THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

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ACTING CHAIRMAN MEYER: Good morning. We'll call to order the Citizens Clean Elections Commission meeting on Thursday, November 16th, 2017, at 9:30. I'm Commissioner Damien Meyer. I will be acting chair today due to Commissioner Titla's absence. We're down two commissioners today. Commissioner Titla and Commissioner Chan are not here, but we do have a quorum, so we will proceed.

Item Number II on the agenda is "Discussion and Possible Action on Commission Minutes for the September 28, 2017, meeting."

Any questions or comments on the minutes from our last meeting in September? And if not, a motion to approve.

COMMISSIONER KIMBLE: Mr. Chairman, I move that we approve the minutes for the Commission meeting of September 28th, 2017.

COMMISSIONER PATON: Second.

ACTING CHAIRMAN MEYER: Commissioner Paton seconds that motion.

All in favor say aye.

(Chorus of ayes.)

ACTING CHAIRMAN MEYER: All opposed?

No response.

ACTING CHAIRMAN MEYER: Motion carries unanimously.

Item Number III on the agenda is "Discussion and Possible Action on Executive Director's Report."

Mr. Collins?

MR. COLLINS: Mr. Chairman, Commissioners, we want to go through just a few things. It's a little more extensive report than we've had from time to time. But as you may or may not know, under 16-949, the Auditor General takes a look at our spending in the Clean Elections fund every four years. And as you'll see in the letter attached to the review, they found no instances of noncompliance or significant deficiencies. And Sara and Paula worked to make sure that all their questions were answered as they came up. So we're pleased with that, and that's good news.

As you can see, we have a very active voter education calendar. We do have a new "ID at the Polls" tool on our website. So if you go to azcleanelections.gov/idatpoll, something -- well, I think I should have gotten that URL, but I don't -- But it is also available on our website at our announcements. You don't need to know the URL.

It's actually really a pretty cool tool.
of the House of Representatives said, "Well, there's no way we could have done anything to the Clean Elections Commission" -- But the headline, as you see on the thing, is the press uses the advocacy organization thinks this is a -- believes this is a step necessary to defend what we do. The Speaker of the House said in the news story, "There's no way we could have done that because we didn't get a three-quarter vote for 1516." So in some sense, I guess we're all in agreement, then, because, you know, last year in a vote of four yeses and one abstention, you know, we voted to reject language that said "notwithstanding any law or rule, you shall do this" in our rules.

So I guess the Speaker needs to call the chairwoman of GRRC and we can get this all resolved without any further adieu.

That was a joke.

ACTING CHAIRMAN MEYER: I smiled.

MR. COLLINS: You smiled. Well, you're not paying me for the jokes, but, you know -- That comes free.

I want to point out that -- I think you all know this as well -- an independent investigator hired by the Attorney General to look at the Secretary of State's election-related enforcement actions, which are in another section. My understanding is all the election work will now be in the Agency Counsel except for election-related enforcement actions, which are in another section. I'll be working with Joe and Kara to figure out what, if anything, about this changes the nature of their work. But it's -- We've been represented by the Solicitor General's office, I think, since the inception of the program, in fact. So that's new. Not necessarily -- you know, the impact of that is -- so far has not been discernible, but just FYI. We will be finding out how that changes things, if any.

So it's a bit longer report than usual, but a lot of activity in the last two months since we -- since we met. So I don't know if you have any questions about any of those things.

COMMISSIONER KIMBLE: Mr. Chairman?

ACTING CHAIRMAN MEYER: Commissioner Kimble.

COMMISSIONER KIMBLE: Mr. Collins, I just want to say that I came up to one of the training workshops for participating candidates and was very impressed with the program put on by Sara and Gina and Stephanie. I learned a lot about what it takes to be a participating candidate. But I thought they went through a very complex set of rules and regulations in a way that was clearly understandable to any candidates.

released his report. That's available for you at that link.

The See the Money beta site is up, seethemoney.gov. Folks are playing around with that and we hope giving feedback to the Secretary's Office. In the right corner, there's a feedback box where you can put in your name, email, and that will actually send an email directly to the folks who are developing the site. We also had some news this month in the case of the former Attorney General Horne. There were other -- there were two parallel proceedings, one at Clean Elections, one that had moved to the Attorney General's Office and then been assigned to outside counsel. That outside counsel ordered amendments onto Mr. Horne's reports and essentially ratified the fine that this Commission imposed on him in 2014. Because they ordered some amendment of the reports under the conciliation agreement that Mr. Horne reached with us, he is obligated to follow through on that or appeal, so we'll be getting back to you probably sometime early next year if there's anything further to be done there.

