely,
3 Mr. Chairman and Commissioners. We can definitely
4 look into that; and since we're not talking about the
5 entire pamphlet, I think that hopefully our
6 translation budget will allow for that. So we can
7 definitely explore options and -- and we can focus on
8 getting those simple messages out on -- on the radio
9 stations. So we will definitely look forward in to
10 that.
11 CHAIRPERSON RECKART: Yeah, I think
12 the focus here is get something out there on a common
13 media outlet, even if we don't get the full pamphlet
14 to Commissioner Titla's this point.
15 Commissioner Hoffman, you had a
16 question?
17 COMMISSIONER HOFFMAN: Yeah, I wanted
18 some comments. First of all, I -- thank you for a
19 great first presentation. That's just fabulous. It's
20 really good that you'll be looking into these issues,
21 and I congratulate you on that.
22 Second of all, I agree with
23 Commissioner Titla's point that getting out a general
24 message of what Clean Elections is -- is -- is, I
25 think, important and I'm glad to hear that

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1 Commissioner Titla and Mr. Collins are going to be
2 doing those kinds of outreach efforts; and if there's
3 any need for -- for me to help, I'd be happy to do
4 that as well.
5 With regard to the translation issue,
6 particularly of the pamphlet or any other stuff, I
7 know we have limited budget and I commend your
8 decision to go after the Navajo language because the
9 data that is sitting in the back of our binder
10 indicates that there are over 88,000 Navajo speakers
11 and looks like about a quarter of those, 21,000 are --
12 speak English less than very well, which means that
13 there's a large opportunity to reach people who are
14 not going to otherwise be hearing the message in
15 English.
16 And those are significant numbers.
17 They're not quite as high as Spanish where there's
18 over a million and a quarter speakers and 600,000 that
19 don't speak very well but -- don't speak English very
20 well, at least according to what they think, but --
21 but it's still a significant sector of the State.
22 With regard to other Indian languages
23 -- Native American languages, however, it looks like
24 the next highest one on your data is -- is Apache,
25 which has got 11,500 speakers and only 346 don't speak

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1 English very well, though, and I -- just in taking a
2 quick look through it looks like there are more French
3 speakers, more German speakers, more Chinese speakers,
4 more Vietnamese speakers and more Arabic speakers than
5 there are Apache speakers and there are probably --
6 maybe ten other languages, you know, including such
7 obscurities as Lithuanian where people -- where there
8 are more people who don't speak English very well than
9 there are Apache or others; and so if it's a question
10 of budget and where we spend money and whether -- you
11 know, whether we should devote additional resources,
12 you know, I -- I -- I think we might want to, you
13 know, sort of go in order of the languages in
14 frequency, particularly on those that -- that don't
15 speak English very well.
16 If it turns out that some of the
17 tribes are interested and willing to help with their
18 own resources, I certainly think we ought to
19 cooperate; but in terms of spending extra money by the
20 -- State money on the Commission, I think we ought to
21 do it where it has the most impact and I just wanted
22 to, you know, add that comment.
23 MS. ROBERTS: Thank you, Mr. Chairman
24 and Commissioners. Yes, absolutely. We feel that we
25 will have those partnerships where those grass root

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1 efforts will be there. So when we provide information
2 on Clean Elections, when we educate our partners, they
3 will in turn -- so the County Recorders, the County
4 election staffs, the chapter houses, the Navajo
5 Election Administration, the Native American tribal
6 leaders that we're going to reach out to, aside from
7 just Navajo, we're going to hit all of them across the
8 State, we're hoping that they can also take our
9 information and, in turn, translate that to their
10 community members.
11 So that is one option; and some of
12 these radio stations, they do have their own internal
13 translators that hopefully it will be part of our
14 media buy when we purchase that air time. So the
15 translation costs will be covered there as well.
16 So we do have some options; and, of
17 course, if we ever were to get one request from our
18 office for a translation service, whether that is in
19 Russian or -- or Chinese, we would do our best to
20 accommodate that specific request if an individual
21 were to contact us directly.
22 COMMISSIONER HOFFMAN: Does that make
23 sense? That makes sense and -- and I thank you for
24 the response. I -- I -- I think you're right -- in
25 short, right on target and I -- I appreciate your --

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1 your efforts.

2 Thank you, Mr. Chair.

3 CHAIRPERSON RECKART: Okay.

4 Mr. Collins, do you need any formal

5 direction from us or is this something, I think --

6 MR. COLLINS: No, I --I --

7 CHAIRPERSON RECKART: This is next

8 year's planning. We can do what we can right now but

9 maybe --

10 MR. COLLINS: Right, I think -- yeah,

11 I think it was mostly -- mostly an update, what

12 direction we're moving. I think we'll take the

13 guidance we've gotten here and integrate it into

14 our -- into our -- into our planning forward and we'll

15 update you as -- as -- as appropriate.

16 CHAIRPERSON RECKART: Okay, great.

17 Thank you, Ms. Roberts.

18 MS. ROBERTS: Thank you.

19 CHAIRPERSON RECKART: All righty.

20 That being it -- the case, Item No. X, Public Comment.

21 This is the time for consideration of comments and

22 suggestions from the public.

