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THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

March 22, 2018

9:32 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 9:32 a.m. on March 22, 3 2018, at the State of Arizona, Clean Elections 4 Commission, 1616 West Adams, Conference Room, Phoenix, 5 Arizona, in the presence of the following Board members: 6 Mr. Damien R. Meyer, Chairperson 7 Mr. Mark S. Kimble 8 Ms. Amy B. Chan 9 Mr. Galen D. Paton 10 11 OTHERS PRESENT: 12 Thomas M. Collins, Executive Director 13 Sara Larsen, Financial Affairs Officer 14 Gina Roberts, Voter Education Director 15 Mike Becker, Policy Director 16 Alec Shaffer, Web Content Manager 17 Kara Karlson, Assistant Attorney General 18 Mary O'Grady, Osborn Maledon (telephonic) 19 Stephanie Cooper, Executive Support Specialist 20 Anne Froedge, Assistant Attorney General 21 Joseph LaRue, Assistant Attorney General 22 Christina Stone, Riester 23 Mirja Riester, Riester 24 25</p>	<p style="text-align: right;">Page 4</p> <p>09:33:50-09:35:11</p> <p>1 CHAIRMAN MEYER: Abstentions? 2 (No response.) 3 CHAIRMAN MEYER: Motion carries. 4 Item III: Discussion and possible action 5 on Executive Director's Report and notice of 6 administrative closure of MURS 18-01, -02 and -03. 7 Tom? 8 MR. COLLINS: Yes. Mr. Chairman, 9 Commissioners, just to really quickly talk about the 10 second half of the notice, about, I think, two years 11 ago, the Commission authorized the executive director 12 to close complaints administratively under certain 13 circumstances that are outlined in the rule, and we've 14 done that with three complaints. 15 I would note that one of those complaints, 16 the closure -- we had a request to reconsider that 17 decision. And I declined to reconsider that, but in 18 the event that -- having read any of those 19 administrative closures, that a commissioner wanted to 20 direct staff to reinstate a complaint, we can do that. 21 And we think that's the -- the rule that you passed 22 requires that you receive notice of the administrative 23 closures that I've done. 24 So -- 25 COMMISSIONER CHAN: Mr. Chairman?</p>
<p>09:32:51-09:33:49</p> <p style="text-align: right;">Page 3</p> <p>1 P R O C E E D I N G 2 3 CHAIRMAN MEYER: Good morning. We're going 4 to call -- good morning. We're going to call to order 5 the meeting of the Citizens Clean Elections Commission 6 for March 22nd, 2018. 7 We're going to start with Item Number II: 8 Discussion and possible action on Commission minutes 9 for February 15 of 2018. 10 Any questions or comments on the minutes, 11 or a motion to approve the minutes? 12 COMMISSIONER CHAN: Move to approve the 13 minutes as written. 14 CHAIRMAN MEYER: I have a motion to approve 15 the minutes. 16 Is there a second? 17 COMMISSIONER KIMBLE: Second. 18 CHAIRMAN MEYER: All right. A motion has 19 been moved and seconded. 20 In favor -- all in favor of approving the 21 meeting minutes for the February 15th, 2018, meeting 22 say aye. 23 (Chorus of ayes.) 24 CHAIRMAN MEYER: All opposed? 25 (No response.)</p>	<p>09:35:12-09:36:23</p> <p style="text-align: right;">Page 5</p> <p>1 CHAIRMAN MEYER: Commissioner Chan. 2 COMMISSIONER CHAN: Tom -- Mr. Chairman, 3 Tom, who request the reconsideration of the closure? 4 MR. COLLINS: The complainant in MUR-03. 5 COMMISSIONER CHAN: Okay. Thank you. 6 MR. COLLINS: So we haven't had that 7 happen -- we haven't -- we haven't had that come up 8 before. So I just wanted to note that one specifically 9 in the record. So I appreciate it. 10 Real quickly, just highlights of what's 11 happened since we last met, which seems like a long 12 time ago -- and I'll move through this quickly -- in 13 campaign finance news, the city of Tempe passed a 14 disclosure measure by a vote of 91 percent in their 15 March election, and the city of Phoenix city council 16 voted 6 to 3 to authorize staff to begin researching 17 potential campaign finance reform measures for the 2018 18 Phoenix ballot. 19 Gina testified at the U.S. Commission on 20 Civil Rights briefing -- Arizona Advisory Committee 21 briefing on voting rights in Arizona on her research 22 and the research she's overseen on what motivates 23 voters and what interferes with voters, you know, 24 actually voting and the Commission's voter education 25 plan.</p>

<p>09:36:23-09:37:47</p> <p>Page 6</p> <p>1 The Commission does have a new website 2 that's up. I would take a look at it if you get a 3 chance. We really are proud of it. Alec and Stephanie 4 and Gina have all worked very, very hard to get it 5 prepared. Alec has been -- as far as I understand, he 6 hasn't left the office in a month at all, and he's 7 here, you know. 8 So it's been a real labor for them, but I 9 think that the results are going to benefit voters 10 because I think the website is better organized and the 11 content is easier to access. And it's more oriented 12 towards getting voters what they need quickly than 13 our -- than our prior version. And I've got to say 14 that I really liked our previous website, but once -- 15 you know, I think all of us as staff have remarked that 16 once you saw the new website, the old website didn't 17 look like -- well, the old website, it really looked 18 like it had aged. 19 So we're really proud of that. I'm really 20 proud of them, and I -- and I think that that's 21 really -- that's great. 22 We're working on the debate schedule. We 23 do -- we have been working with a number of 24 districts -- school districts on a pilot program to 25 host debates which is -- you know, Commissioner Paton</p>	<p>09:39:27-09:40:40</p> <p>Page 8</p> <p>1 spending limits that apply to clean candidates because 2 the expenditure is not by the candidate. It is -- a 3 party expenditure is -- by definition under Senate Bill 4 1516 is not a contribution and it's not an expenditure 5 by the candidate. 6 It's also one of the provisions that the 7 Arizona Advocacy Network and the Democratic Caucus and 8 the rest of the plaintiffs are suing over, that 9 particular provision, but nevertheless, that's there to 10 make sure that everybody knows what the Commission has 11 already put into the rule and what's in law. 12 And that's all. I apologize for going on 13 so long, but that is -- that completes my report. 14 COMMISSIONER CHAN: Mr. Chairman? 15 CHAIRMAN MEYER: Yes, Commissioner Chan. 16 COMMISSIONER CHAN: Mr. Chairman, I just 17 wanted to recognize the city of Tempe and the city of 18 Phoenix because I feel like I'm really, really pleased 19 to see cities picking up the slack where the State has 20 left off with regard to dark money and trying to shine 21 a light on who's spending money on elections. I always 22 say this. So I may sound like a broken record, but as 23 a voter, to me, I want to know who's speaking in our 24 elections, who's making the claims and statements that 25 we see on our ads and our mailers.</p>
<p>09:37:50-09:39:22</p> <p>Page 7</p> <p>1 has raised for us, and I think that's been going well. 2 And, you know, I think that, you know -- 3 and I think the benefit will be even if the turnout at 4 the debates is not -- in terms of live folks is not 5 necessarily -- doesn't -- even if it worked -- even if 6 it increases but doesn't increase dramatically, I think 7 that being in the community in this way will be a 8 measure of success if word of mouth gets folks watching 9 it on YouTube and those kinds of things, which I 10 think -- I think is important. And Commissioner Kimble 11 has been working with Gina on Legislative -- 2? -- 12 Legislative District 2. 13 There's an election on April 24th. 14 The last thing I wanted to mention -- and I 15 don't mean to go on so long -- is there's a -- there's 16 a memo or an email, rather, that I wrote to an attorney 17 who requested one regarding how Section 16-911 of the 18 new campaign finance measure that passed a couple of 19 years ago interacted with the clean candidate spending 20 limits, and there's some language in a guidebook which 21 the Secretary produced that says that party 22 expenditures would be reported by the candidate if 23 they're for the candidate. 24 And it doesn't have a citation to it or 25 anything, but there's -- that would not affect the</p>	<p>09:40:43-09:41:50</p> <p>Page 9</p> <p>1 And so dark money has been something that I 2 really oppose and have opposed since Citizens United 3 legitimized it. And I'm just very, very pleased to see 4 that where the State has kind of dropped the ball, in 5 my opinion, that we have some localities here in the 6 Valley picking up the slack. So kudos to Tempe and 7 their voters and kudos to the city of Phoenix for 8 looking into that. 9 CHAIRMAN MEYER: Thank you, Commissioner 10 Chan. 11 Any other comments on the executive 12 director report? 13 (No response.) 14 CHAIRMAN MEYER: Okay. Let's move on to 15 Agenda Item Number IV: Recognition and appreciation to 16 Sara Larsen, financial affairs and compliance officer, 17 for her service to the Commission and the state of 18 Arizona. 19 Sara, congratulations. We're very sad -- 20 sad that you're leaving us, but very happy for you that 21 you're moving on to something that you're very excited 22 about, I understand, from Tom. 23 Tom, I'll give you the floor to -- to make 24 any comments. 25 MR. COLLINS: Yeah, but I -- thank you,</p>

