THE STATE OF ARIZONA

CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC VIRTUAL MEETING

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The State of Arizona Citizens Clean Elections Commission

Public Meeting

Transcript of Proceedings

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CHAIRMAN PATON: Yes. Go ahead.

COMMISSIONER CHAN: Mr. Chairman, this is action on minutes for the November 19th, 2020 meeting. So, Item II: Discussion and possible action.

CHAIRMAN PATON: And I believe Commissioner Kimble is here for a second.

MR. COLLINS: Yes, Commissioner -- Chairman Paton, Commissioners. So, I will -- I'm going to get through the agenda fairly -- through this part of the agenda fairly quickly.

CHAIRMAN PATON: Okay. So, was that for both August and October meetings?

COMMISSIONER CHAN: Oh, I'm sorry.

Mr. Chairman. On the agenda, it just says the Commission minutes for November 19th, 2020.

CHAIRMAN PATON: Okay. But my notes say something different. So, we'll just go with that, then.

So, we are -- we have a motion and a second to adopt the minutes for November 19th, 2020, and we'll start voting.

CHAIRMAN PATON: Okay. But my notes say something different. So, we'll just go with that, then.

CHAIRMAN PATON: Okay. So, was that for both August and October meetings?

COMMISSIONER CHAN: Oh, I'm sorry.

Mr. Chairman. On the agenda, it just says the Commission minutes for November 19th, 2020.

CHAIRMAN PATON: Okay. But my notes say something different. So, we'll just go with that, then.

Mr. Collins?
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CHAIRMAN PATON: If not, then, moving on to item? You can signal the moderator if you have any questions, other than our ongoing, you know, Voter Education activities, but if you have any questions, Commissioners, I'm happy to answer them.

Thank you.

I'm sorry, Mr. Chairman. I think you're on mute.

CHAIRMAN PATON: I was on mute.

Any comments from the audience on this item? You can signal the moderator if you have any comments.

(No response.)

CHAIRMAN PATON: If not, then, moving on to Item IV: Discussion and possible action on 2021 calendar year budget.

And Mr. Collins is going to begin our discussion and Mike is on hand if you have any additional questions.

Go ahead, Tom.

MR. COLLINS: Yes. Thank you, Mr. Chairman.

We are -- so every year, as I think all of -- all of you have gone through this for at least four years. Basically, what we do is we -- the statute obligates us to make some projections about, you know, what the fund looks like, what our projected expenses are, and make those calculations on a formula basis.

So, you know -- so, at that point, a couple of things that I would note, first, you know, obviously, there's not going to be candidate funding in this calendar year because we're -- candidates cannot file for 2022 until January of 2022 for their funding.

And, then, I think the other thing I just -- I just want to make a quick point about is that -- you know, there's two things. One, as we always see on this memo, there is a structural, if you will -- well, "structural" is not the right word. There is a projection we have to do that will -- that continues to show the funded deficit if we spent at the maximum allowable under law. You know, that projection is required by statute, but you know, that's not a -- that's not a true deficit because we don't spend at that level. It's just, you know, if we were -- if we spent at the statutory capacity.

And, then, because the statute sets up our budgeting -- sets those caps around calendar years, you know, it follows from that that our budget follows the calendar year.

So, what we have done here, as we had in prior years, is identified those things that are calculations that are required to be done by statute and, then, included in that, also, our anticipated budget for the coming calendar year.

A couple of things that I would note, first, you know, obviously, there's not going to be candidate funding in this calendar year because we're -- candidates cannot file for 2022 until January of 2022 for their funding.

And, then, I think the other thing I just -- I just want to make a quick point about is that -- you know, there's two things. One, as we always see on this memo, there is a structural, if you will -- well, "structural" is not the right word. There is a projection we have to do that will -- that continues to show the funded deficit if we spent at the maximum allowable under law. You know, that projection is required by statute, but you know, that's not a -- that's not a true deficit because we don't spend at that level. It's just, you know, if we were -- if we spent at the statutory capacity.

And, then, the other, you know, point, I think, is worth stressing is that this is not a calendar year appropriation that rolls over; rather, the way that the statute operates is that the surcharge funds the Act is collected. The treasurer is directed to place that -- to place those dollars in the -- into the Clean Elections fund, you know, where they remain because they are appropriated explicitly by the statute, by the voters.

So, with that background, you know, I think that -- you know, other than, obviously, in these off-years, we have a reduction in our overall spending.