And then I also wanted to note Joe and Kara are here. I guess effective -- effective recently, would be a fair word, they have been moved out of the Solicitor General's section into a section of the AG's office that
As you all know, just to kind of bring you up to speed, we have not heard from Mr. Rubalcava, to the best of my knowledge.

MS. THOMAS: No, sir.

MR. COLLINS: I'm going to proceed. We haven't heard from him since I filed this brief, to the best of my knowledge. So just to walk you through the procedure here really quickly, and then we'll get to the substantive part of the penalties, we've gone through essentially -- this process has gone through really four phases, of which we think this is the last one. We started with a random audit that Mr. Rubalcava was selected for, gosh, more than a year ago now, I think was the primary, right? That random audit came back with enough discrepancies that we recommended a full audit of all of his campaign activity, which we completed. It took some time to complete, but that was finally completed. We then in the spring, I think May -- I want to say May of this year, we filed a reason-to-believe statement alleging that there was reason to believe violations of the Act may have occurred.

In August, we asked you to issue a repayment order for the corpus of the amount of money that we believed that Mr. Rubalcava owed the fund, which you did. And now we're at what we think is the ultimate resolution of this issue, which is the potential occurred and to impose penalties.

In the meantime, as we all know, Mr. Rubalcava resigned his position in the legislature. And that's where we are.

So ultimately, we did an investigation. The investigation was -- we conducted it in a way that attempted to be as efficient as possible to see if there was any way to get, frankly, any further information from Mr. Rubalcava about how he was handling his finances and how he was spending his money. And as you can see as outlined in the facts at page 3, we received very little -- 3 and 4, we received very little in the way of new information, and that new information, frankly, was itself inconsistent with other information that had been reported. So, you know, what we see, you know, in each of these counts is -- is a real inconsistency in -- in approach to reporting, to say the least. And when you get behind the reports and into the actual fund -- funds in his checking account, you find that there's just simply no way to match those up with the applicable law.

So we have reached some calculations with respect to penalties. Under 16-942(A), the penalties for violation of the contribution and expenditures limits in violation of the contribution and expenditures limits in respect to penalties. Under 16-942(A), the penalties for So we have reached some calculations with way to match those up with the applicable law. his checking account, you find that there's just simply no behind the reports and into the actual fund -- funds in reported. So, you know, what we see, you know, in each of it itself inconsistent with other information that had been new information, and that new information, frankly, was little -- 3 and 4, we received very little in the way of how he was spending his money. And as you can see as Mr. Rubalcava about how he was handling his finances and how he was spending his money. And as you can see as outlined in the facts at page 3, we received very little -- 3 and 4, we received very little in the way of new information, and that new information, frankly, was itself inconsistent with other information that had been reported. So, you know, what we see, you know, in each of these counts is -- is a real inconsistency in -- in approach to reporting, to say the least. And when you get behind the reports and into the actual fund -- funds in his checking account, you find that there's just simply no way to match those up with the applicable law.

So we have reached some calculations with respect to penalties. Under 16-942(A), the penalties for violation of the contribution and expenditures limits in violation of the contribution and expenditures limits in respect to penalties. Under 16-942(A), the penalties for
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1 primary election and then he received $1,415 in the
general election, and he hasn't repaid any of that at this
point. So yes, I mean, in terms of -- Yes.

4 ACTING CHAIRMAN MEYER: Commissioner Paton?
5 COMMISSIONER PATON: But he did repay
6 something from the general election?
7 MR. COLLINS: No, he did not.
8 COMMISSIONER PATON: I thought he repaid --
9 you paid him and then --
10 MR. COLLINS: Oh, well, I'm sorry, yes,
11 that's right.
12 ACTING CHAIRMAN MEYER: Uncontested --
13 MR. COLLINS: He was issued an amount of
14 money for the general election that was a mistake, and he
15 repaid the money he was not entitled to. And he did that
16 in a relatively timely basis.
17 MS. LARSEN: 30 days.
18 MR. COLLINS: 30 days. He took as much time
19 as he had to repay it.
20 COMMISSIONER PATON: So all these different
21 things are quite -- It's amazing all the different things
22 that don't add up. My concern is like on page 3 here,
23 where you've got -- he's got these invoices that he
24 submitted. Do these not count on how much he owes?
25 MR. COLLINS: That's a good question. We

1 course, that's wrong. But these other things, to me, seem
2 like they're legitimate campaign expenses, and I would
3 hate to penalize somebody for spending -- I mean us
4 penalizing him after he spent this money on items that are
5 legitimate campaign expenses.
6 COMMISSIONER KIMBLE: Well -- Mr. Chairman?
7 ACTING CHAIRMAN MEYER: Commissioner Kimball.
9 COMMISSIONER KIMBLE: I would like to give
10 him the benefit of the doubt, but I think he has been
11 totally irresponsible in refusing to answer any questions.
12 He was on a phone call in one meeting and said he would
13 accept whatever we decided.
14 And in August, we voted to order him to
15 repay $17,459 within 30 days of the date of this order,
16 which was August 21st -- 22nd. No one's heard from the
17 guy since then. I mean, I'd like to give him the benefit
18 of the doubt, but he's not being very helpful here. And I
19 don't know what more we can do. I think we have -- As
20 the chairman pointed out, the potential penalties are
21 huge. We asked -- we agreed that he should repay $17,459
22 and he won't even respond to that. How much further
23 should we go in trying to work with this guy if he won't
24 even talk to us?
25 ACTING CHAIRMAN MEYER: Ms. Larsen?

