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THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona
September 25, 2025
10:00 a.m.

By: Kathryn A. Blackwelder, RPR
Certified Reporter
Certificate No. 50666

**CERTIFIED
TRANSCRIPT**

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<p>1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 10:00 a.m. on 3 September 25, 2025, at the State of Arizona, Clean 4 Elections Commission, 1110 West Washington, Conference 5 Room, Phoenix, Arizona, in the presence of the 6 following Board Members: 7 8 Mr. Mark Kimble, Chairman Mr. Galen Paton Ms. Christina Werther 9 Mr. Sam Crump 10 11 OTHERS PRESENT: 12 Thomas M. Collins, Executive Director Paula Thomas, Executive Officer Mike Becker, Policy Director 13 Gina Roberts, Voter Education Director Avery Xola, Voter Education Manager 14 Alec Shaffer, Web Content Manager Mary O'Grady, Osborn Maledon 15 Craig Morgan, Taft Law Cathy Herring, Meeting Planner, KCA 16 Rivko Knox, Member of the Public Zach Humphreys, Member of the Public 17 Allie Karpurk, Member of the Public 18 19 20 21 22 23 24 25</p>	<p>1 Commission? 2 COMMISSIONER CRUMP: No, Chairman. 3 Appreciate the welcome. Looking forward to working 4 with you all. 5 CHAIRMAN KIMBLE: Thank you very much, 6 Commissioner. 7 I also want to express gratitude to 8 Commissioner Amy Chan for her service to the 9 Commission. Commissioner Chan was an important voice 10 on regulatory and voter education issues. She brought 11 valuable perspective as a former State Election 12 Director and a long-time public lawyer. We will miss 13 Amy on the Commission. 14 Item II, discussion and possible action on 15 the minutes from the June 26th, 2025 meeting. 16 Commissioners, you have the minutes from our June 17 meeting in your packets. Is there -- are there any 18 discussion? 19 COMMISSIONER CRUMP: Mr. Chairman. 20 CHAIRMAN KIMBLE: Yes, Commissioner Crump. 21 COMMISSIONER CRUMP: I would only speak and 22 state that I think I'll abstain since I wasn't on the 23 Commission or present at that meeting, so I don't think 24 I really have standing to -- to approve or disapprove 25 the minutes.</p>
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<p>1 P R O C E E D I N G 2 CHAIRMAN KIMBLE: Good morning. Agenda Item 3 Number I is the call to order. It's 10:00 a.m. on 4 September 25th, 2025. I call this meeting of the 5 Citizens Clean Elections Commission to order. 6 With that, we will take attendance. 7 Commissioners, please identify yourselves for the 8 record. 9 COMMISSIONER PATON: Galen Paton. 10 COMMISSIONER WERTHER: Christina Werther. 11 CHAIRMAN KIMBLE: Commissioner Crump? 12 COMMISSIONER CRUMP: Sam Crump, present. 13 CHAIRMAN KIMBLE: Thank you. We have four of 14 the five Members of the Commission present. We have a 15 quorum. 16 Before we move to the next item, I would like 17 to welcome Commissioner Sam Crump. Commissioner Crump 18 was appointed by State Treasurer Kimberly Yee. He's a 19 former Mayor, a former State Lawmaker, and he now 20 practices law in Anthem. 21 I want to note that Commissioner Paton and I 22 continue to be badly outnumbered by lawyers on this 23 Commission, but we will do the best we can. 24 And Commissioner, welcome. And is there 25 anything you'd like to say as a new Member of the</p>	<p>1 CHAIRMAN KIMBLE: Okay. Commissioner Crump, 2 that makes sense. 3 If there's no other comments, do I have a 4 motion to approve the minutes? 5 COMMISSIONER WERTHER: I motion to approve 6 the minutes for June 26, 2025. 7 CHAIRMAN KIMBLE: We have a motion to approve 8 the minutes. Is there a second? 9 COMMISSIONER PATON: I'll second. 10 CHAIRMAN KIMBLE: I will call the roll. 11 Commissioner Paton. 12 COMMISSIONER PATON: Aye. 13 CHAIRMAN KIMBLE: Commissioner Werther. 14 COMMISSIONER WERTHER: Aye. 15 CHAIRMAN KIMBLE: Chair votes aye. 16 The minutes are approved 3-to-nothing with 17 one abstention. 18 We will catch up on approving the August 19 minutes, along with these minutes, at our next meeting. 20 Item III is discussion and possible action on 21 the Executive Director's Report. 22 Tom. 23 MR. COLLINS: Thank you, Commissioners. And 24 welcome, Commissioner Crump. We -- so far so good here 25 with the technology.</p>

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<p>1 I wanted to highlight a couple of things from</p> <p>2 the report. The first thing I wanted to highlight --</p> <p>3 and I think if you have questions, you know, Gina might</p> <p>4 be better to -- might have better answers on the</p> <p>5 detailed questions. But we did film a -- well, we</p> <p>6 didn't film it. We recorded a town hall on education</p> <p>7 issues on September 13th and -- you know, and that</p> <p>8 really was, we think, a great event and opportunity.</p> <p>9 The idea behind this project is to, in</p> <p>10 conjunction with our -- our debate program, is to -- is</p> <p>11 to use the research that we do in developing the debate</p> <p>12 program to try to bring some light to the issues that</p> <p>13 voters find most important and provide a forum where</p> <p>14 folks can have a good exchange of information and also</p> <p>15 provide an opportunity for, we hope, voters not only to</p> <p>16 learn about, you know, the things that folks are</p> <p>17 learning -- are happening in education, but also some</p> <p>18 practical information for them.</p> <p>19 I mean, we had a really impressive roster of</p> <p>20 folks who came and -- and were able to address, I</p> <p>21 think, a wide range of issues from a variety of</p> <p>22 different sides, and I think that was really</p> <p>23 remarkable. I also, having -- you know, being there,</p> <p>24 it was kind of interesting. A lot of these folks have</p> <p>25 a lot of places they have to be, you know, and</p>	<p>1 Commission have questions about this specific item?</p> <p>2 (No response.)</p> <p>3 CHAIRMAN KIMBLE: Gina, congratulations.</p> <p>4 This looks like it was a really outstanding program on</p> <p>5 an issue that there's a lot of -- a lot of talk on.</p> <p>6 But I know that this is a good way to shine some light</p> <p>7 on it and get to some actual facts, so congratulations.</p> <p>8 MS. ROBERTS: Thank you, Mr. Chairman. Thank</p> <p>9 you.</p> <p>10 CHAIRMAN KIMBLE: Galen, did you want to say</p> <p>11 anything?</p> <p>12 COMMISSIONER PATON: No, thank you.</p> <p>13 CHAIRMAN KIMBLE: Okay. Tom.</p> <p>14 MR. COLLINS: Okay. Election day for</p> <p>15 Congressional District 7 was Tuesday. And I know it's</p> <p>16 not canvassed yet, but I think it's, you know, fairly</p> <p>17 clear that Adelita Grijalva won the election, so -- but</p> <p>18 the winner of the election then serves in the -- out</p> <p>19 the remainder of this term but then can run. And there</p> <p>20 will be -- the cycle, you know, with all the other</p> <p>21 congressional offices will be up in 2026.</p> <p>22 And then in November we'll have a number of</p> <p>23 different bond and override school district elections,</p> <p>24 also there's a big bond election in Maricopa County.</p> <p>25 And so Alec is working to update our website so we can</p>
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<p>1 everybody really was there for the whole entire</p> <p>2 filming.</p> <p>3 Because it takes a couple hours, you know,</p> <p>4 you've got to get set up and, you know -- and people</p> <p>5 stayed through everybody else's panels and kind of --</p> <p>6 kind of -- and so it was a -- so just the production</p> <p>7 itself was, I thought, a really -- really good. And it</p> <p>8 started to air -- it aired on -- not Wednesday -- I</p> <p>9 think Tuesday night on Channel 8 here in Phoenix, and</p> <p>10 we'll get more information on where it's airing as we</p> <p>11 go along, you know. And, you know, so this was</p> <p>12 really -- this was really great.</p> <p>13 And our hope, as I say, is if we can continue</p> <p>14 to -- you know, one of the issues with the voter</p> <p>15 education program is, you know, how do we have</p> <p>16 continuity across the nonelection year in relation to</p> <p>17 issues that are, you know, the issues that voters and</p> <p>18 candidates are going to be addressing in the -- in the</p> <p>19 election year itself in a manner that is nonpartisan</p> <p>20 and neutral, but also informative. So we were very</p> <p>21 happy about that.</p> <p>22 So if anyone has any questions on that,</p> <p>23 obviously I'm happy to take them, and I don't know if</p> <p>24 there are any.</p> <p>25 CHAIRMAN KIMBLE: Any Members of the</p>	<p>1 continue to be -- you know, have our website be the</p> <p>2 one-stop shop that we want it to be for voters.</p> <p>3 I wanted to also mention, you know, we had a</p> <p>4 full range of activities for National Voter</p> <p>5 Registration Day. Avery was at Scottsdale Community</p> <p>6 College, and that was great. I got to drop by there</p> <p>7 and, I think, you know, it was -- it was -- I mean, you</p> <p>8 know, people were engaged with Captain Activate and it</p> <p>9 was -- they had a really good event. And he was</p> <p>10 then -- he was up in Flagstaff for Constitution Day</p> <p>11 and, you know -- and then we did a special edition of</p> <p>12 our -- of our podcast around National Voter</p> <p>13 Registration Day.</p> <p>14 So, you know, I thought that was all -- I</p> <p>15 mean, that was all really, really good. And I think</p> <p>16 this month, you know, between Avery and Gina, they've</p> <p>17 been all -- you know, in a bunch of different places.</p> <p>18 You know, the Tolleson event, we have some photos if we</p> <p>19 could -- if anybody would want -- you know, from that.</p> <p>20 That was -- and I don't know if Avery or Gina would</p> <p>21 want to add anything, but this was a really neat event</p> <p>22 where they have basically every high school student in</p> <p>23 Tolleson School -- School District comes to the stadium</p> <p>24 to sort of get them engaged around what their</p> <p>25 post-high-school life will be, and obviously we want</p>