We don't have any -- anything that we think is necessarily -- I mean, basically, I'd turn it over to you all for -- to any commissioner that has questions or comments.

You know, I, also, note that programmatically, you know, we anticipate coming to the Commission with the voter -- with our voter education plans for the coming year in the coming year. So, once we have -- once we've made this determination about the budget, you know, then Gina and her team will -- and Paula will work on that process.
Mr. Chairman, if you have any questions or comments, we're happy to answer them.

CHAIRMAN PATON: Any questions for Mr. Collins from the Commission?

COMMISSIONER KIMBLE: Yes, Mr. Chairman.

This is Commissioner Kimble.

CHAIRMAN PATON: Yes, Commissioner Kimble, go ahead.

COMMISSIONER KIMBLE: Mr. Collins, I don't want to get too much into the weeds on the budget, but looking through it, the total expenses are up substantially, more than twice what they were last year. And I can see personnel services are going up substantially, data processing.

Could you just talk about some of the reasons for going from total expenses of about 670,000 to about 1.4 million?

MR. COLLINS: I would -- well, I'm going to ask Mike to rescue me on this.

MR. BECKER: Mr. Chairman, Commissioner Kimble, a couple of reasons the numbers are a little bit off. One, the full amount that the Commission has spent in 2020 has not come in yet. So, when you are looking at the actual numbers and comparing it to what we're budgeting, the actual numbers are going to increase. We did not -- we do not have those numbers for December, and we will have more numbers in January.

Secondly, we are, also, having to update our systems, our individual computers, as well as our laptops, to do security upgrades and to get more software that are more compatible with what we're doing in the state. So, that's why those numbers have increased, but overall, you will see our actual numbers will go up at the end of this month and in January, when we get final numbers for what we put the Commission spent for 2020.

COMMISSIONER KIMBLE: Okay. And one other question I had, the last page of this -- of this budget,
1 now that the Court of Appeals has settled, you know, one of the -- a couple of the major outstanding issues related to that, you know, I mean, we may see some changes in 2022 one way or another, but it's -- you know, we have not had a stable legal regime in place under Clean Elections or under the campaign finance system as a whole since 2016. It's changed every -- every cycle. So, it just makes it a little harder for consultants and attorneys who, you know, have -- you know, to make the kind of decisions and advice that they might otherwise. So that's just my two cents. The facts are the facts. That's my inference and subject to your own point of view.

15 COMMISSIONER KIMBLE: Well, I guess -- and I don't want to get too much into it today, but it seems like a topic for future discussions about are there things we can and should be doing to -- to encourage more candidates to consider running as Clean Elections candidates.

20 Elections candidates.

21 MR. COLLINS: Yeah. Mr. Chairman, Commissioner Kimble, I agree. I think -- I think that -- I think that in this off year or off nine months, if you will, I do think there will be some opportunities to -- with the -- with the Court of Appeals' decision and with the rule-makings we'll have to do, as I mentioned in the Executive Director report, and then with the year under Prop 306 -- the cycle under Prop 306 is done, I think that we will be in a position to start to address some of those things on a -- on a -- by communicating them, in part, to, you know, the folks who are involved in this process on a sort of, day-to-day basis. That's fairly easy.

9 COMMISSIONER KIMBLE: Thank you, Mr. Chairman.

11 CHAIRMAN PATON: Sure.

12 I might add that maybe we could do education to prospective candidates to -- before -- well before planning for this could start for them to let them know that we're available and how Clean Elections can help them with their campaign. Just as we've been doing voter education, maybe we could do candidate education.

19 MR. COLLINS: I agree.

20 CHAIRMAN PATON: Any other comment?

21 (No response.)

22 CHAIRMAN PATON: Any comments from the public?

24 (No response.)

25 CHAIRMAN PATON: Okay. If there's no further discussion, I'll entertain a motion to adopt the memorandum at pages 1 and 2 of Item IV, setting forth Commission's projections -- projections for the calendar year.

5 COMMISSIONER CHAN: Mr. Chairman?

6 CHAIRMAN PATON: Yes, Commissioner Chan.

7 COMMISSIONER CHAN: I'll make the motion to adopt the projections set forth on pages 1 and 2. Is that what you said?

10 CHAIRMAN PATON: Yes, 1 and 2 of Item IV.

11 COMMISSIONER CHAN: Of Item IV. Thank you, Mr. Chairman.

13 COMMISSIONER KIMBLE: I will second that.

14 CHAIRMAN PATON: Okay. So, we have a motion and a second to adopt the memorandum of pages 1 and 2 of Item IV, and I will call the roll.