1 have certainly considered the possibility that he could
2 have, had he appealed, asked for an offset on the
3 repayment for monies that he could have produced. He
4 hasn't done that as of yet. And that is to say he
5 never -- He didn't file a timely appeal. I would suggest
6 that -- There are two ways to look at that. If you want
7 to take that into account as a mitigating factor here in
8 this penalty, you know, there's a provision in 16-941(D)
9 which essentially says -- you know, reiterates that if you
10 violated certain parts of the statute, we take possession
11 of -- you essentially owe the entirety of the amount of
12 money you received from the Commission as a penalty. You
13 could mitigate that there on that penalty. You could
14 mitigate the penalty however you want. I mean, frankly,
15 you could -- I think that the biggest -- You know, I
16 can't do that math in my head.
17 COMMISSIONER PATON: I guess my concern --
18 and I've talked to you before. My concern is that he
19 legitimately spent money on these items, and those, to me,
20 seem like legitimate campaign expenses. And my sense
21 that -- I don't think we should penalize him if he proved
22 that he spent that on these invoices. And I don't know
23 how you do all your auditing or whatever, but, I mean,
24 obviously, he didn't do things correctly, and we have no
25 idea on some of the stuff what he spent money on. And, of

1 MS. LARSEN: Chairman, Commissioner Paton,
2 to help answer your question a little bit, we actually are
3 not able to confirm that those were campaign expenses.
4 Those transactions did not come out of his campaign bank
5 account. So we don't even know if there's a -- The
6 column on the very right of that chart says "Campaign
7 Account Transaction." There's only one that we can verify
8 actually came out of his campaign bank account and was
9 properly reported, and it was just a fraction of that
10 expenditure that was properly reported. All of those
11 transactions were not properly reported on his campaign
12 finance reports in a timely manner, and four out of those
13 five did not even come out of his campaign bank account.
14 So we can't verify that those were campaign expenditures,
15 so that's why we did not subtract those out of the
16 penalty.
17 ACTING CHAIRMAN MEYER: I'm going to suggest
18 to my fellow commissioners here that we don't relitigate
19 something we've already decided. We decided back in
20 August by unanimous vote, I believe, that he was to repay
21 the $17,500.
22 And that would include these transactions
23 that we're looking at here. Correct, Tom?
24 MR. COLLINS: It may or may not include
25 them. We don't know.
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1 ACTING CHAIRMAN MEYER: So what I’m trying
to do is look at this big picture. We have ordered
3 Mr. Rubalcava to pay $17,500, which he has not done.
4 MR. COLLINS: Right.
5 ACTING CHAIRMAN MEYER: We are sitting here
today at this penalty stage, I guess we would call it, and
7 what I am trying to understand is if staff recommending
8 the issuance of the $300,000 fine or is that just a tally
9 of what the ultimate one is and you have a different
10 number you’re recommending?
11 MR. COLLINS: Mr. Chairman, Commissioners,
that’s a good question. The way I have approached it is
13 this. The first thing is we do need to establish that
14 there is probable cause to believe. So you can take that,
15 in my view -- And you have counsel of your own, if I’m
16 wrong, who will correct. I’m sure you’ll do it correctly.
17 But in my view, you can find probable cause to believe
18 based on the entirety of the memo or you can break it down
19 count by count. That’s just the probable cause -- these
20 are the facts that there’s probable cause to believe. So
21 that’s stage one of the penalty phase.
22 Assuming you were to decide that, in fact,
23 there was probable cause to believe the facts as we
24 presented them, you know, it’s incumbent on us to give
25 notice to Mr. Rubalcava of the available penalties.