<p>09:41:53-09:43:20 Page 10</p> <p>1 Mr. Chairman. Yeah, this is, I think, a real 2 opportunity for Sara. I was talking to Todd Lang 3 who -- now Judge Lang who is the executive director who 4 hired Sara, and he said it will -- basically, that 5 was -- like, her job will to just do good things for 6 the world which -- and Todd is in San Francisco or he 7 would be here. 8 I've spoken with -- or emailed with a 9 number of former commissioners. Commissioner Reckart 10 told me that he thinks that everybody on the -- every 11 commissioner has always been in awe of Sara's work. 12 You know, Commissioner -- Commissioner Koester 13 similarly said that. 14 There are two things I've received by email 15 that I wanted to specifically read in the record. One 16 is from former Chairman Laird who would have been here, 17 but he is -- he left for a cruise off the Panama Canal 18 yesterday -- yesterday night. 19 He said, I'm excited to hear about the 20 wonderful position that Sara Larsen has accepted at the 21 Flinn Foundation. During my time on the Commission, it 22 was a great joy to get to know and work with Sara. She 23 was a high school friend of my son's, and I took 24 special joy in watching her provide such outstanding 25 work and service to the Commission. When I came on the</p>	<p>09:44:25-09:45:59 Page 12</p> <p>1 So I think that that sums up better than I 2 could in my own words, but I've worked with Sara for 3 seven years. We have worked on conciliations at 1:00 4 o'clock in the morning. We have seen the entire office 5 gutted and then restored. And so, you know, she's been 6 integral to our work here and, certainly since I've had 7 since this job, crucial to us being able to perform our 8 work. 9 So I would turn it over to the rest of the 10 Commission at that point, anything else you-all want to 11 say, but congratulations. 12 And we will miss you. And we have a plaque 13 coming, but we -- the plaque will be here. 14 COMMISSIONER KIMBLE: Mr. Chairman? 15 CHAIRMAN MEYER: Commissioner Kimble. 16 COMMISSIONER KIMBLE: I just wanted to 17 briefly say, Sara, that I think it would have been 18 impossible to do this job without all of your 19 assistance and guidance, and I have just been in awe at 20 your encyclopedic knowledge of everything in here by 21 section, by subsection, by rule number and everything. 22 And a number of the enforcement actions 23 that we're going to be discussing today -- one in 24 particular -- would not have -- would not have come 25 about without your expertise in the area of all the</p>
<p>09:43:22-09:44:23 Page 11</p> <p>1 Commission, I asked for some accounting and budget 2 reports that had never been done by the Commission, and 3 the very next meeting after I expressed my desire for 4 the reports, Sara had them all done exactly as I had 5 requested. And for the rest of my tenure, those 6 reports were prepared and presented by Sara with the 7 highest level of professionalism and accuracy. It is 8 rare to find someone who has the professional 9 abilities, character and wonderful people skills that 10 Sara possesses. Sara is a constant professional who 11 will succeed and excel in anything she does in her new 12 job opportunities. It's a great loss for the 13 Commission, but another step for Sara as she continues 14 to grow professionally. I wish her the very best in 15 all she does. 16 And then the second one -- the other thing 17 I wanted to read, as you all know -- maybe some of you 18 know -- Daniel Ruiz was our deputy director. He is now 19 deputy chief of staff at -- for Governor Ducey, and he 20 wrote me to say that he was so appreciative to have the 21 opportunity to work with Sara Larsen. Her passion for 22 public policy is admirable and I know that it will be a 23 great benefit in her new role. That combined with the 24 positive congeniality will undoubtedly be helpful in 25 inspiring future leaders at the Flinn Foundation.</p>	<p>09:46:04-09:47:16 Page 13</p> <p>1 rules that we have that I can't possibly keep track of 2 in the detail that you've been able to. 3 In addition to that, your knowledge of the 4 budget, which we discussed just recently, anyone who 5 asked a question here, you had an immediate answer to, 6 which was astounding. And I think -- while I'm happy 7 that you're doing a job that I know is something that's 8 going to be a new challenge for you, I think it's very 9 sad for the Commission and it's going to be a huge 10 loss. 11 COMMISSIONER CHAN: Mr. Chairman? 12 CHAIRMAN MEYER: Commissioner Chan. 13 COMMISSIONER CHAN: I guess I'm the one 14 commissioner who's been here the shortest amount of 15 time since you have been here, but I knew you a little 16 bit before from my role at the Secretary of State's 17 office. And I was floored when I heard the news, and 18 I'm thrilled for you. It's fabulous that you found 19 something wonderful to step into and it is important to 20 kind of try new things and especially things that are 21 meaningful to us, but having said that, it is a big 22 loss for us because you're so knowledgeable and have 23 done such a wonderful job. 24 So we've got big shoes to fill that you're 25 leaving, and I know that we'll hopefully be able to</p>

