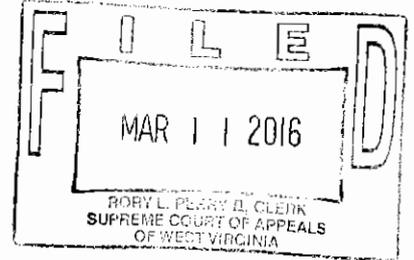


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March 11, 2016



VIA HAND DELIVERY

Rory L. Perry II, Clerk of Court
State Capitol, Room E-317
1900 Kanawha Blvd. East
Charleston WV 25305

Re: William R. Wooton v. Elizabeth D. Walker
No. 16-0226

Dear Mr. Perry:

Enclosed herewith please find the original *Appendix, Appendix Table of Contents,* and *Certification of Appendix* for filing in the above-styled matter. All parties have agreed to the contents of the Appendix.

Thank you for your attention to this matter. Should you require anything additional, please do not hesitate to contact me.

Very truly yours,

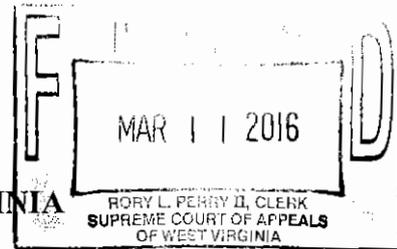
Robert V. Berthold, Jr.

RVB/pam

Enclosure

cc(w/encl.): Thomas C. Ryan, Esquire
Richard L. Gottlieb, Esquire
Spencer D. Elliott, Esquire

IN THE
SUPREME COURT OF APPEALS OF WEST VIRGINIA



WILLIAM R. WOOTON,

Petitioner,

v.

No. 16-0226

(Circuit Court of Kanawha County

Civil Action No. 16-AA-13)

ELIZABETH D. WALKER,

Respondent.

APPENDIX

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Counsel for Petitioner William R. Wooton

**IN THE
SUPREME COURT OF APPEALS OF WEST VIRGINIA**

WILLIAM R. WOOTON,

Petitioner,

v.

No. 16-0226
(Circuit Court of Kanawha County
Civil Action No. 16-AA-13)

ELIZABETH D. WALKER,

Respondent.

CERTIFICATION OF APPENDIX

I, Robert V. Berthold, Jr., as co-counsel for the Petitioner, William R. Wooton, in the above-referenced matter, certify that:

- 1) The contents of the Appendix are true and accurate copies of items contained in the record of the lower tribunal; and
- 2) The Petitioner has conferred in good faith with all parties to the appeal in order to determine the contents of the Appendix.



Robert V. Berthold, Jr. (ID # 326)
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(304) 345-5700 telephone
rvb@bertholdlaw.com

Counsel for Petitioner William R. Wooton

**IN THE
SUPREME COURT OF APPEALS OF WEST VIRGINIA**

WILLIAM R. WOOTON,

Petitioner,

v.

No. 16-0226
(Circuit Court of Kanawha County
Civil Action No. 16-AA-13)

ELIZABETH D. WALKER,

Respondent.

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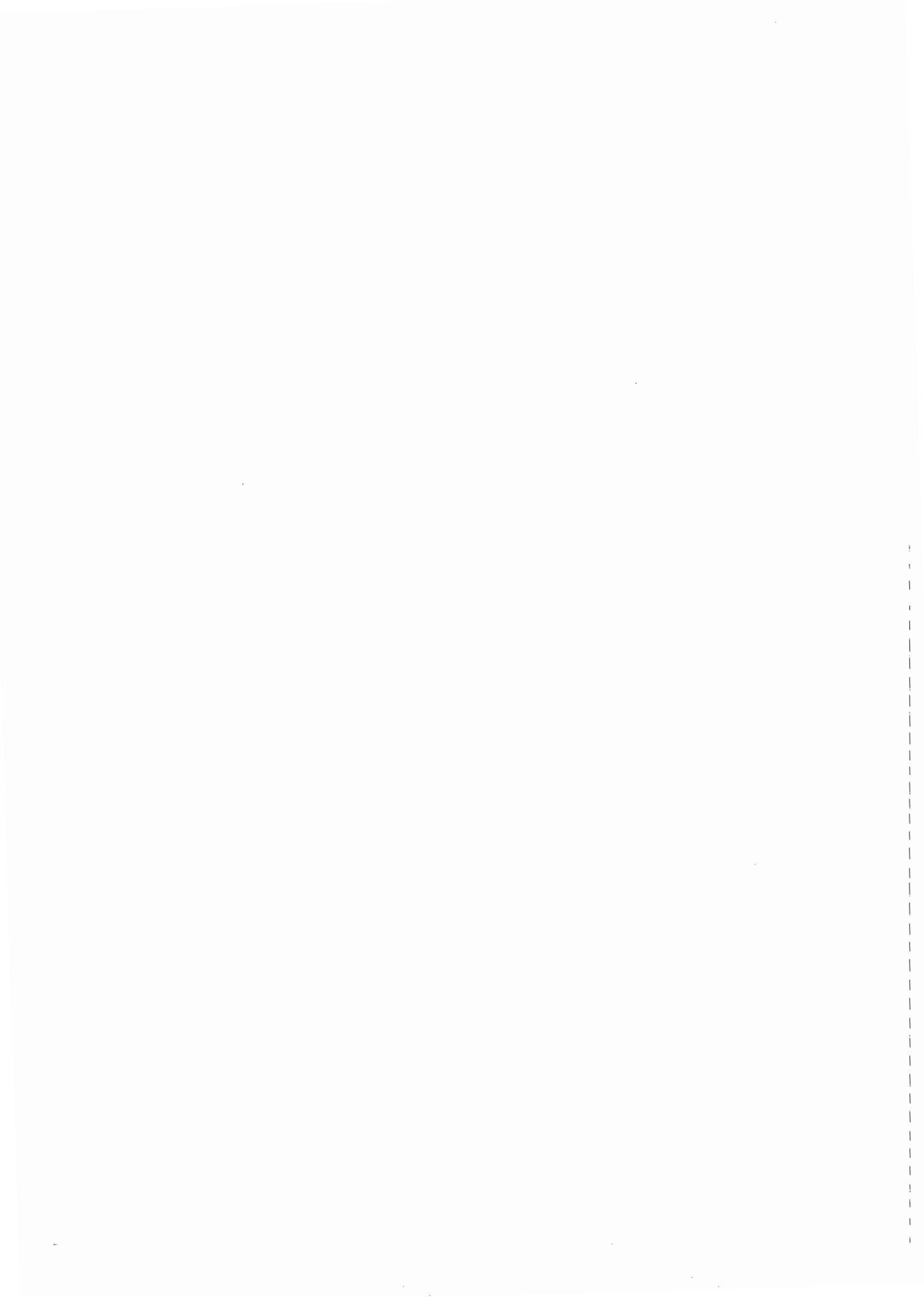
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West Virginia State Election Commission

Building 1, Suite 157-K
1900 Kanawha Blvd. E.
Charleston, West Virginia 25305
304-558-6000
elections@wvsos.com

Gary Collias, Chair
Taylor Downs, Member
Vincent Cardi, Member
Natalie E. Tennant, ex officio
Vacancy

West Virginia Supreme Court of Appeals Public Campaign Financing Program

Declaration of Intent to Participate

I, William R. "Bill" Wooten, a candidate for the office of Justice of the West Virginia Supreme Court of Appeals, do hereby DECLARE MY INTENT to participate in the West Virginia Supreme Court of Appeals Public Campaign Financing Program as provided by WV Code §3-12-1, et seq.

By signing this declaration, under penalty for false swearing as provided by WV Code §3-9-3(b), I hereby attest that:

- ✓ I am qualified to be placed on the ballot;
- ✓ If elected, I am eligible to hold the office sought; and
- ✓ I have complied with, and will continue to comply with, all requirements of the public financing law including restrictions on contributions and expenditures.

William R. Wooten
Signature of Candidate

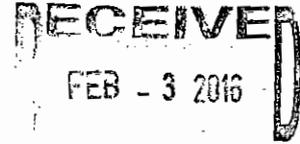
28 Dec 2015
Date

This declaration must be filed before receiving any qualifying contributions.

For Office Use	
STATE OF WEST VIRGINIA SECRETARY OF STATE	
Received:	2015 DEC 28 PM 3:47

1004 Dogwood Lane
Beckley, WV 25801
3 February 2016

West Virginia State Election Commission
c/o The Honorable Natalie E. Tennant
Secretary of State
State Capitol
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305



Dear Sirs:

Please accept this as my sworn statement that I have complied and will comply with all requirements of Article 12, Section 3, throughout the 2016 campaign for Justice of the Supreme Court of Appeals.

On or about December 28, 2015, I signed and filed a Declaration of Intent to receive public campaign financing, as required by West Virginia Code Section 3-12-7;

I have obtained and exceeded the required number and amount of qualifying contributions as required by West Virginia Code 3-12-9;

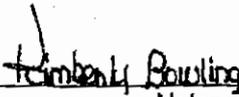
I have complied with the contribution restrictions of Chapter 3, Article 12, of the West Virginia Code.

I am eligible, in accordance with Chapter 3, Article 5, Section 9, of the West Virginia Code, to appear on the nonpartisan judicial election ballot in 2016; and

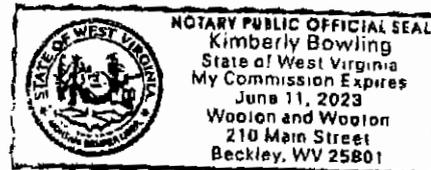
I have met all other requirements of Article 12 of Chapter 3 of the West Virginia Code.


William R. Wooton

Taken, subscribed and sworn to by me this 3rd day of February, 2016.


Notary Public

My commission expires: June 11, 2023



STATE OF WEST VIRGINIA

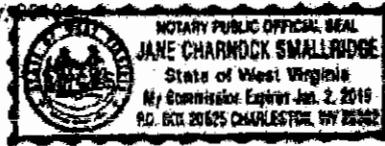
COUNTY OF KANAWHA, TO-WIT:

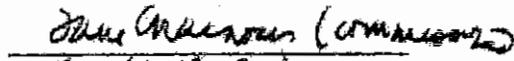
I, Brent D. Benjamin, after being duly sworn, say that the representations and assertions stated in this SWORN STATEMENT AND APPLICATION FOR CERTIFICATION TO RECEIVE PUBLIC FINANCING are true and correct to the best of my knowledge.


Brent D. Benjamin

This verification was sworn to or affirmed to before me on the 2nd day of

February,




Jane Charnock Smallridge (Commissioned)
as Smallridge
Notary Public

My Commission Expires 1/2/19

Elizabeth D. Walker
24 Oak Ridge Drive
Morgantown, West Virginia 26508

February 2, 2016

The Honorable Natalie E. Tennant
State Capitol, Building 1, Suite 157-K
1900 Kanawha Blvd. East
Charleston, West Virginia 25305

Dear Secretary Tennant:

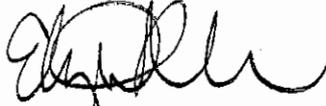
By this letter, I respectfully challenge the validity of qualifying contributions submitted by William R. "Bill" Wooton, candidate for Justice of the Supreme Court of West Virginia, pursuant to West Virginia Code §3-2-10(g).

I respectfully challenge all contributions reported on January 13, 2016 and February 2, 2016 because they were not reported on a timely basis. West Virginia Code § 3-12-7 requires that at the beginning of each month, a participating candidate shall report all contributions received during the prior month to the Secretary of State.

In addition, this letter constitute notice of a challenge to all contributions on the following bases: (1) receipts that do not include both the signature of the person who collected the contribution and the signature of the contributor as required by West Virginia Code § 31-1-9 ; (2) contributions made by persons who are not registered West Virginia voters; and (3) receipts that are not on the required SEC form. I reserve the right to submit challenge forms as soon as possible.

Thank you for your attention to this matter.

Sincerely,



Elizabeth D. Walker

Elizabeth D. Walker
24 Oak Ridge Drive
Morgantown, West Virginia 26508

February 3, 2016

The Honorable Natalie E. Tennant
State Capitol, Building 1, Suite 157-K
1900 Kanawha Blvd. East
Charleston, West Virginia 25305

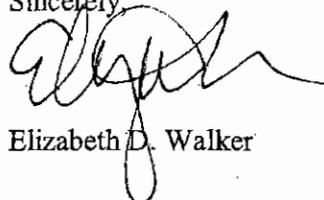
Dear Secretary Tennant:

This letter is to bring to your attention the fact that William R. "Bill" Wooton, candidate for Justice of the Supreme Court of West Virginia, has not met the requirements to be a Certified Candidate pursuant to West Virginia Code §3-2-10 and 146 CSR 5-6.1.

Specifically, the Candidate has not complied with the provisions of 146 CSR 5-6.1, which provides that "no later than two business days after the close of the qualifying period, a candidate who desires to apply for public financing funds shall file an Application For Certification with the Secretary." No such Application for Certification was filed by the Candidate on or before Tuesday, February 2, 2016. Accordingly, the Candidate has not met the requirements to be a Certified Candidate.

Thank you for your attention to this matter.

Sincerely,



Elizabeth D. Walker

STATE OF WEST VIRGINIA
STATE ELECTION COMMISSION
PUBLIC CAMPAIGN FINANCE CHALLENGE

COMMISSION MEMBERS:

SECRETARY OF STATE, NATALIE TENNANT, Acting Chairman

GARY A. COLLIS, Chairman

VINCE CARDI

TAYLOR DOWNS

February 3, 2016

10:39 AM

OFFICE OF THE SECRETARY OF STATE

1900 Kanawha Boulevard, East

Charleston, West Virginia

PENNY L. KERNS
Certified Court Reporter
and Notary Public

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0006

A P P E A R A N C E S

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Charleston, West Virginia 25321

DARRELL SHULL
Advocacy Center
484 Williamsport Pike #120
Martinsburg, West Virginia 25404

ON BEHALF OF THE BETH WALKER CAMPAIGN:

JOE REIDY
P.O. Box 18092
Morgantown, West Virginia 26507

ON BEHALF OF THE SECRETARY OF STATE

TIMOTHY G. LEACH, ESQUIRE
ASHLEY SUMMITT, ESQUIRE
Office of the Secretary of State
Building 1, Suite 157-K
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

DAVID NICHOLS
MISSY KINDER
JULIE ARCHER
JUSTIN WILLIAMS

I N D E X

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1 financing participation for the Supreme Court. And
2 right now I'm going to turn it over to Tim Leach, who is
3 assistant legal counsel in the Secretary of State's
4 office to explain the procedure and explain the process
5 here today.

