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THE STATE OF ARIZONA  
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

February 23, 2017

9:31 a.m.

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<p style="text-align: right;">Page 2</p> <p>1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 9:31 a.m. on 3 February 23, 2017, at the State of Arizona, Clean 4 Elections Commission, 1616 West Adams, Conference Room, 5 Phoenix, Arizona, in the presence of the following Board 6 members: 7 Mr. Steve M. Titla, Chairperson 8 Mr. Mark S. Kimble 9 Mr. Damien Meyer 10 Ms. Amy B. Chan 11 Mr. Galen D. Paton 12 13 OTHERS PRESENT: 14 Thomas M. Collins, Executive Director 15 Paula Thomas, Executive Officer 16 Sara Larsen, Financial Affairs Officer 17 Gina Roberts, Voter Education Manager 18 Mike Becker, Policy Director 19 Alec Shaffer, Web Content Manager 20 Amy Jicha, Legal Admin and VE Intern 21 Rivko Knox, LWV/AZ 22 Chris Klemnich, GRRC 23 Shama Thathi, GRRC 24 Marcus McGillivray, GRRC 25 Daniel Schwiebert, GRRC 26 Paula Bickett, Attorney General's Office 27 Christopher Ames, GRRC 28 John Sundt, GRRC 29 Alison Marliniak, Arizona Advocacy Network 30 Mary O'Grady, Osborn Maledon</p>	<p style="text-align: right;">Page 4</p> <p>09:32:56-09:33:54</p> <p>1 think voter education and election transparency is so 2 important, and I think the Commission is doing some 3 great work. And I'm really proud and happy to be a 4 part of it again. 5 So thank you for the welcome. 6 CHAIRMAN TITLA: Thank you and welcome to 7 the Commission. You'll find that we have some good 8 people on Staff. The executive director and all the 9 Staff here are good people, and they do good work and 10 they respond real quick when you have a question on 11 anything. We have some esteemed counsel that 12 represents our Commission that we have good 13 communication with. So I think that any one of them, 14 you can contact and they will be able to help you out 15 quickly. 16 And we have some good people on the 17 Commission also that are experts in their various 18 fields and so they really help -- help us along too. 19 So welcome. 20 COMMISSIONER CHAN: Thank you. 21 CHAIRMAN TITLA: Any comments by the 22 Commission? 23 COMMISSIONER PATON: Just welcome -- 24 COMMISSIONER MEYER: Mr. Chairman, I just 25 want to welcome Commissioner -- is it Chan?</p>
<p>09:31:48-09:32:52</p> <p style="text-align: right;">Page 3</p> <p>1 P R O C E E D I N G 2 3 CHAIRMAN TITLA: This meeting is called to 4 order, the Citizens Clean Elections Commission, 5 Thursday, February 23rd, 2017, 9:30 a.m. 6 The -- first, I'd like to welcome our 7 newest member of the Commission, Ms. Chan. 8 Can you introduce yourself? 9 COMMISSIONER CHAN: Sure. Do I push this 10 button or if I speak -- 11 MR. COLLINS: Yes. 12 COMMISSIONER CHAN: Okay. Obviously, I'm 13 the newest member. Mr. Chairman and Commissioners, 14 thank you so much for the welcome. I'm so pleased to 15 be here. I am an attorney. I have been an attorney 16 since 1999. Most recently in my career I was the 17 election director for Secretary of State Ken Bennett, 18 and most of you probably are aware that that's been 19 sometime ago now. It's been about three and a half 20 years. 21 I left my work to spend some more time with 22 my family. I have two boys who are three and four 23 years old, and I'm really very pleased to have this 24 opportunity to serve the people of Arizona and also get 25 back involved with elections. I love election law. I</p>	<p>09:33:56-09:34:47</p> <p style="text-align: right;">Page 5</p> <p>1 COMMISSIONER CHAN: Chan. 2 COMMISSIONER MEYER: Chan. Welcome. 3 COMMISSIONER CHAN: Thank you. 4 COMMISSIONER MEYER: And I share your view 5 of the importance of voter education, and I'm very much 6 looking forward to working with you. 7 COMMISSIONER CHAN: Thank you. 8 COMMISSIONER PATON: Yes. Nice to have 9 you. And as a former teacher, I also value the -- 10 really value the work that we do in voter education. 11 Welcome. 12 COMMISSIONER CHAN: Thank you. 13 CHAIRMAN TITLA: Okay. No further 14 comments? 15 (No response.) 16 CHAIRMAN TITLA: Okay. We'll go to 17 Item II, discussion and possible action on the 18 Commission minutes for January 19, 2017 and February 7, 19 2017 meetings. 20 COMMISSIONER KIMBLE: Mr. Chairman? 21 CHAIRMAN TITLA: Yes. 22 COMMISSIONER KIMBLE: I move we approve the 23 minutes for the meetings of January 19th, 2017 and 24 February 7th, 2017. 25 CHAIRPERSON TITLA: Okay. A motion has</p>

<p>09:34:48-09:35:35</p> <p>Page 6</p> <p>1 been made. 2 Is there a second? 3 COMMISSIONER MEYER: Second. 4 CHAIRMAN TITLA: Okay. A second. 5 All in favor say eye. 6 (Chorus of ayes.) 7 CHAIRMAN TITLA: Opposed? 8 (No response.) 9 CHAIRMAN TITLA: Abstained? 10 (No response.) 11 CHAIRPERSON TITLA: Okay. The motion is 12 passed unanimously. 13 Item III, we had a welcome already. So I 14 think I jumped the gun there, okay, but -- okay. Let's 15 go to IV then: Discussion and possible action on the 16 executive director report. 17 MR. COLLINS: Yes. Thank you, 18 Mr. Chairman, Commissioners. I will try to make this 19 as brief as possible. There's a little more 20 information in the executive director's report than 21 there have been in some of the past ones because we 22 have a bunch of stuff going on. 23 First, I'd note that there is -- the early 24 voting began on February 15th for elections in Phoenix, 25 Holbrook and Goodyear, and we have update information</p>	<p>09:37:08-09:38:32</p> <p>Page 8</p> <p>1 issue at the Supreme Court before a Staff attorney 2 would put it on the agenda but, you know, there's a lot 3 of change on the court. So it's not certain that -- 4 that that will be how long before they consider the 5 petition. So we'll keep you updated. 6 And then the last point I want to talk 7 about real quickly is -- is the Secretary of State 8 has -- has -- we've had some preliminary discussions 9 around their program that they call "See the Money" 10 which there's a description of it in Attachment 4. You 11 know, what I said to Secretary Reagan was that I would 12 put this in the executive director's report to try to 13 get some sense of, you know, what the Commission's 14 viewings were about the idea of making this investment. 15 Obviously, if we move forward, we'll have 16 to evaluate whether or not the value is there and a 17 bunch of other factors before we would present the 18 formal sort of interagency service agreement if we get 19 that far, but I did want to throw that out there and 20 just see if people had questions I can answer about, 21 you know, where things lie and if they have -- and if 22 people have -- have questions about the idea. I mean, 23 it's a substantial amount of money that they would like 24 to see. I think they would like to see it in quarterly 25 installments between now and the end of -- basically,</p>
<p>09:35:38-09:37:05</p> <p>Page 7</p> <p>1 on our website about those elections and how you can 2 participate in them. And Gina will be presenting at 3 the Inspire Arizona Day at the Capitol which will -- 4 which it serves to encourage youth participation in the 5 political process. 6 You see the -- we have the new 2017-18 7 participating candidate limits that the Secretary of 8 State published. They're Attachment 1. Those are just 9 there for your reference. 10 Turning to enforcement for 2016, we have 11 essentially closed all but one of our matters, and that 12 matter is -- is -- the closure is pending. I'm 13 finalizing some details with the -- with the -- with 14 the committee. 15 The second thing on enforcement, for 2014, 16 the Legacy Foundation Action Fund, as you may recall, 17 they filed a petition for review on their statute of 18 limitations issue in -- I can't remember when exactly. 19 I guess sometime in the winter. We filed our response 20 to the petition for review on Friday. Mary O'Grady and 21 Joe Roth and Nate Arrowsmith, I think, at Osborn 22 Maledon put that together. It's attached, again, for 23 your information. 24 The rule of thumb used to be that it would 25 be 90 days from the time an issue was -- a case was at</p>	<p>09:38:37-09:39:57</p> <p>Page 9</p> <p>1 the, I guess, middle of next year or something, 2 effectively. 3 The idea, as I understand it, is to create 4 a filing system that is more modern than the current 5 filing system and will allow you to, you know, access 6 more information. And, ultimately, I think they want 7 to bring all of the cities and towns and counties and 8 others into that system, but 1516 addressed that by 9 saying, essentially, those -- those -- those local 10 jurisdictions had had an electronic system and if they 11 didn't have an electronic system, they had to use the 12 Secretary of State's system. 13 So -- but the Secretary of State's system 14 doesn't exist yet. So this is the building of that, 15 and they're looking for, again, a substantial 16 contribution from us for that. And really technically 17 it's an interagency service agreement. We are 18 purchasing the service from them. That's the -- you 19 know, under the statute an interagency service 20 agreement means we're buying the service from the 21 Secretary of State's office. 22 So, you know, that -- you know, so 23 that's -- this is -- so the question is what are they 24 offering and is it a service we need and how does that 25 work is sort of one of the ways to look at it.</p>

<p>09:40:00-09:41:22 Page 10</p> <p>1 COMMISSIONER CHAN: Mr. Chairman? 2 CHAIRMAN TITLA: Yes, ma'am. 3 COMMISSIONER CHAN: Mr. Chairman and Tom, I 4 just -- actually, it's coincidental that I was with 5 Secretary Bennett when -- I don't know if you guys have 6 done any other service agreements with the Secretary of 7 State's office in the meantime, but I remember one of 8 the last things that I helped with at the Secretary's 9 office was obtaining an ISA with Clean Elections. I 10 actually can't remember how much that was for, and I 11 wondered -- I thought that was for a similar type of 12 web-based system. 13 And so I wondered -- a question that I have 14 is what's the status of that and how does this expand 15 on it? 16 MR. COLLINS: Yeah. Mr. Chairman, 17 Commissioner Chan, that's a good question. It's -- 18 it's a little complicated to answer. There were some 19 system improvements or at least a new skin put on some 20 of the system in once -- I think that was launched once 21 Secretary Reagan had taken over as secretary. At a 22 certain point, the Secretary's office returned monies 23 they said had not been used for that to us and then, 24 you know, we got into this issue, which you're probably 25 not aware of, last year where they pulled out Clean</p>	<p>09:42:58-09:44:20 Page 12</p> <p>1 Do you remember? I don't remember what the 2 amount was. 3 MR. COLLINS: It was -- you know, we 4 think -- Chairman Titla, Commissioner Chan, it was 5 \$200,000. 6 COMMISSIONER CHAN: Okay. And this -- so a 7 few things just running through my mind for the 8 Commission to think about is this is a -- I don't know 9 if it's a completely new program, but it's a \$300,000 10 request which seems very, very high, especially if -- 11 so the report -- there are some reports that the 12 Commission is no longer able to obtain through the 13 Secretary of State's system that were part of the 14 original ISA in 2013. 15 MR. COLLINS: Chairman Titla, Commissioner 16 Chan, yeah. We will -- I mean, if we -- as we move 17 forward, we'll have some evaluation done by our own 18 technical support folks about the cost benefit on this 19 number, but yeah, it is a fact that there are things 20 that have been paid for. 21 There are two iterations of the system. 22 There was one under Secretary Brewer, one under 23 Secretary Bennett. In both of those iterations -- the 24 first iteration, the Commission got its Clean Elections 25 independent expenditure reports for committees in the</p>
<p>09:41:26-09:42:57 Page 11</p> <p>1 Elections reports from the filing system altogether, 2 the clean report -- you know, the reports that had been 3 in the system for 15 years and the -- one of the 4 reports that we specifically had paid for in that ISA. 5 We are working with the Secretary's office 6 to try to resolve that. You know, I've had some -- 7 Sara has had some conversations with their chief 8 financial officer. I've had some conversations with 9 Deputy Secretary of State Miller about what the best 10 way to resolve that is and making sure that we get that 11 all -- get that closed, but the bottom line is that, 12 you know, I think from -- from the Secretary's 13 perspective, I think she would like to start fresh. 14 We have -- you know, on the other hand, you 15 know, we have had the experience over the last year of 16 not being able to rely on their campaign finance system 17 to provide the information, some of which they provided 18 for years and years and years, others in which we 19 specifically paid for under the ISA. So it's a little 20 complicated. We are working cooperatively to try to 21 get a -- try to get a -- try to put a -- try to button 22 that down, but that's -- that's sort of the status of 23 that at this point. 24 COMMISSIONER CHAN: Mr. -- Mr. Chairman, 25 Tom -- and I don't know.</p>	<p>09:44:23-09:45:40 Page 13</p> <p>1 system, and that was there from -- you know, so for 2 years and years and years. And we were heavily 3 involved in the process. The Brewer administration had 4 us at the table throughout the processes. Mike was 5 here at that time and he can attest to. 6 The agreement with Secretary Bennett's 7 office specifically called for a noncommittee filing 8 placed for folks who somehow don't fall under the 9 committee category but did file under 941(D), and that 10 was something that the Secretary's office agreed to. 11 And then -- and then that was -- and then both of 12 those -- so the Brewer system that we paid for which 13 had those Clean Elections reports in it, those reports 14 were pulled out in the Bennett agreement and the 15 reports we paid for were both pulled out last election 16 cycle without any notice to us. 17 COMMISSIONER CHAN: Okay. 18 COMMISSIONER KIMBLE: Mr. Chairman? 19 CHAIRMAN TITLA: Commissioner Kimble. 20 COMMISSIONER KIMBLE: Tom, this is 21 something that the Secretary of State's office is 22 legally required to provide anyway. 23 Is that correct? 24 MR. COLLINS: Mr. Chairman, Commissioner 25 Kimble, in our view, yes. I mean, I think that the</p>