17 Commissioner Chan?

18 COMMISSIONER CHAN: Aye.

19 CHAIRMAN PATON: Commissioner Kimble?

20 COMMISSIONER KIMBLE: Aye.

21 CHAIRMAN PATON: And this is Commissioner Paton, and I vote aye, as well. The motion carries.

23 Moving on to Item V: Discussion and possible action on Primary Election candidate audits.

24 Mr. Collins?
COMMISSIONER KIMBLE: Mr. Chairman?

MR. COLLINS: Yes. Thank you, Mr. Chairman.

COMMISSIONER KIMBLE: Mr. Collins, you're up.

MR. COLLINS: Yes. Thank you, Mr. Chairman.

COMMISSIONER KIMBLE: Mr. Collins, yes, Commissioner Kimble.

MR. COLLINS: Yes. Thank you, Mr. Chairman.

COMMISSIONER KIMBLE: Mr. Chairman, I second the motion.

MR. COLLINS: Yes. Thank you, Mr. Chairman.

COMMISSIONER KIMBLE: Mr. Collins, you're up.

MR. COLLINS: Thank you, Mr. Chairman.

COMMISSIONER KIMBLE: Mr. Chairman, I second the motion.

MR. COLLINS: Yes. Thank you, Mr. Chairman.

COMMISSIONER KIMBLE: Mr. Collins, you're up.

MR. COLLINS: Yes. Thank you, Mr. Chairman.

COMMISSIONER KIMBLE: Mr. Chairman, I second the motion.

MR. COLLINS: Yes. Thank you, Mr. Chairman.

COMMISSIONER KIMBLE: Mr. Collins, you're up.

MR. COLLINS: Thank you, Mr. Chairman.

COMMISSIONER KIMBLE: Mr. Chairman, I second the motion.

MR. COLLINS: Yes. Thank you, Mr. Chairman.

COMMISSIONER KIMBLE: Mr. Collins, you're up.

MR. COLLINS: Yes. Thank you, Mr. Chairman.

COMMISSIONER KIMBLE: Mr. Chairman, I second the motion.

MR. COLLINS: Yes. Thank you, Mr. Chairman.
1. goal to try to determine what you know, to try to --
2. try to determine what we think the -- how we would --
3. be able to be in a position to make a recommendation to
4. the Commission on, you know, what we believe the
5. preponderance of the evidence is on those disputed
6. issues of fact.

7. COMMISSIONER CHAN: Mr. Chairman -- and I'm
8. happy, of course, to give time to Commissioner Kimble
9. and yourself, but I am anxious to hear from the parties
10. involved from their own mouths. I know, you know,
11. obviously, there's a lot of paperwork here documenting
12. their claims, but just to hear from them today is going
13. to be something I'm interested in because of the
14. different stories they have to tell -- not stories in
15. the sense that they're not true, but just the
16. difference between them --

17. CHAIRMAN PATON: Certainly.
18. COMMISSIONER CHAN: -- is what I'm saying.
19. CHAIRMAN PATON: Certainly.
20. MS. KARLSON: Mr. Chairman?
21. CHAIRMAN PATON: Yes, Kara.
22. MS. KARLSON: I just wanted to make clear
23. that, for purposes of this decision item, Jeanne Galvin
24. is the Attorney General -- or Assistant Attorney
25. General who will be representing the Commission. So,

1. to the extent the Commission has any questions, they
2. should be directed to Jeanne. And I just wanted to say
3. thank you to her for stepping into this role and being
4. able to provide any advice you may need.
5. MS. GALVIN: Good morning, and you're
6. welcome.
7. CHAIRMAN PATON: Thank you, Ms. Galvin.
8. Any other questions or discussion before we
9. have Mr. Miller speak?
10. COMMISSIONER KIMBLE: Mr. Chairman?
11. CHAIRMAN PATON: Yes, Commissioner Kimble.
12. COMMISSIONER KIMBLE: I agree with
13. Commissioner Chan that I'd like to hear from the
14. parties. There's just such substantial disagreement
15. on -- on what the facts are that I'd like to hear from
16. them. I've read this all over several times, and I
17. really would like to hear them talk about it in their
18. own words.
20. Any other questions? Discussion?
21. (No response.)
22. CHAIRMAN PATON: Okay. Mr. Miller, if
23. you're available, you have the floor to speak to the
25. MR. MILLER: Thank you, Mr. Chairman,
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10:08:28-10:09:43