6 MR. DOWNS: Madam Secretary, before we turn
7 it over to Tim, if I may just have a brief second.

8 MR. LEACH: That's Taylor Downs.

9 SEC. TENNANT: Taylor, you need to -- and I
10 ask the three gentlemen on the phone, you may have to
11 even say your name every time you begin to talk, because
12 at first I thought that was Gary myself, and we have a
13 court reporter here.

14 MS. SUMMITT: We've already told them that.

15 SEC. TENNANT: Okay, and do they know --

16 MR. DOWNS: And that was explained and I
17 apologize. This is Taylor Downs, Madam Secretary.

18 SEC. TENNANT: And, Taylor, Vince and Greg, I
19 don't know if you all -- or Gary, I don't know if you
20 all are watching the webcast. If you are, you may see
21 that the motions, because I would hope that you would
22 turn it down, may be delayed by as much as thirty
23 seconds. So I don't even know if you want to watch it,
24 just listen solely. So go ahead, Taylor.

1 MR. DOWNS: Well, there's been a request by
2 Ms. Walker that I recuse myself over this vote, and I
3 just want to address that briefly. You know, I don't
4 believe that a recusal from the certification simply on
5 the basis that I contributed to Mr. Wooten and Mr.
6 Benjamin is necessary. I think that we have the ability
7 to contribute to candidates openly, and I believe in the
8 public financing of judicial elections and that's quite
9 frankly why contributions were made.

10 However, given the nature of the issues that
11 are going to be discussed as well as what appears to be
12 the specific nature of Ms. Walker's challenges, I don't
13 want an appeal of this body's decision to be made on any
14 claims that I was biased in any way and influenced any
15 decisions made. On that basis I feel that it is
16 important that I recuse myself from voting on any of
17 these issues.

18 SEC. TENNANT: So, Taylor, I understand, and
19 it's difficult to hear, and I see we just turned off our
20 air, too, so that's going to make it even more exciting
21 in this room, but you have recused yourself. That
22 leaves us with three members, obviously with one
23 unappointed yet, too, but that still gives us a quorum.
24 So, Gary and Professor Cardi, we will continue.

1 MR. DOWNS: At this point I will probably
2 go ahead and leave the call.

3 SEC. TENNANT: Okay. I appreciate it, Taylor.
4 Now you can watch us on webcast and it will be in real
5 time, too. It will seem in real time to you now.

6 MR. DOWNS: All right. Well, thank you all
7 and I wish the best to you.

8 SEC. TENNANT: Thank you. We're going to
9 continue with Tim Leach explaining the process and why
10 we're here.

11 MR. LEACH: Madam Secretary, We're here
12 under the provisions of West Virginia Code Chapter 3,
13 Article 12, Section 10, particularly paragraph G as in
14 gravy. Any person may challenge the validity of any
15 contribution listed by a participating candidate by
16 filing a written challenge with the State Election
17 Commission setting forth any reason why the
18 contributions should not be accepted as a qualifying
19 contribution.

20 That has to be done, determined by the State
21 Election Commission, by the next business day following
22 receipt of the written challenge. We received a number
23 of challenges, approximately a hundred fifty-four or
24 five yesterday evening, so that's why we're having a

1 rush meeting today.

2 The challenges that we received, I want to
3 point out, all related to the candidacy of Mr. Brent
4 Benjamin. I can advise the Commission that we have
5 today received a number of challenges which we've not
6 even looked at yet to the campaign contributions for Mr.
7 Bill Wooten. So it looks like we'll be having this
8 meeting again tomorrow.

9 But in any event, I wanted to emphasize two
10 things to the Commission. We're here to address
11 individual challenges, the reasons why the challenge was
12 made and to make a determination on each challenge as to
13 whether it's acceptable or rejected. That's all we're
14 here for.

15 Discussions about other items in the Code,
16 qualifications of candidates, anything of that nature,
17 will be delayed until the appropriate meeting of the
18 State Election Commission.

19 So having received yesterday no challenges to
20 Mr. Wooten's campaign of a specific nature, I do not
21 believe there are any issues for the Wooten campaign for
22 us to discuss today. Representatives of that campaign
23 can leave if they want. Since they're going to be here
24 tomorrow, they can hang around and watch what happens.

1 SEC. TENNANT: You guys want to leave or stay?
2 It doesn't matter.

3 MR. SATTES: We can give a seat up at least
4 to somebody.

5 SEC. TENNANT: And you can always watch it on
6 webcast, too, Senator. I appreciate it if there's
7 anybody else.

8 MR. SATTES: Did I understand you to say
9 that you had received no specific challenges to --

10 MR. LEACH: Well, we have today. We hadn't
11 yesterday, so they're not on this meeting. They'll be
12 on tomorrow's meeting.

13 MS. SUMMITT: So we just received them.

14 SEC. TENNANT: So we do have specific now?

15 MS. SUMMITT: Yes.

16 SEC. TENNANT: We do have specific challenges?

17 MS. SUMMITT: Yes.

18 MR. SATTES: Is there a time set for
19 tomorrow?

20 MR. LEACH: No. That's something we'll
21 take up with the Commission near the end of this
22 meeting, I would say.

23 MR. SATTES: Is there a way we can get the
24 information on those?

1 MR. LEACH: Yes, sir, but we'll have to
2 categorize them and sort them and everything first, and
3 yesterday it took us till almost ten o'clock last night
4 to make a big dent in the ones we're dealing with today.
5 So we'll get them to you by email as soon as we can get
6 them. We have to photocopy the receipts involved and
7 the complaints form for each receipt.

8 MS. SUMMITT: And it's our plan, at least if
9 we can, to have the second meeting later in the day. It
10 won't be --

11 MR. SATTES: Ten.

12 MS. SUMMITT: It won't be at ten. We're
13 trying to push it back to get more --

14 MR. LEACH: Because, frankly, it takes a
15 while for us to get organized, so -- this was pushing it
16 this morning.

17 MR. SATTES: I appreciate the tight time
18 schedule sometimes. Thank you all for doing the work.

19 SEC. TENNANT: Thank you, sir.

20 MR. LEACH: Now, Madam Secretary and
21 members of the Commission, we have worked on these
22 hundred and fifty-four objections up into a number of
23 categories. There are three or four main issues, and
24 then there are several contributions which cross the

1 lines and involve more than one issue. So the basic
2 issues are, if I may be so bold as to summarize, we have
3 an objection to some of the contributions not appearing
4 on a form prescribed by or provided by the State
5 Election Commission for those objections. I mean for
6 those contributions. I beg your pardon.

7 The statute and the regulation clearly provide
8 what information is required on those forms, and because
9 of reasons we'll go into in more detail when we decide
10 to discuss that, I'm going to step out of that
11 discussion, but I just wanted to brief people what it's
12 about.

13 So the question becomes is a contribution
14 which is receipted by a non-form acceptable or must it
15 be rejected. That's probably the largest overall issue
16 of the hundred and fifty-four. There are -- there's an
17 objection to some of the forms, some of the receipts.
18 The law requires that the receipts be reported to the
19 Secretary of State at the first of the month following
20 the receipt.

21 SEC. TENNANT: Following the receipt, not
22 following the filing.

23 MR. LEACH: There was one month in
24 particular where the receipts were not filed until the

1 third or the fourth. I think Ms. Summitt's going to
2 address that. So we have to address whether that
3 cluster or group of forms is disqualified by the
4 lateness of the filing.

5 The next category is all contributors have to
6 be registered voters, registered West Virginia voters.
7 We had thirty -- no, we had forty-some of those. The
8 staff has reviewed all of those and we have an opinion
9 to offer and also we have documentary evidence which has
10 been provided to the Commission members about whether
11 those voters are in fact registered or are not
12 registered or whether there's a question of fact. I
13 think there's four that fall into the question of fact
14 category.

15 Is that it? Oh, and we have an issue about
16 the Benjamin campaign solicited and received some
17 contributions electronically by PayPal or GoFundMe or
18 something of that nature. An argument has been put
19 forth that those contributions are not legal because the
20 Code requires that the contribution be acknowledged by a
21 receipt that contains both the solicitor's and the
22 contributor's signature, and that cannot be provided
23 other than in an electronic means by an electronic
24 filing.

1 So there's two ancillary matters that relate
2 to that. The campaign, recognizing that they do not
3 have signatures by electronic filing, sought to, after
4 the receipt, get a signature acknowledging that the
5 person had made the contribution and here's my
6 signature.

7 The reason for the signature in the law is to
8 compare voter registration signatures to make a
9 determination whether a person is. So with an
10 electronic signature, which is perfectly legal and valid
11 in almost every transaction, contract and anything else
12 you can do under law, may not be sufficient for these
13 purposes because it's nothing we can compare to the
14 voter's registration signature to aid the Commission in
15 making a determination is this or is this not a
16 contribution of a registered voter.

17 So the campaign tried to substitute a
18 acknowledgement of the contribution bearing a signature
19 to be considered with the electronic receipt. The
20 signatures have come in not at the same time as the
21 electronic receipts but a day or two and sometimes even
22 a few -- even longer than that.

23 So there's an issue about whether an
24 electronic contribution can be made at all, and a sub

1 issue of if it can be made, can you supply the missing
2 signature after the fact and still retain the validity
3 of the contribution. So that's kind of a long-winded
4 explanation, but there's an issue about whether
5 electronic -- the big issue is whether electronic
6 contributions are permitted, because the sub set of that
7 is how do you get a signature with that.

8 I think I've identified all of them, all of
9 the major issues. Again, we're dealing with a hundred
10 and fifty-four. The largest single issue that doesn't
11 cross any lines and it's just one issue is we had forty-
12 eight contributions which are not on State Election
13 Commission form.

14 I want to explain to the Commission that I've
15 had some discussions with representatives of both
16 candidates about whether a form was necessary or not,
17 and because I may be offering an opinion and it's not my
18 role to make a decision, I'm going to step out of this
19 discussion and let Ashley Summitt address it and handle
20 any questions.

21 MS. SUMMITT: So --

22 SEC. TENNANT: Do you need to say your name?

23 MS. SUMMITT: I'm sorry. This is Ashley
24 Summitt. I'm general counsel of the Secretary of State,

1 and in Chapter 3-12-9 it lays out what specific data
2 must be on the receipt. There's a whole entire list of
3 that, and at the end of that section it says a
4 contributions which is not acknowledged by written
5 receipt in the form required, meaning all the items
6 listed above that, is not a qualifying contribution.

7 In the Rule 146-5-5 under 5-4, the section
8 entitled receipts, all contributions must be
9 acknowledged by a receipt on forms provided by the SEC,
10 the State Election Commission.

11 We do have a form for this purpose. We made a
12 purchase. We had some left over from the last time that
13 we had a candidate go through this process in 2012. We
14 purchased a large number of books, and this time as
15 well.

16 As I understand it, the Benjamin campaign came
17 to Tim and said I would like to use my own form, a form
18 that looks almost exactly like the form that we have,
19 with the exception of the candidate's name across the
20 top. It has every field, informational field, on it
21 that our forms have and that are required by statute.

22 I would argue that this form is not grounds
23 for disqualification. The statute does not say that it
24 has a certain form that has to be in Code. As a matter

1 of fact, this office in its past has had UCC forms that
2 are verbatim copied and printed into statute, and we
3 were obligated to use that form. Even when the uniform
4 law gave us a new form, we were not allowed to use that.

5 So now speaking to Tim. Tim advised both of
6 the campaigns that he felt like that it was okay to use
7 their own form as long as it had every field that was
8 required by the statute. I would recommend that the
9 Committee does not disqualify based on a use of a
10 different form as long as it meets all of the standards
11 that are laid out in 3-12-9, but we should feel free to
12 discuss this matter.

13 ~~SEC. TENNANT:~~ Yeah, any question about that
14 or concern or comment? Gary?

15 MR. CARDI: This is Vince Cardi.

16 SEC. TENNANT: Go ahead.

17 MR. CARDI: Vince Cardi. A question for
18 Natalie.

19 SEC. TENNANT: Yes, sir.

20 MR. CARDI: You say it's your opinion that
21 the statute requires information but does not require
22 the actual form that your office has prescribed?
23 Correct?

24 SEC. TENNANT: Professor, that was Ashley

1 Summitt, who's the chief legal counsel in the Secretary
2 of State's office, but that is correct, what she was
3 saying. She'll speak for herself. I know we sound
4 alike.

5 MS. SUMMITT: Yes, sorry. The Code lays out
6 all of the informational fields that must be there, and
7 I think that the missing of one of those would
8 disqualify that contribution. The Code does not say
9 that the form has to look exactly like the one that we
10 have. And so I think that the legislature has done that
11 in the past. It has done a complete photograph or a
12 graphic of a form and if the format and the boxes and
13 lines, the shape of the form were very important, then
14 it would be there. I think as long as it has every
15 informational field that is required in 3-12-9, that it
16 meets that standard.

17 MR. CARDI: And so the question for one
18 group of objections is if the contribution is
19 accompanied by all the information acquired by the
20 statute but is not put in the form proscribed by the
21 Secretary of State, is the contribution still valid? Is
22 that our question?

23 MS. SUMMITT: That is and it's -- if they
24 don't use our particular form but if they use a form

1 that in all other ways meets the standard of the
2 statute, does it qualify.

3 MR. CARDI: Thank you.

4 SEC. TENNANT: So I would look at it as the
5 non-lawyer here, are these forms, do they still have the
6 intent of the law?

7 MS. SUMMITT: Yes.

8 SEC. TENNANT: Even though they might not look
9 like the ones prescribed by the SEC?

10 MS. SUMMITT: Well, and you then have to go a
11 step past that and think are you going to let the shape
12 and the appeal or the formatting of how a form is laid
13 out keep a candidate off the ballot and being able to
14 use public campaign. So that goes to the bigger issue
15 of the intent behind this, behind this law.

16 MR. CARDI: Okay. This is Vince Cardi
17 again. Does the SEC rule that prescribes this form,
18 does it say anything about contributions accompanied by
19 all the information contained in the statute but not
20 accompanied by the proscribed form? Does it say
21 anything about the effect of that?

22 MS. SUMMITT: Actually, sir, the rule does
23 not use the word proscribed. It says provided by the
24 SEC, and it does not address what happens if a different

1 form is being used.

2 MR. CARDI: Okay. Do we have a copy of
3 this rule in one of these documents we received this
4 morning?

5 MR. NICHOLS: Professor, this is Dave
6 Nichols. I did send you a link to the rule in the last
7 email you received from me.