<p>09:47:20-09:48:28 Page 14</p> <p>1 fill them with somebody who can do as wonderful a job 2 as you have done. And when I was speaking with you 3 before the meeting, Mike mentioned -- Mike Becker 4 mentioned you'll be back. And maybe 5, 10, 20 years, 5 you know, people seem to come back to this place. So, 6 anyway, we can hope. 7 Thank you very much for everything you've 8 done for us. 9 CHAIRMAN MEYER: Thank you, Commissioner 10 Chan. 11 Commissioner Kimble, do you have any 12 comments? 13 COMMISSIONER PATON: Thanks a lot. I 14 appreciated -- all of the staff, I really appreciate 15 all their work, and you've been tops. So thank you. 16 CHAIRMAN MEYER: And, yes, I echo what my 17 fellow commissioners have said, and I just -- you know, 18 it's a -- it's a steep learning curve that we have when 19 we join the Commission. And I don't think I've ever 20 asked a question that you didn't immediately know the 21 answer to, and I've always appreciated that. And 22 equally -- I've been equally appreciative of just your 23 professionalism. The way you go about doing your job 24 is very admirable and something that we're missing a 25 lot during these times.</p>	<p>09:49:42-09:50:54 Page 16</p> <p>1 which we work with. 2 And I just want to say, you know, I 3 leave -- it's very bitter sweet that I leave. I've 4 spent a lot of my professional life here and I'm 5 working with the Commission, and I believe in 6 everything that we do here. And I know that everyone 7 here is committed to it, and I'm just -- I'm so 8 grateful for the opportunity that I've had to have been 9 here and worked with all of you and for all of you. 10 And thank you so much for your kind words. 11 Thanks. 12 CHAIRMAN MEYER: Thank you. 13 COMMISSIONER KIMBLE: Mr. Chairman, I might 14 point out to the governor there is a vacancy on the 15 Commission if he's looking for someone to fill it. 16 CHAIRMAN MEYER: Thank you. 17 Now Item Number V: Discussion and possible 18 action on administrative law judge recommendation on 19 MUR 17-01, Jesus Rubalcava. 20 Go ahead. 21 MR. COLLINS: Mr. Chairman, Commissioners, 22 so this is a return of the measure -- of the award that 23 we entered that was appealed to the administrative law 24 judge. What I think we'd like to do -- I don't know -- 25 Joe LaRue is here, and he represented us at the ALJ.</p>
<p>09:48:30-09:49:38 Page 15</p> <p>1 So we'll always be very thankful for all 2 the help you did, both the Commission, me personally. 3 So thank you very much, and we wish you nothing but the 4 best of luck. So thank you. 5 All right. 6 MR. COLLINS: Did you have anything you 7 want to the add? 8 CHAIRMAN MEYER: Oh, I'm sorry. Gina, 9 thank you. 10 Thank you, Tom. 11 Sorry. 12 MS. LARSEN: Chairman, Commissioners, thank 13 you so much for all your kind words and, Tom, thank you 14 for reaching out to some of the previous commissioners. 15 And Todd and Daniel, those are so nice for everything. 16 I have really enjoyed my time here at the 17 Commission, and I have learned a lot. I have grown a 18 lot. I have definitely been challenged while I've been 19 here, and I've just -- I've enjoyed every minute of 20 being here. I've enjoyed my coworkers immensely, and 21 this has been a fabulous place to come to work and to 22 do something good, something that I believe in. And, 23 you know, this is a fantastic agency, and we rarely 24 have turnover here. And I think that's a testament to 25 the environment in which we work and the people in</p>	<p>09:50:59-09:52:35 Page 17</p> <p>1 We also have independent advice from the Attorney 2 General's Office, a different division because this is 3 an adjudicatory decision. 4 And so with that, I think I'll turn it over 5 to Joe to walk you through his and on my behalf's 6 recommendations and then, to the best of my knowledge, 7 Mr. Rubalcava is not here and hasn't contacted to us to 8 appear, although he did receive notice at least twice. 9 So that's -- I guess I will turn it over to 10 Joe, Mr. Chairman, with your permission, if that's 11 okay. 12 CHAIRMAN MEYER: Okay. 13 MR. LaRUE: Thank you, Tom. 14 Mr. Chairman, Commissioners, the 15 administrative law judge issued what is known as a 16 recommended order on February 28th. In that 17 recommended order, she provided what lawyers and courts 18 call findings of fact and conclusions of law. And, in 19 layman's terms, non-lawyer terms, that means that she 20 found certain pieces of evidence to be true or 21 compelling, and she made certain conclusions of law as 22 to with regard to how the law works and what should 23 happen. 24 After having made those findings of fact 25 and conclusions of law -- which I guess I should say</p>

<p>09:52:38-09:54:11 Page 18</p> <p>1 the findings of fact are based on the evidence that was 2 presented to her in the hearing where Tom and Sara both 3 testified and Mr. Rubalcava also testified. After 4 making those findings of fact and conclusions of law, 5 she issued what we call a recommended order, and this 6 is a little different than the way things work in state 7 court. 8 In state court the judge issues an order 9 and that is the order. In the administrative law 10 courts, the administrative law judge in this type of 11 situation issues a recommended order, and that order 12 then comes back to the Commission for the Commission to 13 act upon. 14 You are represented by counsel from the 15 Attorney General's Office separate from me, and so she 16 can address what I'm about to say when I'm done and 17 answer any questions that you may have about the 18 process, but just by brief overview, the Arizona 19 Revised Statutes say that within 30 days, the 20 Commission must either accept, modify or reject the 21 administrative law judge's recommended order. And so 22 we are within that 30-day mark, and the -- the 23 intention, I guess, is that the Commission will take 24 one of those actions today. 25 My recommendation as the attorney that</p>	<p>09:56:02-09:57:33 Page 20</p> <p>1 date of your final administrative decision, the full 2 civil penalty in the amount of \$52,290.60. 3 As I -- as I said a few moments ago, she 4 basically affirmed your judgment against Mr. Rubalcava, 5 and that's why, again, as the attorney that litigated 6 this, I would recommend that the Commission accept the 7 recommended order from the administrative law judge. 8 Do you have any questions for me? 9 CHAIRMAN MEYER: I do not, Mr. LaRue. 10 Anyone else have a question? 11 COMMISSIONER KIMBLE: Mr. Chairman? 12 CHAIRMAN MEYER: Commissioner Kimble. 13 COMMISSIONER KIMBLE: One question. So if 14 we accept this, it is binding on Mr. Rubalcava. 15 Is it also binding on us that we cannot 16 negotiate any lower amount than this? That this is the 17 amount he has to pay and it is now out of our hands? 18 MR. LaRUE: Mr. Chairman, Commissioner 19 Kimble, my understanding of the law is that you can 20 always negotiate a lower amount, but this will be the 21 repayment order issued to Mr. Rubalcava. And that 22 becomes your starting point if, in fact, you want to 23 negotiate a lower amount. 24 COMMISSIONER KIMBLE: Okay. Thank you. 25 CHAIRMAN MEYER: Any other questions from</p>
<p>09:54:14-09:55:58 Page 19</p> <p>1 litigated this, but not as your attorney -- again, your 2 attorney is on the dais with you, by my recommendation 3 as the attorney who litigated this is that you accept 4 her order for these reasons. She basically agreed with 5 you fully with regard to your repayment order. She did 6 reduce the order by \$86.40. And the reason she did 7 that, during the evidentiary portion of the hearing 8 Mr. Rubalcava produced a receipt from Vista Print for 9 business cards in the amount of \$28.80. 10 She recognized that the auditor -- that the 11 auditors had recognized that Mr. Rubalcava might have 12 actually spent some money on allowable purposes, but he 13 had not demonstrated that. She took this receipt as 14 demonstration that \$28.80 had been spent on legitimate 15 campaign-related expenses that are allowed under the 16 Clean Elections Act. So what she did is she took that 17 \$28.80 and she multiplied it by 3 because, if you 18 recall, your civil penalty order was three times the 19 repayment order. 20 And so she multiplied that by 3, which 21 comes up to \$86.40, and then she reduced the civil 22 penalty by that amount. She then issued a recommended 23 order where she recommended that the Commission affirm 24 all of its findings against Mr. Rubalcava and order 25 Mr. Rubalcava to repay, within 30 days of the effective</p>	<p>09:57:37-09:58:34 Page 21</p> <p>1 the commissioners? 2 (No response.) 3 CHAIRMAN MEYER: Thank you, Mr. LaRue. 4 MR. LaRUE: Thank you, Mr. Chairman. 5 CHAIRMAN MEYER: Okay. So at this point in 6 time, I think we want to take a vote, do we not, Tom, 7 on whether or not we want to accept the order and 8 the -- I'm sorry. What -- can you say your name for 9 the record? 10 MS. FROEDGE: Yes. I'm sorry. My name is 11 Anne Froedge. 12 CHAIRMAN MEYER: Ann Froedge. Thank you. 13 Ms. Froedge, did you have any comments 14 before we move to a vote on Mr. LaRue's recommendation? 15 MS. FROEDGE: Mr. Chairman, members of the 16 Commission -- 17 CHAIRMAN MEYER: Can you talk into the mic, 18 please? 19 MS. FROEDGE: Oh. This one? 20 CHAIRMAN MEYER: Yes. There you go. 21 MS. FROEDGE: Yes. Mr. Chairman, members 22 of the Commission, I would just request that you ask 23 the Commission members if they've reviewed the entire 24 administrative law judge decision and, if there's going 25 to be a request to make any changes to the findings of</p>