23 MR. COLLINS: Can --

24 CHAIRPERSON RECKART: Action taken --

25 MR. COLLINS: Sorry, sorry. No, I'm

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1 sorry, I apologize. I'm getting ahead of myself.

2 CHAIRPERSON RECKART: Okay -- action

3 taken as a result of public comment will be limited to

4 directing staff to study the matter or rescheduling

5 the matter for further consideration and decision at a

6 later date or responding to criticism.

7 Do I have any people with public

8 comments?

9 MR. LIBURDI: Mr. Chairman, Members,

10 I wanted to address one thing that Mr. Collins said

11 during his Executive Director's report, and that has

12 to do with the Secretary of State inquiries into the

13 independent expenditure organizations, and I thought I

14 would just stick around and do this to give you a

15 little bit of my experience with it.

16 I represent the Arizona Free

17 Enterprise Club, and the Secretary of State last week

18 had decided to send the matter over to the Attorney

19 General's Office. So we'll be working with the

20 Attorney General's Office on that, but in -- in

21 specific response to Mr. Collins' comment about there

22 being confusion out there among different groups about

23 there not being any guidance or policies from which

24 these groups to follow, he's absolutely correct.

25 The statute that is in play at

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1 §16-914.02 subsection (K), I believe it is, says that

2 if -- if an entity is organized for the primary

3 purpose of influencing elections, then it needs to

4 file as a political committee.

5 Now, when we first got the audit

6 letter from the Secretary of State, I had sent a

7 letter to the Secretary of State's Office asking if we

8 could have a meeting to talk about what they mean by

9 organized primarily for the purpose, what time period

10 do they take into account, what kind of expenditure

11 ratios or calibrations do they take into account, what

12 kind of other social welfare activity do they want to

13 take into account.

14 They refused my meeting. So we sent

15 them a letter. Our letter was about eight pages,

16 substantially longer than any letter that was sent by

17 any other organization. We provided them with detail

18 on the types of activity that the organization has

19 been doing over the past election cycle as we defined

20 it and still we were the recipient of that decision.

21 So I don't want to talk, you know,

22 any -- any more about that unless you have any

23 specific questions that I might be able to answer

24 given this pending investigation, but I did want to

25 share that with you and second Mr. Collins' comment

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1 about why it's important to give regulated entities

2 some guidance going forward on what the government

3 expects so that the regulated entities can comply,

4 because I will tell you as somebody who works with

5 regulated entities we do want to comply.

6 We want to over comply with the law

7 so that there's no question whether something's being

8 done legally or not and so we -- we ask that you take

9 that into consideration as you move forward with

10 that -- with that particular item.

11 CHAIRPERSON RECKART: Okay, thank you

12 very much. Very good comment, thank you.

13 MR. COLLINS: I have one other -- I

14 have one other point. We -- I just -- I needed to go

15 back to -- on LFAF, and I don't know if we could -- if

16 we would need to say that we're going back up or if I

17 can just do this in public comment, Chris, if you --

18 if it doesn't matter. I'm not asking for a response

19 or a discussion.

20 MR. MUNNS: Well, you could just

21 basically go back up to it so -- since it's on the

22 agenda.

23 MR. COLLINS: We have a real quick

24 thing I have to close out there.

25 CHAIRPERSON RECKART: Sure, please.

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1 MR. COLLINS: Okay. Just that, you
2 know, I -- I intend to present to the Commission an
3 updated recommendation based on the -- the case that
4 -- that -- that was decided, the CJF case.
5 CHAIRPERSON RECKART: Yes, and I
6 don't know if a motion's required for that, but I
7 think that -- that is the instruction. The sentiment
8 of the Commission is that "yes" we'd like a -- in
9 light of the case that was recently issued by the
10 Arizona Appellate, Division I, I think, we'd like to
11 have the recommendation -- the analysis that -- that
12 you provided earlier updated to include the -- the --
13 the decision and then, you know, make a recommendation
14 based on the updated analysis.
15 MR. COLLINS: Yeah, I just wanted to
16 make that -- put that out there.
17 CHAIRPERSON RECKART: Sure, yes, and
18 that is something we would like so. . .
19 Okay. That being it, I'll call for a
20 motion to adjourn.
21 COMMISSIONER TITLA: Motion to
22 adjourn.
23 COMMISSIONER KOESTER: Second.
24 CHAIRPERSON RECKART: All righty,
25 it's been moved and seconded. All in favor?

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1 (Chorus of ayes.)
2
3 CHAIRPERSON RECKART: Unanimously
4 passes. We are adjourned, thank you.
5
6 (Whereupon the proceedings were
7 concluded at 11:39 a.m.)
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4
5 C E R T I F I C A T E
6
7 I HEREBY CERTIFY that the proceedings had
8 upon the foregoing hearing are contained in the
9 shorthand record made by me thereof, and that the
10 foregoing pages constitute a full, true, and correct
11 transcript of said shorthand record; all done to the
12 best of my skill and ability.
13 DATED at Phoenix, Arizona this 25th day of
14 August, 2014.
15
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17 _____
18 Certified Court Reporter
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