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<p>1 civics -- civic engagement and voting to be part of 2 that.</p> <p>3 So, Mr. Chairman, I don't know if -- if 4 you -- if Gina had anything she wanted to add about 5 that or Avery. I don't know if they want to...</p> <p>6 CHAIRMAN KIMBLE: Gina, anything you want to 7 add?</p> <p>8 MS. ROBERTS: Sure. Mr. Chairman, 9 Commissioners, it was a really phenomenal event, and I 10 applaud the School District for putting together 11 something like this. They referred to it as Commitment 12 Day. So it was, you know, what is your plan, as a 13 senior, for, you know, post-secondary education or 14 careers, you know, whether it's looking at something 15 technical, you know, four-year, two-year, or you're 16 going straight into the workforce, are you enlisting.</p> <p>17 And so it was held down at the Cardinals 18 Stadium, and they had a lot of folks show up to table 19 to talk about careers that you could have, everything 20 from -- I think we saw, you know, beauticians and, you 21 know, cosmetic school to, you know, the sheriff's 22 office, things like that, and a lot of the colleges, 23 Honeywell, things like that.</p> <p>24 So it was really great to be able to go and 25 talk to students about, one, you could possibly have a</p>	<p>1 was a great opportunity for us to reach such a wide 2 amount of students.</p> <p>3 CHAIRMAN KIMBLE: Thank you, Gina.</p> <p>4 Avery, do you have anything you want to add 5 on your behalf or on Captain Activate's behalf? No?</p> <p>6 Okay. Tom.</p> <p>7 MR. COLLINS: Okay. So yeah. So I want 8 to -- I want to touch on some sort of bureaucratic 9 items too, because I can't help myself. You know, the 10 Secretary of State's Office had a statement out about 11 security expenditures in campaign finance. You know, 12 what I've quoted there is the guts of that statement, 13 you know.</p> <p>14 And I think what the Secretary's Office is 15 saying is basically if you're spending money on 16 security, however you do it, it's probably okay.</p> <p>17 There's some -- you know, it's a little -- it's a 18 little -- and that's part of the reason why, you know, 19 we've sort of concluded we wouldn't need to take any 20 additional action to sort of, you know, have a position 21 on this particular statement.</p> <p>22 I mean, technically there's some language in 23 here that's a little -- and I think it was maybe 24 because of the informality of it, it's a little -- it's 25 got some technical things that I -- that, for Clean</p>
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<p>1 career in election administration. You know, we need 2 more people coming into this workforce to be able to 3 conduct elections, and it's maybe something that most 4 folks don't think about. And we also got to talk about 5 being a poll worker. So even if you're not looking for 6 a career in elections, we were encouraging our younger 7 adults to sign up and serve as a poll worker, and then 8 just speak to them overall about civic engagement.</p> <p>9 They had about 11 schools throughout the 10 District show up. It was a two-day event and it was 11 really exciting. I'm sure -- I don't know if Avery 12 wants to chime in here, but I personally thought that 13 our booth was the best booth. We had a lot of turnout.</p> <p>14 Some of our neighbors were like, wow, your booth is 15 really popular.</p> <p>16 So it was great to see the excitement and the 17 engagement from the students and wanting to talk about 18 elections, about voter education. Captain Activate 19 made an appearance, so he was, you know, very well 20 received by the students and taking selfies and 21 encouraging them to come check out our booth. So it 22 was a great event. It would be great to see more 23 school districts do something like this to really 24 prepare their seniors for those next steps. And then 25 having the opportunity to talk to so many at once, it</p>	<p>1 Elections purposes and for campaign finances purposes 2 generally, I might want to be phrased a little more 3 tightly.</p> <p>4 But generally speaking, I think what they're 5 saying is, if folks are spending money -- campaign 6 money on security services as part of their campaign, 7 that that would not give rise to a campaign finance 8 complaint. And certainly what our position is is that, 9 you know, we wouldn't need to adjust our rules to 10 address that kind of issue. And certainly if there are 11 Clean candidates specifically who have questions about 12 how they would handle that, we -- we are prepared to 13 deal with that. I think that -- but I do think it's 14 important for me to sort of just make you all aware of 15 developments in campaign finance enforcement matters.</p> <p>16 There will also be this argument October 17 14th, which doesn't directly relate to us, but has to 18 do with the Election Procedures Manual, which is 19 essentially the rules that implement the statutes of -- 20 of principally ballot, handling ballots, handling voter 21 registration. There is a section there on campaign 22 finance, there's a couple of others -- I mean, it's a 23 very voluminous document.</p> <p>24 The reason why I flag this is because the 25 issue in this -- in this case has to do with the</p>

<p style="text-align: right;">Page 14</p> <p>1 procedural steps that you take to implement the EPM. 2 The statute that is -- the statute that creates the EPM 3 doesn't -- essentially says you have to give -- you 4 have to work with the County Recorders and I think 5 County -- and I think the Election Directors too, but 6 certainly the County Recorders to develop the document, 7 then it gets approved by the AG and the Governor. It 8 doesn't necessarily tell you what kind of notice you 9 have to give and it doesn't necessarily tell you what 10 other steps there are. 11 So the argument is that the Arizona 12 Procedures Act, which is something we've gotten more 13 familiar with since 2018 in the Clean Elections 14 context, might apply, and what that would do is 15 essentially create a more formal notice and comment 16 period for the Election Procedures Manual. 17 You know, so -- you know, so it matters 18 because we now pay more attention also to the APA stuff 19 and because, you know, to the extent that it would -- 20 you know, so it's - and to the extent that it would 21 result in some potential changes going forward in how 22 the EPM gets developed, I think it's worth being aware 23 of. 24 The other thing I wanted to -- I think -- I 25 think two other things I want to note. We did receive</p>	<p style="text-align: right;">Page 16</p> <p>1 security spending by a candidate is inherently an 2 expenditure, because that means that they have to spend 3 the money out of their campaign funds, whether they're 4 private or Clean Elections candidates, right. So what 5 we would say is if it's a direct campaign expenditure, 6 it's a direct campaign expenditure. 7 I think the harder part here is -- for people 8 to deal with is not -- is the issue of what do you do 9 with security spending that you don't have campaign 10 funding for. In other words, most campaigns do not 11 have the money -- certainly they don't have it through 12 the Clean system, and the vast majority -- for example, 13 legislative campaigns even in the private system are 14 not raising enough money to pay the costs of any kind 15 of serious -- any kind of serious security, assessment 16 or on-site staff and those kind of things, because that 17 can get -- you know, I mean, we know from our 18 experience, I think, with the debates and such that 19 that can get pretty expensive pretty fast. 20 So the bigger question, I think, will be, in 21 the long run, what do you do with expenditure -- you 22 know, so you wouldn't want to classify every time a 23 candidate has a security person on site as that 24 necessarily being an expenditure, because then you 25 couldn't in-kind that because you'd be subject to the</p>
<p style="text-align: right;">Page 15</p> <p>1 a positive -- or, at least a non-negative report from 2 the Auditor General's Office with respect to our -- 3 with respect to our accounting and our -- and our 4 controls, so that's good. And we really appreciate the 5 professional work that the Auditor General's Office and 6 the staff we worked with did there. And we have -- we 7 started participating candidate workshops. 8 So those are the main things that we wanted 9 to cover, and I'm happy to answer any questions anyone 10 has about -- about anything. 11 CHAIRMAN KIMBLE: Tom, I have one question 12 going back to the issue of campaign funds for security. 13 MR. COLLINS: Sure. 14 CHAIRMAN KIMBLE: So if a Clean candidate 15 spends Clean money for security, we're going to 16 consider that fine? 17 MR. COLLINS: Well, I think what we would -- 18 what we would do is say -- and I think that the e-mail 19 reflects this approach too, although -- that right now 20 those expenditures have to be for direct campaign 21 purposes, right, so essentially we would want a tie 22 between the campaign spending and not. 23 But there's a -- there's a -- because what 24 you don't want to end up with, I think, is that it's 25 inherent -- election spending by a candidate -- or,</p>	<p style="text-align: right;">Page 17</p> <p>1 limits. So there's -- that's where kind of the issues 2 come in. 3 So I think that if a Clean Elections 4 candidate has an event that they want security at and 5 they want to spend Clean Elections money on that, I 6 think -- I think we would -- we would -- we would -- 7 that would not be a problem, and I don't think it would 8 have been a problem before either. 9 CHAIRMAN KIMBLE: Well, do you see a need to 10 define security or say these things are okay or -- like 11 what does security cover, I mean -- 12 MR. COLLINS: Right. Well -- 13 CHAIRMAN KIMBLE: -- someone -- a security 14 person at an event, but security services at a house, 15 alarm services, a car? I mean, do you see a need that 16 we're going to have to put some limits or definitions 17 on what security is? 18 MR. COLLINS: That's a good -- Mr. Chairman, 19 that's -- that's a good question. For present 20 purposes, I don't think so, because what we will 21 typically advise candidates to do on those kinds of 22 expenditures to begin with is if they -- is call us and 23 let's talk through the expenditure itself and so we can 24 give them a look-ahead on -- 25 For example, and this is a serious question</p>

<p style="text-align: right;">Page 18</p> <p>1 we've gotten, which is: I can pay for travel expenses. 2 Can I buy a car? The answer to that is no. The answer 3 to that is no, because the predominant use of the car 4 is going to be -- you're going to own a car, right. 5 And so we have -- we have said, look, I mean, you can 6 do what you want, but our position as staff is going to 7 be that that's -- that that's beyond the scope of a 8 direct campaign expense. 9 And so we think we can handle those on an 10 ad hoc basis. Now, I think your questions on a policy 11 basis are -- are actually really important ones, and so 12 I think that the -- we have a whole legislative session 13 ahead of us, so I think that there's a possibility that 14 somebody will address this in a bill. 15 Because to me the bigger question is -- is 16 part your question, which is, you know, what qualifies 17 under this, and then, you know, B, who gets to pay for 18 it, right. Because if it's a campaign expenditure, 19 right, then that means that if a security company 20 in-kind that money -- you know, that service to you 21 as a candidate -- this is not a Clean versus 22 traditional issue, it's just a -- then that's a 23 corporation that is making an expenditure on your 24 behalf and that becomes an illegal contribution, right. 25 So that's -- so you're right, defining that</p> <p style="text-align: right;">Page 19</p> <p>1 down I think would be of some value, and I think -- 2 based on what I've seen, I think that would be a likely 3 legislative thing in the short-term, because they can 4 start it, you know, within the quarter from now. And 5 then -- but then -- because the issue they really need 6 to resolve around that is, who -- who can pay for this 7 and will that be subject to any -- any reporting. 8 Because as it currently stands, it's that in-kind issue 9 that I really think becomes a serious one, or -- 10 You know, I mean, right now legal expenses 11 are largely outside of the scope of campaign finance. 12 They're just considered not contributions. And that 13 allows a person who has a compliance issue to call an 14 attorney and say -- you know, or have a legal defense 15 fund or other means that they might pay that lawyer 16 for. So you might want to categorize security as not a 17 contribution to sort of take that out of the equation 18 in the same way that you've taken lawyer and other 19 compliance services out. Because if it's just kind of 20 baked in, if you think about it, as a thing that people 21 have to do to get through the system, you might -- it 22 might not be as much of an influence -- you know, a 23 corrupting influence as some other expenses. 24 So that's -- so I think your question is 25 right on. I think -- for the short-term I think we're</p>	<p style="text-align: right;">Page 20</p> <p>1 still pretty confident that we don't need to drill down 2 on that. Although, you know, if we start to get 3 questions that are -- that are more substantial, we 4 will certainly -- we haven't gotten any -- we've only 5 had one question, and it wasn't from a candidate 6 directly, so far, so -- and it was more general. So I 7 think as those specific instances come up we'll know 8 more. So that's kind of a long and hopefully 9 comprehensive answer to your question. 10 CHAIRMAN KIMBLE: Okay. Thank you. 11 Any other Members of the Commission have 12 questions for Tom on the Executive Director's Report? 13 (No response.) 14 CHAIRMAN KIMBLE: Hearing none, thank you, 15 Tom. 16 Item IV, discussion and possible action on 17 proposed conciliation agreements -- conciliation 18 agreement, excuse me, in MUR 25-02, Anna Abeytia, 2024 19 legislative candidate. The Executive Director has 20 recommended a conciliation agreement regarding 21 Representative Abeytia. Tom will present his 22 recommendation and take questions. 23 Tom. 24 MR. COLLINS: Thank you, Mr. Chairman and 25 Commissioners. So I think we have a little bit of a</p> <p style="text-align: right;">Page 21</p> <p>1 PowerPoint that I put together. The way I did the 2 PowerPoint, just -- just so you all know, is I 3 basically tried -- this was an effort to sort of talk 4 about both this Agenda item and the next one together 5 because the issues are related. I wanted to give an 6 overview. This is similar to the memo that you should 7 have gotten with the packet. 8 So, yeah, if we could, Cathy. Thanks. And 9 there was a little delay on the -- on the slide, so it 10 will just be a second before it comes up, I think. 11 Cool. Thank you. 12 So the big issue in this -- in this -- in 13 these matters was the candidates essentially stopped 14 filing campaign finance reports and didn't respond to 15 inquiries from -- from the Commission staff and the 16 auditors. I filed a complaint against each of these 17 candidates, and the allegations there had to do with 18 failure to file timely campaign finance reports and 19 failure to provide information regarding those 20 expenditures at all. 21 So, you know, as we were just talking about a 22 minute ago, you know, the obligation you take on with 23 respect to the public financing is you have to use it 24 for direct campaign expenses if -- and the burden to 25 show that is on the candidate, not on the -- not on</p>
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<p>1 the -- not on us. And so if you don't file anything,</p> <p>2 you know, essentially what our position is as staff</p> <p>3 members is that a presumption of -- of non -- of not</p> <p>4 meeting -- you haven't met that burden. You have the</p> <p>5 burden of showing that they're direct campaign</p> <p>6 expenditures; if you don't say anything, then you</p> <p>7 haven't met your burden, essentially.</p> <p>8 And then -- so, yeah, if we could go to the</p> <p>9 next one, Cathy. Thanks.</p> <p>10 With respect to the two candidates, we</p> <p>11 recommended that Jaramillo be ordered to repay the</p> <p>12 entirety of his funding allotment. At that time he</p> <p>13 hadn't filed anything; we hadn't heard from him at all.</p> <p>14 And then we also recommended a finding of reason to</p> <p>15 believe that Abeytia, Representative Abeytia, had</p> <p>16 violated the Clean Elections Act and rules. And the</p> <p>17 Commission made a -- made a determination to that</p> <p>18 effect.</p> <p>19 We had also, at that time, represented -- I'm</p> <p>20 sorry -- recommended a repayment order with respect to</p> <p>21 Representative Abeytia. And if you recall from those</p> <p>22 proceedings, she filed a report right around that time,</p> <p>23 which, again, since the presumption we were operating</p> <p>24 under was no report, no expenditure, we sort of</p> <p>25 asked -- we sort of withdrew that for the -- for the</p>	<p>1 accounts of -- of each candidate against the invoices</p> <p>2 against the reports. And you can see there is a</p> <p>3 reporting issue there in terms of making clear, you</p> <p>4 know, how the -- you know, the reports are essentially</p> <p>5 at too high of a level for -- to be appropriate.</p> <p>6 But I think the critical point in working</p> <p>7 with the auditors on this as to why we can, you know,</p> <p>8 feel comfortable concluding that, you know, the money</p> <p>9 went to the campaign is, you know, is the relationship</p> <p>10 between the invoices and the -- and the checking</p> <p>11 account spending. And it would be the kind of thing</p> <p>12 where, you know, it's in the -- it's in the account,</p> <p>13 the checking account itself, that you can see, you</p> <p>14 know, that the timing of the expenditures, the checks,</p> <p>15 essentially, to the consultant, you know, essentially,</p> <p>16 you know, lined up sufficiently with the invoices that</p> <p>17 it would be -- you know, that there's --</p> <p>18 You know, I would say the auditors were</p> <p>19 comfortable and I think the auditors' report, in</p> <p>20 fact -- and the report is labeled a draft. I mean, at</p> <p>21 this point it is final for our purposes. But basically</p> <p>22 they were able to come to the conclusion, in</p> <p>23 conjunction with looking at that -- those -- that</p> <p>24 documentation, talking to the consultant, and getting</p> <p>25 representation of what the money was spent on that, you</p>
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<p>1 time being.</p> <p>2 If we can go to the next one, Cathy.</p> <p>3 So we -- after the -- after those hearings we</p> <p>4 went out and sought to determine whether the Clean</p> <p>5 Elections funding was spent in compliance with the Act</p> <p>6 and rules and whether there -- the reports that were</p> <p>7 filed were accurate. Jaramillo filed a report --</p> <p>8 started filing reports after the repayment</p> <p>9 determination. And then so we -- we got documentation</p> <p>10 of each candidate's campaign activity, including all</p> <p>11 their bank account statements and invoices, reviewed</p> <p>12 that documentation, communicated with the candidates,</p> <p>13 and they have a shared consultant, and we -- and</p> <p>14 through the audit report, which is attached to the</p> <p>15 conciliation, you know, we were able to, you know,</p> <p>16 determine that, at least to the -- you know, to the</p> <p>17 satisfaction of the auditors, that those -- that that's</p> <p>18 what -- that, in fact, the -- you know, the monies went</p> <p>19 to campaign expenses.</p> <p>20 Then we also -- you know, Representative</p> <p>21 Abeytia -- Abeytia also had \$2,000 left over that she</p> <p>22 needs -- she will -- we are -- we will be recovering.</p> <p>23 The thing -- when you look at the -- if</p> <p>24 you've looked at the audit report, you know, the</p> <p>25 auditors lined up the expenses out of the checking</p>	<p>1 know -- that, you know -- that there was sufficient</p> <p>2 evidence for us to conclude that, in fact, the money</p> <p>3 was not, you know, sort of taken for purposes other</p> <p>4 than -- than campaigning.</p> <p>5 In other words, the big issue, I think, in</p> <p>6 this case, as in all -- any kind of case where we're</p> <p>7 dealing with the failure to report, and that is</p> <p>8 essentially is the money being converted to personal</p> <p>9 use, right. And we've had that in the past. And just</p> <p>10 based on the way that the -- the way -- the way -- the</p> <p>11 way the money came out of the checking account and then</p> <p>12 the auditors' ability to review, you know, the campaign</p> <p>13 materials that they reviewed, I mean, we're comfortable</p> <p>14 that there's not -- you know, we would not see a -- we</p> <p>15 would not -- we don't have evidence of the money being</p> <p>16 converted to some use other than -- other than</p> <p>17 campaign. Now, you know -- so that's sort of where we</p> <p>18 are as a factual matter.</p> <p>19 If we could go to the next slide.</p> <p>20 So we -- so in developing the conciliation</p> <p>21 agreements that are in front of you, basically we look</p> <p>22 -- this was a sort of an effort to look -- to sort of</p> <p>23 draw up what are -- what we think are the staff</p> <p>24 considerations. So we want to look at things like the</p> <p>25 gravity of the conduct, we want to look at the</p>