1 said, you know, pay us over 100 percent of the funding
2 that you're entitled to. You know, we're happy to chat
3 about how that money is going to be spent, but The
4 Power of Fives' view of things is that they earned the
5 entire $115,000 and, I think, change as soon as Sloan
6 2020 qualified for Clean Elections funding.
7 Within days of that -- within days of
8 qualifying for Clean Elections funding, there was,
9 we'll call it, robust dialogue between the Sloan
10 Campaign and The Power of Fives over how the money was
11 to be spent. Ultimately, Sloan 2020, Eric Sloan, came
12 to the conclusion that the spending plans -- that the
13 services being offered by The Power of Fives were not
14 services that he believed were going to create a
15 victory in the campaign.
16 And so, pursuant to the contract, Sloan
17 2020 terminated The Power of Fives. And, then, three
18 or four weeks later, you all received this complaint,
19 and I think that's -- that's our summary.
20 COMMISSIONER CHAN: Thank you so much for
21 going over it for us again like that. Thank you.
22 CHAIRMAN PATON: Thank you.
23 Any other questions for Mr. Miller?
24 (No response.)
25 CHAIRMAN PATON: If not, then we will hear

10:11:20-10:12:17

1 from Mr. Fischbach, if Mr. Fischbach is available to
2 speak to the Commission.
3 MR. FISCHBACH: Yes. Good morning, members
4 of the Commission. My name is Will Fischbach. I'm a
5 partner with the law firm of Tiffany & Bosco. Seated
6 to my right is my client, Dr. Bob Branch, who is the
7 principal of The Power of Fives. I'd like to make a
8 brief statement and have my client make one, as well,
9 and then -- and, then, I'm happy to answer any
10 questions.
11 Relative to the -- I think, the inquiry
12 from Commissioner Chan, we agree with the Chairman's
13 position that it is up to this Commission to decide
14 today whether or not probable cause exists to move
15 forward with an investigation. We are not asking you
16 and I don't believe the chairman is asking you to pass
17 judgment at this point in time, nor would that be
18 prudent of you to do so, unless and until you have all
19 of the facts at your disposal.
20 Of course, it's not unusual, in a
21 circumstance like this, for there to be dual narratives
22 of what happened, but succinctly put, The Power of
23 Fives is not, as Mr. Miller put it, a political
24 consulting company. The Power of Fives offered turnkey
25 election support in both the primary and general

10:09:46-10:11:14

1 elections to multiple candidates, one of which happened
2 to be Sloan who, also, at one point, used to work for
3 The Power of Fives.
4 Mr. Sloan signed an agreement that is clear
5 as day as to what the obligation was in that through
6 Phase 1 and 2 of the campaign, which is, essentially,
7 through the Primary Election. He was obligated to pay
8 the entire statutory amount allotted for the Primary
9 Election campaign, which Mr. Miller is correct, it's
10 $116,000 -- $116,600. We provided the support, and
11 under that, the terms of that contract, Sloan was
12 obligated to pay it.
13 In addition, The Power of Fives paid
14 $23,000 to an attorney by the name of Tim LaSota to
15 both challenge Sloan's opposition during the Primary
16 Election, but also, to defend Sloan himself when
17 Sloan's own signatures were challenged. And the notion
18 that Mr. Sloan was unaware of this expenditure or that
19 he didn't authorize it is ludicrous.
20 At one point, Tim LaSota was representing
21 Mr. Sloan, and Mr. Sloan can't deny it. There's --
22 Mr. LaSota appeared to defend Mr. Sloan in the primary
23 challenge lawsuit against Mr. Sloan, and in terms of
24 the engagement between The Power of Fives, Mr. LaSota
25 made it clear that Mr. Sloan was obligated to pay for