<p>09:45:52-09:47:19 Page 14</p> <p>1 Secretary's office is obligated to provide for filings 2 under the Clean Elections Act. You know, there's -- I 3 don't really have much question about that. I don't 4 think we've ever thought that it had any other -- we've 5 not -- the way we worked around this in the election 6 cycle was by -- they put a link on their website back 7 to us for the 941(D) reports, which we interpreted as 8 them essentially delegating their filing officer duties 9 to us for that report, which we did, and we took those 10 reports via an electronic fillable form. 11 You know, our preference would be 12 ultimately to be in the system, but, you know, the 13 question becomes -- to try to get it down, I think, 14 what the nut of your question is, you know, how much do 15 we pay for what we need as a service versus -- versus 16 the overall budget and then how much do we think that 17 the voter education value generally of the filing 18 system that we might want to pay for as well. 19 COMMISSIONER KIMBLE: Well, I don't have 20 any doubt that this would be a useful tool to voters. 21 I guess I'm just wondering why, if they are statutorily 22 required to do it, they expect us to pay for it. It 23 seems like that ought to be something that they should 24 obtain funding for in their budget. And they say 25 that -- I mean, we're basically paying for the whole</p>	<p>09:48:52-09:50:17 Page 16</p> <p>1 reassurance of what kind of -- what kind of, you know, 2 assurances we're going to have both with respect to the 3 use of the dollars and the -- and the product, I think 4 that those are fair questions that I can ask them if -- 5 as we try to -- try to move forward if we can. 6 COMMISSIONER KIMBLE: I guess my concern is 7 we've had problems in some of our relationships with 8 the Secretary of State's office. So I'm more than a 9 little worried -- weary about giving them \$300,000 to 10 augment their budget without a little more detail of 11 what's in here. 12 MR. COLLINS: Sure. Mr. Chairman, 13 Commissioner Kimble, I mean, this gets back to really 14 what is -- what is an ISA under -- under state law. 15 And under state law, an ISA is an interagency service 16 agreement. It is a purchase of services by one agency 17 from another agency. So in that sense, we are the 18 customer in this situation. So in that -- because of 19 that, you know, I think that, you know, we, you know, 20 have to approach this both from a fiduciary perspective 21 and from a customer perspective. 22 With, you know -- you know, with, you know, 23 all due respect to the Secretary's office efforts to 24 move ahead and move past some of the stuff that has 25 happened in the past, which I appreciate, yes, we'll</p>
<p>09:47:21-09:48:49 Page 15</p> <p>1 thing. We're paying for someone to come in and develop 2 it working \$100 per hour for 18 months. 3 And it just seems strange that they're 4 asking us to pay for one function of their office. And 5 I don't know what control are we going to have over the 6 final product, what it looks like, or are we just 7 handing them four \$75,000 checks and saying -- hoping 8 that we like what we see? 9 MR. COLLINS: Well, I think as we go along, 10 we'll -- I'm sorry. Mr. Chairman, Commissioner Kimble, 11 I think as we go along, we'll find out the answers to 12 those questions and whether or not this is a prudent 13 thing to move forward with, but I will say that I do 14 know that -- that their current view is that the actual 15 interagency service agreement should be very simple and 16 not very complicated. 17 And the one we wrote with Secretary Bennett 18 was -- was not simple. It had certain guarantees as 19 to, you know -- as to assurance of access, as to 20 assurance of quality, and I'm not sure that that's 21 something that they're interested in providing. So 22 that's an open question, and so if the Commission is -- 23 you know, if I take -- I'm trying to take from this 24 conversation things that I'll come and ask them about. 25 So if the Commission senses that we need to have some</p>	<p>09:50:20-09:51:27 Page 17</p> <p>1 have to be -- we have to be -- we have to be 2 responsible with our -- with our -- with our decision 3 making around that. 4 And that may -- and we'll find out, you 5 know, in asking some of these questions directly to 6 the -- to the Secretary's office, what -- you know, 7 what their comfort level is with that because as it 8 stands, as the presentation is put together, I can't 9 disagree with you that it essentially just says -- it 10 essentially serves as a supplemental appropriation 11 rather than an interagency service agreement, you know, 12 which is a -- those are different things. 13 Under an interagency service agreement, we 14 are the customer. That's what the law is. If they're 15 asking for supplemental appropriation, that's not 16 something that we have authority to do. That's 17 something that comes from the legislature. 18 COMMISSIONER KIMBLE: And I would also 19 point out that in their -- the last page of their 20 proposal, I think there's a typo. Milestone 4, final 21 implementation, January 1st, '17. I think that's 22 supposed to be '18. 23 MR. COLLINS: Presumably, unless they 24 really got a really fancy system. 25 CHAIRMAN TITLA: Any more questions for the</p>

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1 director?  
2 COMMISSIONER PATON: Yes, Mr. Chairman.  
3 CHAIRMAN TITLA: Commissioner Paton.  
4 COMMISSIONER PATON: So is -- Tom, is the  
5 system that we paid \$200,000 for three and a half years  
6 ago --  
7 MR. COLLINS: Yeah.  
8 COMMISSIONER PATON: Is that antiquated?  
9 What's wrong with it? Is it -- would it make it that  
10 much more efficient for 300,000? And it seems like  
11 there's not a lot of time between these two time  
12 periods.  
13 MR. COLLINS: Chairman Titla, Commissioner  
14 Paton, that's -- that's also a fair question. I guess  
15 it was actually 175,000 and then they -- then they  
16 attempted to return 87.5, which we have not accepted  
17 yet because of the ISA, but the bottom line is that,  
18 you know, the Secretary's office is of the view that  
19 this will be a real showpiece for the state. They --  
20 you know, the goal here was to sort of just give you a  
21 preliminary sense of things.  
22 If we move forward to a place where we have  
23 something substantial, we'll be able to -- I mean, I  
24 think it would be -- I would have the obligation to be  
25 able to show what the value is to the Commission if we

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1 got to -- if we get to that point. I think that the  
2 bigger -- the broader issue here is that for whatever  
3 reason -- I mean, the Brewer system was clearly dated.  
4 I mean, it was developed in -- what? 2006? The new  
5 system has its kinks because they never really fully  
6 completed it. They sort of -- they sort of -- they  
7 sort of went halfway and then -- and then -- and  
8 then -- and then put it online and kind of stopped and  
9 that's my impression.  
10 And so it's not necessarily clear to me why  
11 you would have to strip it down to the -- to the studs  
12 and start over again. That's -- that is what they want  
13 to do, but I don't have an answer -- and I can get an  
14 answer to, you know -- you know, why this extensive of  
15 a redo is necessary.  
16 COMMISSIONER PATON: I mean, it kind of  
17 seems to me like you going to the car dealer and you  
18 bought a transmission and that was going to solve your  
19 problem, but now you've got something wrong with the  
20 engine now.  
21 MR. COLLINS: Right.  
22 COMMISSIONER PATON: So it's kind of, like,  
23 a little bit of an up charge or something or trying to  
24 sell you something after you've already bought it.  
25 COMMISSIONER CHAN: Mr. Chairman?

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1 COMMISSIONER MEYER: Go ahead.  
2 COMMISSIONER CHAN: Just to -- I like some  
3 of the comments I've heard from the other  
4 commissioners. I'm sorry, Commissioner Meyer. I'll  
5 just interject here one more time.  
6 I think one comment that Commissioner  
7 Kimble had, you know, that this sounds like a system  
8 that the Secretary is legally required to provide  
9 anyway, and so I do think it's a very costly request.  
10 The bottom line for the Clean Elections Commission, I  
11 think, would be restoring what we apparently are not  
12 getting which they are provided -- required under law  
13 to provide to us. I don't know that anyone would have  
14 an argument with that.  
15 We can get Tom to get some more information  
16 on that for us, especially if they didn't use all the  
17 money that we gave them in the previous ISA. Maybe  
18 they could use that to at least kind of make us whole  
19 if we're -- if we're not getting something that we are  
20 required to get under the previous ISA.  
21 And I like how Tom was trying to remind us,  
22 you know, an ISA means we are the customer. And if  
23 this system is going to cost \$300,000, then we would --  
24 if we were going to fund it, we would probably want to  
25 have a business analyst on board that would have some

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1 sort of a say-so over it. And I don't know that the  
2 Commission would even want to approve this big of a  
3 request, particularly if it doesn't further the purpose  
4 of our act, but those are just some of my thoughts  
5 going forward for Staff to consider and get information  
6 on.  
7 Thank you, Mr. Chairman.  
8 CHAIRMAN TITLA: Thank you.  
9 Commissioner Meyer?  
10 COMMISSIONER MEYER: Thank you,  
11 Mr. Chairman. Just reviewing this for the first time,  
12 I think this is -- stepping back, I think this is a  
13 very good opportunity for the Commission to work with  
14 the Secretary of State as opposed to against the  
15 Secretary of State to do something with the -- with the  
16 ultimate goal of helping our voters be more educated  
17 and be more informed. So conceptually I really -- I  
18 think it's a good idea, and I'm on board with this.  
19 I mean, Commissioner Kimble, Commissioner  
20 Paton, Commissioner Chan all raised very good points,  
21 and I guess what I'd really like to know is, is the  
22 \$300,000 -- is that the cost for the whole system? I  
23 would doubt it is, or are they asking us for just a  
24 portion of that? I think that's the -- my biggest  
25 thing I'd want to know to start.

<p>09:56:15-09:57:26 Page 22</p> <p>1 MR. COLLINS: So -- Mr. Chairman, 2 Commissioner Meyer, two points on that. The first is 3 that they told us, I think, that this is about -- they 4 think this whole thing is \$700,000 total. 5 Nevertheless, you know, we are starting to have our own 6 internal folks look at that overall cost and look at 7 whether or not it's efficiently spent. In other words, 8 I think the Secretary of State's office has a 15-person 9 I.T. staff, for example, but they are bringing on a new 10 coder for this. 11 So, you know, there's questions around -- I 12 mean, I think everyone would agree that it's fine to -- 13 you know, to do a new system is, in principal, not a 14 problem, but the question really is the value -- the 15 bang for the buck. Is the valuation that they're 16 putting on this, you know -- you know, essentially, 17 industry standard? And that's something that we're 18 going to want to look at before we can really recommend 19 something to you at all because we wouldn't have done 20 our duty to fully inform you. 21 So I think that's the question. I don't 22 know the answer. I just know that it is -- it is 23 about, roughly, you know, close to half the cost of 24 what they say is the total, but we don't know what the 25 basis for that estimate is. It's a rough estimate, A,</p>	<p>09:58:32-09:59:26 Page 24</p> <p>1 MR. COLLINS: Yeah. 2 COMMISSIONER MEYER: I just want to be 3 mindful that, you know, the Commission doesn't spend 4 \$50,000 to determine whether or not we should make an 5 investment. 6 MR. COLLINS: No, no, no. We won't. No, 7 no. 8 COMMISSIONER MEYER: I don't know how much 9 that sum is, but I just want to -- 10 MR. COLLINS: Right. 11 COMMISSIONER MEYER: Just let's be sensical 12 about the way we approach this. I'm not saying we 13 wouldn't be, but I want to be mindful and not have too 14 many cooks in the kitchen and all those types of 15 things. And I think we'll do that. I just want to 16 make sure that that's out there. 17 MR. COLLINS: Understood. Commissioner -- 18 Chairman Titla, Commissioner Meyer, the main point is 19 that neither I nor Gina nor Sara nor Mike are -- we're 20 not coders. We're not -- we're not we're a lot of 21 things, but we're not. And -- and so that's -- it's 22 not something that I think would cost very much money 23 for us to get an evaluation on because we have access 24 to that expertise. It's just a matter of actually -- 25 you know, the valuation is not very expensive. I'm not</p>
<p>09:57:30-09:58:32 Page 23</p> <p>1 and we know that, I will tell you. I mean, candidly, 2 they didn't give us a -- they've given us a rough 3 estimate. So it's not the final estimate. 4 It's just a rough estimate, but that having 5 been said, whatever the ultimate estimate is, you know, 6 we need to vet through, you know, some kind of 7 professional expert on this which we have available to 8 us to look at it from a cost benefit perspective. So, 9 for example, if you -- if you look at it, as I think 10 Commissioner Chan was alluding to, from what does Clean 11 Elections need? We need our reports back in the 12 system. If that's what we need and that's the only 13 thing we need, what's the cost of that? 14 If -- you know, if we believe that the 15 voter education value is there, great, but is \$300,000 16 the right price for that service or is it better to do 17 it -- you know, are there other better ways to do it? 18 Those are customer questions that are warranted 19 under -- under any interagency service agreement. So 20 we'll have to get the answers to those before we could 21 present something to you. 22 COMMISSIONER MEYER: Mr. Chairman? 23 CHAIRMAN TITLA: Commissioner Meyer. 24 COMMISSIONER MEYER: I understand all those 25 concerns. I think they're valid.</p>	<p>09:59:29-10:00:22 Page 25</p> <p>1 going to -- we're not going to make that kind of 2 investment. We're just going to -- we need somebody to 3 give us a sense of, like, here's how much, you know, X 4 vendor would charge versus Y vendor versus whatever. 5 So we kind of get a sense of the industry. It's not 6 going to cost us a lot of money to get the -- 7 COMMISSIONER MEYER: Right. 8 MR. COLLINS: -- to get that done. It's 9 just due diligence, basically, but I don't think it's 10 going to be -- we will not let the due diligence cost 11 overwhelm the cost of the thing itself. 12 CHAIRPERSON TITLA: Any more questions by 13 the commissioners? 14 COMMISSIONER KIMBLE: Mr. Chairman, I have 15 a question about another item on the executive 16 director's report, the spending limits. 17 MR. COLLINS: Yeah. 18 COMMISSIONER KIMBLE: Tom, roughly, how do 19 these spending limits compare to what they were before? 20 MR. COLLINS: That's a good question. I 21 think -- 22 COMMISSIONER KIMBLE: Are they up 10 23 percent? Down 10 percent? 24 MR. COLLINS: They probably -- well, they 25 applied an inflationary formula to them. So they're</p>

<p>10:00:27-10:01:23 Page 26</p> <p>1 just whatever they were times inflation. So I think 2 they're -- they're marginally different. I don't have 3 the old numbers in front of me. 4 COMMISSIONER KIMBLE: Okay. 5 MR. COLLINS: But it's not a -- I don't 6 think it's a dramatic increase at all. It's a 7 statutory formula. It's not a -- 8 COMMISSIONER KIMBLE: Okay. 9 MR. COLLINS: It's not a -- it's not a 10 discretionary -- 11 COMMISSIONER KIMBLE: It's just not a 12 figure just pulled out of thin air? 13 MR. COLLINS: Right. Exactly. 14 COMMISSIONER KIMBLE: Okay. 15 MS. LARSEN: Chairman, Commissioner Kimble, 16 everything has increased in some minor dollar amounts. 17 The only thing that did not increase were the maximum 18 early contribution limits. So the individual 19 contribution limit has remained the same for at least 20 the last two election cycles. So that increases when 21 they apply the inflation adjustment. It's just not 22 large enough to bump it up to the next dollar amount, 23 but everything else has -- has increased. 24 COMMISSIONER KIMBLE: Okay. Thank you. 25 CHAIRMAN TITLA: More comments by</p>	<p>10:02:52-10:04:20 Page 28</p> <p>1 an opportunity to -- or an invitation from the Navajo 2 Nation in Window Rock to appear on their radio to talk 3 about Clean Elections. 4 And I think it will be good if we go up 5 there at some point and then maybe to the other radio 6 stations in the state. That would be good so we can 7 spread this word. The more the citizens of the state 8 of Arizona participate in this process, I think the 9 better off that we'll be. And we as commissioners will 10 be fulfilling our mandate under the Clean Elections 11 Act. So thank you for doing that. 12 Okay. Under the next agenda item, we have 13 the Governor's Regulatory Review Council issues. 14 MR. COLLINS: So, Mr. Chairman, 15 Commissioners, what I thought I'd really do is briefly 16 set up the -- where we think we are. There are two 17 members of the council, John Sundt and Chris Ames, who 18 are here. The Item B of this agenda item is noticed 19 for discussion. So that means there can be give and 20 take between the Commission and the council members. 21 Just to get you up to date, there's a brief 22 cover memo. We filed our last 5-Year Report on 23 February 8th. That item is on the GRRC study session 24 and new agenda for March. So I think it's February 25 20th and March 7th, is that right? Yeah. As you know,</p>
<p>10:01:26-10:02:49 Page 27</p> <p>1 commissioners? 2 (No response.) 3 CHAIRMAN TITLA: If not, thank you, 4 Commissioners, for your good comments. I think that 5 Tom and Staff will take a look at this and analyze it 6 and let us know later on in their report. So thank you 7 for your good comments. 8 Tom, on your report, I'd like to commend 9 you and the Staff for working in voter education. As 10 you know, that's one of the mandates that we have by 11 the citizens of the State of Arizona when they passed 12 the Clean Elections Act. And so I think that it's good 13 that, you know, you'll be working in the four corners 14 of the state to spread the word on the Clean Elections 15 Act, and I think that that's good. 16 And, also, we have 21 -- 21 tribes in 17 Arizona which we need to reach. They are citizens of 18 the state of Arizona also and a host of other minority 19 groups that we need to reach also that expand the 20 population and other populations that we have in the 21 state. So as chairman of the Commission, I am willing 22 to travel to the four corners of the state if you'll 23 let me know where we can appear in person or on the 24 radio or something because Amy, I think, earlier -- or 25 Gina -- excuse me -- Gina earlier stated that there was</p>	<p>10:04:23-10:06:00 Page 29</p> <p>1 we've revised the report a few times. 2 The other thing that is set for March 7th 3 under the view of the Regulatory Review Council is 4 the -- their view of the expiration of R2-20-109(2) 5 through (12). You know, we are of the view that the 6 rules have changed significantly since -- since last 7 year based on both our own, you know, policy decisions 8 and the Senate Bill 1516, and there's sort a new 9 context for that. So, you know, we're not entirely 10 certain how that plays itself out. I mean, we have 11 some views, but -- in any event. 12 And, you know -- and then -- and then our 13 position has been and we've iterated this to the 14 council that -- you know, that the determination of 15 material flaw ought to be based on the agency's 16 analysis, not on some other party's analysis. And so, 17 you know, we -- you know, we've raised that issue, I 18 think, throughout the proceedings. 19 So that's where we are. We have a 5-Year 20 Report on the agenda. We have a March 7th date that 21 the council, at least, believes is an expiration for 22 certain rules. We don't really know how that works 23 exactly. And so what I thought might be helpful is if 24 the council members who want to talk, who want to 25 speak, whoever, you know, to really introduce</p>