<p>09:58:37-09:59:40 Page 22</p> <p>1 fact, that everyone state that they have reviewed the 2 record of the case. 3 CHAIRMAN MEYER: Okay. I have reviewed it. 4 I have reviewed the opinion. 5 Have the other commissioners also reviewed 6 it? 7 COMMISSIONER PATON: Yes. 8 COMMISSIONER CHAN: Yes. 9 COMMISSIONER KIMBLE: Yes. 10 CHAIRMAN MEYER: Okay. We've all reviewed 11 it. 12 MS. FROEDGE: And then, also, I would 13 request that you vote separately on the findings of 14 fact and the conclusions of law in the order. 15 CHAIRMAN MEYER: Three separate votes? 16 MS. FROEDGE: Yes. 17 CHAIRMAN MEYER: Okay. Okay. So, I guess, 18 first, is there a motion that we approve the finding of 19 facts of the administrative law judge decision in Case 20 Number 18F-002-CCE? 21 COMMISSIONER CHAN: Mr. Chairman, I 22 would -- I would move that we approve the findings of 23 fact of the administrative law judge in this case. 24 CHAIRMAN MEYER: Is there a second? 25 COMMISSIONER KIMBLE: Second.</p>	<p>10:00:28-10:01:16 Page 24</p> <p>1 (No response.) 2 CHAIRMAN MEYER: Abstentions? 3 (No response.) 4 CHAIRMAN MEYER: Okay. Motion carries to 5 approve the conclusions of law 4 to 0. 6 And, finally, we need a motion, if there is 7 one, to adopt the administrative law judge's 8 recommended order in this matter. 9 Is there a motion? 10 COMMISSIONER CHAN: Mr. Chairman, I would 11 so move that we adopt the administrative law judge's 12 recommended order in this matter. 13 CHAIRMAN MEYER: Thank you, Commissioner 14 Chan. 15 Is there a second? 16 COMMISSIONER KIMBLE: Second. 17 MS. FROEDGE: Mr. Chairman, we need a roll 18 call vote on the order, please. 19 CHAIRMAN MEYER: Okay. So each person 20 needs to go through individually? 21 MS. FROEDGE: Yes. 22 CHAIRMAN MEYER: Okay. All right. So it's 23 been moved and seconded that we adopt the 24 administrative law judge's recommended order, and we're 25 going to do a roll call vote on this motion.</p>
<p>09:59:40-10:00:26 Page 23</p> <p>1 CHAIRMAN MEYER: It's been moved and 2 seconded. 3 All in favor of approving -- of approving 4 the findings of fact and granting the motion say aye. 5 (Chorus of ayes.) 6 CHAIRMAN MEYER: Any opposition? 7 (No response.) 8 CHAIRMAN MEYER: Any abstentions? 9 (No response.) 10 CHAIRMAN MEYER: Okay. Motion carries to 11 approve the findings of fact 4 to 0. 12 Is there a similar motion to approve the 13 conclusions of law in this case? 14 COMMISSIONER CHAN: Mr. Chairman, I would 15 move that the Commission approve the conclusions of law 16 made by the ALJ in this matter. 17 CHAIRMAN MEYER: Thank you. 18 Is there a second? 19 COMMISSIONER KIMBLE: Second. 20 CHAIRMAN MEYER: It's been moved and 21 seconded that we approve the administrative law judge's 22 conclusions of law in this matter. 23 All in favor say aye. 24 (Chorus of ayes.) 25 CHAIRMAN MEYER: Any opposition?</p>	<p>10:01:18-10:02:32 Page 25</p> <p>1 Commissioner Chan? 2 COMMISSIONER CHAN: I vote aye. 3 CHAIRMAN MEYER: Commission Kimble? 4 COMMISSIONER KIMBLE: Aye. 5 CHAIRMAN MEYER: Commissioner Paton? 6 COMMISSIONER PATON: Aye. 7 CHAIRMAN MEYER: And Commissioner Meyer, 8 myself, I vote aye as well. 9 Motion carries 4 to 0. 10 I believe that resolves Matter Number V. 11 On to Item Number VI: Discussion and 12 possible action on legislation affecting the 13 Commission, campaign finance, election, and 14 administrative law. 15 Tom? 16 MR. COLLINS: Mr. Chairman, Commissioners, 17 we have -- you'll have Mike's report on the status of 18 legislation that we're tracking. That's available. 19 It's also available on our website and has been. 20 There's one -- one piece of legislation I 21 want to note and then a piece of legislation I'd like 22 to talk about a little more in depth. The one I want 23 to note is related to Commissioner Chan's discussion of 24 the city of Tempe and the city of Phoenix activities. 25 There is a measure that's being heard today in Senate</p>

<p>10:02:36-10:04:10 Page 26</p> <p>1 jud called House Bill 2153 that would prohibit cities 2 from, essentially, doing what Tempe and Phoenix are -- 3 Tempe has proposed to do and what the city of Phoenix 4 is discussing doing. 5 There have been questions raised about 6 whether or not, even if that bill were to pass, it 7 could be applied to Tempe and Phoenix and Tucson, for 8 that matter, which are all charter cities. Tucson has 9 had its own campaign finance organic charter law for 10 close to 40 years unchallenged and un- -- without 11 anyone saying otherwise. So it raises a novel issue of 12 constitutional law if it does, in fact, advance out of 13 the legislature. We haven't taken a position on the 14 bill, but it is something that we're tracking. 15 The thing I wanted to talk to you about 16 more specifically is HCR 2007 which we've talked about 17 before. This is a measure that would -- if enacted, 18 would be sent to the voters for their approval or veto 19 rather than being sent to the governor. As such, you 20 know, I've noted before in previous meetings, it 21 raises, I think, Voter Protection Act issues because it 22 had -- did not receive a three-quarters vote in the 23 House and it does amend the Clean Elections Act. 24 But putting that to one side, the bill, as 25 we've talked about, has three principal components.</p>	<p>10:05:58-10:07:14 Page 28</p> <p>1 against inflation. So the Senate research staff fact 2 sheet, what's being presented to the public in the 3 summary of this bill, is flat out untrue. It's not 4 inflation and it's actually deflationary. 5 It has the odd effect in the short-term of 6 increasing the amount of money that clean candidates 7 can take from individuals by almost a third because 8 those levels are low, but over time, it is not 9 inflation. And it is a -- it is not a conforming 10 change. It is a radical change to the way this program 11 operates, and it's not being discussed in a 12 straightforward way. 13 Likewise, the exemption language that they 14 have removed does not -- it's intended, I think it's 15 safe to say, to get the Commission under the 16 jurisdiction, in some manner, of the Governor's 17 Regulatory Review Council, which has been a matter of 18 continuing dispute, but it does -- it does not at all 19 make clear what the law is going to be because the 20 Clean Elections Act has numerous provisions that 21 provide for procedures that are not consistent or are 22 potentially in conflict with the Arizona Administrative 23 Procedures Act rule-making provision. 24 So it is -- it is going to create issues, 25 not resolve them, and the -- and the legislature is not</p>
<p>10:04:13-10:05:52 Page 27</p> <p>1 One, it prohibits participating candidates from making 2 expenditures to parties in 501 entities, and that's 3 Part 1. Part 2 is it removes the language from the act 4 exempting the Commission from the rule-making 5 provisions of the Arizona Procedures Act -- the Arizona 6 Administrative Procedures Act; and then, third, it 7 changes the inflation adjustment that applies to Clean 8 Elections candidate spending limits, Clean Election 9 candidate contribution limits and your own per diems 10 from inflation to \$100. 11 And I want to -- this will take a little 12 bit of time for me to get through talking about this, 13 but those latter two provisions have not been discussed 14 by the legislature in a straightforward manner. I will 15 just give you an example. Today HCR 2007 is being 16 heard in Senate jud -- Senate jud's meeting right now 17 as we speak. That bill may be the last bill that gets 18 heard there today, but nevertheless, that's where it 19 is. 20 The fact sheet that the Senate research 21 staff prepared for this states that the change in the 22 inflationary adjustment from inflation to a flat \$100 23 accounts for inflation. That is false. It is not. 24 \$100 is not inflation, and a fixed \$100 is, in fact, 25 deflationary because \$100 declines in value over time</p>	<p>10:07:17-10:08:44 Page 29</p> <p>1 discussing that squarely. The reason why the 2 legislature is not discussing those two issues squarely 3 is because the legislature has been talking about this 4 in terms of the issue of party expenditures that were 5 made in 2016. We've rehashed this now for two years, 6 three years. We passed a rule that tried to address 7 it. That rule didn't pass unanimously. 8 So, you know, there is a -- obviously, 9 reasonable minds can differ about what the appropriate 10 way to go about this is, but it's my view and, I think, 11 the view of -- and Mike's view that at this point, you 12 know, we should take that off the table. There is 13 no -- nothing to be gained at this point by -- we have 14 opposed the bill in its totality based on the fact that 15 we have a rule in place on the party expenditure issue. 16 Notwithstanding that rule, I think, for 17 purposes of this legislative session and in order to 18 get the public, the press, the legislators themselves 19 to understand what is really being proposed to do to 20 Clean Elections, that we essentially say that -- 21 essentially, go to a neutral position on Section 1 of 22 the bill. 23 I'm briefing you on this because -- and 24 wanted to raise this with you-all because we have a 25 rule in place on this, but, you know, I'll tell you</p>