8 MR. CARDI: Okay. What page is it on,
9 David?

10 MR. NICHOLS: It is the Section 5.4.

11 MS. SUMMITT: It's 5.4, yes.

12 MR. NICHOLS: Yes, it's 5.4 of the rule.

13 MR. CARDI: Okay. Page seven?

14 MS. SUMMITT: He's looking for the whole rule
15 not just --

16 MR. NICHOLS: I'm sorry, Professor, what was
17 the question?

18 MR. CARDI: 146-5-4?

19 MS. SUMMITT: Dash five, 5.4.

20 MR. CARDI: Okay, 5.4. Okay.

21 MS. SUMMITT: Yes, sir.

22 MR. NICHOLS: Yes, sir.

23 MR. CARDI: Okay. Go ahead. I'll probably
24 need a minute to read through this at some point, but I

1 don't need it now, so please continue.

2 SEC. TENNANT: Gary, did you have any
3 concerns, you know, or comments you wanted to make about
4 this?

5 MR. COLLIAS: No. I think I understand.

6 SEC. TENNANT: So I guess my question, too, is
7 before we continue, we need to determine whether or not
8 we as the SEC agree to accept the forms that have all of
9 the information on it whether or not they look like --

10 MS. SUMMITT: Yes, if we're going to
11 disqualify them.

12 SEC. TENNANT: We're going to continue to
13 ~~discuss the forty-eight with the forms.~~

14 MS. SUMMITT: Yes, because actually those had
15 tentacles that reach out into all these others, so if we
16 make a decision based on this one issue, it would expand
17 out into all the other, or a good number of the others.

18 SEC. TENNANT: Okay.

19 MR. LEACH: If I may, Madam Secretary, I
20 would think procedurally, the way to proceed would be to
21 entertain a motion either to approve all of the forms
22 that supply all of the required information or a motion
23 to reject all such forms which are not SEC forms and
24 then put it to a vote.

1 SEC. TENNANT: Okay. I'm giving Professor a
2 few more minutes to read.

3 MR. LEACH: What I'm suggesting is that we
4 have to -- you have to rule on each challenge but
5 there's a group of --

6 SEC. TENNANT: Forty-eight.

7 MR. LEACH: More than that because where
8 you get into these others, not form, there's fourteen
9 more. Not form, there's six more. So we've got
10 actually fifty-seven challenged contributions where one
11 or more of the issues is the form. So all you would be
12 voting on is all fifty-seven in a group, either thumbs
13 ~~up or thumbs down for all fifty-seven, but we're going~~
14 to come back to some of these fifty-seven with a
15 secondary issue, and so --

16 MS. SUMMITT: They can be looked at a second
17 time.

18 MR. LEACH: We can figure out which
19 challenges are rejected and which ones aren't. So the
20 motion would be to either accept as valid the
21 contributions and reject the challenge, or the motion
22 could be phrased from the other end and could be, the
23 motion could be to deny as valid the contributions,
24 which means agreeing with the challenge.

1 SEC. TENNANT: Does -- I count sixty-seven, by
2 the way, forty-eight, thirteen and nine -- or thirteen
3 and six.

4 MR. LEACH: My math failed me.

5 SEC. TENNANT: That's okay.

6 MR. COLLIAS: This is Gary Collias. Let me
7 ask this. Is there any further discussion of this issue
8 or are we ready for a motion now?

9 MR. CARDI: Well, I'm not ready for the
10 vote. This is Vince Cardi.

11 MR. COLLIAS: Are you ready for a vote,
12 Vince?

13 MR. CARDI: No, I am not.

14 MR. LEACH: Then you might want to sort of
15 table the issue and move on to some of the other issues
16 and come back to this one.

17 SEC. TENNANT: Can we do that without the
18 tentacles -- I mean we can discuss them but maybe we
19 shouldn't vote on anything until we come back to a
20 foundation.

21 MR. LEACH: We have to come back to the
22 foundation on the one hundred fifty-four.

23 MR. NICHOLS: Anything that hits SEC forms.
24 There are some that don't hit SEC forms at all.

1 MR. CARDI: Vince Cardi. Is this not a
2 good time to discuss this issue further, that is what
3 the section in the rules say and has the one making the
4 objection, do they have an argument as to how this rule
5 should be interpreted?

6 SEC. TENNANT: Very good, Professor. That was
7 -- we were actually giving you time to read that. If
8 you want to discuss that, yes, this is an appropriate
9 time and an appropriate time to pull others. Tim, go
10 ahead.

11 MR. LEACH: The objection is that the rule
12 requires a form and therefore your contribution is
13 invalid.

14 MR. CARDI: Right. Now there are I guess
15 two issues here, I suppose. One, does the candidate get
16 to keep the money; two, does the contribution qualify as
17 a contribution that's required in order to receive
18 public campaign financing.

19 MR. LEACH: Well, two --

20 SEC. TENNANT: Yeah, the latter.

21 MR. LEACH: Two is what we're here on.

22 MR. CARDI: Pardon?

23 MR. LEACH: Two is why we're having this
24 meeting.

1 SEC. TENNANT: Your second --

2 MR. CARDI: There's no objection to the
3 question of whether the candidate can keep the money;
4 the objection is can this contribution count as one of
5 the requirements, a contribution required for public
6 financing? Is that correct?

7 MR. LEACH: That's right. Does this
8 qualify as a qualifying contribution.

9 MR. CARDI: Okay. That's why we're in
10 five. Okay. Is there any precedent on this?

11 SEC. TENNANT: Sir, this is the second
12 election that we're using public financing, so we are
13 plowing new territory. You should be honored. I am.

14 MR. CARDI: Do the objectors or any of the
15 interested parties, can they cite any precedent for
16 other rules in the West Virginia Code that is where a
17 form is proscribed by some government agency but the
18 form was not used, the information's there, and the
19 government agency went ahead and accepted it and it was
20 challenged and the court ruled one way or another? For
21 example, if I file a financing statement and I don't use
22 the form proscribed by the Secretary of State's office
23 but they go ahead and accept it, and it has all the
24 information that the thing requires, I assume that would

1 be a proper financing statement.

2 SEC. TENNANT: Professor --

3 MR. CARDI: A court hasn't ruled on that
4 particular question but maybe they ruled on it in some
5 other context. Are you aware in any of these?

6 SEC. TENNANT: Professor, I was going to allow
7 the objectors and then I guess the Benjamin campaign to
8 have an opportunity to speak. Are you good with that
9 now?

10 MR. CARDI: Okay.

11 SEC. TENNANT: Okay. Is there anyone from the
12 Walker campaign, the objectors to these submissions,
13 that would like to speak?

14 MR. REIDY: (Indicated.)

15 SEC. TENNANT: Are you from the --

16 MR. REIDY: Yes, ma'am. I'm only here as
17 an observer.

18 SEC. TENNANT: Okay. Thank you. They have
19 chosen not to speak. Is there anyone from the Benjamin
20 campaign that would --

21 MS. CHARNOCK: I'm Ann Charnock and I'm here
22 on behalf of Brent Benjamin's campaign. We would
23 obviously second the recommendation of your staff,
24 specifically because it's the rule that talks about an

1 SEC form. It's the Code that talks about required
2 information and doesn't state a form and therefore we
3 would agree that these should not be disqualified.

4 SEC. TENNANT: Gary and Professor, did you all
5 hear that?

6 MR. CARDI: Yes, I did.

7 MR. COLLIAS: And this is Gary. I heard it.

8 SEC. TENNANT: Okay. She is referring to the
9 Code rather than the rule, making its way back.

10 MR. CARDI: What is the Code section?

11 MS. SUMMITT: 3-12-9. I'm sorry, this is
12 Ashley. 3-12-9.

13 SEC. TENNANT: Ashley Summitt.

14 MR. CARDI: Thank you. And what sub
15 section?

16 MS. SUMMITT: It's sub B.

17 MR. CARDI: Okay. So it's really -- B-1, 2
18 and 3. Okay. And did someone refer to the attorney for
19 the Commission's recommendation?

20 SEC. TENNANT: That was -- this is Natalie
21 Tennant.

22 MS. SUMMITT: That was Ms. Charnock.

23 SEC. TENNANT: Yes. Ann Charnock from the
24 Benjamin campaign referred to what Ashley Summitt had

1 recommended when we talked about, for lack of a better
2 term for me, the intent of the law, that the information
3 was there and not the form. And Ashley did make a
4 recommendation that the information, because it was all
5 there, could be accepted.

6 MR. CARDI: Okay. I thought I heard Ann
7 Charnock to say she disagreed with Ashley Summitt's
8 interpretation.

9 SEC. TENNANT: Yeah, that would be confusing,
10 but that's not what she said. She agrees with her.

11 MR. CARDI: Okay. Ann Charnock agrees with
12 Ashley Summitt's interpretation?

13 SEC. TENNANT: Yes, sir.

14 MS. SUMMITT: Correct.

15 MR. CARDI: Is that correct?

16 MS. CHARNOCK: Yes, sir.

17 MR. CARDI: Thank you. That's all I have
18 right now.

19 SEC. TENNANT: Okay. So does that satisfy
20 you, Professor, of the discussion? We can still wait on
21 an ultimate -- on a motion to consider the sixty-seven
22 challenges of form.

23 MR. CARDI: Okay. So there's sixty-seven
24 just based on the lack of form, correct?

1 MR. LEACH: No, sir. There's forty-eight
2 based just on the lack of form. There's another
3 nineteen, making a total of sixty-seven, in which there
4 are multiple objections, and that's one of the
5 objections. So we haven't addressed any of the multiple
6 objections yet.

7 SEC. TENNANT: And so --

8 MR. CARDI: Okay. Let me ask another
9 question. Did I correctly hear Secretary Tennant say
10 that we would be meeting again this afternoon or
11 evening?

12 MR. LEACH: Tomorrow afternoon.

13 SEC. TENNANT: We'll be meeting tomorrow
14 because the Walker campaign has challenged some
15 submissions from the Benjamin campaign and that's for
16 today, and then today they challenged some submissions
17 from the Wotton campaign, and it's a two separate
18 twenty-four hours.

19 MR. CARDI: Okay. I thought there was a
20 reference to another meeting this afternoon.

21 MS. SUMMITT: No, sir.

22 MR. CARDI: Again this is Vince Cardi. I'm
23 not sure what the other commissioners think on this, but
24 it might be better to reserve this question until later

1 in this meeting, because other discussion information
2 might shed some light on it. I think the issue here is
3 fairly well defined but if I could put off actually
4 voting on it until we talk about the other things, if
5 that's not a problem, that would be my preference.

6 SEC. TENNANT: Gary, do you have a thought on
7 that?

8 MR. COLLIAS: Well, I'm ready to vote on it,
9 because I --

10 SEC. TENNANT: I am, too. Well, I am, too,
11 and the staff believes that we could wait, but my
12 question is, if we're talking about -- I guess I'm hung
13 up on the tentacles that you talk about. Does that --
14 you know, can we not clear, and I guess I think also
15 that it should only be forty-eight that should be voted
16 on, because if you voted on the other nineteen, do they
17 become -- then the argument later on become null and
18 void?

19 MS. SUMMITT: No, no, but what you are doing
20 is deciding that one issue.

21 SEC. TENNANT: I see what you mean.

22 MS. SUMMITT: They have other issues besides
23 that one.

24 SEC. TENNANT: There's still another

1 challenge, too. I got that. I got that.

2 MR. CARDI: Okay. This is Vince Cardi
3 again. I actually was not made aware of these issues
4 until I got in this morning and began to read some of
5 this stuff, and I didn't get the actual regs until
6 10:15, so I have not carefully read it. Gary's a lot
7 quicker on this than I am. Can Gary -- there's no
8 motion made, right?

9 SEC. TENNANT: No.

10 MR. CARDI: If somebody wants to make a
11 motion, I'll be -- I mean I can go along. We can vote
12 on that. We can also before the end of the meeting make
13 another motion when we change our way. There's no
14 problem with that. So if Gary wants to move, then we
15 can get a motion, then discuss and then vote.

16 MR. COLLIAS: Okay. I'll -- this is Gary.
17 I'll make a motion, and my motion is that we overrule
18 the objection to the contributions based upon the
19 failure to use the form provided by the SEC. That's my
20 motion.

21 SEC. TENNANT: Okay. And can I add to that
22 motion that says the sixty-seven to which we're
23 referring?

24 MR. COLLIAS: Right.

1 SEC. TENNANT: Okay. Okay. Is there a
2 second? I will second that motion. So there has been a
3 first and second.

4 MR. LEACH: I think Professor Cardi wants
5 to ask a question about the motion.

6 SEC. TENNANT: Okay. Go ahead, Professor
7 Cardi.

8 MR. CARDI: I want to add another
9 amendment. As long as these contributions are
10 accompanied by the information required by the statute,
11 just to make it clear that those are the forty-eight
12 we're talking about and that spells it out.

13 MS. SUMMITT: Correct, sir.

14 SEC. TENNANT: This is Ashley.

15 MS. SUMMITT: Yes, I'm sorry. This is
16 Ashley. There are other ones that have missing
17 information, and that's dealt with in a separate way, so
18 if there is missing, that is decided separately and we
19 would have an up or down vote, or you would have an up
20 or down vote on that based on the fact that not all of
21 the information as required in that statute is there.

22 MR. CARDI: I'd just like the motion to
23 reflect that we are approving these because they contain
24 all the information required by the statute even though

1 they don't conform to the proscribed or the SEC form.

2 SEC. TENNANT: Correct, sir, and we are in
3 agreement. I am in agreement with it. This is Natalie.
4 So we still have a motion on that's been moved and
5 seconded to --

6 MR. LEACH: Mr. Collias, you made the
7 motion. Are you willing to amend your motion, to reform
8 your motion to satisfy Professor Cardi?

9 MR. COLLIAS: Yes. That's what we've been
10 talking about, so yes. We're talking about overruling
11 the objection based on the failure to use the form
12 provided by the SEC even though the same information is
13 included.

14 SEC. TENNANT: Correct.

15 MR. COLLIAS: That's the motion that's been
16 seconded.

17 SEC. TENNANT: Yes. Okay. So it's been moved
18 and seconded. All in favor say aye.

19 MR. COLLIAS: Gary votes aye.

20 MR. CARDI: Vince Cardi aye.

21 SEC. TENNANT: Natalie Tennant aye. So it
22 passed and these sixty-seven submissions that have been
23 challenged move forward. Forty-eight of them will not
24 be considered anymore.