<p>10:06:04-10:06:57 Page 30</p> <p>1 themselves and make whatever comments they want to 2 make, and then I think the Commission can sort of get 3 into a conversation around these issues if Mr. Sundt 4 and Mr. Ames are comfortable with that and we'll go 5 from there. 6 I don't really think we -- we don't have a 7 specific agenda and we're not sure -- we don't -- you 8 know. So, I mean, at that point, that's what I would 9 recommend is simply invite the council members to come 10 up and make some introductory remarks, and then as the 11 Commission -- Mr. Chairman, as you -- as the 12 commissioners have questions, if they'd just ask you 13 for recognition to ask those questions, I think that 14 would be an effective way to handle the discussion. 15 CHAIRMAN TITLA: Which one are these 16 gentlemen? 17 MR. COLLINS: They're in the back -- back 18 corner there. 19 CHAIRMAN TITLA: Okay. Gentlemen, do you 20 want to come on up and -- 21 MR. COLLINS: If you could introduce 22 yourselves for the record, too, it would be helpful. 23 CHAIRMAN TITLA: -- introduce yourselves 24 and any comments that you have, we appreciate it. 25 Welcome to the Commission.</p>	<p>10:08:25-10:09:25 Page 32</p> <p>1 whatever our concerns have been, what have been voiced 2 to you in terms of our return of the report, what we 3 might look at going forward. 4 That would be -- that would be -- that's 5 our purpose to be here today is to see what we can do 6 constructively to move the ball down the field. We're 7 not an arbiter of turf. We don't -- we're not 8 interested in being an arbiter of turf between 9 different agencies. Our charge is to look at 10 rulemaking and say, are the rules within the statutory 11 authority? And that's as far as we go. So that's 12 guiding my outlook on these things. It's not a policy 13 issue about what's the best policy in terms of who 14 should be administering this or that. It's what do I 15 believe the statutory authority is for the rules that 16 are being placed -- put in place. 17 Thank you. 18 COMMISSIONER CHAN: Mr. Chairman? 19 CHAIRMAN TITLA: Commissioner Chan. 20 COMMISSIONER CHAN: Would it be okay to ask 21 a question? 22 CHAIRPERSON TITLA: Yeah. 23 COMMISSIONER CHAN: Mr. Chairman and 24 Mr. Sundt, thank you for being here today. As you 25 know, I'm new to the Commission, and I have talked with</p>
<p>10:06:57-10:08:20 Page 31</p> <p>1 MR. SUNDT: Thank you, Mr. Chairman. 2 CHAIRMAN TITLA: Thank you. 3 MR. SUNDT: Members of the Commission, my 4 name is John Sundt. I'm a member of the Governor's 5 Regulatory Review Council. I'm with Mr. Ames today who 6 will speak also. I wanted to thank you first for the 7 time and the opportunity to speak. I understand the 8 amount of time that's involved when you're a private 9 citizen who is volunteering. I've served on this, the 10 Pima County Bond Advisory Committee, and was vice chair 11 in the Arizona Housing Finance Authority. 12 And I know that at least in what we do -- 13 and Chris serves on more than one commission as well, 14 and we probably go over 800 -- between 800 and 1,000 15 pages a month for agency rule reviews. And I 16 understand the time that's involved, and I've got a 17 great deal of respect for what you-all do and a 18 sincerity of what it is you are trying to accomplish. 19 That said, it feels to me a bit like we've 20 run around and we've had multiple -- two, three 21 resubmissions, I guess. As Director Collins had said, 22 we're on Submission 4. And so to me what I took from 23 that is we've -- we've got a breakdown in communication 24 which I'd like to cut through as best we could and 25 perhaps have direct interchange about it and talk about</p>	<p>10:09:29-10:10:49 Page 33</p> <p>1 Staff briefly. I know -- I thought we were on 2 Submission 5, actually, but it may be 4. And so I 3 know -- you know, my understanding having not been here 4 and also knowing that the rules are voluminous and that 5 I have a lot of catching up to do, I wondered if you 6 could for my benefit and maybe for the record as well 7 just explain where are we? What is -- what is the 8 issue with the rules that GRRC sees specifically? 9 MR. SUNDT: Well, the issue with -- what 10 the issue with the rules will be in the next -- on this 11 next submission has got another little twist to it, but 12 if I were going to summarize it in the most simple 13 fashion, I'd say it boiled down to two things. One was 14 we weren't looking at a -- it's not a broad review, 15 broad -- or assault on the Clean Elections Commission's 16 rules. We became focused on the rules -- and without 17 naming all these different subsections, if you'll 18 allow, Director Collins -- R2-20-109(F) through (G). 19 And the history, as I recall it -- and 20 we've been doing this for, I think, over a year now. 21 MR. COLLINS: I think so. That's right. 22 MR. SUNDT: Probably -- probably 15 months. 23 It was originally when we -- the first report was 24 submitted -- and Mr. Kleminech, our counsel may have -- 25 may have a better memory than I. Most people do -- it</p>

<p>10:10:53-10:12:23 Page 34</p> <p>1 was when the report as originally submitted, these 2 rules, R2-20-109(F) through (G) were not actually 3 included in the report; that the report submission date 4 was October 28th. And the rules were passed October 5 29th or 30th, the day after. 6 And when those rules were brought to our 7 attention -- and other rules were not being complained 8 of. I mean, we do respond to -- as you do, we respond 9 to the community, and specifically we respond to the 10 regulated community. And if you look back at the 11 history of GRRC -- this is one of the things 12 Mr. Kleminech teases me about. And so I'll point out 13 when Governor Babbitt first established it by executive 14 order, the purpose was to help people avoid litigation, 15 both the regulated community and the agencies and -- 16 and interagency conflict. 17 And that's why he established GRRC. The 18 legislature later formalized that, but that's part of 19 our charge. And how we see our charge is we're here to 20 help. We respond to the regulated community, and we're 21 here to help avoid litigation over matters. So it was 22 brought to our attention. The report was submitted, 23 and I should put with this, Mr. Chairman, Commissioner 24 Chan, that during the rulemaking process, the Clean 25 Elections Commission does not submit rules to the</p>	<p>10:13:35-10:14:38 Page 36</p> <p>1 therefore, were not included or -- I'm not sure of the 2 significance of that, I guess. I don't know if you're 3 saying that the Commission deliberately didn't include 4 them or if it was -- 5 MR. SUNDT: Mr. Chairman, Commissioner 6 Chan, no, I'm not saying there was a deliberate 7 omission. 8 COMMISSIONER CHAN: Okay. 9 MR. SUNDT: I'm not -- I'm attributing 10 malice toward none. 11 COMMISSIONER CHAN: And I don't mean to do 12 that. I just wasn't clear if -- why those rules would 13 be included if they were past the timeline that the 14 rules were submitted in the 5-Year Report. And, again, 15 I don't know a lot about rulemaking and so, you know, 16 bear with me. And I'm just asking the questions as 17 they come to my head. 18 MR. AMES: Take your time. Take your time. 19 MR. SUNDT: Thank you. 20 Mr. Chairman, Commissioner Chan, I'm trying 21 to think of how to put this in the practical sense 22 where to the extent possible today when we are 23 discussing this we keep in dealing with the practical 24 and the real and getting the bang out of the buck 25 rather than perhaps the technicalities of rulemaking</p>
<p>10:12:25-10:13:33 Page 35</p> <p>1 Governor's Regulatory Review Council for review before 2 they're posted and sent to the Secretary of State. 3 That's another discussion. I think there's 4 a historical context to it, but that's not been an 5 issue between us that we're -- that we're wrestling 6 with. But the review of the 5-Year Report has been 7 done in the past by Clean Elections -- the Clean 8 Elections Commission and was done this last -- last 9 year when it came due. It was submitted, and I think 10 it was originally to be submitted in May or something 11 and then there was a postponement to October. 12 So we received the report, and then we 13 received feedback from the regulated community that 14 there are rules in here that they are very concerned 15 about as well as we received that feedback from the 16 Secretary of State, R2-20-109(F) through (G). 17 COMMISSIONER CHAN: My I? 18 MR. SUNDT: Sure. 19 COMMISSIONER CHAN: May I add to that 20 point, Mr. Chairman, Mr. Sundt? When you stated that 21 the submission was made on the 28th and (F) through (G) 22 were approved on the 29th, is that to say that the 23 period covered in the 5-Year Report was through October 24 28th and then the Commission had a meeting on the 29th 25 where they formally adopted additional rules that,</p>	<p>10:14:42-10:15:48 Page 37</p> <p>1 and the minutia of legal argument, if that's a fair 2 caveat. 3 COMMISSIONER CHAN: Okay. 4 MR. SUNDT: Counsel to counsel. 5 COMMISSIONER CHAN: Sure. I understand 6 what you -- 7 MR. SUNDT: So -- if I may, in answer to 8 your question -- 9 COMMISSIONER CHAN: Absolutely. 10 MR. SUNDT: -- I believe that the last 11 iteration of the Rule 109 (F) through (G) -- (F) 12 through (G) that was passed shortly after the report 13 was submitted was a final iteration of something that 14 had been in process for some months before. Director 15 Collins, I'm sure, can speak to it. The -- if I have a 16 moment, please. The thought process -- and Chris can 17 also speak to this as well, as he and Director Collins 18 had the exchange about let's go through the report 19 should those rules be submitted in the report. 20 The only reason I went into that was to 21 say -- that was the reason for the first amended report 22 was to include those reports so that we could consider 23 them. Director Collins agreed to that. So that pushed 24 us out one iteration, okay, let's put these rules in. 25 Let's have public comment on these rules so we're</p>

<p>10:15:50-10:16:53 Page 38</p> <p>1 dealing with what's current going forward rather than 2 say here's a cutoff point by a day or two and we're not 3 going to deal with that. 4 COMMISSIONER CHAN: Mr. Chairman and 5 Mr. Sundt, thank you very much for explaining that to 6 me. I appreciate it. 7 MR. SUNDT: Okay. Certainly. There's 8 never been, as far as I know, a suggestion on 9 anybody's -- on anyone's part that there was a timing 10 that was calculated to effect an improperly result. 11 COMMISSIONER CHAN: Thank you. 12 MR. COLLINS: Mr. Chairman, if I may, I can 13 certainly agree with that. I mean, the original due 14 date for the report was in May and we asked for an 15 extension. So it was a sheer coincidence that -- so 16 had we submitted in May, you wouldn't have had those 17 rules at all. It just was a sheer coincidence of 18 the -- of the dates from our perspective, but yeah. As 19 you said, we did, you know, put them in at your request 20 and they're in the report now. 21 COMMISSIONER CHAN: Okay. Thank you. 22 MR. SUNDT: So I think that was probably 23 the cause for the first iteration. Then if I were to 24 simplify it -- I'm sorry. Mr. Chairman, Commissioner 25 Chan, if I were to simplify it, I would say the issues</p>	<p>10:18:24-10:20:03 Page 40</p> <p>1 Now, during the months that we've gone 2 through this, one of the -- setting aside for a moment 3 the argument about does the -- does GRRC have any 4 authority at all to review the Clean Elections 5 Commission rules. One of the arguments that was 6 surfaced during that time by Director Collins was a 7 question of, well, if you do, assuming for purposes of 8 argument that you do have an -- or do have authority to 9 review our rules, then the only statute that is going 10 to be controlling as to the scope of your review of the 11 Clean Elections Commission rules is going to be the 12 statute that was in effect in 1998 when Proposition 200 13 was passed. 14 So if you're going to exercise any 15 authority -- and I found implicit in that sort of a 16 parenthetical, which I think now clearly I was wrong -- 17 if you're going to exercise any type of authority in 18 that, that's the statute you'd have to follow. Now, I 19 went to 41-1056 as it existed in 1998, and since 20 we're -- there has to be some interaction counsel to 21 counsel here. 22 So part of what I would say, if I might, is 23 that Mr. Collins' argument as I've understood it and 24 the Commission's argument -- and I've given a 25 deference -- is that -- and, Director Collins, you can</p>
<p>10:16:56-10:18:23 Page 39</p> <p>1 have -- I don't think have been new or highly 2 complicated. One has been until this last iteration of 3 the report, Clean Elections Commission's insistence 4 that the report which we are asked to formally approve 5 state that we do not have jurisdiction over the Clean 6 Elections Commission's -- review of the Clean Elections 7 Commission's 5-Year reports. 8 We believe that's wrong as a matter of law, 9 and we think it would be bad policy for us to approve a 10 report that said we did not have jurisdiction to review 11 the rules. So that's one issue. And the second issue 12 in the most simplified fashion is that having gone 13 through the statutes and looked at it -- and with all 14 respect to Director Collins, I don't know that we've 15 adopted another agency's position. I don't believe 16 we're in the business of necessarily adopting another 17 agency's position. 18 I think it's incumbent upon us to review 19 the statutes, to review the rules, review the arguments 20 that are submitted by the sides, and if we think that 21 there's a conflict -- and by "a conflict" I mean, too, 22 we believe or I sitting as a commissioner believe that 23 the rules go beyond the statutory authority that's 24 granted, then we have an obligation to say no, we're 25 not going to approve that.</p>	<p>10:20:06-10:21:36 Page 41</p> <p>1 tell me if this will be a good shorthand or not. I 2 call it the Nelson Machinery Rule which is basically 3 when a statute is passed and it makes reference to 4 other statutory provisions that are in effect at the 5 time or an initiative is approved and it makes 6 reference to other statutory provisions that are in 7 effect, unless the initiative states that -- for 8 example would be 41-1056 as amended and modified from 9 time to time. 10 Unless that qualifier is in there, you've 11 agreed that you're going to accept the statute as 12 written in the year the initiative is passed. And I'm 13 giving deference to that doctrine. I don't think 14 there's anything in the Clean Elections Act that 15 references GRRC with the exception of the Clean 16 Elections Act does say it's not subject to Article 3 of 17 the Administrative Procedures Act in those reviews. 18 GRRC we see as an Article 5 entity, but excepting the 19 1998 statute form, it simply says all you have the 20 authority to do is to receive the report and approve it 21 or return it. 22 It does not speak to specific findings of 23 fact. It doesn't speak to specific conclusions of law. 24 Now, I do feel -- and Mr. Klemmich has just gone 25 through the minutes for us and I produced copies. I</p>