<p>10:08:48-10:10:18 Page 30</p> <p>1 after that rule passed, you know, we did have a -- 2 there was -- and not all of you may know this. I had 3 the impression many of you did but, you know, the 4 speaker of the House put out a press release that said, 5 you know, he was upset about the rule choice that was 6 made. 7 I will tell you that I personally committed 8 to the speaker that in the event something came up that 9 was -- that warranted it, we could revisit that rule on 10 an emergency basis. Others, obviously, don't think 11 that's sufficient, but -- and I'm not proposing we 12 change the rule for this election cycle, but I do 13 propose and intend to make clear that as to Section 1, 14 we just -- we don't have an interest in arguing about 15 that because Sections 2 and 3 are not being discussed 16 properly, not being discussed honestly and do 17 tremendous damage to both the independence of the 18 Commission and the operation of the program in general. 19 So that's where I come down on that. If 20 you have -- I don't need a vote on that, per se, but I 21 do if you -- if the commissioners have strong 22 objections to modifying the way we approach this, I 23 would like to hear that because I would -- I obviously 24 don't want to get out in front of you, but that is my 25 proposal going forward.</p>	<p>10:11:36-10:13:04 Page 32</p> <p>1 Commissioner Paton made his views on this 2 known. So it is clear that reasonable minds can differ 3 and reasonable minds do differ on the Commission about 4 that particular policy. And so I don't think it gives 5 anything away, to be honest with you, in terms of the 6 Commission's actions to take that off the table now and 7 simply say, look, that's a party issue. 8 At the end of the day, if the Democratic 9 party or the Republican party wants to make these -- 10 take expenditures from candidates or 501 people want to 11 take expenditures from candidates, that's their issue. 12 You know, Sections 2 and 3 are really Commission 13 issues. And so that's -- and that's my -- I think you 14 are correct in observing the tension there, but 15 nevertheless, I just don't think that there's any other 16 way to get -- I'll just give you an example. 17 The Arizonans -- Americans for Prosperity's 18 Arizona Chapter has been touting this bill as no money 19 for political parties, and then omits from its, you 20 know, updates that it sends to its members and other 21 interested parties any mention of Sections 2 or 3. The 22 same can be said for -- and, as I said, even the 23 research staffs of the legislature are not accurately 24 and truthfully describing the impact of Sections 2 and 25 3.</p>
<p>10:10:21-10:11:34 Page 31</p> <p>1 COMMISSIONER CHAN: Mr. Chairman? 2 CHAIRMAN MEYER: Any comments? 3 Commissioner Chan. 4 COMMISSIONER CHAN: Mr. Chairman and Tom, 5 I'm having a little heartburn over going neutral on 6 Section 1 of the bill only because I understand what 7 you're saying, but -- and perhaps the reason you're 8 saying this -- and you can correct me if I'm wrong -- 9 is because you want to focus on the other two parts 10 that are so -- such travesties, but can't we focus on 11 those without going neutral on Section 1 if we 12 inherently disagree with Section 1? I feel like we're 13 sacrificing our policy position a little bit if we go 14 neutral on that even though we still will have our 15 rule. 16 MR. COLLINS: I think that's also been -- 17 Mr. Chairman, Commissioner Chan, I think that's -- I 18 think that's exactly the question before you, and my 19 recommendation is a balance that the -- that whatever 20 sacrifice there is with respect to the policy is not 21 sufficiently grave enough here because it doesn't 22 require us to change the rules. It doesn't require us 23 to do anything in the immediate term. What it simply 24 says is, look, I mean, that bill -- that rule did not 25 pass unanimously in the first place.</p>	<p>10:13:07-10:14:32 Page 33</p> <p>1 And there is -- so I cannot -- I have not 2 been able to think of another way to change the 3 dynamics of this conversation. And given that the 4 Commission itself was divided on this issue in the 5 first place, it's clear that there is -- if a 6 reasonable person can reach either conclusion, I just 7 think that this is the only way we -- or I should say 8 this isn't the only way. This is, in my view, the best 9 way to proceed. 10 COMMISSIONER CHAN: Okay. Thank you, Tom. 11 And, Mr. Chairman, Tom, I guess my only 12 remaining comment on that would be that I understand 13 what you're saying about Sections 2 and 3 again, you 14 know, that that specifically deals with the Commission 15 and that that's where our real fight is, but it is 16 barring -- Section 1 is barring participating 17 candidates from deciding where they spend money to buy 18 those voter files. 19 And I appreciate what you're saying, too, 20 about Commissioner Paton's desire -- and, Commissioner 21 Paton, I still respect your opinion even though we 22 disagree on that, but I still want to point out that 23 I -- in listening to the participating candidates who 24 came to speak to us about it, I was very moved by their 25 arguments, by how they said it would impact them if we</p>

<p>10:14:37-10:16:08 Page 34</p> <p>1 prohibited that. And I just fear -- and maybe I'm 2 being a little too rigid, but I fear that if we go to 3 neutral we're just giving up some of our integrity -- I 4 mean, not integrity. I don't want to put it in that 5 kind of a good/bad terminology, but some of our 6 position on what we really think about this as a 7 Commission who has voted on it. 8 CHAIRMAN MEYER: Tom, in response to 9 that -- and maybe you can help clear up an 10 understanding -- a misunderstanding that I may have is 11 even under this statute, would participating candidates 12 still be allowed to purchase voter files from the 13 parties? 14 MR. COLLINS: Mr. Chairman, yes. I should 15 have -- I should have gone over that. Yes. The one 16 exception is for the voter file. What they couldn't do 17 is some of the -- you know, the hiring of field workers 18 and some of the other consulting services that were 19 purchased in the 2016 cycle. 20 Mr. Chairman, if I may just to -- just to 21 talk through this point with Commissioner Chan, you 22 know, I think that the other thing to bear in mind is 23 that this measure should have passed at the -- at 24 the -- passed onto the voters and be -- you know, as an 25 enactment of the legislature. And the legislature</p>	<p>10:17:30-10:18:41 Page 36</p> <p>1 for -- since January, since this bill dropped, to get 2 an acknowledgment anywhere. 3 If the Senate research staff and the House 4 research staff will not acknowledge the actual impact 5 of this bill and the public and the press and most 6 folks rely on those fact sheets, not the bills, to make 7 their decisions, there's no other way for us to change 8 the dynamic that I can -- or, I should say -- I keep 9 saying no other way -- this is the best way to change 10 the dynamic of this conversation that I've been able to 11 come up with. 12 Ultimately, it's your call. That's why we 13 have brought it back to you, but I think that we can be 14 clear that we have a rule. We're giving a chance to 15 see if that rule works. If that rule doesn't work, we 16 obviously would like -- we would review it again and 17 see if we need to do something different, but in the 18 meantime, you know, the honest to God truth is that 19 folks are being misled by the very, quote/unquote, 20 nonpartisan folks who are supposed to be telling them 21 what's in the legislation that they're voting on. 22 COMMISSIONER CHAN: Mr. Chairman, if I just 23 may follow up with -- 24 CHAIRMAN MEYER: Sure. Go ahead. 25 COMMISSIONER CHAN: And then -- and then</p>
<p>10:16:10-10:17:22 Page 35</p> <p>1 tells itself that they're not really voting for 2 something when it's sent to the voters. If you read 3 the constitution, it says that referendums are 4 enactments, just in case anyone wants to read the 5 constitution out there, but the thing is that the 6 voters will still have to decide that and folks will 7 still have to -- have to make -- have to make a 8 decision about that. 9 This is not the final call on it. This is 10 a specific question of how do we -- how do -- and won't 11 be involved in that once it goes to the ballot. That 12 won't be our discussion, and it's going to be up to the 13 various parties, the various folks who try to influence 14 elections to do that in the event that it goes forward. 15 And so for those -- for that reason, I 16 think, again, there's a mitigation on the impact of 17 this. Again, if it wasn't for the fact that we do have 18 a rule and a policy that has been voted on, I would not 19 be -- you know, I wouldn't -- I would not be raising 20 it. 21 So I think all of your concerns are well 22 thought through and well articulated and then the 23 things that, you know, Mike and I have talked about, 24 too, as we -- as we go forward, but at the end of the 25 day, you know, if we -- if we can't -- I have tried now</p>	<p>10:18:42-10:20:04 Page 37</p> <p>1 I'll turn it over because I'm sure the other 2 commissioners, including yourself, probably have some 3 comments. 4 Tom, I definitely value your opinion, and 5 so I want to listen to what my fellow commissioners 6 have to say and, depending on what their thoughts are, 7 I would be willing to do what you recommend. 8 I want to bring up a couple of issues. One 9 is that this certainly does not sound like it's a 10 single subject. So I think even for referenda there 11 are single-subject rules for what goes to the ballot. 12 So that may be an issue that would be decided if this 13 does pass and get referred to the ballot by the 14 legislature. 15 And my second comment is that I'm extremely 16 disturbed to hear that what sound like the most -- the 17 meatiest policy issues are not being honestly and 18 openly discussed at that legislature. This sounds like 19 a very, like I said, heavy, dense policy bill and 20 regardless of whether you support or oppose Clean 21 Elections, to have a conversation that by omission is 22 dishonest, I find very disturbing. And, unfortunately, 23 I think we're seeing more and more of that in our 24 policymakers at all levels of government, it seems, 25 these days.</p>