1 MS. SUMMITT: Will not be disqualified.

2 SEC. TENNANT: Will not be disqualified. So -
3 - and I don't know if you all, Gary and Professor, if
4 you caught this. We have a total of one hundred fifty-
5 five that we're considering. So right now we're forty-
6 eight less. We still have the thirteen that needs to be
7 considered that just passed with the first form and it's
8 now time to move on to the next set. Are you guys good
9 with moving on?

10 MR. COLLIAS: Yes. Is the next subject the
11 late receipts?

12 MR. LEACH: Yes. That's an excellent place
13 to go.

14 MR. COLLIAS: All right. Why don't you
15 explain that to us, Tim?

16 MR. LEACH: There are thirty-eight stand
17 alone objections it's not timely submitted to the
18 Secretary of State. There are thirteen others that not
19 timely combined with some other issue, and I think it's
20 all note on the form, so we've already addressed half of
21 that one. And then there are four were not timely and
22 are missing information required by the statute. So
23 altogether we can deal with another fifty-five pieces of
24 the pie and again the issue is the Code requires that

1 the receipts be submitted to the Secretary of State at
2 the first, and in some places it says beginning, of the
3 month after they're received.

4 So we have fifty-five that have been
5 identified as not being reported at the first of the
6 month following receipt. And again, I've stuck my foot
7 in my mouth and talked to people and maybe preempted, or
8 might be viewed as preempting the SEC's authority, so we
9 decided it would be best if Ashley Summitt advanced the
10 arguments and the responses.

11 MR. CARDI: This is Vince Cardi. I would
12 rather just address the thirty-six.

13 MR. LEACH: Gotcha.

14 MR. CARDI: With the only objection it is
15 not timely submitted.

16 MR. LEACH: Thirty-eight, but we understand
17 where you're coming from.

18 MR. CARDI: Thirty-eight. And also what
19 Code section is this?

20 MS. SUMMITT: It's 3-12-9 and 3-12-13, and
21 you have to read them in combination.

22 MR. CARDI: What sub-section of 9?

23 MS. SUMMITT: Well, there's a little bit in F
24 and there's a little bit in G.

1 MR. CARDI: Okay. Thank you.

2 MS. SUMMITT: And then in --

3 MR. CARDI: And 13?

4 MS. SUMMITT: It's B and C.

5 MR. CARDI: Thank you.

6 MS. SUMMITT: Okay. What we're dealing with
7 here is the Code in several -- in two different places,
8 laying out timeframes of the reporting and the turning
9 in of all the receipts and being able to describe that
10 in different ways.

11 In 3-12-9(f), it says, "At the beginning of
12 each month a participating or certified candidate or
13 ~~his/her financial agent or committee shall report all~~
14 qualifying contributions, expenditures and obligations
15 along with all receipts for the contributions received
16 during the prior month."

17 So the language that's particular for us to
18 focus on is that very beginning of that line, which says
19 at the beginning of each month, and particularly what
20 beginning means.

21 Okay. If you'll go down in the same section
22 to sub part G, "All qualifying contributions collected,"
23 and then you skip down a little bit, "shall be reported
24 to the Secretary of State no later than two business

1 days after the close of the qualifying period." So you,
2 in 9 F is more general standard, G is a more specific
3 standard of two days, two business days.

4 Okay. Then if you go to 13, sub B, "During
5 the exploratory and qualifying periods, a participating
6 candidate or his/her financial agent shall submit on the
7 first of each month a report of all exploratory and
8 qualifying contributions along with their receipts," and
9 it goes on from here. So then you have to focus on the
10 first of each month, what does that mean.

11 Okay. And finally under section 13, sub C,
12 "No later than two days after the close of the
13 qualifying period a participating candidate or his/her
14 financial agent shall report to the Secretary of State
15 on appropriate forms a summary of," and then you go down
16 to two, "all qualifying contributions received." So
17 there is a more specific standard again. No later than
18 two business days.

19 So having laid all that out, it is the staff's
20 thought and my recommendation that we go with two
21 business days. It is more specific. I think if you
22 have a general standard and then a more specific one,
23 you opt for the more specific standard of two days.

24 Having laid that out, then we will go to the

1 timing of the receipts by this office of the Benjamin
2 campaign's receipts. The first, and I'm going to be
3 looking behind me for some help from staff to make sure
4 that I'm quoting the dates right, the activity for the
5 month of September was filed on October 1st, so that
6 would have been the first day of that month. So by any
7 of those standards, that would comply.

8 The October activity was filed on November the
9 1st; however, there is a little caveat there. There was
10 an attempt to be made that that document was emailed to
11 our office. I'm sorry, the receipts were emailed to our
12 office. We have an office email filter that caps out at
13 a certain level, which posed a problem for the emails
14 containing all those receipt documents to come through.
15 There was some trouble back and forth between getting it
16 through, so the campaign asked could they mail it after
17 failed attempts several times in our office to meet that
18 standard.

19 So our office has shown that we acknowledged
20 the receipt of the mailed version of those receipts on
21 November 3rd. So that would be a question that this
22 body would need to take up. Does that comply, is that
23 allowable with the attempt to email on the first day,
24 repeatedly a failure due to the filter, and then trying

1 to submit it.

2 SEC. TENNANT: Could I ask a question about
3 that specific one?

4 MS. SUMMITT: Yes.

5 SEC. TENNANT: November 1st was a Sunday, so
6 the first two days would be the 2nd and 3rd, Monday and
7 Tuesday, correct?

8 MS. SUMMITT: That would be right, then, two
9 business days. If November the 1st is a Sunday --

10 SEC. TENNANT: Sunday, on the '15, that's what
11 I'm looking at here, yeah, November 1st was a Sunday.

12 MS. SUMMITT: Okay. So two business days
13 would then encompass November 3rd, so that would then
14 make that a much more compelling argument to accept.

15 SEC. TENNANT: That it was timely. Got it.

16 MS. SUMMITT: Yes, that it was timely. All
17 right. The November activity was filed on December 1st
18 and it was received by our office in email on November
19 the 30th; is that right? Yes.

20 SEC. TENNANT: What, the December?

21 MS. SUMMITT: I'm sorry. No. The November
22 was due on the first.

23 SEC. TENNANT: Of December. Got it.

24 MS. SUMMITT: But we got it by email on

1 November the 30th, so again before the date that it was
2 actually due.

3 SEC. TENNANT: Okay.

4 MS. SUMMITT: The December activity was due
5 on January 1st. It was received by mail for this office
6 on January the 4th. Now, there's a reason for that.
7 The Friday, which is the 1st, is a holiday, you have
8 Saturday and Sunday, and the next business day would be
9 Monday the 4th, so that complies with that two-day
10 business rule.

11 SEC. TENNANT: Because they would even have,
12 by what you said previous, they would have till the 5th.

13 MS. SUMMITT: Right. Till the second
14 business day.

15 SEC. TENNANT: Got it. Okay.

16 MS. SUMMITT: Okay.

17 MR. CARDI: Just a second. Vince Cardi
18 here.

19 MS. SUMMITT: Yes, sir.

20 MR. CARDI: You say it complied with the
21 two-day business rule. Where is that two-day business
22 rule? I'm sorry. It says two business days in the
23 statute. I apologize. Go ahead.

24 MS. SUMMITT: Okay. All right. The amended

1 December, which was received in this office on January
2 the 31st of this year and can be amended at any time,
3 the January activity was due on the 1st, if you adhere
4 to the first day, it was due on the 1st of February and
5 it was delivered in person on the 1st and also by email
6 on the 2nd, which is encompassing the first two days of
7 that month.

8 So having gone through all that, we can answer
9 those in a more specific way if you have questions. I
10 would recommend that if we follow the two business day,
11 that all these comply with that standard and are,
12 therefore, timely and not disqualified. Are there any
13 questions about that?

14 MR. COLLIAS: Yeah. This is Gary Collias. I
15 think I understand the chronology with the exception of
16 the October reporting in early November. Explain again
17 -- explain that again.

18 MS. SUMMITT: Okay.

19 SEC. TENNANT: She's going -- this is Natalie.
20 She's going to explain that again, but I think it's null
21 and void now knowing that November 1st is a Sunday, so
22 the deadline was November 3rd, of which they -- go
23 ahead, Gary.

24 MR. COLLIAS: I'm not sure I agree with that,

1 but that's a different question. I just want to make
2 sure I understand the facts. Explain it again.

3 MS. SUMMITT: Okay. It was attempted to be
4 emailed to this office on the 1st. We have a filter on
5 the email that only allows a certain amount of data in,
6 a size in, and it was too big for that filter. So they,
7 I think they tried it numerous times and it wouldn't go
8 through and then they made contact with the staff to ask
9 if they could mail it in, and it was in this office on
10 the 3rd of November by U.S. Mail.

11 MR. CARDI: Okay. When -- this is Vince
12 Cardi. When was the contact with the staff made? Was
13 it on November 1st, Sunday, or was it November 2nd,
14 Monday?

15 MS. SUMMITT: Just one second, sir, I'm going
16 to have to get an answer.

17 (WHEREUPON, a discussion was
18 held off the record.)

19 MR. CARDI: Vince Cardi. An attempt to
20 email it on the 1st and it was unsuccessful. They
21 contacted the office on the 2nd to see if they could
22 mail it, and the office, I don't know what the office
23 said, but they were actually received the next day on
24 the 3rd; is that correct?

1 MS. SUMMITT: We are trying to verify what
2 date the first contact was made from the committee to
3 the office staff. The staff is going to check that now,
4 but otherwise, yes.

5 MR. COLLIAS: This is Gary again. But either
6 way, since Sunday was November -- November 1st was a
7 Sunday and Monday -- it was received on Tuesday, the
8 3rd, in any event it would have been within two business
9 days.

10 MS. SUMMITT: Yes. That's my thought as
11 well.

12 MR. COLLIAS: Okay. So that answers the
13 question as far as I'm concerned.

14 SEC. TENNANT: Anymore questions? This would
15 be an opportunity to entertain a motion. Oh, wait,
16 wait. Sorry. Hang on. I jumped the gun here. Do you
17 have discussion, Tim?

18 MR. LEACH: What are we doing with the sub-
19 set, the ones received in one month and transferred to
20 the committee the next month and reported the next
21 month?

22 SEC. TENNANT: Are those challenged? We're
23 only doing thirty-eight for right now.

24 MR. LEACH: I don't know. I can't find the

1 thirty-eight.

2 MS. SUMMITT: That will have to be the next -
3 -

4 MR. LEACH: Is that part of these thirty-
5 eight? I don't know.

6 MR. CARDI: This is Vince Cardi. I did not
7 follow that. It's fine if I don't need to have.

8 SEC. TENNANT: Well, what we're looking at,
9 Professor, is these timelines and that two business day
10 threshold -- that's not the right word -- the two
11 business day opportunity or window.

12 MS. SUMMITT: Deadline.

13 ~~SEC. TENNANT: Deadline. Deadline. And so as~~
14 it's laid out and we're looking at this, I believe that
15 the thirty-eight that we're talking about are in
16 agreement with having met a two-business day deadline
17 from the -- I'm still going to say two-business day
18 window to the deadline.

19 MS. SUMMITT: Yes.

20 MR. COLLIAS: Okay. This is Gary Collias.
21 So for all these months that we've been talking about,
22 in every single case receipts were received no later
23 than the second business day of the following month?
24 That's true, isn't it?

1 MS. SUMMITT: Yes.

2 MR. COLLIAS: Okay.

3 MR. CARDI: This is Vince Cardi. Do the
4 objectors, do they want to use that in their argument?

5 SEC. TENNANT: That's what I was going to ask.

6 MR. CARDI: Are they going to speak to
7 this?

8 SEC. TENNANT: Observer once again. Tell me
9 your name.

10 MR. REIDY: Joe.

11 SEC. TENNANT: Joe. Sorry, Joe. Joe from the
12 Beth Walker campaign again is here as an observer. Ann,
13 would you like to say anything? So no comment from the
14 Walker campaign. The Benjamin campaign, Ann, would you
15 like to comment again?

16 MS. CHARNOCK: Just that we would affirm the
17 recommendation of your staff, of Ms. Summitt.

18 SEC. TENNANT: Gary and Professor, did you all
19 hear that?

20 MR. COLLIAS: Yes.

21 MR. CARDI: Did they say we defer to the
22 recommendation of your staff?

23 SEC. TENNANT: Yes, sir.

24 MR. CARDI: Thank you. Well, I have a

1 motion that we deny the objection on these thirty-eight,
2 which only involved the timing of the report.

3 MR. COLLIAS: I second the motion.

4 SEC. TENNANT: Okay. It's been moved and
5 seconded. Anymore discussion? All in favor of the
6 motion say aye.

7 MR. COLLIAS: Gary, aye.

8 MR. CARDI: Aye, Cardi.

9 SEC. TENNANT: So, Gary Collias?

10 MR. COLLIAS: Aye.

11 SEC. TENNANT: Vince Cardi?

12 MR. CARDI: Aye.

13 SEC. TENNANT: ~~Natalie Tennant, aye. Okay.~~

14 That motion has been moved and carried. So hang on a
15 second. I'm going forty-eight -- no, no, sixty-seven
16 plus thirty-eight. We have fifty more to discuss.
17 Okay. So these are the next ones we're going to
18 discuss. If you guys -- we're just going to pause for a
19 minute as staff works on the next -- I believe that
20 we're going to -- thirteen or -- thirteen plus four, the
21 first thirteen? Hang on a second, gentlemen.

22 (WHEREUPON, a discussion was
23 held off the record.)

24 SEC. TENNANT: All right, gentlemen, are you

1 back also? Gary and Professor?

2 MR. CARDI: Yes. Vince Cardi is here.

3 MR. COLLIAS: Gary is here.

4 SEC. TENNANT: Okay. Tim is going to resume
5 with the thirteen, Tim, that were combined. The form
6 was okay of them but the lateness of them the question;
7 is that correct?

8 MR. LEACH: Okay.

9 SEC. TENNANT: So yeah, there's one down at
10 the bottom.

11 MR. LEACH: Yeah, there's thirteen
12 contributions which have a dual challenge and we just
13 ~~addressed the legal arguments behind both of those~~
14 challenges. The dual challenge to these thirteen was
15 they're not on an SEC form and they were not timely
16 filed. The two issues we just finished discussing and
17 entertaining motions on. So is there any questions
18 about the thirteen I'm now addressing?

19 MR. CARDI: This is Vince Cardi. I have
20 two questions. On these thirteen even though they were
21 not on the form, did they contain all the information
22 required by the statute?