<p>10:21:39-10:22:53 Page 42</p> <p>1 didn't -- I'm not handing them out here because I'd 2 rather we were talking than reading -- excerpts from 3 the minutes that I think we have tried to communicate 4 our issue. They're -- the basic issues have been, one, 5 do we have the authority to review? Yes, we believe we 6 do. And, two, we believe the rulemaking that was 7 undertaken in these rules steps outside of Article 2 8 and into Article 1. 9 MR. COLLINS: Mr. Chairman, with your 10 permission? 11 CHAIRMAN TITLA: Mr. Collins. 12 MR. COLLINS: Just to give a little 13 background context to what Mr. Sundt said, I think that 14 is a fair shorthand, and the Nelson Machinery is -- is 15 still good law. The Attorney General's Office put out 16 a published opinion in 2015 that cited Nelson Machinery 17 as the law of the state. There are two issues with the 18 Article 5/Article 3 issue. We're exempt from 19 Article 3, and so efforts to put Article 3 provisions 20 into Article 5, therefore, are part of the problem as 21 we see it under the VPA. 22 And we see part of what happened with the 23 amendments to Article 5 as backloading Article 3 issues 24 into Article 5 which would, therefore, trigger the VPA. 25 That having been said, the Commission has made a</p>	<p>10:24:33-10:25:54 Page 44</p> <p>1 standards that you -- that you follow? 2 MR. SUNDT: Mr. Chairman, members of the 3 Commission, if I might, Commissioner Kimble -- may I 4 ask -- may we -- when Director Collins suggested we do 5 this on a more casual level, would it be possible for 6 me to speak or us have a discussion without the 7 formality of Mr. Chairman, members of the Commission, 8 Commissioner Kimble with each iteration, or do you care 9 because -- 10 COMMISSIONER KIMBLE: I don't care. 11 MR. SUNDT: Because I'm going to lose track 12 and I don't -- I'm going to offend somebody and I'm not 13 going to mean to. That's, really, if that's 14 permissible. 15 So, frankly, I'd have to -- Commissioner 16 Kimble, I have to go back and pull out R2-20-109(F) and 17 (G) and look at the subsections again and put them in 18 front of me. I can tell you -- and I've read multiple 19 arguments over multiple months over different 20 iterations of the rules. We now have a new iteration 21 of the rule which is basically what Director Collins 22 was speaking to. 23 Part of what he advised us in his cover 24 letter to us was, yes, those rules that you said were 25 on hold and you said let's make -- we'll, you know,</p>
<p>10:22:56-10:24:24 Page 43</p> <p>1 historical practice of submitting the 5-Year Report 2 notwithstanding that the Commission is not -- has not 3 ever -- how do I put it? Has done it out of -- out of 4 avoiding conflict rather than necessarily out of the 5 Commission's view that that is, in fact, a legal 6 obligation. 7 Just so -- just so everybody understands 8 what the historical background of this is from our -- 9 from the sort of -- since I'm, I guess, the 10 institutional knowledge such as it is. 11 MR. SUNDT: Mr. Chairman and members of the 12 Commission, I'm curious -- so how many 5-Year reports 13 have been submitted? This would be the -- I don't mean 14 in this situation as we speak. I mean historically by 15 the Commission. 16 MR. COLLINS: 2000, 2005 and 2010. 17 MR. SUNDT: 2000, 2005 and 2010. 18 MR. COLLINS: Correct. 19 COMMISSIONER KIMBLE: Mr. Chairman? 20 CHAIRMAN TITLA: Commissioner Kimble. 21 COMMISSIONER KIMBLE: Mr. Sundt, I'm still 22 not clear, and I think this was part of what my 23 colleague, Commissioner Chan, was referring to. 24 Which specific rules do you feel are 25 unclear, illegal, not cost effective, meet one of those</p>	<p>10:25:57-10:27:21 Page 45</p> <p>1 take six months or whatever and come back to us, your 2 ruling on that, it's ineffective because we changed the 3 rule numbers and we changed the rules again. Now, I 4 can pull up those rules and I can voice to you what my 5 concern is about those rules, and I can walk through 6 the statutory argument that I see applying the Nelson 7 Machinery Rule and what it is where I believe that 8 there's a jurisdictional conflict. 9 As a practical matter, the concern is -- 10 and we've seen a concrete example of it and it's been 11 reported to us is what happens in the situation when 12 the Secretary of State or another filing officer that's 13 expressly given the authority under the statute says, 14 you're not a -- you're not a political committee or 15 this is not an expenditure qualifying you as a 16 political committee and then Clean Elections says, oh, 17 but we think it is. 18 So these folks are going down a path -- and 19 this is what we understand has happened in concrete 20 terms -- going down a path thinking that they have 21 approval. They've checked with the appropriate filing 22 officer and then they're tagged later for not complying 23 with the Clean Elections rules. So as a practical 24 matter, what we're looking at is saying is there an 25 exercise of overlapping jurisdiction? All right. If</p>

<p>10:27:24-10:28:37 Page 46</p> <p>1 there's an exercise of overlapping jurisdiction, is it 2 being -- is that what the law provides for? Is that 3 what's being done and there's an understanding that 4 that's how it's to be done? 5 And from the Secretary of State's response 6 and from my review of the statutes, my belief is 7 there's not an overlapping jurisdiction here, and the 8 Secretary of State and the Clean Elections Commission 9 are not on the same page about it. 10 COMMISSIONER CHAN: Mr. Chair -- well, I'm 11 going to use the formal -- 12 MR. SUNDT: Sure. 13 COMMISSIONER CHAN: But, Mr. Chairman, 14 Mr. Sundt, I do think -- it sounds to me -- and I'll 15 just throw this out here. Again, I'm not real familiar 16 with GRRC's rule. I understand what has been said 17 about the fact that the Clean Elections rules are not 18 normally subject to the Article 3, okay, but then we've 19 always submitted the 5-Year Report. 20 A couple of things are coming to mind. 21 One, I do believe that there was -- there's been a 22 legal decision that says that we do have, as the 23 Commission, authority -- there is overlapping 24 jurisdiction with the Secretary of State. And I 25 remember even from my time as election director sharing</p>	<p>10:29:55-10:31:11 Page 48</p> <p>1 factoring requiring the Commission to, therefore, become 2 subject to GRRC's rulemaking authority or overview? 3 And at what point does the Commission -- can we stop 4 giving you amendments to our rules? Because the 5 Commission has to continue with its business and if 6 we're making rules because it's a living document, we 7 have things that we need to conform to, new laws that 8 are being passed. 9 At what point can -- can we stop submitting 10 those changes to GRRC? If there's a five-year review, 11 that seems a fixed point in time. And I understand, I 12 mean, and I think having it happen the day after a 13 submission, that's more understandable than continually 14 over 15 months submitting amendments. I'm just -- from 15 a kind of workability point of view, I wonder if GRRC 16 is -- when will you let go of the continual amending, I 17 guess? 18 So there's several issues that I see. One 19 is maybe GRRC doesn't see the legal authority, but I 20 think that our attorney has probably provided it. And 21 if not, maybe we can talk about that, but I think I've 22 seen some letters to that effect, perhaps. 23 MR. SUNDT: Mr. Chairman, members of the 24 Commission, Commissioner Chan, I'd love to let go. 25 COMMISSIONER CHAN: Let's do it.</p>
<p>10:28:40-10:29:49 Page 47</p> <p>1 that jurisdiction with -- at the time it was Todd Lang. 2 We would talk about, well, are you going to do 3 something? 4 And even if I felt, for example, that there 5 was something, we would work in -- cooperatively to 6 avoid kind of maybe double dinging the person, but we 7 did work in tandem because of that understanding even 8 back then. And I believe there is legal precedence. I 9 don't know -- frankly, maybe Tom can help me if it's, 10 you know, case law or if it's just at the trial court 11 level -- 12 MR. COLLINS: Well, there's two cases. 13 COMMISSIONER CHAN: Okay. All right. 14 MR. COLLINS: But I'm happy to cite them 15 for you if you want. 16 COMMISSIONER CHAN: I believe that legally 17 there is overlapping jurisdiction, but the other -- the 18 other issue that is making me -- I mean, of course I'm 19 sure we're all frustrated at this point, and I'm new 20 and I feel the frustration maybe from you and from the 21 commission just because we are in so many iterations. 22 One kind of threshold question I have is at 23 what -- at what point does the five-year review has to 24 stop being amended? I mean, at this point it has gone 25 on for 15 months, and does that become almost like a de</p>	<p>10:31:13-10:32:16 Page 49</p> <p>1 MR. SUNDT: Let's talk about that. 2 COMMISSIONER CHAN: All right. 3 MR. SUNDT: All right? We're here because 4 we really want a practical resolution and we don't want 5 to keep crawfishing around in a circle. 6 COMMISSIONER CHAN: But do you want -- 7 MR. SUNDT: But -- if I may answer the 8 question. 9 COMMISSIONER CHAN: Yes. I'm sorry. 10 MR. SUNDT: I think that we have been 11 reviewing the report because it's been returned and 12 Clean Elections has elected to resubmit the report. I 13 don't know that we've ordered that it be resubmitted. 14 I'll ask Chris. 15 COMMISSIONER KIMBLE: I think that's 16 factually incorrect. 17 MR. SUNDT: Okay. When I said we've 18 returned the report -- you resubmit it if -- you 19 know -- no, because I want to be -- I want to be 20 accurate and I don't want to be off point. It 21 doesn't -- it doesn't -- 22 COMMISSIONER KIMBLE: Well, every time GRRC 23 has given us a deadline for when it needs to be 24 resubmitted. 25 MR. SUNDT: If I --</p>

<p>10:32:17-10:33:56 Page 50</p> <p>1 COMMISSIONER PATON: With no direction, if 2 I might add. 3 MR. SUNDT: Mr. Chairman, members of the 4 Commission, Commissioner Kimble, I'll let Chris speak 5 to the resubmission on it. I didn't -- I didn't have 6 the sense that we were -- that the council was twisting 7 the Commission's arm repeatedly on this which is what 8 sort of the census that I have. My sense was that we 9 were returning the 5-Year Report because of the 10 Article 2 concern on jurisdiction and because of the 11 repeated submission of the report when we had said 12 we're not going to approve a report that says we have 13 no authority to review. 14 Now, I think during the time period as 15 that's gone on, the Commission has gone on with 16 rulemaking and changes, and that's why I was speaking 17 to that point of there's the most recent iteration that 18 Mr. Collins put in his letter. My -- what I was trying 19 to express on a practical point of view and saying I 20 would love to let go is let's find a practical answer 21 to that. 22 I don't know what the legal answer to that 23 is procedurally on what GRRC does. I don't -- I have 24 plenty to read every month without going through the 25 resubmission, the re -- and a resubmission of the</p>	<p>10:35:07-10:36:49 Page 52</p> <p>1 Commissioner Kimble, the rules that have been adopted 2 as I -- as I understand it, the rules that were 3 previously submitted have been withdrawn or amended and 4 there's a new set of rules that we're supposed to take 5 up and look at on the next study session: 109(B)(2), 6 109(B)(4) and 111(A). 7 COMMISSIONER KIMBLE: I'm going to ask, 8 Mr. Collins, could you address whether there are 9 changes that require this to be resubmitted? Is that 10 why we're resubmitting it? 11 MR. COLLINS: Well, from my perspective, 12 Mr. Chairman, Commissioner Kimble, having -- 13 notwithstanding the tension and having gone down the 14 road of -- of submitting the report, we -- I don't 15 see -- you know, submitting it again is not -- is not 16 a -- is not an issue. We took out the language, for 17 example, that Counselor Sundt alluded to respecting 18 authority and put it in a separate cover letter because 19 we thought that would at least ameliorate the one 20 specific concern. 21 We have tried to keep it up to date. I 22 think -- I think we've kept it up to date with the 23 rules as they've been changing. At least that was our 24 intent. Chris can double-check me if I'm wrong about 25 that because I think we have.</p>
<p>10:33:59-10:35:03 Page 51</p> <p>1 report, and I don't want to have a continuing argument 2 over those rules. I'm happy to sit down outside of 3 this -- outside of this setting as well to go through 4 it. 5 COMMISSIONER KIMBLE: Can we separate the 6 two issues that you have brought up? 7 MR. SUNDT: Yes, sir. 8 COMMISSIONER KIMBLE: One is that we 9 continually say that we are submitting this with the 10 caveat that we have questions about GRRC's authority. 11 Set that aside because I don't think we're going to 12 agree on that. 13 MR. SUNDT: Yes, sir. 14 COMMISSIONER KIMBLE: That may have to be 15 litigated, but set that aside for a minute. 16 Can we only focus on the problems you see 17 with the report? 18 MR. SUNDT: Mr. Chairman, members of the 19 Commission, Commissioner Kimble, yes. 20 COMMISSIONER KIMBLE: So that's the 21 question I asked you is what specific problems do you 22 see that fall under your authority with which specific 23 rules that we have adopted? 24 MR. SUNDT: Well, the rules that have 25 been -- Mr. Chairman, members of the Commission,</p>	<p>10:36:49-10:38:07 Page 53</p> <p>1 MR. KLEMINICH: Yes. 2 MR. COLLINS: So -- so, in other words, 3 what we've tried to do is based on the experience at 4 the beginning of this process where we had a rule that 5 was inside the five-year window that passed outside the 6 five-year window, we've just continued to update it as 7 we go and only because there's no point in having 8 essentially said we will update -- you know, agreeing 9 to update the first time back in -- 10 MR. SUNDT: Right. 11 MR. COLLINS: Whenever that was. It seemed 12 to me there was no point in not updating subsequently. 13 That having been said, you know, that doesn't change 14 the fact that the context of the rules has changed. 15 You know, I mean, to give you a specific example, not 16 that you would need to know this or anybody would need 17 to know this, but there is a specific example we -- you 18 know, there was a rule we had that was based on a 19 statute that was subject to repeal itself. We repealed 20 that rule this summer. 21 It was the rule that required, essentially, 22 independent expenditure folks covered by the statute to 23 carbon copy us on mailings. So that rule is gone. 24 Other rules were recodified and then still other rules 25 operate now in a different context because of 1516, if</p>