<p>10:20:04-10:21:16</p> <p>Page 38</p> <p>1 And so if anybody is listening over at the 2 legislature, I would encourage you to revisit what 3 you're -- what you're really talking about with this 4 bill and really make sure that you're fully 5 understanding the ramifications of what you're sending 6 to the -- to the voters, potentially, because all of 7 your legislation has -- even a referenda to the voters, 8 they all have impacts and affect people deeply. 9 And, of course, I personally think that 10 this Commission has so much integrity and does 11 important work for the people of Arizona and, of 12 course, that's why I am very disappointed and disturbed 13 to hear what you're telling us about today, Tom. So 14 thank you for keeping us informed that way. 15 And with that, Mr. Chairman, I'll give the 16 floor back to you and the other members. 17 CHAIRMAN MEYER: Thank you for your 18 comments, Commissioner Chan. 19 And, Commissioner Kimble and Commissioner 20 Paton, I do want to hear from you if you have comments 21 on this. 22 Before that, though, Tom, I just had a -- 23 maybe you can clarify how exactly do we sort of change 24 the messaging on this or, by going neutral on the first 25 issue, how do -- how do we then, I guess, bring clarity</p>	<p>10:22:42-10:23:53</p> <p>Page 40</p> <p>1 cancelled it. 2 So lobbying has not really been where we've 3 been, but looking at this from a media perspective, I 4 mean, my intention would be to go on Horizon and say 5 literally let's stop talking about Section 1. 6 Section 1, reasonable minds can differ. Reasonable 7 commissioners do differ. Sections 2 and 3 are damaging 8 the independence of the Commission and fundamentally 9 damaging to the overall program and are being presented 10 dishonestly. 11 And I think that if we do that, we can -- 12 we can maybe change the dynamic and get folks to 13 understand that if they really, really want to focus on 14 party stuff, if that's really what this bill is 15 about -- I think that's window dressing, to be honest 16 with you. I think that that's the cover to do Sections 17 2 or 3. And if they really want to do party stuff, 18 let's do party stuff. You don't need to do Sections 2 19 or 3 to accomplish what AFP, the Free Enterprise Club 20 and Representative Coleman have represented is their 21 principal problem. 22 CHAIRMAN MEYER: Okay. Thank you. 23 COMMISSIONER KIMBLE: Mr. Chairman? 24 CHAIRMAN MEYER: Commissioner Kimble. 25 COMMISSIONER KIMBLE: Yeah, I would just</p>
<p>10:21:21-10:22:40</p> <p>Page 39</p> <p>1 to what this bill is really about? Maybe I'm -- I'm 2 not a lobbyist. 3 MR. COLLINS: Sure. 4 CHAIRMAN MEYER: I'm just an old commercial 5 litigator, but maybe you could explain a little bit 6 about the process. 7 MR. COLLINS: Mr. Chairman, that's a good 8 question, and I am, unfortunately, a lobbyist. 9 There's a couple of ways we can do this. 10 Number 1, look, it's going to pass out of the -- out of 11 the Senate jud committee. There's just no doubt. It's 12 a party -- these things have paused on party lines. So 13 it is what it is. That is what it is. I think that -- 14 I will tell you from a media perspective, I am 15 scheduled, unless I hear otherwise, to be on Horizon 16 tonight, which is Arizona -- Phoenix PBS's television 17 program tonight. 18 And if I am on -- I don't know who I'm 19 going to be on with. I know that Representative 20 Douglas -- Doug Coleman, who is the sponsor of this 21 bill, has refused to go on and has refused every -- 22 every request we've had to meet with him. I guess we 23 requested -- six times we made a request to meet with 24 him, just to give you an example how the lobbying on 25 this has gone. Once he scheduled a meeting and then he</p>	<p>10:23:54-10:25:27</p> <p>Page 41</p> <p>1 briefly say that I support what Tom is saying. I think 2 that it's not a question so much of totally backing 3 away from Section 1. It's more of a strategy that our 4 best bet at this point is to focus on 2 and 3, and I 5 agree with that from a strategic point. 6 CHAIRMAN MEYER: Commissioner Paton, 7 anything to add? 8 COMMISSIONER PATON: Well, I mean, I kind 9 of predicted all of this, Tom. 10 MR. COLLINS: That's true. That's true. 11 That's true. 12 COMMISSIONER PATON: I mean, I think we 13 just aggravated a bunch of people, and I don't consider 14 myself really super partisan or anything like that, but 15 it aggravated me. And so if it aggravates me, people 16 that live it and all that, you know what that's done to 17 them. So that's ignited this thing that I thought was 18 going to happen. 19 And I don't like to backtrack. You know, I 20 coached. You make a decision. You stick to it 21 generally is how I generally did things, but if we can 22 keep some of this -- tamp down some of this to where 23 then we'd be focused on these other two items, then I 24 think that would probably be a good thing. And you're 25 going to take a lot of the ammunition away from the</p>