110:12:17-10:13:12

1 Mr. LaSota's fees.
2 And he would have done so, but, as alleged
3 in our compliant, I believe, roughly -- was it July of
4 this year? Mr. Sloan approached Mr. Branch and asked
5 him to advance that additional sum of money of $23,000,
6 to pay Mr. -- Mr. LaSota's bills.
7 Now, I'm sure that my colleague, Lee
8 Miller, disagrees with that. I'm sure that Mr. Sloan
9 disagrees with that summary, but that is why it is
10 incumbent on you, as the Clean Elections Commission, to
11 conduct a thorough investigation, utilize your subpoena
12 power and get your arms around what happened here. And
13 I am confident and Mr. Branch is confident that when
14 you do that, you will find that the facts align with
15 our version of the events.
16 I would like to see if Mr. Branch --
17 Dr. Branch, rather, has anything to add to that
18 summary.
19 DR. BRANCH: I would and --
20 CHAIRMAN PATON: Yes. Go ahead,
21 Dr. Branch.
22 DR. BRANCH: Yes. Sorry, sir.
23 CHAIRMAN PATON: Go ahead.
24 DR. BRANCH: Commissioner and Chairman,
25 thank you very much for letting us be here today.
1. In July of 2019, Eric Sloan and I entered
2. into an agreement that he would be our first candidate
3. that The Power of Fives, LLC would represent. In
4. August, we executed that, and in September of last
5. year -- now, I know that Mr. Miller wants you to
6. believe that nothing happened until Eric Sloan received
7. his funding, but understand Eric Sloan received his
8. funding about a week and a half prior to the Primary
9. Election. We were actually running his entire campaign
10. since a year ago September is when we had our first
11. expenditures.
12. We started gathering signatures for him per
13. his request. We started having events for him per his
14. request. And in November of last year, 2019, he asked
15. me for a job. I told him that it was problematic since
16. he was my candidate. And he said, well, hire my wife's
17. firm. And he says, that's perfectly legal; you can do
18. that. So, I agreed to pay his wife's firm $4,000 a
19. month. So, when Mr. Evans wants -- I mean, Miller
20. wants you to believe that we had no expenditures,
21. that's not the case.
22. Also, working on his campaign I had former
23. Secretary of State Ken Bennett working on his campaign,
24. my management staff working on his campaign, and a
25. whole host of people that were front people at events

1. for Mr. Sloan gathering signatures. In fact, when the
2. signatures were ultimately challenged, Eric Sloan was
3. the only signature that was challenged that came
4. through victorious because we funded and we funded the
5. people to help go get those signatures. So, the only
6. reason why he is on the ballot was because of our
7. efforts.
8. A little correction from my attorney here,
9. in May of last -- of this year, after all of the court
10. cases -- now, understand Eric Sloan went out and got
11. Tim LaSota. I didn't even know Tim LaSota -- Attorney
12. Tim LaSota. He negotiated the price for Tim LaSota on
13. the challenges, the signature challenges, and he
14. negotiated the price with Tim LaSota on his own
15. defense.
16. After all of those challenges and after all
17. of the defenses, that's when Tim LaSota -- I mean,
18. that's when Eric Sloan and Tim LaSota both came to me
19. and asked me, The Power of Fives, to advance him
20. $23,000 that was negotiated by Sloan. So, throughout
21. the entire process, The Power of Fives was expending a
22. lot of money.
23. Now, when April came around and his
24. signature challenge was successful, he defended it, we
25. still -- we were still over a thousand $5 contributions

1. away from qualifying. Now, understand The Power of
2. Fives was spending all of this money before he
3. qualified. We made agreements, since Sloan and Lea
4. Marquez Peterson were the only two Republican
5. candidates. I entered into agreements with the
6. Republican Party to help get them behind, those two
7. candidates.
8. We created -- again, with, you know, former
9. Secretary of State Ken Bennett and a few other people,
10. plus the Republican Party, we had mass mailings. We
11. had the calls all set up to convince people to give $5
12. contributions. These are expenditures that The Power
13. of Fives paid.
14. So, when Eric Sloan -- when it came up
15. to -- when he got his funding, at that time, it was
16. over. He won the primary. He got his funding. All of
17. the effort was because of The Power of Fives and the
18. money that we had expended and, according to the
19. contract, nothing more and nothing less is what we
20. asked for.
21. Now, the $23,000 for the legal fees, when
22. they came to me and -- when Sloan came to me and asked
23. me for them, this was after everything was --
24. challenges were all done. I said, listen -- after his
25. attorney and he convinced me that this was legal, I
1 parties, is now a Clean Elections matter.
2 MR. COLLINS: Mr. Chairman, Commissioner
3 Kimble, that's a good question. I would say this about
4 that. The Act provides for what to do in the event of
5 a contract dispute of this nature and, you know,
6 Mr. Miller contacted me about that. And they -- and
7 under the terms of that provision, as the response
8 notes, there's some amount of money -- I'm not going
9 to rely on my memory to state what it is, but there's
10 some amount of money held back from the primary to deal
11 with that. There's, also, a pending arbitration
12 schedule.
13 My view on this is that we have a -- there
14 are two interests here. One, there's an enforcement
15 issue that I believe there's reason to believe a
16 violation may have occurred and, then, secondly,
17 because of the substantial issues of fact, there are
18 questions -- there's an overall question about whether
19 or not -- and we want to develop to examine, I should
20 say, you know, some of the expenditures here.
21 Now, it may be that the arbitration, you
22 know, purports to resolve some of those issues. I
23 think that my viewpoint is that rather than deferring
24 this determination until after the arbitration is
25 completed, the determination here on its face would