23 MR. LEACH: Yes, sir. We've identified
24 four of the not form issues that do not have all the

1 information, and I have those in a separate category for
2 your attention. But these, the only problem with them
3 is the objection that it was not on an SEC provided form
4 and it was not timely reported as required by the
5 statute. That's the only objection.

6 MR. CARDI: Pardon me. This is Vince
7 Cardi. On these thirteen, is the not timely filed, are
8 those covered by the same months that we just discussed
9 in the previous motion, they were during these period of
10 times?

11 MR. LEACH: No. I do not believe so. Let
12 me pull these thirteen. Of course it wouldn't be at the
13 top, would it. The thirteen timeliness issues here
14 involve a slightly different matter than was explained
15 by Counsel Summitt. It's timeliness issue, but it's not
16 the date the report was received; it's the date that the
17 contribution was received. These thirteen issues I'm
18 going to give you just one of the thirteen.

19 The contribution is marked on the form, one of
20 the required fields, date made. The date on the form
21 says November 15th. The form was not filed until the
22 January reporting period. It was filed January 4th or
23 whatever we've established, which is obviously not the
24 first of the month following receipt as a contribution

1 on November 15th.

2 However, the compounding problem is that
3 there's a handwritten note on all thirteen of these that
4 says RCVD 12/4/15 and then there's somebody's initials.
5 I mean the speculation is, and I'd like to hear from the
6 camp, the campaign, but the speculation is that the
7 field workers had the forms signed and got the money out
8 in the field someplace around the state on November 15th
9 but did not turn it over to the committee itself and the
10 treasurer, who has to report everything, until December
11 4, if that's what that initial means. So then the
12 question becomes when is the contribution received, in
13 December or in November, and that's the issue that needs
14 to be decided, are these thirteen timely.

15 MR. COLLIAS: This is Gary. Well, let me ask
16 a couple of questions, Tim. Exactly who is it in the --
17 that has the obligation to report?

18 SEC. TENNANT: That's the question. This is,
19 Natalie. Did you hear that, Tim?

20 MR. LEACH: Yes, I heard that.

21 SEC. TENNANT: He wants to know who has the
22 obligation to the report. The field -- so you're asking
23 the field worker or the campaign that receives it, the
24 treasurer that receives it?

1 MR. COLLIAS: Well, what I'm getting at is, I
2 mean what we're talking about here is the field worker
3 receives the contribution, which I assume would be in
4 the form of a check, in one month but then didn't turn
5 that in to the treasurer of the campaign until the next
6 month.

7 SEC. TENNANT: Yes.

8 MR. COLLIAS: That's what we're talking
9 about, right?

10 MR. LEACH: Right, except that I think some
11 of it was cash, but mostly checks, yes.

12 UNIDENTIFIED MAN: I confirm that that is the
13 actual case.

14 SEC. TENNANT: You're going to have to come up
15 here and say your name. We have a member. Go ahead and
16 sit right here for now.

17 MS. CHARNOCK: This is Ann Charnock. I can
18 speak for that, that that is exactly what happened, that
19 these were received in the field and they weren't turned
20 in to the treasurer until the next month, but Mr. Leach
21 is right.

22 SEC. TENNANT: Did you hear that, Gary?

23 MR. COLLIAS: Yes.

24 MR. LEACH: Gary, the statute is at 3-12-9,

1 paragraph F as in fox, "At the beginning of each month a
2 participator or certified candidate or his/her financial
3 agent or committee shall report all qualifying
4 contributions, expenditures and obligations along with
5 all receipts for contributions received during the prior
6 month."

7 So the problem is, legally is we don't define
8 what we mean by received. Is that the initial giving or
9 is that when it reaches the treasurer's hands. And
10 that's what the issue is involved in these thirteen.

11 MR. COLLIAS: Which sub section is that
12 again, Tim?

13 MR. LEACH: 3-9 -- or 3-12-9, paragraph F
14 as in fox.

15 MR. COLLIAS: Okay. Okay. So I'm assuming
16 that the argument for not sustaining this objection is
17 that the candidate or his financial agent or committee
18 didn't receive the money, just somebody out in the
19 field?

20 MR. LEACH: Well, the obligation to make a
21 financial report is on the treasurer.

22 MR. COLLIAS: Right.

23 SEC. TENNANT: Not the field worker, is what
24 you're saying.

1 MR. COLLIAS: And so the treasurer didn't
2 have the money and when the treasurer got the money,
3 then the following month the treasurer reported it.

4 MR. LEACH: Right. The money went to the
5 worker in month one, went to the committee in month two,
6 went to the Secretary of State the first of month three.

7 MR. COLLIAS: So the money wouldn't have been
8 available to spend, then, until the month -- okay. I
9 understand.

10 SEC. TENNANT: Professor, do you have any
11 questions or comments?

12 MR. CARDI: Well, this is problematic. I
13 mean whoever collects the money is certainly the agent
14 of the campaign, the person who's supposed to make the
15 report, so I --

16 SEC. TENNANT: And I guess, you know, I have
17 the same concerns that you do, Professor, and I don't
18 know, certainly there's probably no precedent for this.
19 At the same time, you know, I think that there needs to
20 be a benefit of the doubt also in place.

21 MR. COLLIAS: This is Gary. This is the
22 problem that I see with it. If we take that rule that
23 literally, that would mean that two minutes before
24 midnight on Halloween, on October 31st, if a worker was

1 given a hundred dollar contribution, that two business
2 days later, and not just two business days, but two
3 business days later that would have to be reported, even
4 though it's impractical to think that that money's going
5 to make it to the treasurer and in a report. I mean
6 that's the problem that I have with it.

7 It just seems to me that it could lead to
8 really sort of screwy crazy fact patterns where it's
9 unreasonable to expect the money to get to the
10 treasurer, you know -- I don't know. I have trouble
11 saying that a campaign received money if they received
12 it at a few minutes before midnight on the last day of
13 the month, that that money was received in that month
14 even though it didn't get to the treasurer for another
15 week or two. That's the problem I have with it.

16 MR. CARDI: I agree with that. This is
17 Vince Cardi. The question, what's the purpose of this
18 timely reporting, because you have the other
19 possibility. Look, we need to raise money. We actually
20 collected fifty-five thousand this last month. From
21 what I hear from our field workers, we haven't received
22 it yet. We want our contributors to feel we still need
23 the money, so don't actually send in the money to us
24 until the next month so we can only report what has

1 actually been sent in.

2 Now, query, is that illegal? Well, not

3 illegal, I suppose. Is it fraud? I don't know about

4 that, but it certainly would allow that kind of practice

5 if we say that it only is received if it's received by

6 the campaign headquarters, whoever's in charge of it.

7 So that's -- Gary, you're absolutely right.

8 What do you do about when they -- at midnight.

9 What businesses do, they say, look, we've got to make

10 our deposit at the first of the month and our report, so

11 all you satellite officers, you've got to remit your

12 money by noon of the day of the end of the month or

13 something. Well, I don't know.

14 MR. COLLIAS: Well, that's one way of looking

15 at it, but of course the problem is, is that until the

16 money gets to the treasurer, it can't be spent for the

17 benefit of the candidate, so in one sense the agents out

18 there needing contributions may have received the money

19 but it hasn't got to the candidate or have any benefit

20 of the candidate, and if it never makes it to the

21 candidate, it's not going to benefit the candidate in

22 any way.

23 So it just seems to me an awful strict

24 technical interpretation to say that, you know, if

1 money's received on the last day of the month, it has to
2 be reported two business days later even though the
3 treasurer didn't have the money is impossible. It just
4 -- in the real world that's not going to happen, and
5 that's the problem that I have with it.

6 SEC. TENNANT: Any other discussion? Joe,
7 from Beth Walker's campaign, you're staying consistent.
8 Ann or Dan, any other --

9 MS. CHARNOCK: This is Ann Charnock. I'd like
10 to address Professor Cardi's concern that under these
11 rules, if there's a contribution during a qualified
12 period, the aggregate exceeds fifty thousand dollars,
13 ~~the excess goes to the fund and not the candidate.~~ So
14 that would discourage any thought of holding money,
15 because you wouldn't know what you had and you certainly
16 don't want to go above the fifty, so I think that would
17 just discourage that, that practice.

18 MR. CARDI: I see. When does the
19 qualifying period end?

20 MR. LEACH: January 30th. We've already
21 passed it.

22 MR. CARDI: Okay. Okay. And if an October
23 contribution was not reported in November, could that
24 contribution be remade in November and reported in

1 December?

2 MR. LEACH: That's a question I hadn't
3 thought of, Professor. Are you grading me on this one?

4 MR. CARDI: No, and because all the dates
5 are past, it really satisfies the question I had in the
6 back of my mind with all these, although I really didn't
7 need to go to that policy question. So really we don't
8 need to address that. Okay. Does the objecting
9 campaign have any comment on this issue before us?

10 SEC. TENNANT: I asked him, Joe from Beth
11 Walker's campaign, and he did not.

12 MR. CARDI: Okay.

13 ~~SEC. TENNANT: I am prepared to accept a~~
14 motion. Is everybody else prepared for that?

15 MR. COLLIAS: This is Gary. I want to ask
16 another question.

17 SEC. TENNANT: Okay.

18 MR. COLLIAS: Does anybody actually dispute
19 that these contributions were received by the treasurer
20 in the month immediately preceding when they were
21 reported?

22 MR. LEACH: Well, that was not submitted on
23 any of the objecting forms, but I don't know how anyone
24 would have that information except for the campaign.

1 MR. COLLIAS: Yeah.

2 SEC. TENNANT: The Benjamin campaign.

3 MR. COLLIAS: Yeah. I mean because I mean I
4 see that there's a notion on there that it suggests that
5 the contribution was received by the worker in one
6 month, then received by the treasurer in the next month,
7 and I'm assuming that that's what happened in these
8 circumstances in these particular cases, but I'm just
9 wondering if there's somebody out there saying that's
10 not what happened, that it was something else. Is there
11 anybody that says that?

12 MR. LEACH: That was not itemized in their
13 objections.

14 MR. COLLIAS: Okay.

15 MR. LEACH: I don't think that's the issue.
16 I think it's a timing, not an honesty, I guess I could
17 categorize it.

18 MR. COLLIAS: Okay. You've answered my
19 question.

20 SEC. TENNANT: Do I hear a motion on these
21 thirteen?

22 MR. COLLIAS: This is Gary. I move that we
23 overrule the objection with regard to these
24 contributions.

1 SEC. TENNANT: Do I hear a second? I'll
2 second that. So it's been moved and seconded that we
3 overrule the objection of the thirteen in being timely
4 with those dates for late -- well, as the motion was.
5 All in favor say aye.

6 MR. COLLIAS: Gary says aye.

7 MR. CARDI: Vince says aye.

8 SEC. TENNANT: Natalie Tennant, aye. So it's
9 been moved seconded and approved.

10 MR. LEACH: Madam Chairwoman, it's come to
11 our attention that this same issue was touched upon by
12 some of the thirty-eight approved in the vote before
13 ~~last, and it may require us to re-address the motion and~~
14 the vote on the thirty-eight that were identified as
15 solely not timely. We discussed the timeliness of the
16 reports but not the unusual circumstance of a receipt in
17 one month, transfer to the committee in a second month,
18 reporting at the start of the third month. The same
19 issue we just finished discussing but it wasn't brought
20 up when we voted on the thirty-eight, and it is in that
21 package.

22 MS. SUMMITT: So in a procedural way, I think
23 we should reconsider the vote on the thirty-eight having
24 taken out these twelve that Tim is just telling you

1 about, which would make a vote on twenty-six and then
2 reconsider these twelve in a separate vote.

3 MR. LEACH: Well, I have it as thirteen,
4 but I'm not sure.

5 SEC. TENNANT: Another thirteen?

6 MS. SUMMITT: No. Dave has it as twelve.

7 MR. NICHOLS: The list you gave me has
8 twelve.

9 MR. LEACH: Okay.

10 SEC. TENNANT: Gentlemen, do you understand
11 that, where we are with the thirteen that we previously
12 --

13 MR. LEACH: ~~Thirty-eight.~~

14 SEC. TENNANT: Yes, I'm sorry, the thirty-
15 eight that we previously, before the thirteen, accepted,
16 twelve of the thirty-eight had the same --

17 MS. SUMMITT: Issue.

18 SEC. TENNANT: -- situation and issue as the
19 thirteen that we just approved. So now we have to --

20 MR. CARDI: I understand. Vince Cardi.

21 SEC. TENNANT: Okay. So are we just going to
22 go back and separate twenty-four --

23 MS. SUMMITT: Twenty-six.

24 SEC. TENNANT: -- twenty-six and twelve? Do I

1 have a motion?

2 MR. CARDI: I've got some questions of fact
3 here.

4 SEC. TENNANT: Okay.

5 MR. CARDI: Has the staff looked at every
6 one of these that were included in the thirty-eight but
7 which also contained a lateness problem?

8 MR. LEACH: Yes, sir, we have.

9 MR. CARDI: Okay. In each of those, is
10 there any evidence that they were intentionally withheld
11 until the following month?

12 MR. LEACH: Professor Cardi, we are not
13 ~~like authorized to investigate these, especially not~~
14 with a next-day meeting, but there's no indication on
15 the face of the paperwork, other than the notation from
16 somebody's initials, I don't know exactly who it is,
17 received by, and we've prepared charts and listed the
18 received by note for everyone, every single one of the
19 twelve plus the thirteen we discussed in my
20 presentation, all had a received date in the next month
21 after the contribution date. So I'm aware of nothing on
22 the surface of the documents itself which suggests
23 playing with the numbers or dates.

24 MR. CARDI: Okay. For the staff who looked

1 at these, is there any reason to believe that the facts
2 on these are different from the facts on the ones we
3 took a look at for given in November and no receipt in
4 December or something like that?

5 MR. LEACH: The facts are different because
6 the months may be different, but it's the same factual
7 pattern.

8 MR. CARDI: Thank you.

9 SEC. TENNANT: So we have two votes.

10 MS. SUMMITT: Yes. Reaffirm the twenty-six,
11 twelve with this fact pattern.

12 SEC. TENNANT: Okay, gentlemen, so we have two
13 ~~new -- well, we will need two new motions on the floor.~~

14 One is to reaffirm the twenty-six out of the thirty-
15 eight that we've already done, and one is the new, for
16 lack of a better word, fact pattern of the dates.