<p style="text-align: right;">Page 26</p> <p>1 transparency required for the Clean Elections program, 2 you know, the candidates agree to this. We look back 3 at our prior enforcement actions and conciliations, to 4 the extent that there are relevant considerations 5 there. And so, you know, here -- that's where that 6 issue of misuse of funds, we don't -- we don't have 7 that.</p> <p>8 You know, just -- and just to put this in 9 perspective, I mean, you know, the auditors that we 10 work with are the auditors who have -- the last time we 11 had a major misuse of funds issue, this process we are 12 using identified that, so -- and so we have some 13 confidence in that.</p> <p>14 You know, and then the novel issue here to us 15 is this issue of a candidate kind of -- kind of just 16 not -- not only not filing their reports timely, but 17 then not responding.</p> <p>18 We also obviously want to have some deterrent 19 effect and we want to have -- we want there to be some 20 public confidence in the process. There's also an 21 efficacy issue here, you know, just in terms of both 22 the administrative and then judicial enforcement, as 23 well as the -- you know, among other things.</p> <p>24 So I think that -- so we end up with -- and 25 I've got both of their key terms here, and I think --</p>	<p style="text-align: right;">Page 28</p> <p>1 is going to bite these people specifically and -- but 2 is also recoverable. The -- so that --</p> <p>3 And then we also think that, based on the 4 overall approach that other campaign finance officials 5 are taking around the state, that this is probably a 6 pretty significant fine to actually pay because, I 7 mean, you know, a lot of these fines just simply go 8 uncollected or, in some cases, because of the expense 9 of collection and other things, they just simply go by 10 the wayside. So we think that that's -- that's got 11 some general deterrence aspect to it, right, that if 12 you do this incorrectly we will, in fact, you know, 13 have -- you know, seek to collect real money from you.</p> <p>14 That brings me to the second, I think -- and 15 I think very important aspect of this, which is the 16 agreement -- you know, and I'm presuming agreement. I 17 mean, we have -- we don't bring these to you until -- 18 unless we think we have an agreement, but obviously 19 we -- the candidates haven't signed yet -- but the 20 agreement not to seek Clean funding.</p> <p>21 So in the -- in order for that to be 22 effective typically you either have to have an 23 outstanding debt to the Commission, which, to my point 24 earlier, means we've gone through the entire 25 administrative process, gone to court, gotten a</p>
<p style="text-align: right;">Page 27</p> <p>1 so I'm just going to kind of walk through this. With 2 Jaramillo we ended up with a fine of \$2,500 and an 3 amendment requirement and the candidate agreeing not to 4 seek or accept Clean Elections funding in any other 5 election.</p> <p>6 This is also contingent on a candidate 7 actually completing the agreement. So, in other words, 8 if the -- if the candidate doesn't, then we can -- 9 essentially we have the ability to come after them for 10 the full amount of fines, which, because it's a daily 11 fine that accrues to candidates under the Act, I mean, 12 it's a -- it's a bunch of money.</p> <p>13 So and then with Representative Abeytia, 14 similarly, we have a \$5,000 fine there and then we have 15 this repayment and then amendments and then -- and 16 then, again, the agrees not to seek or accept Clean 17 Elections funding.</p> <p>18 So a couple things that people might think 19 about are, you know, are these fine amounts too low 20 considering the scope of the possible fines under the 21 Act? And the answer to that is -- is kind of twofold. 22 First, you know, we do think about the ability to pay, 23 and so there's both a specific deterrence issue and a 24 general deterrence issue, right. So, you know, we're 25 comfortable saying that this is an amount of money that</p>	<p style="text-align: right;">Page 29</p> <p>1 judgment, you know, or at least that's how we -- how we 2 think that works, or you have to have been removed from 3 office by the Commission. So that's why we think 4 that's a significant sanction.</p> <p>5 And we think that if you reflect back on the 6 other values that I talked about in terms of public 7 confidence, in terms of taking it seriously, in terms 8 of having the aspect of this being public money being 9 taken seriously, we think that, again, from a -- again, 10 from both -- there's obvious specific deterrence here, 11 right, they can't use it again, and then the general 12 deterrence point we think is that -- thank you -- is 13 that, you know, this says, look, you know, this is a 14 thing you sign up for voluntarily, you agreed to abide 15 by the rules, and if you are going to sort of blow this 16 off, you -- you know, we will ask for a serious -- a 17 serious sanction.</p> <p>18 And so essentially what -- what I'm trying to 19 say is that we are getting a sanction in this agreement 20 that we otherwise would have a considerable expense as 21 -- you know, on behalf -- we would be -- to get to, 22 right. So I think that the value of the overall 23 agreement is resolution, real specific deterrence, and 24 real general deterrence with respect to, you know, 25 demonstrating to the public and folks who are going to</p>

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<p>1 be operating in this arena that there is a -- that the 2 Commission does, in fact -- and the staff and the -- 3 the Commission as an agency takes these matters very 4 seriously and that we will not -- you know, and we will 5 make sure that there is a real accounting of what went 6 on.</p> <p>7 And this is all very avoidable. It's all 8 very avoidable. All you've got to do is return Mike's 9 phone calls. I mean, that's not all you've got to do, 10 but that's certainly a good start. And we are 11 available for that to everybody, and I think any 12 candidate who works in the system knows that.</p> <p>13 So that -- those are all the reasons why, you 14 know, we are recommending this conciliation, at least 15 from my perspective. You know, I wasn't actually 16 expecting the candidates to be here, and I don't think 17 they are. And I don't -- you know, and I -- and 18 that's -- from a staff perspective my point of view on 19 that is, I don't -- I didn't make a point of 20 encouraging them or discouraging them, you know. I 21 mean, it's -- you know, but it's not -- it's absolutely 22 not out of the ordinary to have the -- once the sort of 23 -- we've gotten to a place where we have what we think 24 is an agreement, at least in principle, to not have the 25 respondent come. It's not a -- we don't have an</p>	<p>1 change that rule. I mean, if there is such a rule or 2 not such a rule, I think we should change that to where 3 you cannot be paying somebody that's that close of an 4 associate to you.</p> <p>5 CHAIRMAN KIMBLE: Commissioner Paton, I just 6 want to clarify. So when you talk about we ought to 7 change the amount, the dollar amount, are you talking 8 about the dollar amount in the proposed settlement or 9 the dollar amount in our rules?</p> <p>10 COMMISSIONER PATON: I think both. I mean -- 11 excuse me. I think both. I mean, I understand where 12 he thinks -- where they're saying -- he was saying that 13 he thinks that \$5,000 would be collectible. I'm not 14 sure that -- when you go in the future and they're 15 giving their little talk about all of our rules and so 16 on, and they come to the \$420 a day for not turning 17 something in or not corresponding with us, with the 18 auditors, or whatever, that all they have to do is go 19 back to the history and see that we didn't really 20 follow that.</p> <p>21 So, I mean, I -- I just have a whole -- a 22 hard time with all of it. I don't -- do I think we 23 should punish her with a hundred-thousand-dollar fine? 24 No. But I think she is a sitting Representative and 25 she's passing rules, she's passing laws, but she can't</p>
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<p>1 allocation process in this, so then not being here is 2 not to me a major issue.</p> <p>3 CHAIRMAN KIMBLE: Thank you, Tom.</p> <p>4 Are there any questions for Tom from Members 5 of the Commission?</p> <p>6 COMMISSIONER PATON: I just have --</p> <p>7 CHAIRMAN KIMBLE: Commissioner Paton.</p> <p>8 COMMISSIONER PATON: -- some comments, I 9 guess. I mean, I'm not from a legal background or 10 anything, but if we're -- if in our rules we're 11 supposed to be penalizing somebody \$420 a day, and we 12 were at like 188 days, I think then if we're going to 13 go through with this then we should change that amount 14 because it seems like it doesn't matter. I mean, 15 \$5,000 is -- I understand what he's saying, that he 16 thinks that's collectible, but to me I think they've -- 17 they were just thumbing their nose at whatever rules, 18 we can ignore stuff.</p> <p>19 And I guess my background is in sports, and 20 we have rules for the game. You have to follow those 21 rules. And when you don't, there's penalties and 22 there's not, okay, we'll roll all that back kind of 23 thing.</p> <p>24 And then to throw in the fact that the 25 campaign manager was her fiancé, I think we need to</p>	<p>1 follow them. So I don't know. I guess I'm kind of 2 rambling, but anyway...</p> <p>3 CHAIRMAN KIMBLE: Thank you, 4 Commissioner Paton. I think you make two very good 5 points.</p> <p>6 And before you respond, Tom, I want to follow 7 up on one thing Commissioner Paton said. Do you feel 8 that we need to do something in the rules regarding 9 hiring relatives or people who live in the same 10 household or something as campaign staff? Because it's 11 very difficult to say that this is campaign expense 12 and -- as opposed to a personal expense when you're 13 paying someone you live with. So I don't know if 14 there's something that we ought to look at to clarify 15 that rule. And also, I'd like you to address 16 Commissioner Paton's comment about the fine amount 17 being too low.</p> <p>18 MR. COLLINS: Yeah. Okay. So -- I'm sorry. 19 I just needed to --</p> <p>20 CHAIRMAN KIMBLE: No, that's fine.</p> <p>21 MR. COLLINS: -- make sure what I said was 22 correct. So I might need you to remind me again the 23 second part of what you specifically want me to respond 24 to with respect to Commissioner Paton.</p> <p>25 But on the first piece, with respect to the</p>