<p>10:38:10-10:39:10 Page 54</p> <p>1 I could give you one example for everybody that I think 2 gets at the dual jurisdiction problem. We've never 3 enforced the committee rule we have. We've never once 4 enforced it. We've never had a complaint under it. 5 What we have done is enforce our 6 independent expenditure report rule and that's what's 7 actually in the Supreme Court right now. When 1516 8 passed, it removed the corporate trigger reports that 9 we actually had an opt-out clause in our rules for that 10 you guys struck and now we're the only time sensitive 11 reports. So there's no conflict there that I can see, 12 just to give you an example of the context change. 13 MR. SUNDT: Mr. Chairman, members of the 14 commission, Director Collins, no, this is very helpful. 15 So the more -- I don't know the timing on 1516 -- 16 MR. COLLINS: Sure. 17 MR. SUNDT: -- the scope, the effect. 18 Truly I do have a law practice. 19 MR. COLLINS: Sure. No, I understand. 20 MR. SUNDT: And I have these other things 21 that I deal with and I have my hands full too. So I'm 22 not -- I'm not -- I'm not begging off on the issue. 23 MR. COLLINS: No, no, no. 24 MR. SUNDT: I'm trying to explain there's 25 some things that I have ignorance about. So when</p>	<p>10:40:29-10:41:46 Page 56</p> <p>1 and Article 2. 2 I have not kept up with and I have deferred 3 to, as I say, Director Collins' view on Nelson 4 Machinery. If we're going to be talking about it, if 5 we're going to be talking about statutory amendments 6 outside of Article 2 and what that does to the Clean 7 Elections Commission and to the act, frankly keeping up 8 with that would be exceptionally difficult looking at 9 all of the iterations, what were the votes, what's the 10 impact. And that's not how I've looked at it. 11 COMMISSIONER KIMBLE: So I know you can't 12 speak for the whole council, but speaking only for 13 yourself, does any resubmission that includes our 14 statement that we have concerns about GRRC's authority 15 over Clean Elections, is any submission that includes 16 any reference to that going to be rejected by you? 17 MR. SUNDT: And I believe -- Mr. Chairman, 18 members of the Commission -- 19 COMMISSIONER KIMBLE: No, you don't have to 20 do that. 21 MR. SUNDT: All right. Thank you, sir. 22 No, it's not, and Director Collins has removed it. So 23 that's no longer in the report. This latest 24 submission -- it's in his cover letter. 25 COMMISSIONER KIMBLE: Okay. Okay.</p>
<p>10:39:11-10:40:26 Page 55</p> <p>1 you're referring to the 1516 changes, et cetera, you 2 are talking about the changes last year that were made 3 outside in Article 1? 4 MR. COLLINS: Right. Correct. 5 MR. SUNDT: Okay. 6 MR. COLLINS: And -- and the only point is 7 not to get a gotcha on the law. It's only to say that 8 some of the conflicts between -- that have been 9 identified between Article 1 and Article 2 were 10 eliminated by virtue of 1516. That's why -- that's an 11 example of what I mean when I say the context of the 12 rules is now different from the context of the rules 13 that were submitted beginning in October of 2015. 14 That's my point, not to -- not to get you to test your 15 legal knowledge. 16 MR. SUNDT: Mr. Chairman, members of the 17 Commission, Director Collins, I didn't feel that way at 18 all. I will tell you that as I read through the 19 statute, I deferred to Director Collins' view where he 20 said the Nelson Machinery Rule. So just look at the 21 statutes as they were written, what existed in 22 Article 1 when Article 2 was adopted. I read the 23 original proposition, the ballot, the legislative 24 analysis that was published with it, and that's what 25 was driving my view on the separation from Article 1</p>	<p>10:41:47-10:42:55 Page 57</p> <p>1 MR. SUNDT: As in his cover letter he 2 states, by the way, these rules that you were talking 3 about in March, they've now been changed again and 4 they've been renumbered again and so do what you will 5 in March. So that is not a basis for my rejection of 6 it. 7 COMMISSIONER KIMBLE: Okay. Thank you. 8 MR. SUNDT: Yes, sir. I stood here, if I 9 might -- could we allow, Mr. Chairman, members of the 10 Commission, Chris Ames to introduce himself? 11 You've been standing here as a wing man. 12 You don't want to? All right. 13 CHAIRMAN TITLA: Commissioners, any more 14 questions on this? 15 COMMISSIONER MEYER: Mr. Chairman? 16 CHAIRMAN TITLA: Mr. Meyer -- Commissioner 17 Meyer. 18 COMMISSIONER MEYER: Thank you for 19 appearing, Mr. Sundt. I also have a law practice I 20 work on as well. So I appreciate the complexity of 21 this and how it's difficult to keep up with all of 22 that. All of that being said, there is a certain 23 challenge here to trying to speak from the 30,000-foot 24 level when you don't have that complete understanding 25 of the statutory hypertechnical interpretations.</p>

<p>10:42:58-10:44:11 Page 58</p> <p>1 And it's my understanding that one of the 2 things that we, the Commission, have not received from 3 GRRC is that technical argument, something in writing 4 from GRRC that says here's why we aren't approving your 5 rules and here's how we think that you're exceeding 6 your statutory authority. 7 Have we received that from them? I 8 don't -- I didn't think we had. 9 MR. COLLINS: Mr. Chairman, Commissioner 10 Meyer, no. My -- and councilors and/or Mary, correct 11 me if I'm wrong. I don't believe we've received that. 12 What I think we've heard from Chairwoman Ong is that 13 she doesn't believe that that's something that they are 14 required to do. In other words, she is of the belief 15 that the vote to order repeal and/or expiration stands 16 on its own for whatever reason the Commission -- the 17 council states and that such a finding is not 18 necessary. 19 That's our understanding of the council's 20 position, and we certainly haven't received a memo or 21 something that outlines that. And I think that's 22 correct. And if there's something I'm missing, Chris 23 or Counselor Sundt or Counselor Ames, please let me 24 know, but I think that's accurate. 25 MR. SUNDT: Mr. Chairman, members of the</p>	<p>10:45:36-10:46:56 Page 60</p> <p>1 through it, if that's helpful. I can do a separate 2 submission, if you'd like, to see it how I read it 3 applying that Nelson Machinery Rule and only looking at 4 the statute as it existed before people starting 5 monkeying with Article 1 and other things around it. 6 To me it's quite clear between the proposition and the 7 article as it existed in Article 1 and Article 2 as 8 adopted. There was intended to be some sort of line 9 there. 10 I would be very interested in learning more 11 from you, Commissioner Chan, about how the joint 12 exercise of jurisdiction was apparently done 13 seamlessly. I don't know -- I'm curious -- what drove 14 the rule, if someone could help me with the 15 understanding, what drove R2-20-109(F) through (G) and 16 then the response -- heated response from the Secretary 17 of State other than -- other than seeing the argument. 18 And for the record -- and I think I've said 19 this before -- I do not believe that the Clean 20 Elections Commission is any more a PayPal service than 21 I think the Secretary of State is a post office, but I 22 mean, that's the level of heat in the argument that's 23 gotten here. And sometimes when there's that much 24 shouting, you don't hear what anyone is saying. So it 25 might help us as well to have some context of what</p>
<p>10:44:14-10:45:32 Page 59</p> <p>1 Commission, speaking for this. 2 Director Collins, I don't think there has 3 been any technical submission, and I think that perhaps 4 in part that's been a sense -- and maybe it's not 5 appropriate, but a sense of what's the point? 6 COMMISSIONER MEYER: Well, the point is -- 7 MR. SUNDT: And I'm -- 8 COMMISSIONER MEYER: Go ahead. 9 MR. SUNDT: If I may, please. I don't want 10 to talk over you. I've gone through it, and I'm happy 11 to walk through it and however look at it and the 12 interaction of it. Chris may be able to speak in more 13 detail about what the discussions have been. I've not 14 been a party to those discussions Staff to Staff. Part 15 of what drove us to want to come here is we want to 16 bring this to a conclusion. 17 If I recall, generally -- and Mr. Klemnich 18 gave us copies of the minutes and I've highlighted some 19 sections to give to you--all because I really felt this 20 had been communicated in terms of what the primary 21 concern was. My understanding was that, as the Clean 22 Elections Commission has applied the penalty provision 23 that looked at it as granting jurisdiction, to exercise 24 authority under Article 1. 25 Now, I can pull the statute and walk</p>	<p>10:46:59-10:48:22 Page 61</p> <p>1 brought it about. 2 COMMISSIONER MEYER: Can -- before we get 3 into that, I just want to ask, you're here for a 4 practical solution, discussing a practical solution. 5 Me personally, I am on board with that. 6 What is your suggestion? What is that 7 practical solution? 8 MR. SUNDT: Well, I think that we need 9 to -- what I would recommend is that we look -- and by 10 "me," I'm going to recommend that at our next study 11 session, let's look at it. Let's look at what the rule 12 is. If we have an issue with it, then let's schedule 13 another meeting and see if we can hash through whether 14 or not we can agree on whether we believe the rule as 15 adopted, the rule that's included in that report is 16 authorized by statute. 17 If it's not -- and Director Collins has 18 made a good point and I respect it. He said, you know, 19 the members of the Commission are bound by a duty. So 20 are we. We're duty bound if we don't believe that the 21 rule is authorized by statute, to not accept it. So I 22 suppose as a practical matter what would happen is that 23 if we can't come to an agreement on whether the rule is 24 authorized by statute or the form was authorized by 25 statute, we can't approve the report. The report would</p>



<p>10:48:26-10:49:33 Page 62</p> <p>1 be returned. 2 I don't think there's any reason for any 3 ongoing act of futility now. If you wanted to resubmit 4 a report with a revised rule after some discussion, 5 that's fine. I'm not recommending that. I think that 6 what happens as a practical matter is the report gets 7 returned if there's no -- if we can't come to a meeting 8 of the minds. The report gets returned and it's 9 returned, and the same arguments stand that stand 10 today. 11 Were I arguing on behalf of Clean 12 Elections -- on the Clean Elections Commission in a 13 case and someone held up and said, well, GRRC returned 14 your report; your rule is not authorized, I would 15 say -- I would make the very argument that Director 16 Collins has made to us: Well, that's really irrelevant 17 because we don't believe GRRC has any authority over 18 us; we're exempt. 19 COMMISSIONER MEYER: So how do we get past 20 that? 21 MR. SUNDT: The only way -- 22 COMMISSIONER MEYER: What's the practical 23 solution? 24 MR. SUNDT: The practical -- the only 25 practical solution I know is we look at this next</p>	<p>10:50:59-10:52:19 Page 64</p> <p>1 I don't -- I've not read anything that 2 tells me that there's a required action on either the 3 Commission's part after that or the council's part. 4 The impediment -- the impediment -- to go back to what 5 you've asked about, Commissioner Kimble, about us 6 actually approving a statement that we did not have any 7 authority, that's been removed. It's not in the 8 report. It's separately stated in the cover letter. 9 CHAIRMAN TITLA: Commissioner Kimble? 10 COMMISSIONER KIMBLE: Well, following up on 11 Commissioner Meyer's question, so if we agree to 12 disagree and -- but then what? 13 MR. SUNDT: Well, I think as a practical 14 matter what's going to happen is probably what's going 15 to happen with any rule that you-all are going to be 16 dealing with in a contested matter. People are going 17 to litigate it. Do I think we have any cause to 18 litigate between Clean Elections Commission and the 19 Governor's Regulatory Review Council? No, I do not. I 20 don't see a turf thing there. I mean, I don't see what 21 would require that. So I'm trying to answer your 22 question, and I don't -- I don't feel that I am, but 23 I'm trying to get there. 24 COMMISSIONER KIMBLE: But do you set a date 25 for when the rules expire? I mean, do you do</p>
<p>10:49:36-10:50:56 Page 63</p> <p>1 iteration and we come to an -- and agree. If we're not 2 going to be able to agree, we agree to disagree. And 3 that's going to be you return the report -- we'll 4 return the report, not ask for a resubmission date -- 5 this would be my recommendation -- not ask for a 6 resubmission date and the Clean Elections Commission 7 says, all right, we're not resubmitting it. 8 I don't -- I don't see any -- any practical 9 value, utility in any way. I keep hearing it popped up 10 in the background that, you know, litigate this or 11 litigate that. That's useless, and it doesn't make any 12 sense for two state bodies to be doing that with 13 taxpayer funds. 14 COMMISSIONER MEYER: I agree with you on 15 that. 16 MR. SUNDT: You know, we're not -- we don't 17 have outside counsel. You know, we're not spending 18 money engaging outside counsel on going through all 19 this. So I think we'd sit down and then talk about as 20 a practical matter, what does it mean. I have no 21 interest in this -- looking at this in the sense of, as 22 I've tried to express this earlier, a turf sense, you 23 know. If we can't get an agreement on the -- on the 24 report on the rules, then we won't have an agreement. 25 We can agree to disagree and that will be it.</p>	<p>10:52:22-10:54:03 Page 65</p> <p>1 something? You don't just sit there and say, well, we 2 didn't agree; too bad and move on. 3 MR. SUNDT: Well, I believe that -- that 4 what we did the last time if we viewed it as being 5 self-executing, then you can either set a date or not. 6 And if -- and Chris can speak to this. I'm sorry. I 7 wasn't schooling myself up on those provisions. 8 There's -- I will. There's only so much RAM and so I'm 9 trying to hold what I can, but speaking to the 10 practical, which is what I want to stay on, I don't 11 know the technical at the moment, but let's say -- 12 let's say we said, okay, if you don't resubmit the 13 rules by July 1 and the Commission said okay. 14 July 1 comes and goes. Where are we then? 15 Well, we don't need to do anything. The Governor's 16 Regulatory Review Council doesn't need to take any 17 action. What action does the Clean Elections 18 Commission take? I don't know. I mean, I'm looking at 19 it as between us agency to agency. I think the 20 argument exists then that -- that a concerned party may 21 make of these rules are not enforceable; they were 22 passed by you; they were returned with your report; 23 they're unenforceable. So if they want to go pay to go 24 litigate that issue -- I'm speaking in the practical 25 sense.</p>

<p>10:54:04-10:54:58 Page 66</p> <p>1 COMMISSIONER KIMBLE: Okay. 2 MR. SUNDT: Without any great appellant 3 court caveats or anything. I'm just -- 4 COMMISSIONER MEYER: And then we argue that 5 under the VPA, GRRC ever had any authority in the first 6 place and off we go. That's what -- that's what -- 7 MR. SUNDT: It seems to me as a practical 8 matter that you're in the same spot that you are today. 9 I mean, what if it's -- if it's approved, if the report 10 is approved, I suppose there's another stick to add to 11 your argument of, well, GRRC didn't object. 12 CHAIRMAN TITLA: Is there any more comment? 13 Yes, sir. 14 MR. SUNDT: Mr. Klemminich, you want to 15 speak to the details? 16 MR. KLEMINICH: Yeah. Thank you, 17 Mr. Sundt. 18 Mr. Chair, members, Commissioner Kimble, to 19 speak to your question directly about the future of the 20 rule -- 21 CHAIRMAN TITLA: Sir, can you identify 22 yourself for the record? 23 MR. AMES: Yeah. I'm sorry. Chris 24 Klemminich, lead Staff attorney for GRRC. 25 So the council did set an expiration date</p>	<p>10:56:21-10:57:38 Page 68</p> <p>1 at all advocating that we litigate. I was just sort of 2 playing out where this goes. I just want to make that 3 clear that I'm not supporting any litigation with GRRC 4 or anyone else at this time. And, you know, I really 5 appreciate your time and being here, your effort in 6 looking at this, and I take your points and they're 7 under consideration. So I very much appreciate that. 8 MR. SUNDT: Mr. Chairman, members of the 9 Commission, Commissioner Meyer, thank you very much. 10 And I am also happy to sit down and talk through it and 11 show how I walk through the statute at any time. 12 Thank you. 13 CHAIRMAN TITLA: Thank you, gentlemen, for 14 coming here to our meeting. We appreciate all the 15 information you've given us today, and I hope that we 16 can resolve this issue as we go down the road. Like 17 you, I feel that I don't want to crawlfish around in a 18 circle. I think -- I think we should move -- and I'm 19 from a ranching background. What we say is we need to 20 get this done while the branding iron is hot and we 21 need to dust off our chaps as we go forward is what we 22 say. 23 So -- but the crawlfish line is a good -- is 24 good. We don't want to do that here as commissioners. 25 I don't think we can agree today on anything, but as we</p>
<p>10:55:01-10:56:17 Page 67</p> <p>1 initially of August 2nd of 2016. The council then 2 extended that expiration date given the passage of SB 3 1516 and related matters to January 4, 2017, and then 4 again the council extended the expiration date of -- 5 and we're speaking specifically about what was formerly 6 R2-20-109(F)(2) through 12 and (G). What is left of 7 that, at least in our view, is 109(B)(2), (B)(4) and 8 111(A). So we're only speaking to those, not the 9 Commission's rules at large. The expiration date for 10 those provisions was then extended again to March 4, 11 2017; in other words, two weeks from now. 12 So not to be -- Member Sundt doesn't speak 13 for the entire council, as you know. 14 COMMISSIONER KIMBLE: I understand. 15 MR. KLEMINICH: I just wanted to make clear 16 that caveat. So there is an expiration date set for 17 those provisions of March 4, and it will be up to the 18 council at its upcoming meeting to decide what action 19 will be taken from there. 20 CHAIRMAN TITLA: Thank you, sir. 21 Any questions, Commissioners? 22 COMMISSIONER MEYER: Mr. Chairman? 23 CHAIRMAN TITLA: Commissioner Meyer. 24 COMMISSIONER MEYER: I just want to clarify 25 for the record, in my conversation, Mr. Sundt, I'm not</p>	<p>10:57:41-11:08:18 Page 69</p> <p>1 go forward I hope that we can resolve it like adults 2 and see what happens down the road, but we really 3 appreciate your information. I know more today due to 4 what you have told us today than before. So thank you. 5 MR. SUNDT: Thank you very much. 6 CHAIRMAN TITLA: Director Collins, what do 7 we need to do next? Are we on A or what? 8 MR. COLLINS: What are we on? 9 CHAIRMAN TITLA: V.A.? 10 MR. COLLINS: We did V.A. and B. 11 CHAIRMAN TITLA: Okay. 12 MR. COLLINS: And so -- 13 COMMISSIONER MEYER: Tom, can we take five 14 for our court reporter here to let her take a break? 15 MR. COLLINS: Yeah, sure. Absolutely. 16 CHAIRMAN TITLA: Okay. We are at recess 17 for five minutes. 18 (Whereupon, a recess was taken in the 19 proceedings.) 20 CHAIRMAN TITLA: Why don't we get back in 21 session. 22 Tom, on the agenda we've done IV, right, A 23 and B? 24 MR. COLLINS: We've done -- we are at -- we 25 are now at VI, which is the rules.</p>