1 empower the staff to ensure that the Commission's
2 interests, which are separate from the party, are
3 looked after.
4 Whether or not and how we would -- how we
5 address that in the context of this arbitration, I'm
6 not -- I'm not, frankly, in a position to tell you.
7 That is something that I think that we would
8 anticipate, you know, talking to both sides about that
9 issue once we're empowered to ensure that the
10 Commission interest here has -- you know, has the --
11 essentially, that my actions and the actions that, you
12 know, other staff members or attorneys might take are
13 authorized under the Commission's rules.
14 So, it's really out of a sense of prudence,
15 from my perspective, that we recommend the
16 determination be made now on this preliminary question
17 because it will give us an opportunity to evaluate, you
18 know, how we ascertain the necessary facts and how the
19 arbitration proceeding would fit into those -- would
20 fit into those -- fit into that.
21 I'm not prepared today, for example, to
22 say -- because this would be the effect of not making a
23 determination, I think. What I'm not prepared to do is
24 say or to recommend -- and this is, obviously, your
25 decision, not mine, but mine is to say let's let the

1 arbitration take its course and then whatever comes out
2 of that, we'll deal with. The reason being that, you
3 know -- you know, there's -- there's a -- because
4 without the authorization, I just -- I don't -- I don't
5 know how to engage with that process in a way that can
6 ensure whatever the Commission's interests -- whatever
7 we sort of think the Commission's interests may turn
8 out to be are taken care of.
9 So, I guess, what I'm trying to say is
10 that, obviously, but for the complaint, we wouldn't be
11 here; but that having been said, again, I think that
12 because this is a preliminary determination, you know,
13 I think that in order for us to feel, you know,
14 comfortably empowered within the rules of the
15 Commission to get in -- to be aware of and to,
16 potentially, have to take actions in this situation, we
17 just -- we would -- we would recommend not waiting
18 until the arbitration results.
19 I hope that answers your question. I know
20 it's a long answer to a -- because the answer is -- the
21 real answer is I don't know yet, but I don't want to
22 wait -- or my recommendation is not to wait until then
23 to determine probable cause -- or not probable cause --
24 to determine whether there's reason to believe a
25 violation may have occurred.

1 COMMISSIONER KIMBLE: So, could you talk a
2 little bit about what kind of timeline you envision
3 this taking? Is this something that you would come
4 back with -- if we were to move forward, would you come
5 back with a recommendation in a month, or is this a
6 very lengthy process?
7 MR. COLLINS: Mr. Chairman, Commissioner
8 Kimble, I would say this about that. We're -- you
9 know, as you -- as you -- as Kara noted, you know,
10 helpfully, for the record, you know, we have -- we have
11 things set up in such a way where, you know, you'll
12 have counsel on the -- on the proceedings and we will
13 have counsel on our investigation. Those would be
14 separate, and that's in order to ensure, you know, that
15 everybody has ample process.
16 I -- you know, I think that with this
17 authorization, we'll be able to engage a little bit
18 more in that evaluation. I will say this. Unless
19 there's a contrary rule -- and I don't think that there
20 is provided that, you know, ex parte and other things
21 are dealt with -- you know, we could, obviously, update
22 you on where the arbitration question gets us once, you
23 know, we have -- we -- you know, staff and Kara have an
24 opportunity to be engaged in the process.
25 I don't -- I think that -- I think that we
can work with the parties to -- with the Respondent, really, ultimately, and then -- and then, obviously, we'll -- we'll be working with the Complainant, as well, to -- you know, to make sure that there's -- that appropriate communication of our progress is made subject to all the -- the due process considerations that go into that.