<p style="text-align: right;">Page 34</p> <p>1 household thing, what we currently do -- and the idea 2 of paying family members has come up before, and so we 3 have a rule that essentially says that the -- that the 4 candidate has to disclose to us if they're paying a 5 family member. And we haven't included -- the 6 definition just doesn't currently include fiancé or 7 those things. And that's a proposal that we can 8 certainly put up as a proposed rule. I mean, there's 9 absolutely no reason we couldn't do that. 10 But what the Commission has previously done 11 has been along the lines of disclosure rather than 12 forbidding, and that gets into, you know -- you know, I 13 mean, that's a judgment for you. So we can -- we can 14 tee this up in a couple of different ways. What we've 15 done in the past when we've had rule proposals is 16 offered a couple of different options for you all to 17 look at that deal with that. 18 The reason -- and I wasn't there for this, 19 and Mike may have been, but I think the reason we ended 20 up with a rule on family members that was disclosure 21 rather than forbidding is policing it is -- becomes an 22 issue and there's no similar restriction on the 23 traditional candidates. Now, that second one is -- you 24 know, obviously it's public money. That's a -- you 25 know, you can make what you want of that.</p>	<p style="text-align: right;">Page 36</p> <p>1 that's because the stakes of the money are different 2 and the amounts of money not reported are different and 3 those kinds of things. The -- 4 But and we also don't have a lot of data. We 5 don't have a lot of -- we just don't have a lot of 6 complaints. You know, in this case, this was new, and 7 we just -- we don't -- we don't have this issue come 8 up. The last serious issue we had that was similar to 9 this was this -- was in, I want to say 2016, I think, 10 or something like that. So we don't have a lot of data 11 to point at. 12 We also don't have a lot -- a full 13 understanding of what other agencies are doing, other 14 than there's -- we know that there's difficulty with 15 getting these processed in other -- in other agencies 16 in the first place and we know that there's -- we know 17 that there's not like a consistent rule anybody knows 18 about when they're going to end up having to pay, when 19 it's going to be waived, when it's going to be settled. 20 Those are all kind of up in the air also. 21 So there are a couple ways we could address 22 that. One would be to publish in some way a schedule 23 of presumptive fines, in the event of a conciliation, 24 that says, you know, you will do -- you know, if the 25 range of lateness is X, you know, we will -- the</p>
<p style="text-align: right;">Page 35</p> <p>1 On the first one, on the policing issue, you 2 know, that's a different -- that's a little different. 3 What you see -- I mean, the other context where 4 specific family relationship rules arise, you know, 5 are -- you know, there are other areas of law that 6 have -- include other than marriage and children and 7 blood relatives because of the potential for conflicts 8 and that kind of thing. So that's certainly something 9 we can -- we can take a look at and we can bring back 10 in the future. 11 The second issue, I think, was -- 12 CHAIRMAN KIMBLE: Well, the second issue that 13 Commissioner Paton raised was we have in our rules 14 potential fines that are extremely high -- 15 MR. COLLINS: Yeah. 16 CHAIRMAN KIMBLE: -- and we are settling for 17 an amount that is substantially lower than that and 18 should that -- should we be fining them more. 19 MR. COLLINS: Right. So that's a good 20 question. I mean, and I don't know that these are -- 21 these are -- this comes up periodically. It comes up 22 every time we try to resolve a matter because of that 23 issue. And, you know, we tend to, probably on average, 24 fine candidates a little less than we fine, you know, 25 significant expenditures that were made, but part of</p>	<p style="text-align: right;">Page 37</p> <p>1 presumptive fine that we will seek is Y, and so people 2 have an understanding of what we are -- what we are 3 realistically doing. And that would create some more 4 transparency and consistency and maybe bring the fines 5 more in line with -- with what people can anticipate. 6 The other -- you know, the other thing we 7 always face is, you know, is that this statute is 8 broadly applicable to, you know, to any -- it's broadly 9 applicable to any candidate. It's actually -- there's 10 nothing that ties this candidate to Clean candidates 11 exclusively. It's also the statute that we use when 12 we're enforcing against folks for failure to file 13 trigger reports on the IE side. 14 So, you know, so there's a bunch of different 15 factors there that are relevant that we -- you know, 16 and we've deferred to other agencies with respect to 17 traditional candidates on their -- on their late 18 penalties, but, you know, that -- it's still something 19 we have to be, you know, conscious of. 20 So, I mean, the best immediate solution, to 21 my mind -- and we can get back to you with a better one 22 or this -- or if we can think of a better one -- would 23 be, you know, a schedule that says, look, if you get 24 past this point, this is what we're going to seek, 25 which is more along the lines -- and this is -- it's</p>

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<p>1 not a perfect analogy, but more along the lines of the</p> <p>2 way that presumptive sentences work under the criminal</p> <p>3 code, right. So you'd say, if you're at, you know --</p> <p>4 The way the statute works in terms of what</p> <p>5 it, at least as I understand it, what it asks us to</p> <p>6 do as a -- or, what it asks you to do and asks the</p> <p>7 agency to do both is, you know, make an accounting for</p> <p>8 why the decision is being made and how we're -- how</p> <p>9 we're -- how we're setting up. So from a purely</p> <p>10 legalistic perspective, that's a lot of what this</p> <p>11 presentation is, that's why the conciliation agreement</p> <p>12 goes in -- has all the numbers in it and has all that</p> <p>13 laid out, so people can make a judgment.</p> <p>14 That said, you know, it's -- it is -- it</p> <p>15 is -- it is my, you know, sincere belief that barring</p> <p>16 people from using the system is a serious -- is a</p> <p>17 serious thing in the sense that, some candidates, this</p> <p>18 is their way of running, I mean, this is, you know,</p> <p>19 the -- I'm not sure both of them, but certainly</p> <p>20 Representative Abeytia has run Clean before and so this</p> <p>21 has been how she's run. So this is -- this is not, we</p> <p>22 don't think, nothing with respect to her, you know.</p> <p>23 So, I mean, other than that -- I mean, those</p> <p>24 are the responses I have. I don't disagree that</p> <p>25 there's a discrepancy there, and I think that that's</p>	<p>1 have for these candidates when they come in, but when</p> <p>2 they -- if they research things and see our history, I</p> <p>3 mean, some people we kicked them out of the</p> <p>4 Legislature, we fined them over \$50,000, that kind of</p> <p>5 thing, so -- so I just think that if we have a thing</p> <p>6 that says \$420 payment, I mean --</p> <p>7 How many people do not turn things in on</p> <p>8 time, by the way?</p> <p>9 MR. COLLINS: I think -- for us I think</p> <p>10 that -- I think the -- I think the percentage is, of</p> <p>11 being on time, is -- what would you guess? Maybe we</p> <p>12 could get a rough guess. I don't know.</p> <p>13 MR. BECKER: I would say 99 percent turn it</p> <p>14 in on time.</p> <p>15 COMMISSIONER PATON: Because they don't want</p> <p>16 to pay \$420 a day.</p> <p>17 MR. COLLINS: Well -- well, we also hope that</p> <p>18 it's because they're, you know, law-abiding people.</p> <p>19 COMMISSIONER PATON: Well, I understand that.</p> <p>20 MR. COLLINS: The one thing -- the one thing</p> <p>21 I want to, if I -- well, when the time comes I have a</p> <p>22 couple things I want to make sure I make clear about</p> <p>23 the other things we're doing around this issue, but...</p> <p>24 COMMISSIONER PATON: So maybe other people</p> <p>25 can speak to this stuff as well.</p>
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<p>1 something that people are -- are -- have -- you know,</p> <p>2 you make a fair point. I mean, obviously I think, you</p> <p>3 know, Commissioner Paton makes a fair point about that.</p> <p>4 I think -- but I think that the best way we would have</p> <p>5 to do that going forward would be to have some kind of</p> <p>6 a, you know, henceforth this is the way we're going to</p> <p>7 approach these things. These are the realistic ranges</p> <p>8 you're looking at. We can -- and that allows, I think,</p> <p>9 you to, you know, to weigh in on that outside of the --</p> <p>10 you know, in a context that would be deliverable. And</p> <p>11 then I think, along with that, we need -- we should</p> <p>12 consider how that applies to all the different entities</p> <p>13 and folks who potentially come under the statute,</p> <p>14 because that would be a worthy enterprise itself.</p> <p>15 CHAIRMAN KIMBLE: Okay, Tom.</p> <p>16 Commissioner Paton, did you have anything</p> <p>17 else you wanted to add?</p> <p>18 COMMISSIONER PATON: Well, as far as -- I</p> <p>19 understand not taking Clean Elections money again.</p> <p>20 But most people that do -- that use Clean Elections</p> <p>21 money are first-time people, and then after they get in</p> <p>22 they meet whatever people that can help finance them</p> <p>23 later on. So I'm sure that's a negative thing, but I</p> <p>24 think --</p> <p>25 I'm not involved in the classes that you guys</p>	<p>1 CHAIRMAN KIMBLE: Okay. Tom, go ahead.</p> <p>2 MR. COLLINS: So the first point is, the</p> <p>3 other thing we've done, and we won't hear it until</p> <p>4 November, but we do have this rule that will say if you</p> <p>5 are late five days we're going to start repayment</p> <p>6 proceedings against you, right. So that's going to be</p> <p>7 a new rule that we will have online, and presuming --</p> <p>8 assuming -- assuming you all pass it. And then we'll</p> <p>9 have an additional check that they -- about their</p> <p>10 filing before they -- before they get the money. So we</p> <p>11 bracketed in some effort to get at this -- to get at</p> <p>12 this, because a repayment proceeding in the middle of a</p> <p>13 campaign is a -- again, it's a -- it's a, we think, a</p> <p>14 deterrent. But like I say, I'm -- we will look at --</p> <p>15 we'll have -- we can have these other two things in</p> <p>16 front of you.</p> <p>17 I want to make clear, because I think it's an</p> <p>18 important -- although, you're right, the public is not</p> <p>19 going to know the difference. But from a practical</p> <p>20 perspective, the kicking people out of office has to do</p> <p>21 with excessive -- excessive contributions.</p> <p>22 COMMISSIONER PATON: Right.</p> <p>23 MR. COLLINS: So we don't have that here.</p> <p>24 COMMISSIONER PATON: Right.</p> <p>25 MR. COLLINS: The 50,000 that the one person</p>