<p>10:25:32-10:26:57 Page 42</p> <p>1 people that are very upset by this because they're 2 going to use this. They're going to use this in all 3 their advertisements and paint Clean Elections as 4 biased, basically. 5 CHAIRMAN MEYER: Okay. Well, I think we've 6 certainly hashed the issue out. I -- Tom, I have no 7 problem. I don't think any of the four of us -- if I'm 8 misspeaking for any of the commissioners, let me know, 9 but I think we support your plan. And I'm not looking 10 to this so much as backing down or changing course but 11 just shining a light on the other two issues. 12 So, Tom, do you need anything further from 13 us or any more discussion on that issue? And then 14 maybe where do we go from here, I guess, for the next 15 meetings? 16 MR. COLLINS: Well, I think -- no. I think 17 that -- I don't think I need anything further. I think 18 that all of your comments are well taken. I think 19 that, you know, obviously, I agree with Commissioner 20 Paton in terms of his observations of what would 21 happen. I think that it's in the transcripts from 22 the -- from the rule meetings, and so I'm not in a 23 position to dispute that at all. 24 And I think that by the next meeting -- I 25 do not believe that they will have likely moved this</p>	<p>10:28:20-10:29:40 Page 44</p> <p>1 true. 2 Mary, are you there? 3 MS. O'GRADY: I am here. 4 MR. COLLINS: Okay. 5 Real briefly, the brief overview on this 6 is -- and it's up to you-all, obviously, whether or not 7 you want to go into executive session, but the 8 high-level overview on this is, as you know, we were 9 successful at the Arizona Supreme Court. And now Mary 10 and I are seeking authorization to take whatever legal 11 actions are necessary to collect the fine and obtain 12 the report that the Legacy Foundation Action Fund owes 13 the Commission. 14 So that is what we are asking for. If you 15 have specific questions that go into legal issues, 16 obviously, we can go into executive session. I think 17 you-all may be familiar enough with this that we may 18 not need that, but we're asking for your authorization 19 for us to take whatever legal actions are necessary in 20 order to collect the fine and obtain the report that 21 the Legacy Foundation owes. 22 CHAIRMAN MEYER: Okay. Thank you, Tom. 23 I guess, Commissioners, we do have some 24 items here that are confidential attorney-client in our 25 packet.</p>
<p>10:27:01-10:28:19 Page 43</p> <p>1 out of the House -- or the Senate, rather, by the next 2 meeting because typically they do the budget before 3 they do the referendums and decide what's going to be 4 on the ballot; however, it will be positioned, in a 5 sense, in the way -- in a way that they can move that 6 at any time. So if we're going to -- if we're going to 7 go out there and argue and try to make this case on 8 what's really going on here, now is the time to do it. 9 So I appreciate all of your comments. I 10 appreciate Commissioner Chan's concerns, I do, but I 11 think that -- I think I have what I needed. So we'll 12 report back but, you know, doing it now gives us the 13 ability to take the most time we have between the 14 committee and the floor to try to make this case about 15 what's really going on here. 16 CHAIRMAN MEYER: Thank you, Tom. 17 So that closes out Agenda Item Number VI. 18 We'll move on to Agenda Item Number VII, which is 19 discussion and possible action on Legacy Foundation 20 Action Fund versus Citizens Clean Elections Commission 21 and related matter under review. The Commission may go 22 into executive session on this item. 23 Tom, I believe we have Mary on the phone or 24 she was on the phone earlier? 25 MR. COLLINS: Mr. Chairman, I think that's</p>	<p>10:29:41-10:30:43 Page 45</p> <p>1 Does anyone have any questions that they 2 would like to ask counsel which would require us to 3 move into executive session, or do you feel informed? 4 We can certainly move into executive 5 session if anyone wants to, but I don't feel the need 6 to. 7 (No response.) 8 CHAIRMAN MEYER: No? Okay. So I think 9 we're good on that. 10 Do you need a motion, Tom, a motion 11 authorizing counsel to move forward? 12 MR. COLLINS: Yeah. Mr. Chairman, yeah, a 13 motion directing counsel to take whatever legal actions 14 are necessary to obtain the -- to obtain the fine and 15 report from Legacy Foundation Action Fund would be -- 16 would be welcomed. 17 COMMISSIONER CHAN: Mr. Chairman, I would 18 so move. 19 CHAIRMAN MEYER: Okay. Is there a second? 20 COMMISSIONER KIMBLE: Second. 21 CHAIRMAN MEYER: Okay. We have a motion 22 that's been moved and seconded to direct counsel to 23 move forward to obtain the fine in this matter. 24 MR. COLLINS: And the report. 25 CHAIRMAN MEYER: And the report?</p>

<p>10:30:44-10:31:34</p> <p>Page 46</p> <p>1 MR. COLLINS: Yeah. 2 CHAIRMAN MEYER: Okay. Is there -- I'm 3 sorry. All in favor say aye. 4 (Chorus of ayes.) 5 CHAIRMAN MEYER: All opposed? 6 (No response.) 7 CHAIRMAN MEYER: Abstentions? 8 (No response.) 9 CHAIRMAN MEYER: All right. Motion carries 10 4 to 0. 11 All right. Item Number VIII -- thank you, 12 Mary. 13 Item Number VIII: Discussion and possible 14 action on Arizona Advocacy Network, et al., versus 15 State of Arizona, et al. Again, we may go into 16 executive session here if we need to. 17 Tom, you want to give us your thoughts on 18 this? And Mary is going to -- is helping with this one 19 as well. 20 MR. COLLINS: That's right. And -- 21 Mr. Chairman, that's correct. This is just a brief 22 update. There was the Rule 16 conference. I think 23 that the scheduling report was filed. I'm not sure. 24 Mary, is that right? 25 MS. O'GRADY: Yes, it should have been</p>	<p>10:33:02-10:34:24</p> <p>Page 48</p> <p>1 protection issues with respect to how 501(c)(4)s that 2 are similarly situated where disparately treated under 3 the act, and we looked at the failure to comply with 4 Article 7, Section 16, which it requires that there 5 be -- under the Arizona Constitution, that there be -- 6 that political committees disclose their contributions 7 and expenditures and there be general publicity for 8 that. 9 Those are things we need guidance on 10 whether we -- whether we -- you know, whether we change 11 or not or any of those things. Regardless of what the 12 rules are, as an agency those are things we need 13 guidance on. So we think it's appropriate to get them 14 all briefed so that we can get a judicial decision on 15 all of the issues because that gives us -- gives us the 16 guidance we need. 17 I will also say that we're going to -- one 18 of the other odd issues is that the -- and just for the 19 record, so everybody knows, the Attorney General's 20 Office is not representing the Secretary of Sate and 21 the, quote/unquote, State in this case. So Mr. LaRue 22 and Ms. Karlson are not involved in this matter, but in 23 their initial disclosures, the Secretary of State takes 24 the position that Article 7, Section 16, which says 25 that at its first session the legislature shall pass a</p>
<p>10:31:40-10:33:01</p> <p>Page 47</p> <p>1 filed. 2 MR. COLLINS: And so under the -- the only 3 thing I would think that you-all should know is so 4 there's a briefing schedule that takes summary judgment 5 briefing will be going on. I think the final replies 6 on summary judgment there under the schedule -- 7 proposed schedule is the beginning of July. 8 And then the other issue to be aware of is 9 that the Secretary of State and the, quote/unquote, 10 state and the Governor's Regulatory Review Council have 11 taken the position that the briefing should only be 12 about the Voter Protection Act and only after the Voter 13 Protection Act is resolved should there be briefing on 14 the equal protection challenges and the Article 7, 15 Section 16 challenge. 16 The plaintiffs take the position that it's 17 our case and we should be able to do whatever we want. 18 We have taken the position that is consistent with the 19 plaintiff's position in this case for one reason, which 20 I think is the only valid reason first -- the only -- 21 what a state agency should take a position on which is 22 guidance. 23 When we did our rules, which are part of 24 this lawsuit, we based our decisions on not exclusively 25 the Voter Protection Act. We looked at equal</p>	<p>10:34:27-10:35:53</p> <p>Page 49</p> <p>1 law that basically requires disclosure of expenditures 2 and contributions and publicity of them is essentially 3 a dead letter. The legislature can pass whatever it 4 wants and call it a political committee, and there is 5 no meaning in that provision other than a general 6 direction. 7 If you -- there's no reported judicial 8 opinion on this -- on that yet. That has not been the 9 position that we've taken in our rule-making process 10 and -- and those rules all passed, you know, 11 unanimously, I think. I may be wrong about that, but 12 I'm pretty sure they did. 13 In any event, we don't think that Article 14 7, Section 16 is a dead letter. We think it's a 15 substantive constitutional provision that if the folks 16 who put together the Arizona Constitution did require 17 there to be disclosure, then the question is whether or 18 not having so restricted the definition of political 19 committee as SB1516 did, if that falls below the 20 threshold that the framers of the Arizona constitution 21 required. 22 And, you know, from an originalist 23 perspective, if you look at the language and then you 24 look at the fact -- at what the legislature passed at 25 its very first session of the 1912 Act on disclosure</p>