<p>11:08:22-11:09:42 Page 70</p> <p>1 CHAIRMAN TITLA: Okay. So why don't we go 2 to Item VI, discussion and possible action on 3 definition of campaign consultant and rule limit 4 proposals for public comment on the following rules: 5 A.A.C. R2-20-702, sub B. 6 Tom? 7 MR. COLLINS: Yeah. And just for the -- 8 just for the record, Paula Bickett from the Attorney 9 General's Office is here because this is a public 10 financing issue, and Paula has done us a favor of 11 giving a look at these from a -- from an editorial 12 point of view. So we've made some -- in the packet -- 13 so the versions are cleaned up a little bit from what 14 we saw, but not in a substantial way. The biggest 15 change was that we made sure the language in 702(B)(2) 16 and 702 -- 703.01(C)(1) which talk about advertising 17 purchases and similar services, those now match and 18 they were supposed to. And that was something that I 19 missed in the cutting and pasting. So that's -- that's 20 the main substantive change from what you saw earlier, 21 but it was really a clean-up. 22 The rules are pretty self-explanatory, I 23 think, and as you know from the memo, we are 24 recommending that all options under 702(B) be put up as 25 public comment as well as 703.01. Option A deals with</p>	<p>11:11:13-11:12:31 Page 72</p> <p>1 and no what's actually mailed versus what's printed 2 versus what's overhead. And the parties are banned 3 from having any overhead. They cannot mark up their 4 prices. They have to pay actual value. That's a 5 difference between parties and consultants. 6 So I can tell you preliminarily what I've 7 heard from consultants is they don't like the idea of 8 disclosing their clients. We will be looking at that 9 with the AG's office probably over the next 30 days, 10 maybe do a halftime report on any issues with that that 11 actually exist, but -- but as it stands, you know, they 12 are being paid with Clean Elections money that the 13 participating candidate have chosen to submit 14 themselves to. And so being held to a higher standard 15 is not out of the realm of possibility, and the fact -- 16 if I understand the criticism of the -- of the practice 17 is that we're engaged in -- even though they were 18 legal, it's that Clean Elections candidates should be 19 held to a higher standard. Well, this does that. 20 We've heard a little bit from candidates 21 who are concerned about the advanced payment rule, and 22 my -- I just want to be clear. What I believe it means 23 is you may need an itemized receipt. So if you're 24 buying something in the future, like I'm going to buy 25 500 doorknobs by Canvasser X, you get that receipt for</p>
<p>11:09:46-11:11:10 Page 71</p> <p>1 a complete ban on using Clean Elections funding to make 2 expenditures to parties. Option 2, bars any 3 expenditure of Clean Elections funding to a political 4 party, except for voter information and for attendance 5 to political events that cost no greater than \$200. 6 And then option C bars advanced payments and requires 7 more documentation around those issues than the current 8 rule requires. 9 703.01, with consultants, as we discussed 10 in our last meeting, whether it's a party or a 11 consultant, it's kind of -- they're kind of the same 12 thing. If you share a consultant, it's just like 13 you're sharing parties. This issue of coordination or 14 joint expenditures that Commissioner Laird brought up 15 are the same whether it's a consultant or a party. 16 So the consultant's rule is designed to 17 mimic the party rule with two additional caveats. One, 18 we would require the consultant to provide to the 19 candidate and to us an affidavit of who their other 20 political clients are so we could get at this issue of 21 whether or not there's on tour coordination going on 22 and would also -- I think that's the biggest 23 significant difference between the two between -- 24 between the two rules. Both rules would put us in 25 batch mailings so that we can get real-time mailings</p>	<p>11:12:38-11:13:47 Page 73</p> <p>1 that, you can write a check right then because the 2 service -- it's like subscribing to the newspaper. You 3 pay the check and then you -- and then you get the 4 newspaper. 5 What we're really trying to crack down on 6 is the idea of retainers that are sort of drawn down on 7 without any itemization. And we found, for example, 8 sort of somewhat contradictory of the testimony at the 9 January hearing, traditional candidates who are writing 10 big checks to consultants with either no memo line at 11 all or, you know, a very vague consulting memo line. 12 So this is not just a Clean Elections issue, but we 13 only -- we're only working on this from a participating 14 candidate perspective. 15 So that's -- that's the long and short of 16 it. I'm sure we'll get some public comment on these 17 things and we're going to -- we're going to continue to 18 work with the AG's office to work out any -- any legal 19 kinks that they find, but we have time to do that in 20 the 60-day window. I'll also just say that, you know, 21 Representative Leach, who is the sponsor of the measure 22 to essentially repeal the Clean Elections Act, this is 23 a chief concern of his. And so, you know -- and I gave 24 him my word that we would consider it, you know. You 25 know, there's serious rules on cracking down on this,</p>

<p>11:13:50-11:14:59 Page 74</p> <p>1 and so that's part of the reason that I propose this. 2 Likewise, today Representative Coleman has 3 a bill that we actually think this is stronger than -- 4 that would create a presumption that expenditures to 5 parties are illegal, but this is stronger than a 6 presumption. So -- and as I testified -- and, again, 7 when I testified against that bill, I said, look, you 8 know, we're going to -- we're going to go farther than 9 this bill is going to go anyway, so this isn't really 10 necessary. 11 So -- so there are realities that I believe 12 I need to deliver on my word to the legislature in 13 terms of getting us to consider these and take them 14 seriously and really look at this process and, you 15 know, therefore, solicit public comment on all three 16 options, you know, which go in order of severity. It's 17 like cutoff, mailing lists, you know, and then you can 18 do it, but you've got -- you've got to -- you're going 19 to be -- you've got to do all the paperwork that we 20 would require and if you don't it, you're going to have 21 problems in an audit. 22 So that's the range of options. The 23 consultants' operates in a similar way, and I'm trying 24 to move -- I know we spent a lot of time with the 25 councilors so I'm trying to move this as fast as I can.</p>	<p>11:16:02-11:17:18 Page 76</p> <p>1 COMMISSIONER CHAN: Okay. 2 MR. COLLINS: And this would -- this would 3 end that practice because that practice is something 4 that -- I'm not saying it's -- it is -- I'm not saying 5 that it is always abused, but it is subject to the same 6 kinds of abuses that people claim could occur with 7 parties. And so we feel like if we're going to -- if 8 we're going to do one, we need to do the other to 9 balance out the equation. 10 COMMISSIONER CHAN: Thank you. 11 COMMISSIONER KIMBLE: Mr. Chairman? 12 CHAIRPERSON TITLA: Commissioner Kimble. 13 COMMISSIONER KIMBLE: Mr. Collins, I 14 support putting all these three out for public comment, 15 but let me ask one question that concerns me. 16 Could you talk about how each of these 17 would make it less likely that someone would run as a 18 Clean Elections candidate, something that I think we 19 don't want to do? 20 MR. COLLINS: Right. That's a really good 21 question, and I think -- I am hopeful that we will hear 22 from candidates about that in the public comment 23 process because -- because I think that -- and I've 24 spoken to -- well, I've received comment from the 25 president of the Arizona Advocacy Network, you know,</p>
<p>11:15:02-11:16:02 Page 75</p> <p>1 That's really the long and short of it. If anyone has 2 any questions on that, I'm happy to answer them. If 3 you don't, I would recommend that you -- that you move 4 to publish all of the rule options under 702(B) for 5 public comment and publish 703.01 for public comment. 6 COMMISSIONER CHAN: Mr. Chairman? 7 CHAIRMAN TITLA: Any questions by the 8 commissioners? Commissioner Chan? 9 COMMISSIONER CHAN: Mr. Chairman and Tom, 10 just one thing you said stuck out to me and I wanted to 11 ask about it. 12 Right now can a participating candidate who 13 hires a consultant give a retainer like that? I 14 thought participating candidates already had the 15 requirement of itemized receipts for purposes of 16 reporting. 17 MR. COLLINS: See, this is interesting. 18 Chairman Titla, Commissioner Chan, what they're 19 required to do is if they have subcontractors, they 20 have to do subcontractor reporting that traditional 21 candidates don't have to do. 22 COMMISSIONER CHAN: Okay. 23 MR. COLLINS: But if you have a so-called 24 one-stop shop and you cut them a check for your entire 25 grant, right now you can do that.</p>	<p>11:17:21-11:18:32 Page 77</p> <p>1 along those lines, basically saying that, you know, if 2 you're going to do something like this, she would 3 recommend you do -- you know, the least harm to that 4 would be -- if you're considering these options would 5 be Option -- Option C. 6 Now, the question is, are these 7 requirements that onerous or not? I mean, in my view, 8 you know, we need to hear from candidates about that. 9 And I've -- and I've talked to some of them. I think 10 if they -- once they understand that a receipt -- an 11 advanced payment of a retainer is different from an 12 advanced payment for services that you get a receipt 13 that we're going to perform the services that -- once 14 they understand that difference, this is just good 15 bookkeeping they should be doing to avoid audit 16 problems down the road. 17 So in my view, it shouldn't. The 18 consultant piece might be harder because if consultants 19 don't want to work for candidates because they have to 20 make these disclosures, then that could have an effect. 21 And we'll hear from -- you know, I have -- to be honest 22 with you, I've encouraged consultants who have those 23 concerns to talk to candidates about it because I'm not 24 certain that the most persuasive voice on political 25 consulting markup and disclosure is political</p>

<p>11:18:38-11:19:19 Page 78</p> <p>1 consultants. 2 COMMISSIONER KIMBLE: Thank you. 3 CHAIRMAN TITLA: Any further questions for 4 the director? 5 (No response.) 6 CHAIRMAN TITLA: If not, is there a motion 7 to approve any action? 8 MR. COLLINS: And it's only for public 9 comment, just so everybody is clear. 10 CHAIRMAN TITLA: For public comment? 11 COMMISSIONER MEYER: Mr. Chairman? I move 12 that -- 13 CHAIRMAN TITLA: Commissioner Meyer. 14 COMMISSIONER MEYER: I move that we submit 15 all the three options, A, B and C, for Rule 16 R2-20-702(b) and new Rule R2-20-703.01 out for public 17 comment. 18 CHAIRMAN TITLA: There's a motion by 19 Commissioner Meyer for submission. 20 Is there a second? 21 COMMISSIONER KIMBLE: Second. 22 CHAIRMAN TITLA: Second by Commissioner 23 Kimble. 24 All in favor say aye. 25 (Chorus of ayes.)</p>	<p>11:20:29-11:21:32 Page 80</p> <p>1 COMMISSIONER KIMBLE: Thank you. I just 2 want to be clear. 3 So by being excised from the bill, that 4 means that judges have no authority to reduce the Clean 5 Elections surcharge? 6 MR. COLLINS: Yes. The exact language is 7 that the judge shall be able to reduce, this section 8 does not apply to 16-954(A). 9 COMMISSIONER KIMBLE: Okay. 10 MR. COLLINS: So it excludes us from the 11 reduction. 12 COMMISSIONER PATON: That's what we wanted. 13 MR. COLLINS: Correct. We still have some 14 other issues with the court as we've talked about -- 15 and I don't want to get into it in public session -- 16 that we'll be working on, but that one is resolved -- 17 at least apparently resolved. It got out of the Senate 18 yesterday. It moves to the House, and that's where we 19 are on that. 20 The other one we need to talk about which 21 has kind of gotten complicated, there's a bill called 22 HB 2403 -- 2304, right? 2304 which was introduced by 23 Representative Kern, and it had a sentence in it that 24 said -- that amended 16-956 of the Clean Elections Act 25 that said, you know, deliver to household or, at the</p>
<p>11:19:19-11:20:28 Page 79</p> <p>1 CHAIRMAN TITLA: Opposed? 2 (No response.) 3 CHAIRMAN TITLA: Abstained? 4 (No response.) 5 CHAIRMAN TITLA: Motion passes unanimously. 6 Next we have Item VII, which is discussion 7 and possible action on 2017 legislative agenda and 8 items including update on bills affecting clean 9 elections -- elections general, and administrative law. 10 Director Collins? 11 MR. COLLINS: Yes. Mr. Chairman, 12 Commissioners, I really want to focus on two bills 13 principally we're tracking a lot. Right now there's 14 not an active repealer, although that could change. 15 The two bills we're focused on right now are 1158 which 16 is the issue we dealt with in the emergency meeting 17 related to the court. We still have issues with the 18 court that we will be dealing with with Mr. Canefield 19 on a legal basis, but we were excised from the bill. 20 And that passed out of the Senate yesterday with us 21 excised out of it. It simply occluded our surcharge 22 from the bill. So that was a -- that was -- that's a 23 good thing. 24 COMMISSIONER KIMBLE: Mr. Chairman? 25 CHAIRMAN TITLA: Commissioner Kimble.</p>	<p>11:21:36-11:22:46 Page 81</p> <p>1 voter's option, send by email. And we flagged that for 2 Representative Kern right up front and said, look, we 3 deliver to the household. We don't have the ability to 4 go backfill in voters and pull them out of the system 5 the way we do the printing and mailing. 6 He worked with us on that, and we had an 7 amendment that -- we had two amendments, one that took 8 that language out of the section and put it in a new 9 section that worked and the second one that just took 10 us all the way out of the bill. Along the lines, one 11 of the Democratic members of the House who's active on 12 election issues, Representative Clark, got involved and 13 rewrote the amendments. 14 And, unfortunately, despite my consistent 15 urging that it was a -- it was, in my view, a 16 nonstarter to amend the Clean Elections Act and 17 certainly not to rewrite it to the extent I showed you 18 in the email you received yesterday, I didn't have 19 authority to sign off on that. So long story short, 20 you know, we opposed that, but, you know, I told 21 Mr. Clark that I would try to work with him on that 22 depending upon the feedback I got -- I get from you. 23 The way the bill passed out of the House -- 24 and it did get a three-quarter vote -- we have two 25 principal problems. One, this household versus voter</p>