<p style="text-align: right;">Page 42</p> <p>1 we -- owed came out of conversion and a repayment. 2 So, you know, we -- for our purposes, \$5,000 3 on an individual candidate is probably the -- I think 4 it's the -- for a fine I think is the second most we've 5 fined since I've been here, as a fine, put aside the 6 other stuff. So I think -- and I'm not sure, so -- so, 7 I mean, so just -- 8 So everything you said is true. I just 9 needed to make those clarifying points just because 10 I -- and I agree with you that the public may not know 11 the difference. There's no reason for them to. But 12 those cases involved different statutes and different 13 findings. And those could have happened here, but we 14 just don't think we have the evidence for that for 15 either of those, so that's -- that's what I've got. 16 CHAIRMAN KIMBLE: Are there any other 17 questions or comments from Members of the Commission? 18 Commissioner Werther. 19 COMMISSIONER WERTHER: Yes, Chairman. Thank 20 you. 21 So I have one comment and then two questions. 22 So first, I share, I think, in the frustration that we 23 have candidates taking public monies, knowing the rules 24 ahead of time, and then not abiding by them, and then 25 sort of looking at the enforcement and saying, this</p> <p style="text-align: right;">Page 43</p> <p>1 doesn't seem to be, you know, sort of almost a fair 2 amount given the time and expense that staff has had 3 to, you know, basically obtain, you know, their 4 reports, things that they should have done at the 5 outset. 6 I also kind of look at it, though, from the 7 perspective of having to do enforcement actions for 8 cities and towns, and this is a similar dilemma that 9 they also face. We could always charge the maximum 10 amount, but is it realistic to think that they're 11 actually going to get it, and most of the time it's no. 12 So we try to work out a resolution as best as possible, 13 as kind of Tom mentioned, as the deterrent. But I did 14 at least want to share that I'm equally frustrated by, 15 I think, both of these situations. 16 Then I just had one question. And I don't 17 know, Tom, that you can answer, because we're not 18 technically filing officers. But in Title 16, if you 19 have outstanding campaign finance penalties in excess 20 of \$1,000, filing officers are not supposed to take 21 your nomination paperwork for any office in Arizona. 22 So I don't know if that's something -- obviously, if 23 we -- if this goes on the website so that any -- you 24 know, if they decide to go elsewhere to run for office 25 and they still have those outstanding fines after a</p>	<p style="text-align: right;">Page 44</p> <p>1 thousand dollars, again, it wouldn't be, you know, our 2 decision, it would be the filing officer's, but my 3 understanding is that this would fit within that -- 4 that Title 16 statute. 5 MR. COLLINS: Mr. Chairman, 6 Commissioner Werther, I don't know the answer to that 7 question insofar as my understanding is that the filing 8 officers around the state have taken very different 9 approaches to that. Some of them accept so long as you 10 are not in arrears on a payment plan, you are up to 11 date with respect to your obligations under the statute 12 regardless of how much it is. Some of them, I think, 13 think that even if liability hasn't been yet 14 established, that statute still applies, because the 15 statute -- the statute is very -- our statutes are a 16 little difficult. This statute is remarkably 17 difficult. 18 It says, except for where liability is being 19 appealed, so that sort of says liability has been 20 established, and then it has this statement about, you 21 know, whether or not it's been paid off or not and what 22 that means. And then the last sentence says something 23 about someone who, by virtue of failure to comply or 24 liability, right, so -- so unfortunately, from a legal 25 perspective, I mean, I -- I don't know. I personally,</p> <p style="text-align: right;">Page 45</p> <p>1 I think, am under the impression that while there's a 2 -- while repayment is being made timely, that filing 3 officers do not treat that as a reason -- a reason to 4 not accept papers. 5 The other issue that I understand to exist is 6 filing officers don't know if that statute means what 7 it literally says or whether or not it's up to a 8 challenger to observe to them, you ought not to have 9 accepted this. 10 So essentially what I'm trying to say is I 11 guess I know -- that's the landscape, in answer to your 12 question, as I understand it. I don't know -- you 13 may -- you may, in fact, know this better than I do, 14 but that's the landscape as I understand it. In other 15 words, with the ambiguities in the statute, there are a 16 variety of outcomes that happen. And because there 17 hasn't been any sort of reported appellate case on 18 this, nobody knows a definitive answer to that 19 question. 20 COMMISSIONER WERTHER: Well, thank you. I 21 agree, I think that the statute is somewhat kind of 22 broad and I -- and again, I didn't believe that it was 23 the Commission that would make that decision. It's 24 really going to be up to the filing officer, whoever it 25 is.</p>
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<p style="text-align: right;">Page 46</p> <p>1 But I also didn't know, because what comes 2 across at least at the municipal level is the clerks 3 really wouldn't know, right, who -- 4 MR. COLLINS: Sure. 5 COMMISSIONER WERTHER: -- if there was even a 6 pending -- so I didn't know if this information at 7 least goes on the website or like... 8 MR. COLLINS: It is, I mean, insofar as it's 9 on the packet. It's also been widely reported. This 10 has been one of the more widely reported matters we've 11 had here in quite some time. So we certainly -- I 12 mean, all of our information is publicly available and, 13 you know, we have a page that has information related 14 to that. We don't have a page currently that says, you 15 know, these are the people who are -- who we understand 16 currently owe the Commission money. 17 COMMISSIONER WERTHER: Got it. Okay. 18 And then my other question was just -- I know 19 it kind of talks in here about these -- in these 20 agreements about if these candidates default, but can 21 you just describe like if they do default under any of 22 these conditions, what are the next steps? Would it 23 come back here? Would you just immediately go and 24 enter -- like try to get a judgment? Like what are -- 25 what would that look like?</p>	<p style="text-align: right;">Page 48</p> <p>1 would be one of our options today, right? 2 MR. COLLINS: Okay. So, Mr. Chairman, do you 3 want me to -- okay. 4 CHAIRMAN KIMBLE: Tom. 5 MR. COLLINS: So, yes, Mr. Chairman, 6 Commissioner Crump, in the event of default, as I -- we 7 think that the agreement is enforceable to allow us to 8 collect the entirety of the fines in the event of a 9 default. That is -- that is what we believe it does. 10 And I think that -- I took Commissioner Werther's 11 question to be more along the lines of the procedures 12 to do that and whether or not there are additional 13 steps with -- on staff to do that. 14 And I would just say that my immediate answer 15 to that would be that staff can do that. Because this 16 is an agreement, absent, you know, a direct Commission 17 decision, we would obviously -- because that would 18 involve some legal questions, I probably would want to 19 double-check. You know, how we would work with the 20 Commission in its capacity as the Commission to deal 21 with that would be a question we would -- we would 22 definitely want to make sure we had an answer to. And 23 whatever the answer to that question is would determine 24 what our course of action would be. 25 But, you know, just to recap, the main issue</p>
<p style="text-align: right;">Page 47</p> <p>1 MR. COLLINS: That's a good question, and I 2 don't know that I've -- I've not thought through that, 3 but my -- my assumption would be that, the contract 4 having been executed, that at a minimum that staff 5 could enforce the contract without coming back to the 6 Commission, although I would be -- we would definitely 7 inform the Commission. 8 COMMISSIONER WERTHER: That's all I had. 9 CHAIRMAN KIMBLE: Are there any comments or 10 questions from any other Members of the Commission? 11 COMMISSIONER CRUMP: Mr. Chairman, 12 Commissioner Crump here. 13 CHAIRMAN KIMBLE: Yes, Commissioner Crump. 14 COMMISSIONER CRUMP: Yeah. A little bit 15 related -- this question, I guess, is for Tom, but 16 related to Commissioner Werther's questions. So I 17 would be interested in knowing, you know, if she 18 defaults on the agreement, assuming the agreement is 19 reached, that we can proceed and enforce the -- you 20 know, the fines in the statute and so forth. 21 And furthermore, a related question is, 22 understanding -- you know, as the new guy here, but 23 understanding our authority as the Commission here, 24 theoretically if we wanted to reject this proposed 25 agreement and just enforce the statute, that's -- that</p>	<p style="text-align: right;">Page 49</p> <p>1 is that this agreement is set up so in the event of a 2 default -- and we haven't had defaults generally -- you 3 know, that we would be able to go after the candidate 4 for the full amount. You know, I would add that that's 5 -- that's also not a -- not -- that's also the hammer 6 here, right. 7 So one way to look at this is it's not 8 necessarily so much that we have waived -- we haven't 9 waived the full fines. What we've done is abated them 10 pending compliance with the terms of this agreement. 11 And when the agreement is complete, then it's complete 12 and those are the terms of the agreement by its own 13 terms. In other words, it's not, quote, unquote, over 14 until the payments are made in full and the amendment 15 -- and the -- and the reports have been amended and 16 the -- and the -- you know, that's when it's over. 17 So one way to frame this is, rather than a 18 waiver -- it's not a waiver, you know. There are 19 agencies that waive these fines; we didn't do that. We 20 are saying, you pay us this, you complete these tasks, 21 and then you will no longer -- you know, you will then 22 have -- be free from this -- this potential hammer. 23 With respect to your second question, 24 which -- I wrote down a note to myself that I can't 25 read, so I apologize.</p>

<p style="text-align: right;">Page 50</p> <p>1 COMMISSIONER CRUMP: One of the options for 2 us right now would be to -- 3 MR. COLLINS: Oh, right. Right. 4 COMMISSIONER CRUMP: -- reject the proposed 5 agreement and just go with enforcement. 6 MR. COLLINS: So in this capacity you're 7 blessed to have Craig Morgan here to answer that 8 question from a perspective of your own. But from my 9 perspective as the Executive Director, you are free to 10 reject this. I don't -- I don't believe that you can 11 -- well, I don't believe, where we are procedurally, 12 that you could immediately order at this time the full 13 payment or a different amount of payment. I don't 14 think that that's -- that's correct. 15 As far as other changes you could make to the 16 agreement, you know -- you know, I really ought to 17 defer to Craig out of -- out of -- out of -- you know, 18 out of -- just for formality sake, if nothing else. 19 CHAIRMAN KIMBLE: Okay. Thank you. 20 Craig, do you want to address this? 21 MR. MORGAN: Mr. Chair, Commissioner Crump, 22 sure, I can address it. I'm going to be careful, 23 though, because we're not in executive session, to go 24 too far into things. But generally speaking, 25 Commissioner Crump --</p>	<p style="text-align: right;">Page 52</p> <p>1 seriously and that there are penalties for this. So 2 that's just a suggestion I throw out there if you're 3 sort of thinking about, well, what are my options, 4 but -- 5 Was I able to answer your question, 6 Commissioner Crump? 7 COMMISSIONER CRUMP: Yes. Thank you, 8 Mr. Morgan, and thank you, Chairman, that does. And I 9 realize there would be, you know, procedures that we'd 10 have to continue to go through if we went that route. 11 But I agree, and I like what I just heard from counsel, 12 and that is I definitely would like to see something in 13 the agreement which acknowledges the consequences of 14 any default on this agreement. 15 And I think, you know, in civil law there's 16 things called offer of judgment and so forth that 17 would -- that would -- maybe we could even bypass all 18 of the administrative and court procedures that we 19 would have to go through, that she would be agreeing to 20 that, that we just immediately would have judgment. 21 That may or may not be allowed, I don't know, but I'd 22 be curious about that. 23 With your indulgence, Mr. Chairman, I'd just 24 like to mention a couple of other things on this. As 25 to whether the dollar amount is too low, you know, I</p>
<p style="text-align: right;">Page 51</p> <p>1 CHAIRMAN KIMBLE: Excuse me, Craig. Could 2 you get a little closer to the microphone? 3 MR. MORGAN: Sure. Can you hear me now? 4 CHAIRMAN KIMBLE: Yes, much better. 5 MR. MORGAN: Yeah. So generally speaking, I 6 agree with what Mr. Collins said, Commissioner Crump. 7 You would need to follow essentially the administrative 8 rules and have the formal proceedings initiated and go 9 through that process. 10 One suggestion that might make sense too, and 11 I do this a lot in my civil practice, as I'm sure you 12 may, you can also, as a condition, and you wouldn't be 13 able to do it necessarily here today, I don't think, 14 but as a condition in any agreement you can make it 15 clear that we're giving you this amount, we'll say 2 16 grand, whatever it is, right, but if you don't pay us, 17 you're going to owe us the full amount, and here is 18 what that looks like. That might be a good bridge 19 between what everyone is saying. 20 Because I get the impression here that the 21 Commission agrees with, as it often does, because he's 22 often right, agrees with Mr. Collins in his assessment, 23 but would like to make this a very significant event so 24 that we ensure that this person actually pays and we 25 also ensure that the public knows that we take it</p>	<p style="text-align: right;">Page 53</p> <p>1 somewhat agree with Commissioner Paton on that, that 2 this individual or individuals sort of thumbd their 3 nose at the Commission with lack of communication and 4 so forth. And does this just send a message that, 5 well, the consequences aren't very serious. 6 Obviously the daily fines got her attention, 7 and that's why hopefully we have an agreement now. So 8 that did have somewhat of a -- quite a bit of a 9 deterrent effect, I believe, in the end, but very 10 frustrating when somebody just doesn't communicate or 11 respect the authority of the Commission. 12 That brings me to my other point, something 13 that the Executive Director touched on earlier, and 14 that is that they're not necessarily expected to attend 15 this hearing and so forth. This rather surprises me. 16 You know, in the law we talk about, when we sit in 17 judgment, about mitigating and aggravating factors. 18 And it rather surprises me, having been a Legislator, 19 that if I were in this situation and I had disrespected 20 the public -- the public, quite honestly, breach of the 21 public trust, disrespected this Commission, and I'm 22 sitting in office, that I don't come forward and attend 23 this hearing or some other way apologize for my 24 conduct. I think that would be a mitigating factor, 25 and the lack thereof I think is an aggravating factor</p>