MS. GALVIN: If I may -- this is Jeanne Galvin -- Chairman Paton, members of the Commission, I would suggest that you make your decision on whether to move forward separate and apart from the status of the arbitration. You clearly have jurisdiction over the campaign issues, and I would recommend that, that you evaluate what you have in front of you, decide whether there is merit in the findings and whether the investigation should continue and, at this point, not worry so much about the arbitration. Let the parties do that part of it, and then you exercise your authority with respect to the material that you have in front of you.

COMMISSIONER CHAN: Mr. Chairman?

CHAIRMAN PATON: Yes, Commissioner Chan.

COMMISSIONER CHAN: Mr. Chairman, Ms. Galvin, I'm so disappointed to hear you say that because, frankly, hearing Commissioner Kimble's --

Chairman -- question, I should say, I actually had that same thought, which was, you know, one, I wanted to ask the parties -- and forgive me if it's in the paperwork -- have they proceeded to arbitration and are they planning to, if they haven't. Because if we get involved or -- I mean, I do think there are substantial issues of fact, obviously. I mean, this is a contract dispute that needs to be sorted out for us to determine -- I mean, I don't disagree that there is reason to believe a violation may have occurred, depending on which way the contract dispute goes. For us to get involved in trying to figure that out, when there's an arbitration clause between the parties, seems like a lot of duplication of work if there's going to be an arbitration. That's what I'm concerned about. Not that that's not our role, but if there's going to be that already, should we be getting involved there. So, I guess, that's more of a comment, but that's why my thought process was, also, going to the arbitration. Can one of the parties, maybe, jump in and let us know? Is that going forward?

MR. FISCHBACH: This is Will Fischbach here, counsel for The Power of Fives.

because -- there's to caveat. I don't think there's any harm in going forward. I mean, I think, you know, if there's no "there" there, then there's nothing that will come of it. I think, obviously, we've kind of erred this out. We've gotten a lot of information from the parties, both on paper and today here at the meeting, on the record. I just hate to see, you know, what happens between parties that originally started out as friends, so to speak, or colleagues. So, I guess, I would just put that forward.

And thank you, Ms. Galvin, for stepping in today and for your advice.

MS. GALVIN: You are very welcome.

CHAIRMAN PATON: Commissioner Kimble, anything else?

COMMISSIONER KIMBLE: Mr. Chairman, I would make a motion that we determine that there is reason to believe that violations of the Clean Elections Act and rules may have occurred and that the executive director is empowered to move forward with a further investigation.

I hope I worded that correctly, Tom.

CHAIRMAN PATON: Before we get that far, I just -- I want to say something myself. You know, I'm
a layperson, and this is something that, I think, a light needs to be shined. Obviously, there's two widely divergent sides to this, and myself, I feel like I need somebody to go through this step by step. And this is -- this is State money that we are entrusted with and we have to -- we have a responsibility to make sure that it's used correctly and in line with the law and to give us credibility with the electorate. And so, I certainly believe that we should proceed on with this. There may not be anything there, but that way we will know exactly what's going on. So, going back to your motion, I accept that motion.

Do we have a second?

COMMISSIONER CHAN: I second the motion, Mr. Chairman.

CHAIRMAN PATON: So, Commissioner Chan seconds the motion. So, we are going to vote on whether we proceed with the reason -- reason to believe that there was a violation here. Commissioner Chan, how do you vote?

COMMISSIONER CHAN: I vote aye.

CHAIRMAN PATON: Commissioner Kimble?

COMMISSIONER KIMBLE: Aye.

And Commissioner Paton, I vote aye, as well. Thank you, and have a safe rest of December.

(Whereupon, the proceedings concluded at 10:34 a.m.)

STATE OF ARIZONA     )
COUNTY OF MARICOPA   )

BE IT KNOWN the foregoing proceedings were taken by me; that I was then and there a Certified Reporter of the State of Arizona, and by virtue thereof authorized to administer an oath; that the proceedings were taken down by me in shorthand and thereafter transcribed into typewriting under my direction; that the foregoing pages are a full, true, and accurate transcript of all proceedings and testimony had and adduced upon the taking of said proceedings, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to nor employed by any of the parties thereto nor am I in any way interested in the outcome hereof.

DATED at Phoenix, Arizona, this 18th day of December, 2020.

LILIA MONARREZ, RPR, CR #50699
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