1 You know, I think that in the past, the
2 Commission has sua sponte reduced penalties of even
3 violators who have -- who have shown no interest in coming
4 into compliance. For example, the Legacy Foundation
5 Action Fund, which is a 501(c)(4) group we’re still
6 litigating with. But we actually reduced -- the
7 Commission sua sponte reduced their penalties even though
8 they had shown no signs of complying. They did actually
9 show up at the meetings and argue, but they didn’t -- they
10 were not going to file their reports, and they haven’t.
11 So my point would be I think that what you
12 need to -- you know, so if it’s not improper for me to go
13 ahead and talk about the penalty prior to -- if there’s no
14 objection, I’m going to go ahead and talk about the
15 penalty.
16 MS. GALVIN: You may.
17 MR. COLLINS: You know, I think that the
18 order needs to be a deterrent and the order needs to
19 reinforce to the public that if folks are going to work
20 with the Clean Elections funding program, which is an
21 expressly anticorruption measure, and they’re going to do
22 stuff that is corrupt, that we’re going to take that
23 seriously as possible.
24 The reason why the fines are set at the
25 level they’re set at is that an initial deterrent.

1 What that should do, if you read the statute together, is
2 bring someone in for an administrative conciliation. Our
3 rules provide that he can -- Mr. Rubalcava can still seek
4 that conciliation after this stage. He has an express
5 right under our rules to ask for that meeting with me to
6 work on some kind of settlement.
7 So my thought would be, you know, you
8 don’t -- I guess, in my view, you don’t want to minimize
9 this, but on the other hand if, you know, we’re saying,
10 you know, recognizing that there may be some value in
11 showing at least some leniency, I think that -- you know,
12 I think somewhere in the nature of 3 times the amount he
13 owes in repayment is an appropriate general number. So it
14 would be -- so 17,000 times 3 is approximately --
15 ACTING CHAIRMAN MEYER: 51.
16 MR. COLLINS: Yeah. Is that right? Yeah.
17 That would bring his total owing to us to
18 77,000-ish, which I think is a pretty significant number.
19 I think it has a deterrent effect and might bring him to
20 the table.
21 On the other hand, frankly --
22 I don’t have my rule book in front of me.
23 On the other hand, you’re entitled to, we
24 think, issue fines in the amount we have identified.
25 COMMISSIONER KIMBLE: If I could say one

1 thing, Mr. Chairman?
2 ACTING CHAIRMAN MEYER: Of course.
3 COMMISSIONER KIMBLE: I guess there’s two
4 concerns I have. Number one, I understand that we want
5 some kind of a penalty to stress the importance of this.
6 Number two, I don’t want to set a penalty so
7 high that he’s going to look at this and say, “Well, I’m
8 never going to repay this. I can’t possibly afford this,
9 so why even bother talking to them.”
10 MR. COLLINS: Look, I think that’s the issue
11 that you have. And I just wanted to note that because of
12 our compressed -- or, our limited membership, all of you
13 have to vote for this today in order for this to go
14 forward. So if this were to be under R2-20-215 and
15 R2-20-217, it requires three commissioners, and there are
16 three commissioners. So I just wanted to make clear that
17 y’all are going to have to be unanimous on this.
18 Look, I mean, the other way we could do
19 this, and I’d be willing to do this, is there’s nothing in
20 the rules that precludes making a probable cause finding
21 today, you know, putting off the penalty phase until --
22 until next month or the month after; reach out to, you
23 know, Mr. Rubalcava again, make him aware of his
24 situation. You know, so we think the total would end
25 up -- you know, owing would be 52,000 -- would be 69,000
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1 total in penalties and repayments. 69,836.
2 ACTING CHAIRMAN MEYER: So that would
3 include the 17.5.
4 MR. COLLINS: Correct.
5 ACTING CHAIRMAN MEYER: Plus --
6 MR. COLLINS: 52 --
7 ACTING CHAIRMAN MEYER: -- three times that
8 amount.
9 MR. COLLINS: Right.
10 You know, I think that the -- I think that's
11 also -- Well, so we could do that. We have that option
12 too.
13 The other option we have is to do the
14 probable cause to believe today, make another effort to
15 reach out to Mr. Rubalcava and say, "Look, this is
16 serious, you need to take this seriously," and come back
17 with a -- with a recommendation or make even a
18 conciliation, if that's possible. I don't know if that's
19 possible, but it's possibly more efficient.
20 I mean, ultimately, what happens with these
21 cases when we've had them in the past is we issue a
22 repayment order, that repayment order goes unpaid -- or, a
23 penalty order. It goes unpaid, and until that person
24 wants to do something, like run for office again or --
25 because you have to pay up all your fines to run for