<p style="text-align: right;">Page 54</p> <p>1 and I think it's a rather bad -- bad reflection on the 2 individuals, so -- 3 And then switching gears real quickly, there 4 was a nepotism question -- somewhat of a nepotism 5 question that came up before about hiring family 6 members and close associates and so forth. I'm not so 7 sure I'm interested in a bright line on that, because I 8 think it's fairly common and not unusual to -- is a 9 better way to say it -- to have a spouse, for example, 10 that you hire as your, you know, campaign worker, 11 campaign manager, that sort of thing. 12 For me it's more of a question of 13 proportionality, that you wouldn't want to see all of 14 the public funds that was given -- through the Clean 15 Elections Commission given to your spouse, so it 16 basically was just a job and you didn't spend any money 17 on voter outreach or anything like that. So I don't 18 know how that -- you know, if it's a case-by-case basis 19 where we say, well, 15 percent of the money was spent 20 on the campaign manager, who was the spouse, versus a 21 hundred percent of the money, okay. 22 So there's my thoughts on that. Thank you. 23 CHAIRMAN KIMBLE: Thank you, 24 Commissioner Crump. One point of clarification. 25 Earlier in this process, before you were on the</p>	<p style="text-align: right;">Page 56</p> <p>1 about this and explain this to them and make sure that 2 there's actually an agreement. But I'd defer to 3 Mr. Collins. He's been speaking with these folks; I 4 haven't. 5 CHAIRMAN KIMBLE: Are you saying an agreement 6 on any change to this or an agreement -- 7 MR. MORGAN: Yes. Correct, Mr. Chairman. 8 Yeah. I'm just thinking about it from a -- not even a 9 legal perspective, just from an optics perspective for 10 the Commission. You know, you don't want it to look 11 like you're just out here doing things by fiat. I 12 mean, if we've engaged in communications with these 13 people, we should probably communicate with them 14 further and explain to them thinking and make sure that 15 they understand everything. 16 CHAIRMAN KIMBLE: Okay. Thank you. 17 Tom. 18 MR. MORGAN: You bet. Thank you. 19 MR. COLLINS: So, you know, not to -- I 20 think, you know -- Mr. Chairman, I think this 21 discussion has been helpful for me. I would -- at this 22 point I think what I would recommend we -- what I would 23 ask the Commission to do is -- you know, we think that 24 the language with respect to Representative Abeytia, 25 for example, at Page -- well, there's not page numbers</p>
<p style="text-align: right;">Page 55</p> <p>1 Commission, we were discussing this and Representative 2 Abeytia did appear at an earlier meeting of us and a 3 little bit explained her position and -- I don't know 4 if I would say apologized, but she did appear. I can't 5 remember Mr. Jaramillo being here; I don't think he has 6 been. But she has been here once before. 7 So just to summarize, at this point the 8 proposed agreement with Abeytia is pay a fine of 9 \$5,000, pay restitution or repayment of \$2,082.37, 10 amend her campaign finance reports, and agree not to 11 seek or accept Clean Elections funding in any other 12 election. And from what Craig says, this is kind of a 13 -- we either adopt it this way or we reject it this 14 way, but we could adopt it with a provision saying, 15 should the respondent default on any of these 16 agreements, the full amount will be assessed or -- I 17 don't know exactly how we would word that, but we could 18 add that without redoing the whole thing. 19 Have I explained that correctly, Craig? 20 MR. MORGAN: Yes. My -- my recommendation, 21 though, would probably be -- because you got here 22 because of Mr. Collins' good work and collaboration 23 with the candidates, my gut reaction -- and we should 24 ask, I think, Mr. Collins what he thinks -- would be 25 that you probably would want him to talk with them</p>	<p style="text-align: right;">Page 57</p> <p>1 on this, but this is Paragraph -- Paragraph 11. You 2 know, our -- our point of view is that Paragraph 11 -- 3 this is a little -- is that Paragraph 11 covers the 4 default issue. 5 That said, I think that the better course 6 here probably, you know, would be to -- you know, we 7 can -- we can make that paragraph tighter. So let me 8 double-check. Sorry. Okay. Anyways, I think that -- 9 yeah, that's right. Okay. Anyways, so -- I'm sorry. 10 So anyways, I -- 11 What I think we can do here, at a minimum, is 12 take a step back and rather than -- I mean, I think you 13 have a third option, obviously, and I assume -- I think 14 Craig will agree with this, which is to just -- we go 15 to the next -- we move this to October. I think if we 16 do that we can take a look at the default language, 17 make sure that it's as clear as possible, that it -- 18 that it means what we intended it to mean and what we 19 think the agreement is, and that might also allow for, 20 you know -- you know, the candidates to decide to 21 attend, if they choose. 22 I will say that I -- you know, my practice 23 has been, and this is something I own, has been to not 24 necessarily encourage folks to come because, you know 25 -- so I don't put a hard sell on anybody about -- about</p>

<p style="text-align: right;">Page 58</p> <p>1 coming to these hearings because -- you know, because 2 we don't have a real allocution process. You know, 3 it's not a -- it's not a -- it's not a criminal 4 proceeding. So I've looked at it that way, and that's 5 on me, but so to the extent that -- obviously these are 6 adults, they can draw their own conclusion on what the 7 appropriate thing to do, and they probably ought to, 8 but they're not hearing from me a push to necessarily 9 have them here.</p> <p>10 So I would -- I would say just for the sake 11 of clarity, and we certainly don't like to leave you in 12 a position where you're going to have nagging doubts 13 about what you've -- what you might have approved, I 14 mean, you know, I think that it's -- I think it seems 15 reasonable to me to say, okay, well, we've -- we're 16 here, we can talk with -- you know, we can look at the 17 language, we can -- we can make some changes as 18 necessary. We think that the -- that the language is 19 there, but obviously, you know, that can be clarified 20 in some way. So that -- I think that would be my 21 recommendation at this point.</p> <p>22 You know, there's not a per se rush to do 23 this. It's really a matter of us trying to get to 24 the -- what -- a result that as staff members we think 25 is reasonable and -- you know, so we're -- you know, we</p>	<p style="text-align: right;">Page 60</p> <p>1 anything like this at all, that's different. But I 2 just wanted to make sure you understand that that 3 language is in there. Thank you.</p> <p>4 CHAIRMAN KIMBLE: Thank you, Craig. That's 5 a -- that's a very good point.</p> <p>6 So what is the -- the will of the Commission? 7 Do you want to table this with some instructions? Do 8 you want to approve it? Do you want to reject it? 9 Does any Member of the Commission have a motion to 10 make?</p> <p>11 COMMISSIONER CRUMP: Mr. Chairman, I 12 appreciate Counsel Morgan's clarification on that. And 13 so with that, I'm satisfied, just as long as we know 14 that we can go for the full -- the full amount in the 15 event of default. So in that spirit, I'd rather -- I 16 feel we should move forward and not take up more staff 17 time on this and let's get it moving forward.</p> <p>18 So I would make a motion that the draft 19 agreements on both of the candidates, that we approve 20 those.</p> <p>21 CHAIRMAN KIMBLE: I think we ought to take 22 them separately --</p> <p>23 COMMISSIONER CRUMP: Okay.</p> <p>24 CHAIRMAN KIMBLE: -- Commissioner Crump, so 25 let's just address Representative Abeytia now. So what</p>
<p style="text-align: right;">Page 59</p> <p>1 want to be -- we want to be cognizant of that. And so 2 that's -- that's sort of my recommendation at this 3 point, you know, would be that you not take any action 4 and we -- and we simply come back at this point. But 5 that would be my request, and then -- and you all can 6 -- that would be my request at this point. Thanks.</p> <p>7 MR. MORGAN: Mr. Chair, if I may, I do want 8 to clarify. I do agree with what Mr. Collins said 9 about the options. I want to point out, though, to you 10 and the other Commissioners that in Paragraphs 9, 10, 11 and 11, et cetera, in both of these agreements that are 12 before you, it very clearly states that a default under 13 the agreement will result in a penalty and it lists the 14 entire amount. For Abeytia it's 101,000 and change; 15 for the other it's 231,000 and change. So I do think 16 that issue has been addressed. I just want to make 17 sure that you all understand that, because I don't know 18 that that was on everybody's radar earlier. So it's in 19 there.</p> <p>20 So if the purpose of putting this out until 21 next month is to have language like that in there, I 22 submit to you that Mr. Collins has put it in there and 23 I'm comfortable with it. If the idea here, though, is 24 to push it out to next month because you want to 25 consider other issues or consider whether to do</p>	<p style="text-align: right;">Page 61</p> <p>1 would your motion be regarding her?</p> <p>2 COMMISSIONER CRUMP: My motion would be that 3 we accept and approve the staff's draft agreement for 4 conciliation on that matter.</p> <p>5 CHAIRMAN KIMBLE: Thank you. 6 Is there a second to that motion?</p> <p>7 COMMISSIONER WERTHER: I second.</p> <p>8 CHAIRMAN KIMBLE: It's been moved and 9 seconded that we approve the agreement with 10 Representative Abeytia as presented to us. I will call 11 the roll.</p> <p>12 Commissioner Crump.</p> <p>13 COMMISSIONER CRUMP: Aye.</p> <p>14 CHAIRMAN KIMBLE: Commissioner Werther.</p> <p>15 COMMISSIONER WERTHER: Aye.</p> <p>16 CHAIRMAN KIMBLE: Commissioner Paton.</p> <p>17 COMMISSIONER PATON: No.</p> <p>18 CHAIRMAN KIMBLE: Chair votes no. 19 It fails 2-to-2.</p> <p>20 MR. COLLINS: Yep. Okay. I would like to 21 renew my request that you hold the Jaramillo agreement 22 until the next meeting.</p> <p>23 CHAIRMAN KIMBLE: Okay. So Item V on the 24 Agenda, do we need a vote to table this or -- I don't 25 think we do, do we, Craig?</p>