17 MS. SUMMITT: Reconsider the thirty-eight, so
18 vote them down to the motion.

19 MR. LEACH: No, no, no. You're withdrawing
20 your vote.

21 MR. NICHOLS: You're reconsidering. You're
22 backing up. You're rewinding.

23 MS. SUMMITT: On the thirty-eight and we're
24 just splitting them in two.

1 SEC. TENNANT: So what type of a motion am I
2 looking for for the thirty-eight?

3 MR. NICHOLS: You're looking for a motion to
4 reconsider your vote on the thirty-eight.

5 SEC. TENNANT: The thirty-eight. Got it.
6 Okay. So we have -- I thought we had three votes here.
7 Gentlemen, we have three votes. The first one would
8 have to be to address the reconsideration of the thirty-
9 eight that were denied the challenge. So can we address
10 that? Do I have a motion on the floor to reconsider the
11 thirty-eight on those challenge of timeliness?

12 MR. COLLIAS: This is Gary. I haven't the
13 slightest idea of what we're doing.

14 SEC. TENNANT: I was afraid of that.

15 MR. CARDI: Well, let me make this -- I've
16 got a motion here. I move that of the thirty-eight that
17 were previously addressed, the objection based on the
18 timeliness of the report is denied and the objection
19 based on the whatever it is, is denied, and you'll just
20 have to give me some language on whatever it was. It
21 was --

22 MR. LEACH: That works fine, Professor, but
23 it's cart before the horse thing. We have to
24 procedurally withdraw the vote that you've already given

1 on the thirty-eight.

2 SEC. TENNANT: So we have to do them as a
3 whole.

4 MR. CARDI: Okay.

5 MR. LEACH: We have to reconsider, which
6 means there's no vote at all after you reconsider it,
7 but you need a motion and a second and a vote to
8 reconsider. Then we start over and we can deal with the
9 motion like you wanted to word it, if you choose.

10 MR. COLLIAS: Okay. I'm good with that.

11 MR. CARDI: Okay.

12 SEC. TENNANT: So the first motion I believe
13 ~~would simply say I move to reconsider the vote on the~~
14 thirty-eight. I'm not sure I can make the motion.

15 MR. CARDI: You just made it. I second
16 your motion.

17 SEC. TENNANT: Thank you. Thank you. That's
18 what I was looking for. It's been moved and seconded to
19 reconsider the thirty-eight that were in question
20 because of timeliness. All in favor say aye.

21 MR. CARDI: Aye.

22 MR. COLLIAS: Aye.

23 SEC. TENNANT: Aye, Natalie Tennant. Now, the
24 next one, let's go to the twenty-six that were being

1 challenged because of timeliness and because we're
2 pulling out the twelve with the fact form. Do I have a
3 motion to -- you guys are ruling backward on me. To
4 overrule the objection?

5 MS. SUMMITT: To deny.

6 MR. NICHOLS: Yeah, to overrule the objection
7 is what we've been talking about.

8 SEC. TENNANT: Okay. Do I have a motion to
9 overrule -- no. Do I have a motion to deny the
10 objection of these twenty-six?

11 MR. CARDI: Vince Cardi. I move that we
12 deny the objection of those twenty-six based upon the
13 timeliness of the report.

14 SEC. TENNANT: Okay.

15 MR. COLLIAS: I second the motion.

16 SEC. TENNANT: It's been moved and seconded.
17 All in favor say aye.

18 MR. COLLIAS: Aye.

19 MR. CARDI: Aye, Cardi.

20 SEC. TENNANT: Aye, Natalie Tennant. Moved
21 and passed. Now I'm looking for a motion to deny the
22 objections of the twelve with --

23 MS. SUMMITT: The previously discussed fact
24 pattern.

1 SEC. TENNANT: Yeah, with the previously
2 discussed fact pattern.

3 MR. COLLIAS: I thought it was thirteen.

4 SEC. TENNANT: That was --

5 MS. SUMMITT: That was Tim's.

6 SEC. TENNANT: We already -- we voted on that
7 thirteen already. This is the separation of the thirty-
8 eight that makes it twelve, so you're right, but this is
9 twelve.

10 MR. COLLIAS: Okay.

11 SEC. TENNANT: Do I have a motion? I move
12 that we -- go ahead if somebody else wants to do it.

13 ~~MR. CARDI: This is Vince Cardi. I move~~
14 that the objection based upon the fact that
15 contributions delivered by the contributor in one month
16 but not received until the following month were not
17 timely reported be denied, and you may have to fill in
18 some facts there, but --

19 MR. COLLIAS: I second the motion.

20 SEC. TENNANT: It's been moved and seconded.
21 All in favor say aye.

22 MR. COLLIAS: Aye.

23 MR. CARDI: Aye.

24 SEC. TENNANT: Aye, Natalie Tennant. It's

1 unanimous. Okay. So we are past the thirty-eight, the
2 thirteen, and forty-eight. Does everybody have that
3 same count?

4 MR. CARDI: Yes.

5 SEC. TENNANT: Okay.

6 MR. LEACH: All right, Madam Secretary, I
7 move on to a category which combines two objections.
8 One is -- we haven't talked about electronic filing,
9 have we?

10 SEC. TENNANT: Not yet. Do you want to do
11 voter registration and SEC forms, since we've already
12 accepted a form?

13 ~~MR. LEACH: Well, we could take on all the~~
14 voter registration ones, but those are the ones that are
15 going to be high intensity because you're going to have
16 to be looking at them.

17 SEC. TENNANT: Okay. You go, yeah.

18 MR. LEACH: Let's do this -- I have four
19 that are identified as objections for not timely, which
20 we've now addressed.

21 SEC. TENNANT: So they are timely, so now all
22 we're addressing is missing information.

23 MR. LEACH: And there's missing
24 information, some of the statutory required information

1 is missing. So let me quickly check to see the
2 timeliness thing. Yes, the timeliness issue of these
3 four is the multi-month path reporting that we've been
4 over. The missing information varies on each of the
5 four, but I can summarize it for you.

6 MR. NICHOLS: You may want to remind them
7 they have a file that was sent to them.

8 MR. LEACH: All right.

9 SEC. TENNANT: Yeah, that has these numbers.

10 MR. NICHOLS: Not timely and missing info.

11 MR. LEACH: If you're looking at your PDFs,
12 we have these documents actually before you in a not
13 timely and --

14 MR. NICHOLS: And missing info.

15 MR. LEACH: -- and missing info. The first
16 one, what was it missing? Contributor's name. That's
17 what it looks like. No, wrong person. Okay. We have a
18 contribution which does not provide the contributor's
19 name. No signature, it looks like. Oh, okay, we have a
20 signature, just not in the box I would have put it in.
21 By the way, this is using the Secretary -- the State
22 Election Commission's form, so even that's, even that
23 form is not working a hundred percent correctly. But
24 the contributor is supposed to print their name and

1 there's no name given. Do you want to address each of
2 these individually of the four or kind of take them as a
3 group, gentlemen and Madam Secretary?

4 SEC. TENNANT: Well, you say --

5 MR. CARDI: If the facts differ, then we
6 should address each one.

7 SEC. TENNANT: Yeah, that's what I think.
8 Yeah.

9 MR. LEACH: The only similarity is that
10 each is missing something that we believe is required by
11 the statute. So I've got to identify the person's name
12 so the record will show which one is being rejected or
13 not.

14 SEC. TENNANT: Are we going to do the last
15 name or are we going to do the full name? There's no
16 protection.

17 MR. LEACH: Well, this is a contributor
18 with the last name of Farren. The date of the
19 contribution is 11/23/15. We have the receipt. You
20 have it in your package attached to the challenge
21 notice. The basis for the challenge is contributor not
22 reported in a timely manner and missing required
23 information. The statute that you looked at earlier
24 today and the regulation, which mimics the statute,

1 require that the person's name be printed in addition to
2 being signed, having an actual signature, and it's not
3 there. Motion?

4 MR. NICHOLS: Discussion.

5 SEC. TENNANT: So what wasn't there? The
6 signature is not there?

7 MR. LEACH: No. The printed name.

8 MR. NICHOLS: As required by law.

9 MR. CARDI: So this Farren is signed but
10 not printed?

11 MR. LEACH: That's correct.

12 MR. CARDI: Is the signature clearly
13 legible?

14 MR. LEACH: What would you say, Madam
15 Secretary? You have --

16 SEC. TENNANT: I don't even see it.

17 MR. NICHOLS: It's the middle, the middle
18 one.

19 SEC. TENNANT: Oh. And this is our copy,
20 though. Do we have the original?

21 MR. LEACH: No. Their campaign's here.

22 SEC. TENNANT: Do you have the original copy,
23 Dan? Because what did -- where did we get these?

24 MR. LEACH: They were filed with these

1 folks.

2 SEC. TENNANT: So why don't we have the
3 original? Oh, we are not required to have the original.

4 MR. LEACH: It just says we get one of the
5 three copies is all it says.

6 SEC. TENNANT: So one of the three copies.
7 Does the campaign have the original?

8 MR. SHULL: Well, we have at least one of
9 the three copies. The issue we place with the Secretary
10 of State forms, the third copy of them was not legible
11 because of the quality of the form. So in my records
12 with me I have the form. It will take me a while to
13 find it.

14 MR. LEACH: All right. It's one of a
15 hundred and fifty-five.

16 SEC. TENNANT: No. Exactly. One of however
17 many you have. We already did all this last night from
18 the office.

19 MR. CARDI: I'd like to know on which of
20 these packets that we received this morning is that form
21 located?

22 MR. NICHOLS: Vince, this is Dave Nichols.
23 It is in the PDF file that is titled not timely and
24 missing info.

1 MR. CARDI: And what is the first page of
2 that not timely, missing info?

3 MR. NICHOLS: It should be the one that has
4 the challenge for Ms. Farren.

5 SEC. TENNANT: You're not going to see it,
6 because you can't read it.

7 MR. NICHOLS: No, that form, that's page two.

8 SEC. TENNANT: Oh, sorry. Sorry.

9 MR. NICHOLS: The challenge would be the
10 first form.

11 MR. LEACH: You have it there.

12 MR. CARDI: What is the name of the
13 contributor on the first page of that packet?

14 MR. NICHOLS: It's Farren.

15 SEC. TENNANT: Farren.

16 MR. LEACH: He wants to know the name.

17 MR. NICHOLS: Farren should be the first name
18 there.

19 SEC. TENNANT: No, or the last name of the
20 person.

21 MR. CARDI: Linda Farren?

22 SEC. TENNANT: Correct.

23 MR. LEACH: Yes, sir.

24 SEC. TENNANT: We were trying that. Yeah,

1 Linda Farren. So then underneath it, the second page
2 should be this, which you can't read.

3 MR. CARDI: Okay. Signature collector John
4 A. Farley or is that Fairly?

5 SEC. TENNANT: Cathy Medley. It's the second
6 one. Well, actually, it should -- they're all done by
7 Cathy.

8 MR. CARDI: There's three of them on a
9 page?

10 MR. NICHOLS: Yes, sir.

11 SEC. TENNANT: Yes. It's the one in the
12 middle, but it's done by Cathy, the collector. Well,
13 she is, people.

14 MR. CARDI: I need some more help here,
15 David.

16 MR. NICHOLS: Yes, sir.

17 MR. CARDI: Do we have the missing info
18 where the coversheet says contribution Linda Farren. If
19 we turn to the next page, which of these three receipts
20 is the one in --

21 MR. NICHOLS: The second one. It's the
22 second one, the one in the middle.

23 MR. LEACH: The middle one on page two.

24 MR. CARDI: Okay. Contributor's signature,

1 there's no signature.

2 MR. LEACH: Well, that's true, but there is
3 at another place on the form under the date.

4 SEC. TENNANT: He has it? You have it?

5 MR. CARDI: This is the form -- is this the
6 form that you've got in your cart?

7 MR. LEACH: That's right.

8 SEC. TENNANT: Oh, okay. We do have folks
9 from the Benjamin campaign, so come up and sit here.
10 Make your -- this is Ann Charnock.

11 MR. SHULL: Oh, the card table. I like
12 this.

13 ~~SEC. TENNANT: You moved to the big table.~~

14 MR. SHULL: My name's Darrell Shull,
15 campaign manager for Justice Benjamin. The forms we are
16 discussing so far that I'm aware, are part of a group
17 that we were informed by the Secretary of State's office
18 on Monday the copies were not legible, at which time we
19 offered to go back, find the originals and mail the
20 originals to the office.

21 So we went back. In these cases the white
22 copy, the clearest copy, had been given to the
23 contributor by the volunteer, and the yellow copy, which
24 was somewhat legible, and a pink copy, which was not

1 legible whatsoever. So prior to mailing the yellow
2 copies, which we deposited in the mail yesterday, forty-
3 five minutes before the challenge came in, we made a
4 Xerox copy and attempted to increase the contrast.

5 In the case of the Farren contribution, and I
6 apologize for this because to clarify what was barely
7 legible in the Xerox, I wrote the name on the Xerox
8 copy, but it may be a little more visible on this
9 version of the form, the signature which is clearly
10 readable. But the yellow copies are in the mail, as
11 they say.

12 SEC. TENNANT: So, Tim and staff, the
13 ~~challenge that came from the Walker campaign came from~~
14 this. They looked at the same thing that we're looking
15 at now. It doesn't make a point at all; I'm not really
16 making a point. I'm just saying why they would have a
17 challenge, and I guess I would look at this and say,
18 man, I don't see a signature either.

19 MR. NICHOLS: Well, they didn't challenge the
20 signature.

21 SEC. TENNANT: Well, they challenged the
22 contributor -- they didn't challenge the signature.
23 What did they challenge?

24 MR. NICHOLS: They just said missing

1 information.

2 MR. LEACH: Missing name.

3 SEC. TENNANT: Oh, they didn't say what was,
4 what they thought was missing. Okay.

5 MR. CARDI: This is Vince Cardi. Are these
6 things carbon?

7 MR. LEACH: Yes. They're a pressure-
8 sensitive three-page paper, not carbon copies like we
9 used to use, but you press down with the pen on the top
10 copy and it goes through to the two layers below that.
11 The top copy --

12 MR. CARDI: Okay.

13 MR. LEACH: The top copy is white, the
14 middle copy is yellow, and the third copy is pink. We
15 did not specify in the instructions which copy gets sent
16 where. Obviously the white copy is more legible because
17 it's the one that's actually written on and the contrast
18 probably bears into it. A lot of the more than five
19 hundred receipts we got appear to have been the third
20 copy and it's just too light, so we asked the campaign
21 if they could file a different copy of the same receipt
22 was more legible.

23 MR. CARDI: Well, and so on the reporting
24 date the form received had no signature or name that was

1 identifiable?