1 office again, those kind of things. And then all of a
2 sudden, they say, "Oh, we want to pay." And it ends up
3 becoming something that gets worked out on the back end by
4 the Attorney General's collections attorneys.
5 ACTING CHAIRMAN MEYER: That was a question
6 I had for Tom or maybe Ms. Galvin. Is this like a civil
7 judgment that we can collect in that manner? I mean, how do you collect on these fines?
8 MS. GALVIN: It would be referred to
9 Attorney General's Office, who has staff to collect on the
10 judgment.
11 ACTING CHAIRMAN MEYER: So it is treated
12 like a civil judgment? Like you have the remedies like
13 garnishments and foreclosures?
14 MS. GALVIN: That, I'm not sure what the
15 remedies are, but I do know that they proceed to collect.
16 ACTING CHAIRMAN MEYER: And you're saying
17 they can't run for office until they pay up all their
18 state fines, which would include this one?
19 MR. COLLINS: That is correct. And in my
20 experience -- I mean, not to overstep my bounds here, but
21 in my experience, when I was at the Attorney General's
22 Office working on resolving some of these older fine
23 cases, you know, we certainly were willing to threaten a
24 debtor's exam. Once you threatened a debtor's exam,
25 somebody paid up kind of thing, which is not atypical, I
26 think, in that kind of situation.
27 COMMISSIONER KIMBLE: Mr. Chairman?
28 So, Tom, we voted for this fine in August.
29 How was Mr. Rubalcava notified of this? In other words,
30 how could he say, "Well, I didn't know about this?"
31 MR. COLLINS: I don't think there's any way
32 he could say he didn't know about this.
33 COMMISSIONER KIMBLE: So we know he was
34 notified? And how do we know he was notified?
35 ACTING CHAIRMAN MEYER: He was on the phone
36 when we did it.
37 MR. COLLINS: That's one way he knows. And
38 then we issued an order to him via -- probably via email,
39 mail. We process -- we served --
40 MS. THOMAS: Yeah, we've done everything,
41 email, Federal Express, and even process server.
42 COMMISSIONER KIMBLE: And we've gotten some
43 kind of confirmation that it was delivered by Federal
44 Express?
45 MS. THOMAS: Yes.
46 ACTING CHAIRMAN MEYER: He was personally
47 served by the process server with this order?
48 MS. THOMAS: I think his wife was served,
49 and copies of these invoices were interspersed in
50 mail. We process -- we served --
51 COMMISSIONER KIMBLE: And since this August
52 meeting, no one in Clean Elections has heard from him in
53 any form. Is that accurate?
54 MR. COLLINS: We did get a response to the
55 subpoena. And the subpoena specifically -- We subpoenaed
56 him. The subpoena basically said, "Give us everything
57 you've got that you can come up with."
58 COMMISSIONER KIMBLE: Recordwise.
59 THE WITNESS: Yes.
60 As you can see, it's noted in the memo, he
61 provided these copies of his campaign finance reports
62 again, and copies of these invoices were interspersed in
63 there, in no particular order. And as Sara has pointed
64 out, they're not tied to anything.
65 And then he wrote in an email that came
66 along with the subpoena, "This is all I have and
67 essentially everything else is lost." It continues to be
68 his -- the one thing -- Despite the inconsistencies in
69 accounting and the inconsistencies between campaign
70 finance reports and actual bank account records and the
71 inconsistent usage of personal accounts and campaign
72 accounts, the one thing that Mr. Rubalcava has been clear
73 about is he lost everything.
74 COMMISSIONER KIMBLE: He lost all of his
75 documents?
MR. COLLINS: Right. Right.
And, unfortunately -- and in our view, just
getting back to the facts as opposed to the penalty, you
know, that is itself evidence you can -- we believe you
can take an inference that those documents do not exist
because he had an obligation, pursuant to our rules in
deciding to be a candidate that participated in Clean
Elections funding program, to keep track of that stuff.
And so we think you can take an adverse inference at this
point. His admitted dereliction with respect to keeping
those records we think is evidence they don't exist.

COMMISSIONER KIMBLE: So since
September 14th, when he responded to the subpoena, we have
not heard from him?

MR. COLLINS: That's correct. Yes,
Mr. Chairman -- Commissioner Kimball.

ACTING CHAIRMAN MEYER: Commissioner Paton?

COMMISSIONER PATON: I don't think we should
go any farther with it, I mean, drag this out another
month. I mean, if people are taking classes now for the
upcoming election, whatever, this will be a good
reinforcer that -- I mean, it's been a year since the
last election, and I don't think dragging it on any longer
is going to be a good thing.

ACTING CHAIRMAN MEYER: Just for the fellow
commissioners, my thoughts are I believe there's a reason
to believe the factual predicate is there to support
moving forward with this. And I am -- I like to think
I'm, you know, sympathetic to these types of issues, but I
am mindful -- and I very vividly remember that August
meeting, which -- I was on the phone. I remember
Commissioner Kimball stating and reminding us that we are,
as the commissioners, stewards of these funds and we're
responsible to make sure that they're properly accounted
for.

So it's my position that we move forward
with the factual findings that Tom has suggested and that
we issue the penalty of three times the amount owed, which
would put us at the 69,000 figure. That's my suggestion
how we move forward today. I welcome thoughts of my
fellow commissioners or if anyone wants to make a motion.