<p>11:22:51-11:23:57 Page 82</p> <p>1 issue is not resolved, and so we're not clear how we're 2 supposed to comply with the statute and still meet our 3 deadline to get the pamphlet to people before early 4 voting. Frankly, what it would result in us doing is 5 if we got an electronic request, we would send it 6 electronically and send in the book anyway because 7 there's no other way to guarantee that we actually 8 comply with the statutory requirement. 9 Second, the language is written in a way 10 where it says that the Commission shall do this in 11 cooperation with the Secretary of State's office and 12 MVD, and the problem we have with that language is, as 13 we've seen in the GRRC situation, wherever there is 14 language that calls for cooperation, the Secretary of 15 State's office uses that as veto language and that's 16 unacceptable to us. So if we can get those two 17 things -- we think -- overall, we think this is 18 unnecessary. 19 And I wrote a lengthy email to the 20 Democratic caucus yesterday saying that this is -- this 21 is an unnecessary mandate. This is a 21st Century -- 22 this is a 20th Century solution to a 21st Century 23 problem. We're already far, far exceeding email of the 24 book with our app. We're meeting people with mobile, 25 social. We're out there everywhere. This is a -- this</p>	<p>11:25:24-11:26:21 Page 84</p> <p>1 that, but I wanted to fill you in and kind of get your 2 sense of that. 3 If that's a fast enough summary and 4 assuming you guys read my email yesterday. 5 CHAIRMAN TITLA: Any questions by the 6 commissioners? 7 Tom, do we need to take any action on this? 8 MR. COLLINS: Not necessarily other than -- 9 I mean, if you want me -- if you -- the real question 10 is do you authorize me to work with Mr. -- you know, if 11 you want me to tell Mr. Clark that you do not want this 12 mandate placed on us and you want me to tell him that, 13 you know, we're not going to work on the bill; we want 14 it -- we want it to go away, I would need to hear that 15 from you. Otherwise, my plan is to work with Mr. Clark 16 as best I can to get language we can live with even 17 though, you know, I'm uncomfortable with the fact that 18 this mandate is being placed on the Commission without 19 the Commission's request and over the Commission's 20 objections. 21 COMMISSIONER MEYER: Mr. Chairman? 22 CHAIRMAN TITLA: Commissioner Meyer. 23 COMMISSIONER MEYER: Tom, thanks for your 24 thoughts on that. I appreciate and understand where 25 you're coming from. Any cooperation should be</p>
<p>11:23:59-11:25:21 Page 83</p> <p>1 is a retrograde solution in search of a problem. 2 However, if they insist on doing it, which we're going 3 to try to meet them halfway on, the cooperation 4 language has to be changed or altered in a way that 5 ensures that the Secretary of State cannot ever use it 6 as a veto on our voter education materials. 7 And that absolutely is a -- that's our 8 absolute recommendation. And we'd like them to make 9 the voter household language clarified so that we don't 10 end up with redundancy, but I will say for the record 11 this mandate is absolutely unnecessary. It is -- it is 12 regardless -- and, you know, we're going to work with 13 Mr. Clark on it, but -- but this was -- none of this 14 was necessary. We are already far beyond where this 15 bill is in terms of our voter outreach, well beyond. 16 And so the idea that we'd be left behind if 17 we didn't email the folks is just false because we are 18 the only, you know, multi-platform, multilingual, 19 multi-ability voter education program in the entire 20 state and -- at the state level. And no one does it 21 better than we do and putting new mandates on us is not 22 necessary, but as I said, I've given my commitment to 23 Mr. Clark to try to work on this. And he understands 24 my caveats about cooperation, that language, and the 25 voter -- and the voter issue. So we can work on him on</p>	<p>11:26:25-11:27:04 Page 85</p> <p>1 mutual -- 2 MR. COLLINS: Right. Right. 3 COMMISSIONER MEYER: -- in my opinion in 4 that we should be able to achieve that result somehow 5 in the language. 6 MR. COLLINS: Yeah. Yeah. 7 COMMISSIONER MEYER: Either it comes out or 8 there should be a mutual cooperation. I agree with you 9 on the -- I guess I'd call it the de facto veto 10 power -- 11 MR. COLLINS: Right. 12 COMMISSIONER MEYER: -- that would be given 13 to the Secretary of State. I don't think that's in the 14 Commission's interest. I don't think that's in the 15 interest of our mandate, and I recommend the Commission 16 authorize you to work toward that objective of getting 17 that mandate out of the -- out of the bill. 18 COMMISSIONER KIMBLE: I would second that. 19 COMMISSIONER MEYER: That's a motion, I 20 guess. 21 MR. COLLINS: So the cooperation mandate or 22 the entire mandate? 23 COMMISSIONER MEYER: Well, the -- the 24 mandate, yeah, getting the mandate out of there, 25 specifically the cooperation.</p>

<p>11:27:06-11:27:49 Page 86</p> <p>1 MR. COLLINS: Okay. Okay. I got you. So 2 a little flexibility. 3 CHAIRMAN TITLA: Motion by Commissioner 4 Meyer to authorize the director to work on HB 2304 on 5 the emails and to strike the language "in cooperation 6 with." Second by Commissioner Kimble. 7 Any more comments? 8 COMMISSIONER MEYER: Just to -- just to 9 clarify, I'm not opposed to cooperation as long as it's 10 mutual corporation. I just don't want there to be a 11 veto power by the Secretary of State over what we are 12 trying to accomplish. 13 MR. COLLINS: Right. Okay. 14 CHAIRMAN TITLA: Is that okay, Tom? 15 MR. COLLINS: Yeah. 16 CHAIRMAN TITLA: We got a second. 17 All in favor say aye. 18 (Chorus of ayes.) 19 CHAIRMAN TITLA: Opposed? 20 (No response.) 21 CHAIRMAN TITLA: Abstained? 22 (No response.) 23 CHAIRMAN TITLA: Motion passes unanimously. 24 Okay. Let's go to the next one, Item VIII, 25 discussion and possible action on the 2016 Commission's</p>	<p>11:29:01-11:30:03 Page 88</p> <p>1 there, rulemaking and legislation, and then a 2 looking-forward page for what's to come in this next 3 year. 4 All right. That is the letter from the 5 Chairman that I was mentioning. So it's pretty much 6 from Mr. Titla here, Chairman Titla, going to Governor 7 Ducey just explaining that we have this report and that 8 we're obligated under that statute to give it to them. 9 The act was passed in '98 so this is over 18 years 10 later. 11 This is the voter and public education 12 page. So this kind of goes over what our efforts were 13 for this last year in regards to voter education. We 14 had the continuation of our Vote Informed campaign. We 15 launched our Candidate Compass tool which I'll go over. 16 We have a smart device application that you can 17 download currently for iOS devices, candidate training 18 classes that we host. We also have debates that we put 19 on throughout the state, the candidate statement 20 pamphlet, grassroots outreach and then research in our 21 website. So that will be coming up. 22 This is the Vote Informed campaign. This 23 is a campaign that we've had running for a little bit 24 now. Mainly the main focus of the campaign is to 25 educate voters on the tools that we provide and how you</p>
<p>11:27:53-11:28:58 Page 87</p> <p>1 Annual Report. I think everybody has a copy of the 2 report. 3 MR. SHAFFER: Bear with me one second. 4 MR. COLLINS: Would you introduce yourself 5 for the record? 6 MR. SHAFFER: If I can get somewhere. 7 MS. THOMAS: Name for the record, please. 8 MR. SHAFFER: All right. Chairman, 9 Commissioners, I'm Alec Shaffer. This is my first time 10 presenting in front of the Commission, although I've 11 worked here a little over two years. So bear with me. 12 And it's kind of poetic as well. I used to work at the 13 Secretary of State's office and Amy -- Commissioner 14 Chan was my boss over there. So it's been a full 15 circle now, but let's just jump into this. 16 This is the 2016 annual report, and that's 17 the cover page for you. That blurb there just pretty 18 much states that we're going to be giving this report 19 to the Governor's office, the Secretary -- or the 20 Senate and the House of Representatives. 21 Here is the table of contents. Going over 22 it really quickly, we have the letter from the 23 Chairman, then we have our section on voter and public 24 education, financial info, enforcement stuff. Then 25 we've got some candidates' synopsis stuff for you</p>	<p>11:30:06-11:31:01 Page 89</p> <p>1 can vote informed is kind of the idea behind it so that 2 you can find out details about candidates, how to vote, 3 the deadlines and stuff like that. There's a couple of 4 pictures there for you from some of the stuff that 5 we've had running throughout that campaign. 6 This is the Candidate Compass tool page. 7 So the Candidate Compass tool was something that we -- 8 it was brand new. It was debuted in 2016. It's 9 available on our website and you can also -- it's 10 mobile accessible as well. So you can get it from your 11 phone, but basically the idea behind it is that 12 candidates have different stances on issues and voters 13 have stances on issues as well. And it would be 14 cool -- it was a cool idea if we could match those up 15 and see what people agree with, what you don't agree 16 with, what you align and don't align with certain 17 candidates with. 18 And we had kind of a soft launch with this. 19 So this is something we're looking to have more 20 involvement in with -- in the future, but yeah, it was 21 a cool new tool and something that we saw from our 22 research that voters wanted. So it was something that 23 we thought was beneficial. 24 This is the page about our smart device 25 application that I mentioned. So we do have a -- it is</p>


<p>11:31:04-11:32:00 Page 90</p> <p>1 available for iOS devices right now, and we're working 2 on the Android version. So that's forthcoming, but the 3 app is kind of, like, a voter resource that has 4 deadlines in it, guides. You can find information on 5 candidates. We've linked up -- one of the cool 6 features that we had on it was if you were interested 7 in debates. So whatever legislative district you were 8 in for the debate for that district, you could submit a 9 question through the app and we would receive it and 10 then proceed to ask it at the debate. So that was a 11 cool piece of functionality that was -- well, the whole 12 app was brand new, but that was something we were 13 excited about.</p> <p>14 And, also, it had -- it had a lot of 15 different things in it, and we're looking to improve it 16 going forward, but basically it was, like, a one-stop 17 shop for the information you need on where to vote. We 18 also had a polling place locator built into it so it 19 would reach out to there and you could find out where 20 to vote actually.</p> <p>21 A little bit about training and guides. So 22 we host training here for all our Clean Elections 23 candidate and -- candidates and their treasurers and 24 it's open to the public as well so anyone could attend, 25 but in 2016 we had 14 candidate workshops. Some of</p>	<p>11:33:02-11:34:02 Page 92</p> <p>1 Corporation Commission debate which we held at one of 2 ASU's studios here in downtown which was really cool. 3 I actually got to go to that personally, and to be on 4 set and see everyone get ready was really cool. So 5 it's a really cool thing. And it's informational too. 6 They actually talk about the issues, and the moderator 7 handled it very well going through the questions and 8 the issues that voters want to talk about.</p> <p>9 This is the page about the candidate 10 statement pamphlet. So this is the guide that we send 11 out. We send one out for both the primary and the 12 general, and that's what the cover of it looked like 13 this year. A little bit of information for you, 14 candidates submit 200-word statements. It's their 15 choice whether they want to, but the participation rate 16 is very high. We get nearly all candidates submitting 17 a photo and a statement to be included here.</p> <p>18 They go -- they are sent out to over 1.9 19 million households -- or 1.9 million copies and more 20 are sent out. So they are sent to every registered 21 voter. They're sent overseas as well to UNOCAVA voters 22 so anyone that's on the military or on active duty, 23 they receive one too. And like I was saying, we make 24 two, so one for the primary and the general. So it has 25 all the -- all the candidates' names that will appear</p>
<p>11:32:04-11:33:00 Page 91</p> <p>1 them being online; some of them being in person. And 2 we had 96 attendees total. So we have a guide as well. 3 We make a book, and it's pretty much a candidate 4 training guide. It goes through -- Sara does a really 5 good job in creating it.</p> <p>6 It goes through the entire process of how 7 to get funding, how to apply, what you can do with your 8 funding, when you need to return it and kind of the 9 whole kind of area of the whole process for you. And 10 participating candidates -- it's worth mentioning -- 11 are required to attend. So everyone that receives 12 Clean Elections funding, you have to come to one of our 13 trainings.</p> <p>14 We also host debates in election years. We 15 host debates for statewide and legislative candidates. 16 So the stats on how many we had are at the bottom 17 there. We had 12 primary election debates and 24 18 general election debates. We had some nice feedback 19 this time too. We take surveys at those events to see 20 if we can improve, and some of the quotes are up there 21 for you. So we had someone say it was an excellent 22 program, that they've learned a lot of information. 23 Someone else said, please don't change it and that it's 24 the best debate for politicians.</p> <p>25 The picture there is the picture from the</p>	<p>11:34:04-11:35:00 Page 93</p> <p>1 on the primary ballot are on your primary version and 2 then the same for the general.</p> <p>3 Our percents are there for you. So you can 4 see we had a 98 and a 99 percent participation rate. 5 So it's really high, so that's cool. And this was the 6 first time that we were actually ever to make -- able 7 to make a district-specific pamphlet. So instead of -- 8 normally in the past, you would receive a pamphlet that 9 had all 30 legislative districts in it and the voter 10 would have to find their own and see what candidates 11 are applicable to them. This time we were able to 12 condense it.</p> <p>13 It was a little more work on our end, but 14 it was cool. It was worth it because the voter -- 15 every name you saw in your guide this time was on your 16 ballot. So there wasn't a bunch of extraneous names 17 that kind of bogged it down. And it was actually 18 really efficient for cost savings as well. So we were 19 able to save over -- around \$930,000 on that. So that 20 was something we're very proud of and Gina worked very 21 hard on.</p> <p>22 This is our grassroots efforts outreach 23 page. So we do -- we tend to be more active in 24 off-election years. We do like to get into the 25 community, though. We help with voter registration</p>