2 MR. LEACH: It had a signature but it did
3 not have a name, and both are required by the statute.

4 MR. CARDI: Okay. Now -- but the signature
5 was not readable by your office, correct?

6 MR. LEACH: I think we could read the
7 signature. I mean it's very light. Obviously the
8 challenger was able to read the signature because they
9 identified who it belonged to, but there's no name, is
10 the missing information as far as we're concerned.

11 MR. CARDI: So is this an accurate
12 statement of the question, where the receipt is signed
13 legibly so someone who looks at it can understand the
14 name, can discern the name, but it is not printed,
15 query, under the statute and the rule cannot qualify?

16 MR. LEACH: That's correct. The statute
17 requires certain fields. One of them is signature. One
18 of them is signature of the solicitor, which is not the
19 issue here, and the signature of the donor and the
20 printed name of the donor is supposed to be on the form.

21 MR. CARDI: And we're assuming that what we
22 have in front of us is irrelevant since what we have in
23 front of us is blank, but what your office has is not
24 blank, it's a light but legible signature, correct?

1 MR. LEACH: Yes, I think that's correct.

2 SEC. TENNANT: Do we have it printed?

3 MR. NICHOLS: This is Dave again, Mr. Cardi.

4 I think, you know, whether or not we can read that
5 signature, I think that printed name field is still
6 blank, and that's the issue at hand here. As far as the
7 copy that we have in our office, it appears as if the
8 printed name field is blank.

9 SEC. TENNANT: Should we inform the commission
10 that if, and you help me and make sure I'm correct, if
11 these are denied that the campaign has five days to
12 bring it to us or present it?

13 MR. LEACH: The Code about the challenges
14 says that any challenges sustained, that contribution
15 can be replaced by another contribution within five
16 business days.

17 SEC. TENNANT: So it doesn't even have to be
18 from Linda Farren?

19 MR. LEACH: No, but if this were the one
20 that puts you under the number, you could replace it
21 within five days and you'd be back at the number.

22 MR. CARDI: Well, thank you for adding
23 that. That's not a trivial point. Gary, you've been
24 messing around with this for thirty years --

1 SEC. TENNANT: No, this is only our second
2 election with this.

3 MR. CARDI: -- what are your --

4 MR. COLLIAS: I don't think it's been that
5 long. Well, I mean you can see that, the undisputed
6 fact is that the blank where you're supposed to print
7 your name was left, was left empty, was left blank. And
8 whether or not you can make out the name of the
9 signature or not, you know, to me I think that the form
10 is deficient. I mean you've got to print the name.

11 Just having the signature, you know, wouldn't
12 be, I don't think that gets it, regardless of whether or
13 ~~not the signature is legible. That's my feeling. I~~
14 mean I don't think it's asking too much that the name of
15 the contributor be printed on the form and apparently it
16 wasn't printed. It's not a matter you can't read it; it
17 was never printed on the form at all, so to me there's a
18 problem.

19 MR. CARDI: Have you got a motion?

20 MS. CHARNOCK: Ma'am?

21 SEC. TENNANT: Sure. Ann Charnock from the
22 Benjamin campaign.

23 MS. CHARNOCK: My only point would be if you
24 look at the actual financial report, Farren has a first

1 name, and so it was reported. It was just not on the
2 form in the right place, on the other form in the right
3 place.

4 MR. COLLIAS: Well, are you saying, Ann, that
5 the name is printed on the form somewhere else?

6 MS. CHARNOCK: On the actual financial report
7 that's filed every month there's a first name for
8 Farren.

9 MR. LEACH: She's talking about, I believe,
10 the financial reports, which you have to list all
11 contributors. Farren is listed on that, but that's not
12 what we're talking about, I don't believe.

13 SEC. TENNANT: We're just looking for the
14 printed -- I mean this is --

15 MR. LEACH: The receipt must contain the
16 following information.

17 SEC. TENNANT: The printed name, the
18 signature, the contributor's signature, the
19 contributor's name, and somewhere down the line someone
20 saw her name, the contributor's signature but we don't
21 know if the contributor's name was ever on there. Now,
22 Darrell, do you think her name was on there and it was
23 just not legible, the printed part?

24 MR. SHULL: I dealt with this form

1 yesterday as I prepared the best copies to be mailed to
2 your office. In looking at the form, you can see where
3 the name was printed but it did not -- it was barely
4 legible on the yellow copy --

5 SEC. TENNANT: Because it was the last sheet.

6 MR. SHULL: -- and it didn't transfer to
7 any sort of electronic duplication.

8 SEC. TENNANT: And those yellow copies are in
9 the mail to whom?

10 MR. SHULL: To your office.

11 SEC. TENNANT: It could be more than five days
12 before we get it the way the --

13 ~~MR. SHULL: But in our opinion there was no~~
14 intent that the donor not put the name there.

15 SEC. TENNANT: Yes. You're saying that you
16 think there is something written on there as there?

17 MS. SUMMITT: That's just not showing up on -
18 -

19 SEC. TENNANT: And so does the phone number
20 and the occupation and employer show up, too?

21 MR. SHULL: They do. It appears as though
22 those were added in by the person collecting the form
23 rather than the donor. So the donor wrote their name
24 and their printed name very faintly, and then the person

1 collecting the form added the rest of the information on
2 there at the time they received it.

3 SEC. TENNANT: Oh, I'm sorry. It says if more
4 than twenty-five dollars you have to add all that, so
5 you didn't need that anyway. It was a two-dollar
6 donation. Sorry about that. So the only thing missing,
7 then -- well, but you all are saying it's not missing?

8 MR. SHULL: From my best read of a form
9 that is very difficult to read, that appears as though
10 the donor intended to print their name and attempted to
11 print their name on there.

12 MR. CARDI: Well, Gary, this is Vince
13 ~~Cardi, I suppose if the form on the signature line had a~~
14 legible signature and that signature and script were
15 repeated on the printed line, it just happened to be in
16 script instead of printed --

17 SEC. TENNANT: It doesn't say that it has to
18 be printed.

19 MR. NICHOLS: Yes, it does.

20 SEC. TENNANT: Oh, it does?

21 MR. CARDI: -- you think that's okay in an
22 interpretation of the word printed. But if that space
23 is left blank, then this should be strictly construed
24 you can't leave it blank and therefore it should not

1 qualify. That's the first point. Is that true, Gary?

2 MR. COLLIAS: Well, that's how I feel about
3 it.

4 MR. CARDI: Okay. And then there's a
5 second issue here. If in fact it was printed on the
6 original but the print did not make it through to the
7 copy, which is actually sent to the Secretary of State,
8 that that should not qualify. It should be deemed as
9 one that's not printed because they don't have it, and
10 if they can correct that within five days, then that's
11 what they have to do. We can't just let a blank printed
12 name space qualify. Is that what we've come around to?
13 That was kind of my feeling right now.

14 MR. COLLIAS: Yeah. Otherwise, if we don't
15 adopt that rule, otherwise whether or not something
16 counts or doesn't count will turn on how bad the person
17 scribbles their signature. I mean that's what it would
18 come down to, and if you write your signature like a
19 child would, that's easily legible, you know; or if you
20 write it like a doctor does, you're not going to be able
21 to read it.

22 MR. CARDI: Could we amend the rule and put
23 that in there, child's version okay, doctors not?

24 MR. LEACH: Actually, this rule is pending

1 before a House committee as we speak.

2 SEC. TENNANT: I guess my question is, if I'm
3 sitting here and I'm looking at this, I don't see any
4 names at all. What did you base your challenge on?

5 MR. LEACH: Well, there's an address,
6 there's a list of the financial contributions that I
7 think they did an analysis of that also shows addresses,
8 and I think they probably came up with it by doing a
9 little detective work.

10 MR. CARDI: Actually -- this is Vince
11 Cardi. I'm assuming from earlier conversation that the
12 actual copy that your office has, has a legible
13 ~~signature but the printed line is blank, and the copy we~~
14 have just doesn't show that legible signature; is that
15 correct?

16 SEC. TENNANT: If that's the case, then how do
17 we know it doesn't have a legible printed contributor's
18 name?

19 MR. NICHOLS: There's a slightly more legible
20 signature. We're talking very, very small degrees of
21 difference.

22 MR. LEACH: We can see a signature of some
23 sort. We can't see a printed name at all. Is that a
24 valid distinction to make?

1 SEC. TENNANT: Say that again, Tim.

2 MR. LEACH: We can see a signature of some
3 degree. We just can't see a printed name of any sort on
4 our copy.

5 SEC. TENNANT: And so you're saying that the
6 electronic copy that was sent to this office from the
7 Benjamin campaign, the Walker campaign looked through
8 all of those --

9 MR. LEACH: No. They don't file their
10 contribution receipt. That's their objection form. We
11 don't get the name from their form.

12 SEC. TENNANT: Hang on a minute. Who does --
13 no, no, no -- yeah, they got the name of Farren from --

14 MR. LEACH: A combination of detective
15 work, I would say. They looked at the signature and saw
16 something. They had an address on --

17 SEC. TENNANT: They went to P.O. Box.

18 MR. LEACH: They have a list of every
19 contributor which the campaign listed this lady on their
20 list of contributors. They looked at that address, they
21 put two and two together and got four and said this
22 belongs to Linda Farren. I mean good for them. We
23 appreciate the help of identifying what one we're
24 talking about.

1 SEC. TENNANT: But how do we know it's not
2 another Farren that lives at this address?

3 MR. LEACH: I think you just challenged
4 five hundred and seventy-some contributions that I have
5 to work on, Madam Secretary.

6 MR. CARDI: Okay, I -- this is Vince Cardi.
7 I've got a motion to focus our thoughts on this. I know
8 that we approved the objection to this name based on the
9 fact that the printed name was left blank.

10 SEC. TENNANT: Okay. Could I just make one --

11 MR. COLLIAS: This is Gary. I second that
12 motion. I think is probably more technically correct to
13 say we sustain the objection, but I second it.

14 MR. CARDI: Okay. Good. Sustain, then.
15 Fine.

16 SEC. TENNANT: Okay. So it's been moved and
17 seconded. Any questions? I have a question. Do you
18 have this that has their name on it? I know I've asked
19 you this like a third time.

20 MR. SHULL: I do not have it in my
21 possession. It was mailed yesterday.

22 SEC. TENNANT: It was mailed yesterday. Do
23 you recall if there is anything written in the
24 contributor's slot?

1 MR. SHULL: I do and I made a note when I
2 made the copy yesterday that when I looked at it, I
3 could not see -- I could see the name on the yellow
4 form, I believe, it is subjective, and I wrote the name
5 on this form so that for my records I could identify it.

6 SEC. TENNANT: You would know who it is.

7 MR. SHULL: However, I don't have the
8 yellow copy physically.

9 SEC. TENNANT: And you're saying that it's
10 coming to us and then you're also saying that -- or no,
11 I'm saying this, that if this is sustained, that you
12 have five days to then either resubmit this one or find
13 another one. Okay. That's answered my question.

14 Okay. It's been moved and seconded to sustain
15 this objection. All in favor vote aye.

16 MR. COLLIAS: Gary votes aye.

17 MR. CARDI: Vince votes aye.

18 SEC. TENNANT: All in favor vote no. No,
19 Natalie Tennant. So it has passed two to one, so this
20 objection is sustained. That means that the Benjamin
21 campaign will still have five days to --

22 MS. CHARNOCK: On all four?

23 SEC. TENNANT: No, this is -- we're only on
24 one, Ann. We've got three more to go, because they may

1 be for different reasons.

2 MR. COLLIAS: I noticed one of the names on
3 one of those, too.

4 MR. LEACH: Yeah, that's come to our
5 attention also, Gary.

6 MR. COLLIAS: Hopefully, they're in the room.

7 MS. CHARNOCK: Do I need to formally note my
8 objection to that?

9 SEC. TENNANT: To what?

10 MS. CHARNOCK: To that vote.

11 MR. COLLIAS: Is that Ann?

12 SEC. TENNANT: No, I don't think so.

13 MS. CHARNOCK: Okay.

14 MR. COLLIAS: Is that Ann Charnock objecting?

15 SEC. TENNANT: Yes.

16 MS. CHARNOCK: Yes, sir.

17 SEC. TENNANT: But she doesn't really have a -

18 -

19 MS. CHARNOCK: I didn't know if I needed to
20 for the record.

21 MR. COLLIAS: No. Okay.

22 SEC. TENNANT: I don't believe so. So here we
23 are --

24 MR. CARDI: Ann Charnock, did you make your

1 arguments before we voted or did you just not say
2 anything?

3 MS. CHARNOCK: I didn't say anything on that.

4 SEC. TENNANT: Yeah. I mean I was asking
5 Darrell more than Ann, and I guess I didn't address it
6 to you.

7 MS. CHARNOCK: Professor Cardi, my comment was
8 that the full name is on the financial report, so it's
9 very easy to see who that person was. That was my only
10 comment.

11 SEC. TENNANT: But it's -- I mean you can say
12 if it's not there, then it didn't follow the form.

13 ~~MR. COLLIAS: Well, let's move on to the next~~
14 ~~one.~~

15 SEC. TENNANT: Yes. Yes. We're going to move
16 on to the next one, but we need to take a quick break
17 for -- I mean I'm going to blame it on the court
18 reporter. She does need a break. She's been talking
19 for two hours. So if we could take -- is fifteen
20 minutes an appropriate amount of time? Okay. Ten
21 minutes. Ten minutes.

22 MR. COLLIAS: And we'll have to call back in
23 then in fifteen minutes?

24 SEC. TENNANT: Ten minutes.

1 MR. COLLIAS: Call back in in ten minutes.

2 SEC. TENNANT: Or you can leave it on hold.

3 MR. LEACH: Leave it on hold, yeah.

4 MS. SUMMITT: Yeah, let's not re-establish.

5 Let's just put it on hold.

6 SEC. TENNANT: Just leave it on hold, but
7 yeah. Don't say anything. Don't take the phone to the
8 restroom, don't say anything, put it on hold, put it on
9 mute.

10 (WHEREUPON, a brief recess
11 was taken.)

12 SEC. TENNANT: We're going to turn the audio
13 ~~on on the webcast again and continue. We were doing~~
14 number two of four, missing info. So, Tim, you want to
15 continue?

16 MR. LEACH: In your package, next we will
17 address Bowyer, B-O-W-Y-E-R, contribution date
18 10/16/2015. On the form three to the page, it's the
19 third form and the missing information is about the last
20 two lines of the form are cut off on the Xerox that was
21 supplied to us, so we do not have the occupation or the
22 employer, which is a required field for amounts over
23 twenty-five dollars. This is a hundred dollar
24 contribution. Questions?