COMMISSIONER KIMBLE: Mr. Chairman, I would
make that motion, or you certainly can if you -- I move
that we -- that we impose the penalties of three times the
amount of $17,459.

ACTING CHAIRMAN MEYER: If I could hit the
pause button on you, Commissioner Kimball.
Procedurally here, do we need to make the
finding of the factual issue first to then move forward to
the penalty phase?

MR. COLLINS: But I think from my
perspective, that's a good thing.
MS. GALVIN: Plus the repayment amount.

MR. COLLINS: And we can have Commissioner Kimble's motion
be heard?

MS. GALVIN: Yes. He's sort of argued it
earlier, but if he has anything additional to say.

ACTING CHAIRMAN MEYER: Well, I think we've
heard Tom's thoughts on this.

MR. COLLINS: Yeah, we're comfortable on
this.

ACTING CHAIRMAN MEYER: Commissioner Kimble,
do you want to reurge your motion at this time on the
penalty?

COMMISSIONER KIMBLE: Yes. I would move
that we impose penalty of three times the amount of
$17,459 on Mr. Rubalcava in addition to the initial
amount.

ACTING CHAIRMAN MEYER: I will second that.

MS. GALVIN: Do you withdraw your --

COMMISSIONER KIMBLE: I withdraw my motion.

ACTING CHAIRMAN MEYER: So I move that we
follow the staff recommendation that probable cause exists
for a violation of the Act, as indicated in the
November 3, 2014, Probable Cause Recommendation and Notice
of Possible Penalties prepared by Mr. Collins.

COMMISSIONER KIMBLE: I second that.

ACTING CHAIRMAN MEYER: All in favor say
aye.

(Chorus of ayes.)

ACTING CHAIRMAN MEYER: Any opposition?

(No response.)

ACTING CHAIRMAN MEYER: None.

So that motion carries three to zero, so we
have a quorum of all the commissioners -- or, the
necessary votes of all the commissioners.

So now we can move forward with the penalty
phase.
ACTING CHAIRMAN MEYER: There are no opposition.
2  The imposition of the penalty of $52,377
3  carries unanimously with all commissioners present.
4  MR. COLLINS: Thank you.
5  ACTING CHAIRMAN MEYER: Okay. Moving on to
6  Agenda Item V, "Discussion and Possible Action on MUR
7  17-02 and 17-03 American Federation for Children."
8  MR. COLLINS: I hope you all --
9  Mr. Chairman and Commissioners, you may have received from
10  me an email late last night. We were unable to get all of
11  the attorneys -- or, specifically AFC's attorney, who's in
12  D.C. today, to get a couple of details nailed down. We
13  had hoped -- As you can see in the proposed conciliation,
14  there's a blank. We are not -- we weren't able to fill
15  that in and we weren't able to get that done, so we are
16  holding that until next month.
17  ACTING CHAIRMAN MEYER: So move on to
18  Item VI?
19  MR. COLLINS: Please, Mr. Chairman.
20  ACTING CHAIRMAN MEYER: Item Number VI,
21  "Discussion and possible action on Clean Elections
22  Surcharge and related issues with the Arizona
23  Administrative Office of the Courts."
24  MR. COLLINS: And, Mr. Chairman, for this, I
25  would turn this over to Mr. Kanefield, who has -- update
26  you and advise you on this issue.
27  ACTING CHAIRMAN MEYER: Good morning,
28  Mr. Kanefield.
29  MR. KANEFIELD: Good morning, Mr. Chairman,
30  members of the Commission.
31  My recommendation would be the Commission go
32  into a very short executive session for a quick update.
33  adjourn to executive session.
34  COMMISSIONER KIMBLE: Second.
35  ACTING CHAIRMAN MEYER: All in favor say aye.
36  Opposition. The motion carries 3-0.
37  ACTING CHAIRMAN MEYER: I move that we
38  adjourn to executive session.
39  COMMISSIONER KIMBLE: Second.
40  ACTING CHAIRMAN MEYER: All in favor say aye.
41  (Chorus of ayes.)
42  ACTING CHAIRMAN MEYER: There's no
43  opposition.
44  All opposed?  Nay?
45  (Chorus of ayes.)
46  ACTING CHAIRMAN MEYER: All in favor say aye.
47  (Chorus of ayes.)
48  ACTING CHAIRMAN MEYER: All opposed?  Nay?
49  (No response.)
50  ACTING CHAIRMAN MEYER: There are no
51  members of the Commission.
52  My recommendation would be the Commission go
53  into a very short executive session for a quick update.
54  adjourn to executive session.
55  COMMISSIONER KIMBLE: Second.
56  ACTING CHAIRMAN MEYER: All in favor say aye.
57  (Chorus of ayes.)
58  ACTING CHAIRMAN MEYER: There's no
59  opposition. The motion carries 3-0.
60  (The following section of the meeting
61  beginning at 10:19 a.m. is in executive session
62  and bound under separate cover.)
63  * * * * *
64  (End of executive session. Public meeting
65  resumes at 10:38 a.m.)
66  ACTING CHAIRMAN MEYER: All right. We're
67  back in open session. Thank you.
68  We are on to agenda Item Number VII,
69  discussion and possible action on Executive Director's
request for authorization to enter into an IGA with Maricopa County for voter and public education purposes. Commissioners, this is -- really, I'm just asking for your permission to go ahead and draw up an agreement with Maricopa County. What this is going to do is ensure that there's a seamlessness between Maricopa County and Clean Elections with respect to some of the technological things that we do to provide voters with voter registration information and other information that the county's providing them. The county prefers to do this in the form of an intergovernmental agreement. The county does not at this point -- There's no cost associated with this, and so -- and then, as a matter of statute, the actual document would go through the Attorney General's Office as to form. What you see in the memo outlines essentially what we're going to put into the document in addition to whatever -- in addition to sort of the formal boilerplate of an IGA. That's pretty much it. If something comes up where I think that I need you to look at the IGA itself, I'm certainly happy to put that back on the agenda, but we decided that the most efficient way to get this done would be to simply ask for authorization to enter into an agreement that is substantially in the terms outlined in the memorandum and move forward from there.