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<p>1 MR. MORGAN: No, I don't think you do.</p> <p>2 CHAIRMAN KIMBLE: Okay. So we'll move on to</p> <p>3 Item VI, discussion and possible action on status</p> <p>4 report on Proposition 211, Voters' Right To Know Act</p> <p>5 implementation and litigation. As we prepared for this</p> <p>6 meeting, we thought it would be helpful to have a brief</p> <p>7 overview of where implementation of Proposition 211</p> <p>8 stands and the status of ongoing litigation. Tom has a</p> <p>9 presentation, after which we can ask questions and</p> <p>10 discussion.</p> <p>11 Tom.</p> <p>12 MR. COLLINS: Yes, thank you. Thank you,</p> <p>13 Commissioners.</p> <p>14 Commissioner Crump, you know, you're going to</p> <p>15 find that if you don't find the sound of my voice to be</p> <p>16 just a -- sadly, you're going to hear a lot of it.</p> <p>17 COMMISSIONER PATON: It's very pleasant.</p> <p>18 MR. COLLINS: Thank you. That's what people</p> <p>19 that listen to the podcast say, in fact, so you should</p> <p>20 download or stream Beyond the Ballot AZ. People put it</p> <p>21 on to go to sleep, they calm their babies.</p> <p>22 Anyways, so -- yeah. So as Commissioner --</p> <p>23 Chairman Kimble said, we wanted to kind of ground</p> <p>24 ourselves a little bit on the Prop 211 matter. Because</p> <p>25 we've now gone through the -- all of the oral arguments</p>	<p>1 are the triggers, the drivers of this? Basically we're</p> <p>2 talking about campaign media spending. That's a</p> <p>3 defined term. It's -- it's mostly concerned with ads</p> <p>4 and public communications. It's concerned a little bit</p> <p>5 with partisan get out the vote activities, and it's</p> <p>6 concerned a little bit about the prep work behind that</p> <p>7 in terms of capturing some of those costs. It's also</p> <p>8 concerned with initiatives, referendums, and recalls,</p> <p>9 in addition to candidate independent expenditures.</p> <p>10 It requires the disclosure of original donors</p> <p>11 giving more than \$5,000. Those donors are the -- at a</p> <p>12 minimum, the donor to spender -- there's a notice about</p> <p>13 how that money is going to be used and then there's an</p> <p>14 opt-out available, right. So if I give money to -- in</p> <p>15 the most simple case, if -- if, you know, Person A</p> <p>16 gives money to, you know, Nonprofit B for -- and then</p> <p>17 Nonprofit B is going to spend the money on independent</p> <p>18 expenditure ads, Nonprofit B has to tell Person A that</p> <p>19 that's how the money is going to be used and give them</p> <p>20 the opportunity to opt out of having their money used</p> <p>21 for that purpose.</p> <p>22 And by opting out of having their money used</p> <p>23 for that purpose, it will mean that that money -- that</p> <p>24 person's name would never be disclosed because they</p> <p>25 couldn't be designated as a donor. You know, and it</p>
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<p>1 around this case, so we thought maybe it would be good</p> <p>2 to sort of say -- and there's been some press coverage</p> <p>3 around that, and I don't know if any of you've seen it.</p> <p>4 If you haven't, we're happy to get you copies of that.</p> <p>5 But, you know, the idea here was like what have -- what</p> <p>6 have we been doing for the last two years while this</p> <p>7 has been going on.</p> <p>8 So the first thing we wanted to kind of do is</p> <p>9 sort of talk about what this is. Proposition 211 is --</p> <p>10 this is sort of a boiled-down version of what the</p> <p>11 purpose and intent section says. It says -- it</p> <p>12 declares this right to know who are paying for campaign</p> <p>13 ads, it wants donors over \$5,000 disclosed, and it</p> <p>14 wants to know who that donor is regardless of how many</p> <p>15 people touched the money along the way. As part of</p> <p>16 that -- you know, this was passed as a voter</p> <p>17 initiative. You know, it sets up this campaign funding</p> <p>18 source law and then it imposes some responsibilities on</p> <p>19 the Commission. So that kind of summarizes that.</p> <p>20 If we could, Cathy -- yeah, thanks.</p> <p>21 And obviously, please, Commissioners,</p> <p>22 interrupt me if you have any questions about any of</p> <p>23 this. And this is sort of a high-level thing, I mean,</p> <p>24 but --</p> <p>25 You know, so what's the -- what's the -- what</p>	<p>1 also -- it also, you know -- it would mean that their</p> <p>2 money could be used otherwise by the organization.</p> <p>3 It prohibits structuring of transactions to</p> <p>4 evade disclosure. So, you know, what that's trying to</p> <p>5 get at is I'm going to spend -- I'm going to spend more</p> <p>6 than \$50,000 and I want to keep -- but I'm -- and I</p> <p>7 want to -- and I've got donors who want to spend more</p> <p>8 than \$5,000, but we've set up, you know, four or five</p> <p>9 different organizations for the purpose of doing that.</p> <p>10 That's the general case. And, you know, so we're</p> <p>11 talking about -- you know, that's the sort of thing.</p> <p>12 And it allows for some exemptions. So, you</p> <p>13 know, if you are a person who has a -- by law or by</p> <p>14 some court order, but there's no -- which you could --</p> <p>15 either could get for this purpose, you could get it</p> <p>16 from other purposes, that says your personal</p> <p>17 information is not supposed to be disclosed, you are --</p> <p>18 you know, that there -- you will not be disclosed. And</p> <p>19 then -- but your money can still be used, and I think</p> <p>20 that's an important point. That's not taking your</p> <p>21 money out of circulation; it's taking your name out of</p> <p>22 circulation.</p> <p>23 And then you can ask the Commission to exempt</p> <p>24 you. And when the Commission exempts you, it -- you</p> <p>25 know, the Commission -- there's a standard in the</p>

<p style="text-align: right;">Page 66</p> <p>1 statute, and then we've set up some procedures along 2 those lines to try to make sure, in that process, that 3 your name is not revealed while you're asking, which we 4 haven't been asked by anybody yet to do that. 5 So I guess we could go to the next one, 6 please. 7 And this sort of -- I sort of anticipated, I 8 guess, with my last slide some of these. These are 9 the -- these are what we did -- in 2023 we held -- you 10 know, we did some work as staff talking to the 11 regulated community informally, we did some research, 12 we worked with our attorneys, and we developed a set of 13 rules that try to, you know, address the opt-out 14 provision process, address a process for, you know, 15 seeking that security exemption. We have a, you know, 16 process for complaints and investigations. 17 We also tried to set some ground rules for 18 recordkeeping and anti-structuring, and I want to 19 highlight those because what we -- what we tried to do 20 there is, you know -- and I think this was true for the 21 entire rules that the Commission adopted. We really 22 wanted to keep a -- sort of a minimal substantive 23 footprint for the rules. And what I mean by that is we 24 wanted the rules to be mostly procedural, how you 25 execute this, rather than what you have to execute,</p>	<p style="text-align: right;">Page 68</p> <p>1 the -- that the -- we have a fillable PDF form. This 2 is a terrible admission to make, but ChatGPT told me 3 that we have had something like 200 reports. I haven't 4 counted them myself, but that's what it says, so I 5 thought that sounded like a good answer. But they are 6 posted, they're available at that website. 7 And, you know, the filing process is not 8 perfect, and we can talk a little bit about this as we 9 go on. One of the real complicating factors about the 10 reporting that, you know, the law doesn't -- doesn't 11 really -- I mean, the law says that if you're a 12 political action committee you're not required to file 13 on the same schedule as you would have to file these 14 campaign media spending reports. You know, essentially 15 you get to keep your own schedule so long as the 16 information you're disclosing as a PAC is the same 17 information you would be disclosing on one of these 18 reports. 19 So how do you do that without creating an 20 additional report for PACs? And, you know, what we -- 21 what we've -- what we have there is that essentially 22 what -- the best we've been able to suggest is that 23 folks essentially use the forms, the PAC forms, the 24 information -- the memo line in the PAC forms to 25 disclose original sources. You know, there are pros</p>
<p style="text-align: right;">Page 67</p> <p>1 because the statute really dictates what you have to 2 execute. 3 And so, you know, where there were, you 4 know -- you know, so there -- you know, there -- and I 5 apologize for what I'm about to say to Commissioner 6 Kimble and Commissioner Paton, but there is a -- there 7 is a -- there's an extraordinarily fine line between 8 procedural and substantive rules that people have 9 written tomes about, and we were trying to stay on the 10 procedural side of that line, to the extent we could, 11 in doing that. And that's partially because we're 12 conscious of developments in the law around, you know, 13 administrative law and how the -- how that operates 14 constitutionally. 15 So I guess we can go to the next one. 16 So reports. So there's two main mechanisms 17 of disclosure under this Act. The one you're going to 18 see every day potentially is the -- the sign 19 disclaimer. So it makes some adjustments to the sign 20 disclaimer that -- to try to, where the law requires 21 it, to get the original source onto the sign or 22 campaign ad itself. And then -- and then there is a 23 more extensive report filed with the Secretary of 24 State's Office. 25 In implementing that, where we ended up was</p>	<p style="text-align: right;">Page 69</p> <p>1 and cons to that approach. There are -- but, you 2 know -- 3 So overall, you know, I think that the PDFs 4 at least hit the immediacy issue for voters, which the 5 statute talks about. In other words, you can look at 6 it, you can see who's there, you can see when they 7 spent the money, you can see who the sources are. 8 Integrating that into the overall campaign finance 9 system so you could sort of aggregate out how much 10 money is being spent in a particular race, that's -- 11 that you'd have to do manually. 12 The other thing that's come up, and you'll 13 see this if you do -- have followed or do want to -- 14 or, you know, is whether we ought to have more 15 Commission eyeballs on the reports themselves prior to 16 a complaint being filed. And, you know, our -- you 17 know, what I've said about that, and I'm not sure I've 18 said it to you all before, but -- is that right now 19 there's no -- I'm not aware of any agency in the state 20 that does that, other than what we do for the Clean 21 candidates. 22 I think there would be some -- some real 23 pushback from the regulated community about that, you 24 know, so -- you know, and then the question would -- 25 because it would immediately raise questions about what</p>

<p style="text-align: right;">Page 70</p> <p>1 the scope of those audits would be, are we going to get 2 into the business of looking at -- behind the reports 3 absent some cause, are we going to do that on a random 4 basis, are we going to look at all those things, right. 5 So that's a -- that would -- although we would have the 6 authority to do it, you know, it would be a -- it would 7 certainly raise the level of scrutiny in a -- in a -- 8 in a way that, you know, regulated actors would see as 9 a -- you know, as an invasion of their business 10 practices and other things. 11 So, you know, as staff we're -- I think I can 12 say that we're -- you know, we're a little -- we're -- 13 we're wary of venturing into that because, you know, it 14 would require a process just to get a rule in place 15 that really looked at some real fine line questions and 16 some -- and would touch at some real sensitive nerves 17 of folks who are involved in spending money on 18 campaigns and trying to get people elected or 19 initiatives passed. 20 Okay. Thanks. 21 The advisory opinions, you know, we developed 22 that rule -- and actually, I think this has been one of 23 the most effective rules we did -- in order to provide 24 folks with an interest under the Act the opportunity to 25 ask the Commission to sort of weigh in on a particular</p>	<p style="text-align: right;">Page 72</p> <p>1 things. So that's good. I mean, my hope is that 2 folks, before they do the ad, they pick up their 3 opinion and they can say, okay, where are we on this. 4 We're here. This is what we would need to put on the 5 disclaimer. This is how we need to proceed. I mean, 6 that's the goal, right, is to have a real -- a real 7 guide to that, and we think -- I think that's what's 8 happened, and so that's been good. 9 We've also gotten questions on initiative 10 signature gathering as campaign media spending, and 11 we've -- in that -- in that opinion we said that 12 initiative signature gathering is not campaign media 13 spending because it's not a public communication in and 14 of itself. It's a -- it's a -- it's a different 15 process than that. 16 And then we got, I thought, an interesting 17 one around the scope of the media exception. And, you 18 know, we provided, I think -- you know, that was a 19 little less black and white, but I think we provided 20 some guidance to folks on how to treat that. 21 So just to give you -- sort of highlight how 22 we've handled the complaints, I think we've had eight 23 total. I review the complaint to see if it qualifies. 24 So the rules set forth, you know, what the -- what the 25 parameters of a -- of a -- of a complaint are. And</p>
<p style="text-align: right;">Page 71</p> <p>1 set of facts before they engage in that action. And 2 then we, in the rules, say that there's a -- they can 3 have some reliance on that. 4 The rule we adopted is effectively the same 5 process that the Federal Election Commission uses, 6 although we have five members, not six, so that 7 generally -- although, I think -- I think all of those 8 have been -- we've passed them unanimously. And 9 they've really been good questions. I really think 10 that the folks who are operating under this Act have 11 taken advantage of that for the purpose that I think -- 12 well, at least personally I had hoped that they would 13 so that, you know, we have a good -- especially on the 14 advertising formats that we've considered, you know, 15 we've -- this campaign media spending definition gets 16 into, you know, especially on the candidate's side, 17 gets into some different issues around what triggers 18 what in different time frames. And that's true under 19 state law otherwise, that's true under federal law, 20 but -- 21 So we've got a good compendium of the kind of 22 advertisements that you are likely to see over the 23 course of the -- that you're likely to see over the 24 course of the campaign, you know, standard -- your 25 standard Facebook ad, your standard -- some of those</p>	<p style="text-align: right;">Page 73</p> <p>1 then I ask for a response. And then, you know -- 2 And some of the complaints I think have 3 arisen -- I mean, I would say not all of, but I think 4 probably most of them have arisen in the context where 5 you have a -- that last transaction between the donor 6 and spender, right, is the one that gets reported, and 7 -- and the complainants have either provided some 8 context or have provided sufficient -- have met the 9 definition -- have met the rules sufficiently to me 10 being able to ask for a response on that with respect 11 to -- 12 You know, and we've gotten different answers 13 to that question. You know, the bulk of the answer -- 14 the predominant answer across context has been people 15 gave less than \$5,000, so we didn't have them disclose, 16 but that's not been the only answer we've gotten. In 17 one case the answer was, we have a -- we have an 18 existing investment fund within our organization that 19 we drew the money from, and therefore we are -- we 20 self-funded this as an organization, right. So, you 21 know -- 22 And so one of the things that arises with the 23 reports is, what do you do if you have no -- nothing to 24 report, right, is -- because a non-report that's not 25 compliant and a non-report that is compliant are --</p>