<p>10:35:57-10:37:11 Page 50</p> <p>1 and you look at what's in 1516, I think a voter in 1912 2 would be very surprised with what they see in Senate 3 Bill 1516 compared to what they see -- what they saw in 4 1912 the legislature do. 5 So that's -- that's all -- all the 6 information I'm sharing with you is on file and public, 7 and I just wanted -- I thought that sort of fills out, 8 I think, every status of where we are. 9 I don't know if Mary has anything she wants 10 to add. 11 MS. O'GRADY: No, nothing to add. I'm just 12 waiting for the schedule to be set in the case. 13 CHAIRMAN MEYER: Okay. Any questions from 14 any commissioners? 15 (No response.) 16 CHAIRMAN MEYER: Okay. Thank you, Mary. 17 Thank you, Tom. 18 Item Number IX: Discussion and possible 19 action on Interagency Service Agreement with the 20 Arizona Attorney General's Office. 21 MR. COLLINS: Yes. Mr. Chairman, so as you 22 know, the elections subsection, I guess, you might call 23 it, of the Attorney General's Office changed 24 divisions -- I don't know -- six months ago or 25 something like that. And we did an Interagency Service</p>	<p>10:38:41-10:40:06 Page 52</p> <p>1 and Kara, and their support staff to be able to do 2 their jobs. And I think it's something we've done for, 3 I think, the entire time the Commission has been in 4 existence, and I think we should continue to do it. 5 I have a couple of notes and I'll just -- 6 just to summarize real quickly, in the past we have had 7 written into the agreement that there be consultation 8 with -- with us about any changes in personnel. 9 That's, in part, because, you know, we actually -- we 10 like our attorneys and we truly -- we'd like to know if 11 whoever is coming on, we'd like to also like them. 12 My understanding is that another difference 13 between SGO and agency counsel is agency counsel 14 actually as part of their interview process in the 15 unlikely and hopefully not happening event that one of 16 our attorneys were to leave, that they actually take 17 the interviewees to the clients and have them meet 18 which is, again, I think a better way of doing things. 19 And interesting, but I do still want that in the -- in 20 the written agreement. 21 I also -- we previously had a provision 22 that required the AG to give us notice of relevant AG 23 opinions. They do publish those requests online now, 24 but since we're not part -- since we're not with SGO 25 anymore, we don't -- you know, we're just not</p>
<p>10:37:18-10:38:35 Page 51</p> <p>1 Agreement for the last six months of last calendar year 2 with that division, and then what we are trying to do 3 is get on track to do a Calendar Year 2018 Interagency 4 Service Agreement. 5 What the new division that they're in, 6 which I think is called the agency counsel or state 7 agency -- I'm not sure what the division is called. 8 You have to tell me. Whatever the division that 9 they're in is now called -- 10 MS. KARLSON: Agency counsel. 11 MR. COLLINS: -- agency counsel, the way 12 that they proceed with dealing with ISAs is a little 13 different with how SGO did, but actually I think in a 14 beneficial way. What they would like to do is have an 15 agreement on the amount of financial commitment and 16 then we can talk about the other -- other issues that 17 might come up. 18 And so I do recommend that we -- the 19 approval to enter into an ISA at the amount of \$172,000 20 as detailed in the memo and the exhibit which is the 21 budget -- which comes from the AG accounting 22 department. I think that, as I articulated in the 23 memo, this benefits the Commission in a number of ways. 24 It helps with retention. It ensures that there's 25 resources for the election attorneys that we have, Joe</p>	<p>10:40:07-10:41:47 Page 53</p> <p>1 necessarily going to have that info. So it just would 2 be helpful to maintain that notice. 3 And then, finally, I intended to ask and I 4 haven't had a chance to discuss with the attorneys with 5 whom Kara and Joe work, but, you know, in the event 6 that there's -- there's a lot of litigation going on. 7 Joe and Kara are in demand, to say the least. And so I 8 think we'd like to have a plan to -- I'd like to 9 have -- I know I'd like to have -- I shouldn't say 10 "we." By "we" I mean the Clean Elections staff think 11 there ought to be a plan to deal with if there's 12 situations where they're unavailable. 13 There is another division in the AG's 14 office that does campaign finance enforcement matters 15 which I think, in the first instance, it at least has 16 some -- it has -- you know, works on similar issues, 17 has an understanding of the way that campaign finance 18 laws and enforcement works. So it seems like that 19 would be the logical place for overflow work to go. 20 So those are the three issues that I would 21 like to see in the ISA. If any of those become issues 22 or become -- are serious problems or we haven't -- 23 aren't able to work out some way of dealing with them, 24 you know, we'll return back to you, obviously, but the 25 principal goal here is just to give me authorization to</p>

10:41:50-10:42:57 Page 54

1 commit to the expenditure and then -- and then we'll
2 hash out the details going forward.
3 So in the event that this all works out, I
4 wouldn't bring the ISA back for further approval. I
5 would go forward and sign it myself, just so you
6 understand that. So as I said in the memo, I am
7 requesting approval to enter into the ISA for \$172,000
8 for the calendar year.
9 CHAIRMAN MEYER: Commissioners, do we have
10 a motion?
11 COMMISSIONER KIMBLE: Mr. Chairman?
12 CHAIRMAN MEYER: Commission Kimble.
13 COMMISSIONER KIMBLE: I move that we
14 authorize Tom to enter into the ISA with the Attorney
15 General's Office with the additional stipulations that
16 the director has enumerated today.
17 COMMISSIONER CHAN: I would second that
18 motion.
19 CHAIRMAN MEYER: And just to clarify, that
20 motion is for \$172,000?
21 COMMISSIONER KIMBLE: Yes, Mr. Chairman.
22 CHAIRMAN MEYER: Okay. We've had a motion
23 and a second to authorize Mr. Collins to enter into an
24 ISA for \$172,000 with the Attorney General's Office.
25 All in favor say aye.

10:42:58-10:43:49 Page 55

1 (Chorus of ayes.)
2 CHAIRMAN MEYER: Any opposition?
3 (No response.)
4 CHAIRMAN MEYER: Motion carries 4-0.
5 And now we are at Agenda Item Number X:
6 Public comment. This is the time for consideration of
7 comments and suggestions of the public. Action taken
8 as a result of public comment will be limited to
9 directing staff to study the matter or scheduling the
10 matter for further consideration and decision at a
11 later date or responding to criticism.
12 Any public comment?
13 (No response.)
14 CHAIRMAN MEYER: All right. Next step,
15 Item Number XI: Adjournment.
16 Is there a motion to adjourn the meeting?
17 COMMISSIONER CHAN: Motion to adjourn.
18 CHAIRMAN MEYER: There's a motion.
19 Is there a second?
20 COMMISSIONER KIMBLE: Second.
21 CHAIRMAN MEYER: All right. It's been
22 moved and seconded.
23 All in favor of adjourning?
24 (Chorus of ayes.)
25 CHAIRMAN MEYER: Opposed?

10:43:49-10:43:53 Page 56

1 (No response.)
2 CHAIRMAN MEYER: Abstentions?
3 (No response.)
4 CHAIRMAN MEYER: Motion carries. We are
5 adjourned.
6 Thank you, everyone.
7 (Whereupon, the proceedings concluded at
8 10:43 a.m.)
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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, and by virtue thereof
6 authorized to administer an oath; that the proceedings
7 were taken down by me in shorthand and thereafter
8 transcribed into typewriting under my direction; that
9 the foregoing pages are a full, true, and accurate
10 transcript of all proceedings and testimony had and
11 adduced upon the taking of said proceedings, all done to
12 the best of my skill and ability.
13 I FURTHER CERTIFY that I am in no way
14 related to nor employed by any of the parties thereto
15 nor am I in any way interested in the outcome hereof.
16 DATED at Phoenix, Arizona, this 23rd day of
17 March, 2018.
18 
19 _____
20 LILLIA MONAREZ, RPR, CR #50699
21
22
23
24
25

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