So I'd ask for a motion to authorize me to proceed to enter into an agreement on terms substantially the same as those outlined in the memo dated 11-14-17.

ACTING CHAIRMAN MEYER: I'll make a motion that we authorize Mr. Collins to move forward in entering the intergovernmental agreement with the Maricopa County Recorder's Office consistent with the terms set forth in his memorandum of November 14, 2017.

Is there a second?

COMMISSIONER KIMBLE: Second.

ACTING CHAIRMAN MEYER: Okay. All in favor say aye.

(Chorus of ayes.)

ACTING CHAIRMAN MEYER: Any opposition?

(No response.)

ACTING CHAIRMAN MEYER: Motion carries three to zero.

On to Item Number VIII, "Discussion and Possible Action on the 2018 Legislative Agenda."

MR. COLLINS: Yes, Mr. Chairman.

Commissioners, you'll find here a memo that Mike has updated for 2018. Right now we are in a position where we continue to be concerned about efforts to supersede the Clean Elections Act specifically with respect to independent expenditures, but, you know, that could also include traditional candidates. We are looking to see how the election procedures manual gets drafted. Secretary Reagan's office has been working on the elections procedures manual for several years now, and one of the chapters in that manual is anticipated to be about campaign finance, and that may itself cause legislative action.

And then we are aware that at the very least the legislature continues to be interested in campaign finance and election-related laws. We've seen in a presentation that the election director did to a recertification class a list of potential tweaks to his campaign finance bill that he did a couple years ago, so we'll need to continue to weigh in on those. The principles continue to be, you know, if it's a ballot measure that's misleading or illegal, we continue to believe that it's our role and appropriate for us to oppose those at the legislature and explain why. We think, likewise, when the legislature is at risk of violating the Voter Protection Act, it's appropriate to advise them of that.

Finally, I want to note -- and this was in last year's memo as well -- that we have supported efforts to enhance voter education and participation, and I think we will continue to do that. As you know, you'll receive starting soon -- because the first bill has actually been filed in the legislature for next year already, which should strike terror in the hearts of all.

In any event, we'll be -- Mike will be keeping us abreast of those on a monthly basis, and any bills we think we need your specific feedback on, we'll get that. But you'll get an ongoing report, as you have in the past, of all the election-related bills. And that really is the memo.

We ask you to approve these principles because -- we ask you to approve this agenda because it's important to us as staff members to be able to say that there are principles that the Commission has endorsed that we're authorized to lobby on because I think that it's important for several reasons, but most importantly, in echoing the comments Commissioner Paton's made in the past, you know, we are staff members, but we are staff members who are responding to the Commission, and it's not -- We like to make clear to the legislature as much as possible that this is a unified process where staff takes its direction from the legislature -- or, from the Commission. And that, I think, aids our communication to the legislature and keeps us on a -- usually on legal terms, but on terms that we can feel very comfortable that
we're going to -- we represent you when we're in front of legislative bodies. And so we would ask that if you agree with the legislative agenda, that you approve the 2018 state legislative agenda that is Item VIII in your materials.

ACTING CHAIRMAN MEYER: Any questions or comments from the commissioners on the agenda?

COMMISSIONER KIMBLE: Mr. Chairman?

ACTING CHAIRMAN MEYER: Yes.