<p style="text-align: right;">Page 74</p> <p>1 there's no way to determine that from the face of a 2 report. And so, you know, we've -- we've sort of left 3 it with the regulated community to try to determine how 4 they want to handle that. Some people just put in, we 5 have nothing to report here. And I think, as a 6 practice matter, I don't think it's actually a huge 7 imposition to say that. But we haven't sort of asked 8 you to consider a policy on that.</p> <p>9 I also just want to note that, you know, we 10 have not used any additional process in this. So under 11 the rules essentially how this -- how this proceeds is 12 the -- it's a little different from what we do on the 13 Clean Elections Act side. Most of the enforcement 14 process is housed in the Executive Director's position. 15 And then if there is a -- either a settlement or a -- 16 or a hearing, then, you know, then the Commission comes 17 in in an adjudicative manner. But, you know, I think 18 it's important to note that we haven't -- you know, we 19 haven't subpoenaed anyone or done that -- anything like 20 that.</p> <p>21 We do -- you know, when we get these 22 complaints we do take them seriously and they're 23 reported out to you in the Executive Director's Report. 24 We don't have any currently, but they've been in there. 25 And if any -- Commissioner Crump, for example, if you</p>	<p style="text-align: right;">Page 76</p> <p>1 here that came up, you know, you just want to make sure 2 you're doing X, you know, that kind of thing. And so 3 there's a -- we think that that, again, has some 4 benefit to it.</p> <p>5 I guess we can go to litigation.</p> <p>6 And then so we have these three cases. I've 7 identified the main -- the main plaintiffs there. 8 There's some other plaintiffs along -- in there too, 9 but the -- but basically we have this federal -- 10 pending in the 9th Circuit we have this First Amendment 11 challenge which essentially says that -- you know, 12 there was a case called Bonta, I think, in -- what year 13 was that -- a few years ago where Americans for 14 Prosperity challenged a California law that required 15 nonprofits to provide their donors' names and 16 information to the California Attorney General's 17 Office, and really that was it, and then the Attorney 18 General's Office had them and didn't obviously do 19 anything with them. And that was struck down. So the 20 -- this case is -- this challenge is really basically 21 trying to attempt to extend that principle to campaign 22 disclosures and use the sort of original source, as 23 opposed to the last donor, as a -- as a leverage point 24 there.</p> <p>25 The state challenges are -- you know, we have</p>
<p style="text-align: right;">Page 75</p> <p>1 would -- and I should probably just get you what we've 2 reported out. What you see in the reports is that we 3 do look at the financial activities that are available 4 of the organizations that we're scrutinizing, right. 5 So we look at their 990s, we look to see if their 6 reports and their answers and the response align with 7 the other information that's out there. And so, you 8 know, I think that that's -- that's something that -- 9 you know, again, I think it's important.</p> <p>10 I also will say, and this is partially a 11 point of pride and -- but also I think an important 12 policy point. As far as I know, at least at the State 13 and in Maricopa County, I think we're the only folks 14 who -- who expressly state why the complaint was closed 15 and why it was dismissed. I think so. I do think -- 16 and then the real point of personal pride is I do think 17 that the explanations that we provide are more 18 comprehensive than others you might see. Now, I may be 19 wrong about that. There may be somebody out there 20 who's -- who's doing that. But I do think we are -- my 21 impression is that we're doing that at a -- at a -- at 22 a -- at least with a -- as a point of emphasis.</p> <p>23 And it also allows us to say to a respondent, 24 you know, we checked this, we checked this, and we're 25 dismissing the complaint, but -- you know, this issue</p>	<p style="text-align: right;">Page 77</p> <p>1 the legislative leadership challenged the separation of 2 powers and non-delegation basically saying that the 3 voters infringed on the Legislature's authority. That 4 case is pending at the Arizona Supreme Court pending a 5 decision. We had an argument in March.</p> <p>6 There was -- the Court of Appeals, we largely 7 were successful. The one point we -- where the Court 8 of Appeals said a provision of the Act was 9 unconstitutional, but severable, was there is some 10 language in the Act that says that the Commission's 11 regulatory and enforcement decisions are not subject to 12 oversight or action by an administrative body or 13 legislative body. And the Legislature took the 14 position that legislative body includes the 15 Legislature. The folks who wrote this thought it 16 included a rules committee of the Legislature.</p> <p>17 But certainly our position, as the Clean 18 Elections Commission, was that the Legislature can 19 legislate. So we took the position that that was the 20 -- that regardless of what they were thinking when they 21 wrote it, that the right construction was it 22 couldn't -- it couldn't mean that the voters sought, by 23 statute, to prevent the Legislature from legislating.</p> <p>24 The Court of Appeals said that that 25 construction wasn't -- wasn't -- essentially they</p>

<p style="text-align: right;">Page 78</p> <p>1 rejected the construction. And because they rejected 2 the construction, they said that that provision of the 3 Act was -- violated separation of powers and then they 4 severed it from the rest of the Act. 5 I mean, that -- that provision is kind of 6 funny because it creates this sort of strange -- we 7 were enjoined. So it's not clear what we were -- how 8 we were -- what we were -- we were enjoined from 9 preventing the Legislature from trying to pass 10 legislation is just not a -- I mean, right, it's 11 just -- that's why we thought the construction had to 12 be what we said it was, because you can't -- I can't 13 conceive of how that works. 14 And then -- and then the last one, which was 15 argued a couple of weeks ago, is the Center for Arizona 16 Policy, Free Enterprise Club, Arizona Free Speech 17 challenge. There's a little bit about the Arizona 18 Constitution's Private Affairs Clause in there, but 19 it's mostly about the Article 2, Section 6 provision of 20 our constitution -- state constitution which says that, 21 you know, people shall be -- shall be able to freely 22 publish on all subjects, subject to, you know, 23 responsibility for abuse of this right, which is 24 different -- obviously different words than the First 25 Amendment.</p>	<p style="text-align: right;">Page 80</p> <p>1 rescheduling it for further consideration, or 2 responding to criticism. Please limit your comments to 3 two more -- to no more than two minutes. 4 Does any member of the public wish to make 5 comments at this time? Anyone on Zoom wish to make a 6 comment? 7 Yes, Rivko. You're muted. I'm sorry, 8 Ms. Knox. Ms. Knox, we can't hear you. 9 MS. KNOX: Thank you, Commissioner. I 10 apologize. 11 CHAIRMAN KIMBLE: There you are. 12 MS. KNOX: I just wanted to say, my name is 13 Rivko Knox. I'm a long-time voter here in the state of 14 Arizona, since 1966. For a number of years I observed 15 the Commission on behalf of the Arizona League of Women 16 Voters, a nonpartisan organization, but now I'm 17 observing just as a regular voter. 18 My comment has to do with the outstanding 19 education program that was put on by primarily Gina 20 Roberts and her staff that was on PBS the other night. 21 I saw it advertised. I didn't know anything about it 22 before. And I was really just extremely taken by what 23 I heard. It was very, very well done. And at the end 24 it said, this comes to you from Clean Elections, and I 25 was very happy to hear that, because I think the idea</p>
<p style="text-align: right;">Page 79</p> <p>1 And so -- so that's where those -- so three 2 decisions, all of them are at the Appellate level. We 3 don't know when we'll hear on those or how. 4 So that's -- that's kind of the sum total of 5 all the work you all have done. And Commissioner 6 Crump, we did force the Commissioners to sit through 7 like hours of explication of the Act itself along the 8 way. You know, we had I don't know many -- how many 9 PowerPoints did we make you all sit through? 10 CHAIRMAN KIMBLE: A lot. 11 MR. COLLINS: A lot. So this is the -- but 12 like I said, the Chairman -- you know, like the 13 Chairman said, I think this is right, that we just 14 wanted to kind of say, okay, well, what have we done 15 here so far, so we know where we are moving forward 16 with whatever the next thing is. 17 CHAIRMAN KIMBLE: Thank you, Tom. 18 Do any Members of the Commission have any 19 comments or questions for Tom? 20 (No response.) 21 CHAIRMAN KIMBLE: Okay. Hearing none, we'll 22 move on to Item VII, public comment. This is the time 23 for consideration of comments and suggestions from the 24 public. Action taken as a result of public comment 25 will be limited to directing staff to study the matter,</p>	<p style="text-align: right;">Page 81</p> <p>1 of Clean Elections, in addition to all the voter 2 education that you do online and in person, which was 3 discussed earlier today -- actually educating people 4 about key issues is another area where Clean Elections 5 could do a wonderful job. So I just wanted to praise 6 and give kudos to Gina Roberts and her staff. 7 And I also want to apologize for beginning to 8 eat my breakfast in front of all of you. I thought I 9 had cut off the visual, but I forgot to do that. 10 So thank you very much and that's all I have 11 to say. 12 CHAIRMAN KIMBLE: Well, thank you for your 13 comments. No apology is needed. And I'm sure Gina 14 appreciates your viewership and your comments on her 15 panel. 16 Gina, did you want to say anything? 17 MS. ROBERTS: Mr. Chairman, Commissioners, 18 just that we very much appreciate any feedback that we 19 get on our -- on our services. So that was very nice 20 to hear, and we will continue to do our best. Thank 21 you. 22 CHAIRMAN KIMBLE: Thank you, Gina. 23 Is there anyone else who wishes to make any 24 comment? 25 (No response.)</p>

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1 CHAIRMAN KIMBLE: Seeing none, public may
2 also submit comments by e-mail at
3 ccec@azcleelections.gov.
4 Item VIII, adjournment. At this time, I will
5 entertain a motion to adjourn.
6 COMMISSIONER WERTHER: I move to adjourn.
7 CHAIRMAN KIMBLE: Thank you. It's been moved
8 by Commissioner Werther that we adjourn. Is there a
9 second?
10 COMMISSIONER PATON: I'll second.
11 CHAIRMAN KIMBLE: Seconded by
12 Commissioner Paton. I'll call the roll.
13 Commissioner Crump.
14 COMMISSIONER CRUMP: Aye.
15 CHAIRMAN KIMBLE: Commissioner Werther.
16 COMMISSIONER WERTHER: Aye.
17 CHAIRMAN KIMBLE: Commissioner Paton.
18 COMMISSIONER PATON: Aye.
19 CHAIRMAN KIMBLE: Chair votes aye.
20 We are adjourned. Thank you.
21 (The meeting concluded at 11:51 a.m.)
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24
25

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1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)
3
4 BE IT KNOWN that the foregoing proceedings
5 were taken by me; that I was then and there a Certified
6 Reporter of the State of Arizona; that the proceedings
7 were taken down by me in shorthand and thereafter
8 transcribed into typewriting under my direction; that
9 the foregoing pages are a full, true, and accurate
10 transcript of all proceedings had and adduced upon the
11 taking of said proceedings, all to the best of my skill
12 and ability.
13
14 I FURTHER CERTIFY that I am in no way related
15 to nor employed by any of the parties hereto nor am I
16 in any way interested in the outcome hereof.
17
18 DATED at Tempe, Arizona, this 26th day of
19 September, 2025.
20
21 
22
23 Kathryn A. Blackwelder, RPR
Certified Reporter #50666
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\$420 31:11 32:16 40:6,16	3-to-nothing 5:16	accounting 15:3 30:5 38:7	administration 11:1
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