<p>11:35:03-11:36:03 Page 94</p> <p>1 drive events when we're offered or when there's a 2 really good opportunity that arises, and here's a 3 couple for you. 4 So we also presented at Election Officials 5 of Arizona meetings, at Municipal Clerks Association 6 meetings. We partnered with Apache, Coconino and 7 Navajo County Recorder's office to go to the Rural 8 Addressing Conference. Me and Tom went to that which 9 was really cool. We went to the Celebrate Mesa Event 10 which is down in Mesa. It's in one of the parks there, 11 and they had -- the attendance for that event was 12 crazy. There were thousands of people there, and we're 13 going this year as well. So we'll be back there to 14 register and pass out information on Clean Elections. 15 And then we also went to a registration drive on the 16 Native American Salt River Pima-Maricopa Indian 17 community tribe. So that was really cool. We actually 18 got to go out to the tribe and partner with them and 19 get some people registered. 20 Research, so we do conduct research after 21 our campaigns going forward to see how to best educate 22 voters. So key findings for you, we found that most 23 voters -- I'm sorry. We also conduct this research 24 after the election. So it was conducted after the 25 general and then we compared that to our research from</p>	<p>11:37:14-11:38:10 Page 96</p> <p>1 stats for you. We have gained a much larger presence 2 on social media than we have in the past. You can see 3 our numbers comparatively there as well. So in 2016, 4 we had over a million followers on Twitter. Our 5 Facebook page has grown significantly as well. You can 6 see the percentage increase on the right there. It 7 looks like it went up 41 percent this last calendar 8 year. And then we have our traffic listed below as 9 well. So you can see that in 2016, we had 640,000 and 10 more page views on our website. 11 So that's something that we update 12 constantly. My title is actually the web content 13 manager, so I look at the website a lot. We're 14 constantly making improvements, and it's really cool 15 too. We also have our elections inbox. So if anyone 16 notices something on our website, they can send it in, 17 and we're constantly posting more and more information 18 there. 19 And if anyone has a question too, you can 20 jump in and cut me off, by the way. 21 COMMISSIONER KIMBLE: You know what? 22 MR. SHAFFER: Yeah. 23 COMMISSIONER KIMBLE: I do have one. You 24 said we have more than a million followers on Twitter? 25 MR. SHAFFER: On Twitter we have -- in</p>
<p>11:36:06-11:37:10 Page 95</p> <p>1 2015. 2 Voter -- some of the key findings for you, 3 we saw that voters agree that voting is important, but 4 a lot of them are not recognizing their influence in 5 local elections. A lot of people don't see the 6 importance of voting in local elections. So that was 7 something that we found and we're going to try to 8 target specifically going forward so we can address 9 that. 10 We saw that the debates are the most used 11 asset that we have for helping someone decide how 12 they're going to vote in elections. The Voter 13 Education Guide is also considered -- was considered 14 the number 1 unbiased resource for information. And we 15 also partnered with the ASU Morrison Institute to host 16 the State of Our State which was really cool. And so 17 we have a picture included there. We got to listen to 18 former U.S. Senator John Kyle, Rep Ed Pastor, and Grady 19 Gammage was the moderator. And it was a really 20 enlightening discussion. There were a lot of different 21 people at that event, but -- and I think the Holbrook 22 commissioners attended as well, but it was cool to see 23 what worked in the 2016 election cycle and what didn't 24 and going forward, what we can improve. 25 Website and social media, so here's some</p>	<p>11:38:12-11:38:57 Page 97</p> <p>1 2016, we had one million -- oh, no. That was -- I 2 guess I misread the number. I'm sorry. 3 COMMISSIONER KIMBLE: Okay. Just trying to 4 make sure that that number wasn't wrong. 5 MR. SHAFFER: So it looks like on Twitter 6 we had, in 2016, 1,270. Sorry about that. 7 COMMISSIONER MEYER: That's okay. 8 COMMISSIONER CHAN: Mr. Chairman, that 9 would be Lady Gaga numbers if we had over a million. 10 MR. SHAFFER: But that's a good goal in the 11 future so -- to keep in mind. 12 Was that your only question, Commissioner 13 Kimble? 14 COMMISSIONER KIMBLE: Yes. 15 MR. SHAFFER: So here is the financial 16 information page. You can see our funding sources 17 listed at the top. Our biggest source of funding, as 18 you guys know, is the surcharge that we receive from 19 civil penalties and criminal fines. Those are the 20 amounts throughout the calendar year you have listed 21 there, and then below we have the caps and the controls 22 on spending. So there's a certain amount that we can 23 spend on voter education and administration and so on 24 and so forth. 25 The column on the right is pretty much some</p>

<p>11:38:59-11:40:02 Page 98</p> <p>1 background information for you on some of the stuff 2 that's happened in the past as well. We used to have a 3 tax credit that was available. That went away in 2012, 4 but that's something we still get lingering -- a 5 lingering amount. It's very rare, though, but that's 6 some background for you if you want to go ahead and 7 read that. 8 I'll go to the next page which is on 9 enforcement audits and litigation. So this goes over 10 the past enforcement throughout the 2016 calendar year 11 and our audits as well and litigation so what you guys 12 have kind of heard throughout the year. We received 13 three complaints in 2016 that arose from the 2016 14 cycle, and we anticipate that the six remaining matters 15 from 2016 will be concluded in this year. So we're 16 hoping to wrap those up. 17 We also conduct audits after each election 18 cycle. They're random. And so we're getting back the 19 results of those and going through those, but we had 29 20 candidate audits, it looks like, total and it included 21 26 legislative ones and three statewide audits. 22 All right. This is the 2016 candidate 23 summary. So during the 2016 cycle, we had 178 24 candidates seeking statewide and legislative office and 25 41 of those were participating in the Clean Elections</p>	<p>11:41:06-11:42:09 Page 100</p> <p>1 candidate, you receive \$16,000 of funding in the 2 primary and \$24,000, about, in the general. And if you 3 have a contested primary, if you live in one of these 4 party-dominant districts, you can switch the amount. 5 So you can receive the 24,000 for the primary and then 6 the 16 for the -- for the general. 7 That goes over the more specific language 8 of how it works, and if you have any questions, you're 9 welcome to ask, but the next page is, like, if you 10 notice, I believe -- like, Representative Noel Campbell 11 here in District 1, he received 24,000 for the primary, 12 whereas other candidates received 60,000. So that's an 13 example for you. 14 I'll kind of just go through these slides. 15 You're welcome to look through that stuff. These are 16 all the candidates for the primary and then the next 17 section we'll have is on the general, so pretty much 18 the same thing but for the general. 19 All right. And then this is our rulemaking 20 and legislation page. So this kind of gives a synopsis 21 of the rules and any legislation that we've had 22 throughout this last year. We did amend or renumber a 23 few rules so they're listed at the bottom there for 24 your reference, and then we have a little bit 25 mentioning the 5-Year Review Report, too, how we've</p>
<p>11:40:05-11:41:03 Page 99</p> <p>1 system. During the general election, we had 144 and of 2 which 37 were participating candidates, and it kind of 3 goes on just to show you some statistics there. In 4 2016, we a total of more than 2.1 million distributed 5 in funding to candidates from the Commission's -- 6 Commission's fund. 7 And in the following pages we'll list all 8 the candidates too. So you'll have the spreadsheet and 9 breakdown district by district and whatever office they 10 were seeking of all the candidates that were running. 11 All right. We included this year right 12 before the candidate listing a little blurb about the 13 reallocation notice. So some candidates, if you live 14 in a district that has a dominant party and you're 15 within the dominant party running, the idea behind that 16 is is that you're going to have a more contested 17 primary. That's where the more competition is fierce 18 for you kind of thing. 19 There are statistics that you have -- and, 20 like, criteria you have to meet to do that, though. 21 You have to be within the dominant party. You have to 22 have a contested primary. So you can't be running 23 unopposed in your primary, but you're able, if you so 24 choose and you meet the qualifications, to switch your 25 funding amount. So normally as a legislative</p>	<p>11:42:12-11:43:18 Page 101</p> <p>1 submitted that. Rules don't take effect until 2 January 1st of the next year unless they were a 3 unanimous vote, so that's a good note for you. 4 This is our 2016 legislation page. It kind 5 of just gives a summary of what our legislative goals 6 and priorities were for that year. As always, we want 7 to oppose any efforts that propose to defund or 8 eliminate the Clean Elections Act. So that's there. 9 We also support election law reforms if we deem them to 10 be helpful to the current election law, and then we 11 also support improvements to the voter education 12 access. So any bills that would look to improve voter 13 education would be something that the Commission would 14 support. 15 This is our looking forward to 2017 page, 16 what we have planned so far. So we will be holding a 17 roundtable event which is similar to the roundtable 18 event we held in 2015. This is kind of an opportunity 19 to get election officials together and stakeholders and 20 community organizations that all deal with elections 21 together in one room and talk about what went well in 22 that election year, what didn't go well, what you can 23 improve on, and going forward what kind of improvements 24 you can make in general. 25 The roundtable will be focusing on</p>

<p>11:43:20-11:44:19 Page 102</p> <p>1 data-driven decision making and technology which is 2 huge, review of our past year, voter trends and 3 educational opportunities for 2018. I also have a 4 blurb detailing the education plan going forward. So 5 we have a couple of tool assets that we're focusing on 6 as well that we've covered, like our smart device 7 application, find my polling place. We have find my 8 elected officials tool, and you can contact them 9 through our website. So if you wanted to get in touch 10 with your local lawmakers, that's something that can 11 help you out. 12 And then the last section here we have is 13 the candidate information for the 2018 cycle, and they 14 changed a little bit. So in the past, we've just 15 reverted to the original amounts of -- amount of 5s 16 that you need to submit to receive funding. So, like, 17 last year, the amount of 5s that a candidate had to 18 submit was 250. If you'll notice from the legislature, 19 it's 200 now. So they've been reduced a little bit, 20 but those numbers are there for you. And candidates 21 can begin collecting 5s, can begin collecting these 22 amounts on August 1st of this year until August -- I 23 believe it's 23rd of the next year, but it's a little 24 over a year of timeframe that they have to collect 25 these 5s.</p>	<p>11:45:15-11:45:51 Page 104</p> <p>1 COMMISSIONER MEYER: I was looking on 2 page 41 there might be a spacing issue -- 3 MR. SHAFFER: Okay. 4 COMMISSIONER MEYER: -- with the bullet 5 points. 6 Do you see that? 7 MR. SHAFFER: Oh, the -- is that the 8 looking forward page? I noticed that as well. I 9 will -- I will fix them before I post that online. 10 COMMISSIONER MEYER: Okay. 11 CHAIRMAN TITLA: Okay. Any further 12 comments? 13 (No response.) 14 CHAIRMAN TITLA: Is there a motion to 15 approve the report? 16 COMMISSIONER MEYER: I move that we approve 17 the 2016 annual report. 18 CHAIRPERSON TITLA: Motion by Commissioner 19 Meyer to approve the report. 20 Second? 21 COMMISSIONER KIMBLE: Second. 22 CHAIRMAN TITLA: Commissioner Kimble 23 seconds the report. 24 All in favor say aye. 25 (Chorus of ayes.)</p>
<p>11:44:20-11:45:14 Page 103</p> <p>1 This page just lists our commissioners for 2 the calendar year. So this was past year's 3 commissioners and chairman and staff at the bottom and 4 then a little bit about of our mission and mission 5 statement on the left there. And then these are just 6 your biographies which you're -- which you're aware of 7 since they're your biographies. 8 And that concludes the annual report. So 9 if you guys have any questions, I'm here to answer and 10 happy to answer any of them. 11 CHAIRMAN TITLA: Questions by 12 commissioners? 13 COMMISSIONER PATON: Well done. 14 CHAIRMAN TITLA: Do we need any action with 15 this? 16 MR. COLLINS: Mr. Chairman -- Mr. Chairman, 17 if you would move the approval of the annual report. I 18 guess the only caveat would be if we find any typos and 19 stuff like that, we'll clean those up, but -- but if 20 you would move to approve the annual report for 21 submission by the March deadline, that would be 22 appreciated and if someone -- and took a vote on that. 23 COMMISSIONER MEYER: Mr. Chairman, real 24 quick. 25 CHAIRMAN TITLA: Commissioner Meyer.</p>	<p>11:45:52-11:46:34 Page 105</p> <p>1 CHAIRMAN TITLA: Opposed? 2 (No response.) 3 CHAIRMAN TITLA: Abstained? 4 (No response.) 5 CHAIRMAN TITLA: Motion passes unanimously. 6 MR. SHAFFER: Thank you, Chairman. 7 CHAIRPERSON TITLA: Good work. I'd like to 8 commend Director Collins and the gentleman and 9 everybody else for doing a good job with this report. 10 Continue the good work this year and also next year. 11 Thank you. 12 MR. COLLINS: It's also Alec's birthday 13 today. 14 COMMISSIONER MEYER: Happy birthday -- 15 MR. SHAFFER: Thank you. 16 COMMISSIONER MEYER: -- Alex. 17 CHAIRMAN TITLA: Alex, happy birthday. 18 MR. SHAFFER: Thank you. 19 CHAIRMAN TITLA: What they used to do -- I 20 was in the Marine Corp, and in the Marine Corp, what 21 they used to do with the company on your birthday, they 22 would bake a cake. The cook would bake a cake and 23 present it to you, but unfortunately, we don't do that 24 here. 25 MR. COLLINS: I don't know. Did someone</p>

<p>11:46:36-11:47:27 Page 106</p> <p>1 bake a cake? 2 MR. SHAFFER: They're taking me out to 3 lunch so we're good. 4 CHAIRMAN TITLA: Okay. Good. Very good. 5 Yeah. 6 Okay. Let's see. We have IX, public 7 comment. 8 Any public here to comment? 9 (No response.) 10 CHAIRMAN TITLA: No public comment? 11 MR. COLLINS: Rivko, do you want to -- do 12 you have anything to add today? We're at public 13 comment. I don't know if you want anything to -- 14 MS. KNOX: Oh, well, never miss an 15 opportunity. I'm here as always on behalf of the 16 League of Women Voters of Arizona. Very, very excited 17 about the annual report. As a matter of fact, I've 18 been thinking of asking -- I don't know. I don't want 19 to charge you more than you -- or make you pay more 20 than you already do, but it would be great to 21 distribute the report. We're going to be having a big 22 annual convention of the league from all over the 23 state, and we'd love to be able to maybe have copies. 24 And we'd love to sit in on your roundtable. 25 And more than anything else, I just want to say that it</p>	<p>11:48:28-11:48:37 Page 108</p> <p>1 COMMISSIONER CHAN: Second. 2 CHAIRMAN TITLA: Commissioner Chan seconds. 3 All in favor say aye? 4 (Chorus of ayes.) 5 CHAIRMAN TITLA: Opposed? 6 (No response.) 7 CHAIRMAN TITLA: Abstained? 8 (No response.) 9 CHAIRMAN TITLA: Motion passes unanimously. 10 We are adjourned. 11 (Whereupon, the proceedings concluded at 12 11:48 a.m.) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>11:47:31-11:48:27 Page 107</p> <p>1 was a pleasure to be able to, very briefly, speak on 2 behalf of the -- or speak to try to kill and succeed at 3 least temporarily in killing the bill to repeal Clean 4 Elections. It really felt good to be able to say that 5 all in one minute. That was okay. What was it? 10:00 6 o'clock and participated at 7:00 o'clock at night or 7 something like that. 8 MR. COLLINS: Right. 9 MS. KNOX: I'm thrilled that the league was 10 able to help create the Clean Elections Commission, and 11 the Staff is really carrying out its mission. And it 12 gives me great pleasure to be -- to participate in a 13 small way. 14 Thank you. 15 CHAIRMAN TITLA: Thank you, ma'am, for your 16 good comments and all of the good work that you do and 17 your company. Thank you. We appreciate it. 18 Any more comments from the public? 19 (No response.) 20 CHAIRMAN TITLA: If not, do we have a 21 motion to adjourn? 22 COMMISSIONER KIMBLE: I move we adjourn. 23 CHAIRMAN TITLA: Motion to adjourn by 24 Commissioner Kimble. 25 Second?</p>	<p>Page 109</p> <p>1 STATE OF ARIZONA ) 2 COUNTY OF MARICOPA ) 3 BE IT KNOWN the foregoing proceedings were 4 taken by me; that I was then and there a Certified 5 Reporter of the State of Arizona; that the proceedings 6 were taken down by me in shorthand and thereafter 7 transcribed into typewriting under my direction; that 8 the foregoing pages are a full, true, and accurate 9 transcript of all proceedings and testimony had and 10 adduced upon the taking of said proceedings, all done to 11 the best of my skill and ability. 12 I FURTHER CERTIFY that I am in no way 13 related to nor employed by any of the parties thereto 14 nor am I in any way interested in the outcome hereof. 15 DATED at Phoenix, Arizona, this 25th day of 16 February, 2017. 17  18 LILIA MONARREZ, RPR, CR #50699 19 20 21 22 23 24 25</p>

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