COMMISSIONER KIMBLE: Mr. Collins, I understand that because of the political nature of the current legislature, the makeup of it, that we're required pretty much to play a strong defense. But is there -- is there something more that we ought to be doing other than seeking stronger support of our voter education efforts?

Even if we don't think we're going to get very far with it, is there -- You know, we do a lot of sitting around defending ourselves. Is there something we ought to be doing to try to make this program stronger and at least get out there and push it, instead of just saying "Don't kill us"?

MR. COLLINS: Mr. Chairman, Commissioner Kimball, there are two answers to that question. The first is that, you know, we can -- we can certainly make more statements to that effect. We have worked with members, particularly in the minority party, to try to get them to -- when they're drafting their bills, to recognize that the Commission is a more appropriate enforcer for many of their proposals than the Secretary's Office or the Attorney General's Office ever would be. That's something we can continue to dialogue with them about.

Getting a Republican sponsor on enforcement-related things as far as campaign finance goes is increasingly difficult because this is -- Whereas 20 years ago, campaign finance was not ideologically -- was a have/have not issue, not an R-D issue, it's increasingly an R-D issue, except here. This body is unique in its ability to reach conclusions on a unanimous basis -- or, generally unanimous -- often unanimous, I should say. So I think that that's a harder challenge finding a sponsor. It's easier to find sponsors and we have found Republican sponsors on the voter education front.

Finally, it will be interesting to see if things play out in terms of other opportunities on the voter participation side that develop that we might weigh in on. I think that there are -- there is, you know -- These will be things that are controversial, to be sure, but things we may want to weigh in on.

Number one, you know, I think for years now, the counties have been asking that -- because 75 percent of the folks in the state vote by mail, that we move to all mail. That's something, if there was a bill introduced, that we might consider weighing in on.

There have been discussions about -- Do you mind if I mention -- I mean, there have been discussions about changing the way voter registration works to make it more user-friendly. That would promote participation and be consistent with our mandate. So those are issues that we can weigh in on if -- and we would bring those to you specifically because they might be more controversial.

But if you were to look at -- evaluate the policy and conclude on a bipartisan basis that, hey, this particular program really works, that would have some meaning, I think. And I think it would -- I think that's where we have our best opportunity to showcase the importance of having a commission like this beyond just don't kill us is the fact that it is bipartisan. We do have -- I hope that -- and we'll try to continue to bring you materials that, you know, we think are things that all five of you can agree to and that would be the best place to do it.

I mean, I think that the thing the Commission does -- and this is just my opinion, for what it's worth -- doesn't fit into the legislative narrative of the world is that we're bipartisan. And in a world where, you know, where everything is partisan, I think that there should be some ways in which we can make a strength, because it is -- in the end, that is one of the strengths of the Commission in terms of an institution.

So those are sort of the way -- That's kind of how I see it. That's a long answer to your question. The short answer is if we don't -- you know, if you ask any lobbyist, if you don't have a Republican sponsor for the bill, you don't have a bill, which I think you probably know. So . . .

ACTING CHAIRMAN MEYER: Any other comments or questions?

COMMISSIONER PATON: No.

ACTING CHAIRMAN MEYER: All right. There a motion to adopt and approve the 2018 legislative agenda?

COMMISSIONER KIMBLE: So moved.

ACTING CHAIRMAN MEYER: I will second that motion.

All in favor say aye.

(Chorus of ayes.)

ACTING CHAIRMAN MEYER: All opposed?

(No response.)

ACTING CHAIRMAN MEYER: Motion carries three
Item Number IX is "Discussion and Possible Action on the 2018 Commission meeting dates."

Can I make a motion that we adopt these meeting dates? Any questions or issues with those, Commissioners?

(No response.)

ACTING CHAIRMAN MEYER: All right. I'll move that we adopt and approve the proposed meeting dates for January through June 2018 in our materials today.

Is there a second?

COMMISSIONER KIMBLE: Second.

ACTING CHAIRMAN MEYER: All in favor say aye.

(Chorus of ayes.)

ACTING CHAIRMAN MEYER: Any opposition?

(No response.)

ACTING CHAIRMAN MEYER: Motion carries three to zero.

Now is the time for public comment. Do we have public comment from anyone?

(No response.)

ACTING CHAIRMAN MEYER: Okay. No public comment? Last chance before adjournment. Gentlemen?

(No response.)

ACTING CHAIRMAN MEYER: Okay. Motion for adjourn?

COMMISSIONER KIMBLE: I move we adjourn.

COMMISSIONER PATON: Second.

ACTING CHAIRMAN MEYER: All right. All in favor of adjourning the meeting?

(Chorus of ayes.)

ACTING CHAIRMAN MEYER: All opposed?

(No response.)

ACTING CHAIRMAN MEYER: Motion carries. We are adjourned.

(Whereupon, the proceedings concluded at 10:53 a.m.)
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