1 MR. CARDI: This is Vince Cardi. Could you
2 repeat all that again? This is Mary Bowyer?

3 MR. LEACH: Yes, sir. On your receipt form
4 three to the page, it's the bottom one, and the missing
5 information is occupation and employer, which is a
6 required field if the contribution exceeds twenty-five
7 dollars. This contribution is for a hundred dollars.
8 What's happened is the copy, it appears, when it was
9 made or ran off for us, the forms were not lined up
10 correctly and it's just missing information. Now, the
11 campaign has filled in that missing information.

12 MR. NICHOLS: No, that's the original.

13 MR. LEACH: The campaign has supplied us
14 with the original receipt instead of a Xerox copy, and I
15 would note for all involved that the missing information
16 is present on that.

17 SEC. TENNANT: Let me see the --

18 MR. LEACH: So the information was missing
19 at the time the challenge was filed. It's available
20 now, I guess is the summary.

21 MR. NICHOLS: And this is Dave again for
22 those of you on the phone. If you would like, I can
23 scan that in very quickly and send it to you if you
24 would like to see a copy of this original. Just let me

1 know.

2 MR. COLLIAS: I don't need it.

3 MR. CARDI: Okay. What's the statutory
4 language which says it's got to be on the form that the
5 Secretary of State receives within the two business
6 days?

7 MR. LEACH: I want to get to that. 3-12-9
8 says that in F, at the beginning of each month -- no,
9 that's not the part. Each -- B, paragraph B as in boy.
10 Each qualifying contribution shall be acknowledged by a
11 written receipt that includes one, two, three, and then
12 three -- where's the -- oh, here it is. Paragraph two
13 is for qualifying contributions of twenty-five dollars
14 or more, the contributor's signature, printed name,
15 street address, zip code, telephone number, occupation,
16 name of employer, and for qualifying contributions less
17 than twenty-five. So that's all provided for on the
18 form, but the copy of the receipt, the copy of the
19 original, it appears the original has it on it but the
20 copy submitted to the Secretary of State is missing the
21 information.

22 MR. CARDI: Right. So 9(b) seems to be
23 satisfied. Where is the part that says --

24 MR. LEACH: All right. The filing --

1 MR. CARDI: -- in this form has got to be
2 submitted?

3 MR. LEACH: Yeah. That's in paragraph F,
4 where it says receipts for contribution during the prior
5 month will be filed with the Secretary of State.

6 MS. TENNANT: We established the time for
7 this, if that's your question.

8 MR. LEACH: He's questioning is if it's
9 present on the original but the copy wasn't sent to us,
10 is that sufficient.

11 MR. CARDI: No. A copy was sent to you.
12 It just --

13 MR. LEACH: Yeah. It didn't include
14 everything.

15 MR. CARDI: Not a full copy.

16 MR. LEACH: Yes. We got a partial copy.

17 SEC. TENNANT: And so that's what the
18 challenger has gone off of, the copy that was sent to
19 us, and so the question is --

20 MR. LEACH: It was missing when the
21 challenge was filed, yes.

22 SEC. TENNANT: Is it satisfied now that the
23 original copy, the original document has been presented
24 to this body?

1 MR. LEACH: I guess that's the question.

2 MR. COLLIAS: This is Gary. Let me ask a
3 question. Was there any obligation to ever provide the
4 original copy if the copy that was sent to us is
5 inadequate?

6 MR. LEACH: No. It doesn't say whether we
7 get an original. It just says one of the copies. It
8 says there will be three copies of the receipt and one
9 of them will go to the Secretary of State. So we would
10 obviously prefer the original. We've learned that much
11 from this process.

12 SEC. TENNANT: But if it's challenged, then
13 the original can be presented, right?

14 MR. COLLIAS: But that's not what I'm asking,
15 though. What I'm trying to get a grip on is that the
16 original copy that we received, I mean the one that we
17 got first, if that had contained all the required
18 information, that's all they would have needed to
19 provide. They didn't need to send us the original
20 later, right?

21 MR. LEACH: That's correct.

22 MR. COLLIAS: Okay. So the only reason we
23 got the original white copy later was because the
24 campaign was trying to cure the problem?

1 MR. LEACH: Right. I believe it's in
2 response to the objection. I think that's correct.

3 MR. COLLIAS: Okay. I understand.

4 SEC. TENNANT: So I'm prepared to entertain a
5 motion on this challenge.

6 MR. CARDI: Well, just speaking out loud,
7 Vince Cardi, failure to fill in the form printed name is
8 negligence, failure to properly copy the electronic --
9 copy electronically for sending in is excusable
10 negligence maybe or more of a mistake. I see them as
11 two different things, whether that means we should go
12 ahead and deny this and allow it the way it is or not, I
13 might defer to my colleague.

14 MR. COLLIAS: Well, I tend to agree with
15 Vince. I mean I think the problem of leaving off a name
16 is a problem with substance, but here apparently it was
17 just copied in a haphazard way and it was left off and
18 then the information was provided subsequently, and to
19 me it's a little less egregious a problem than just
20 leaving off the name.

21 SEC. TENNANT: Any comment from Joe with the
22 Walker campaign?

23 MR. REIDY: No, ma'am.

24 SEC. TENNANT: Any comment from either of you

1 two from the Benjamin campaign?

2 MS. CHARNOCK: No. I just appreciate you all
3 allowing us the opportunity to present that original
4 receipt that shows the information.

5 SEC. TENNANT: Okay. Do I hear a motion?

6 MR. CARDI: This is Vince Cardi. I move
7 we deny the objection.

8 MR. COLLIAS: I second the motion.

9 SEC. TENNANT: It's been moved and seconded.
10 All in favor say aye.

11 MR. COLLIAS: Gary says aye.

12 MR. CARDI: Aye.

13 SEC. TENNANT: And Natalie Tennant, aye. So
14 let's move on to the third one.

15 MR. LEACH: Somebody named Charnock.

16 MS. CHARNOCK: Are you serious?

17 MR. COLLIAS: Charnock. Charnock. That
18 sounds familiar.

19 SEC. TENNANT: She's looking at it right now.

20 MR. COLLIAS: Seems like there's Charnocks
21 everywhere.

22 MS. CHARNOCK: And we're all related.

23 SEC. TENNANT: About like Tennants, too.

24 MR. COLLIAS: I know.

1 SEC. TENNANT: Go ahead. You read it first.

2 MR. LEACH: This is the third of four, so
3 it's actually like page six. The receipt appears to be
4 missing a telephone number.

5 SEC. TENNANT: It's plain and clear it's
6 missing a telephone number.

7 MR. COLLIAS: Page six? Oh, okay. I'm
8 looking at it. Yeah. Okay.

9 SEC. TENNANT: You don't have a phone, do you?

10 MS. CHARNOCK: I do have a phone.

11 SEC. TENNANT: Any questions?

12 MR. COLLIAS: Well, let me ask a question
13 here. Does a person have to have a phone? If the
14 person didn't have a phone, wouldn't they leave that
15 blank?

16 MR. LEACH: Yes, they would.

17 MR. COLLIAS: And if they left it blank,
18 would that mean --

19 MR. LEACH: I think it would probably be
20 easier to put no phone, which would obviate some
21 questions.

22 MR. COLLIAS: Right. I'm just wondering how
23 substantive that is. I think Ann Charnock has a phone.

24 MR. LEACH: It's one of the list things

1 that are supposed to be there.

2 MR. COLLIAS: Is that in the Code or the reg?

3 MR. LEACH: That's in the -- that's in both
4 in this occasion.

5 SEC. TENNANT: Does --

6 MR. COLLIAS: It says that that has to be on
7 our form, right?

8 SEC. TENNANT: Yes.

9 MR. LEACH: Well, the Code says it has to
10 be reported on the receipt. The word form is not
11 mentioned in the Code. I don't want to go back into
12 that argument again. Form comes into the game only in
13 the regulation.

14 MS. SUMMITT: It says shall be acknowledged
15 by a written receipt that includes --

16 MR. CARDI: Vince Cardi here. If we take a
17 look at all these, I think there's a good reason for
18 having the employer on the form, and I can see where
19 other people might think, no, employer is just like a
20 phone number. The legislature said it's got to have the
21 phone number, it's got to have the employer, and, Vince,
22 maybe you think the employer is important and the phone
23 number's not, but you've got no right to treat it
24 differently. I mean it's easy for people to get in the

1 phone book or otherwise acquire Ann Charnock's phone
2 number, so maybe it's de minimis, but it says phone
3 number just like it says employer. To me employer can
4 make a difference to somebody for some reason.

5 MR. COLLIAS: But the phone number doesn't
6 make a difference.

7 MR. CARDI: Pardon?

8 MR. COLLIAS: Your point is the phone number
9 isn't going to make a difference?

10 MR. CARDI: Right, but should we have the
11 discretion of saying, well, for these reasons this
12 statutorily prescribed piece of information is not
13 important enough to disqualify the vote, whereas this
14 other piece of similarly required statutory information
15 is enough to disqualify it? Is that our role? It's one
16 thing to say they copied it wrong and they just -- it
17 wasn't sent in and it was just an understandable
18 mistake. Well, the statute doesn't directly address
19 that. It addresses the two things we've got before us,
20 that is employer and phone number, which is exactly what
21 we've got here.

22 SEC. TENNANT: She can't produce for me right
23 now a form that has her phone number on it. Professor,
24 I would say, the difference that I see, I think you're

1 right in that, that one blank is a blank is a blank is a
2 blank no matter where it is. The difference between the
3 previous submission that we just either approved or
4 subjected is that they could produce right now a form
5 that said it was always there. I don't believe and Ann,
6 Ms. Charnock can prove me wrong and present a phone that
7 has her phone number on it, but I don't think she's
8 going to do that, because I just think this is too
9 clearly copied, and so whether it's printed, whether
10 it's a phone number, whether it's a name, a phone number
11 or whatever, I just think that this is -- how do we
12 describe it? Missing information.

13 ~~MR. CARDI: Missing information?~~

14 SEC. TENNANT: Yeah.

15 MR. COLLIAS: See, I can't agree with you on
16 that. I mean because to me the phone, whether or not
17 you have a phone number, what if Ann Charnock had put
18 down, made a mistake and put down the wrong phone
19 number? What if she just made a mistake? Would that be
20 disqualifying?

21 SEC. TENNANT: No.

22 MR. COLLIAS: If the person has no phone at
23 all and leaves it blank, is that disqualifying? To me
24 it's just, I mean Vince used the word de minimis. To me

1 it's just I don't think it's the basis of disqualifying
2 a contribution.

3 MR. CARDI: Do you think that failure to
4 put the employer down when they have an employer is
5 disqualifying?

6 MR. COLLIAS: Yes, I do. It goes back to
7 what you said, because it might make a difference. But
8 whether or not you have a phone or don't have a phone or
9 don't want to give your number, put down the wrong
10 number or use your home number, your cell number, your
11 business number is completely irrelevant.

12 MR. CARDI: Well, none of those would
13 disqualify it in my mind. If they have a phone number
14 and they don't put it in, no offense, Ann, but it ought
15 to be disqualified.

16 SEC. TENNANT: Oh, that's going to be my vote,
17 that it should be disqualified, because I think, you
18 know, if we're going to disqualify -- I just think it's
19 all there and if you're going to -- I mean obviously I
20 didn't disqualify when there was something written for
21 someone's name. Even if there were a slight thing,
22 attempt to write a phone number, I would have probably
23 accepted that this was a good qualifying, but I just
24 don't think it's there and I don't think it was put

1 there.

2 MR. CARDI: What if, to pick up on Gary's
3 point, the contributor says, well, I've got one but I
4 don't want to give it out and the agent of a candidate
5 writes in no number given or something like that?

6 SEC. TENNANT: Okay. The same argument could
7 be I don't want people to know where I live and come and
8 break into my house, so I'm not going to put my address
9 down.

10 MR. COLLIAS: Yeah, but what is the legal
11 significance, Natalie? I mean there's a legal
12 significance.

13 SEC. TENNANT: I don't know.

14 MS. SUMMITT: Of the phone number or the
15 address?

16 SEC. TENNANT: Of the phone number or the
17 address?

18 MS. SUMMITT: Address has a legal -- I mean
19 it's used to identify a voter if there's a question.

20 SEC. TENNANT: I mean the only legal
21 significance I would say is that it was required by the
22 form -- or the Code, I mean. Not the form. Sorry. The
23 Code.

24 MR. CARDI: If we're letting in will not

1 give, if it's written in, I'd kind of say that does not
2 disqualify it.

3 SEC. TENNANT: Then I would -- that's right.
4 I would agree with that part.

5 MR. CARDI: If somebody put in -- if we're
6 telling candidates fill in the blanks to the extent that
7 people give information, if not, you explain it. I
8 don't know. Somebody got an answer?

9 SEC. TENNANT: Yeah. Do I have a -- oh, wait
10 a minute. Hang on a second. I always give each side an
11 opportunity. Joe, from Beth Walker's campaign?

12 MR. REIDY: No, ma'am.

13 SEC. TENNANT: No comment. Ann --

14 MR. LEACH: Maybe you'd better ask Mr.
15 Shull.

16 SEC. TENNANT: Darrell, do you have --

17 MR. SHULL: I'm sorry. May we have an
18 opportunity to remedy the form?

19 SEC. TENNANT: I just want to hear from Ann
20 Charnock.

21 MR. SHULL: My only comment would be is it
22 required to replace Ann's contribution or to remedy the
23 form, and we would ask that we be able to remedy the
24 form, redo the receipt.

1 MS. SUMMITT: Where does that come into play?

2 Help me.

3 MR. LEACH: I don't think that's the issue
4 for us here. That would probably be the subject of
5 another --

6 SEC. TENNANT: Why wouldn't it just be the
7 five days, for them to remedy in five days?

8 MR. NICHOLS: It would be, but -- and we can
9 discuss that with them.

10 SEC. TENNANT: After this vote is made. Yeah.
11 I don't think our vote can be dependent on whether or
12 not you have an opportunity to remedy it.

13 MR. NICHOLS: Right.

14 MS. SUMMITT: But that's not part of this
15 vote.

16 SEC. TENNANT: That's not part of this vote.

17 MR. SHULL: But we'll have a discussion
18 that it will be possible to remedy and the process for
19 doing so?

20 MR. NICHOLS: Yes.

21 SEC. TENNANT: Yes. The same as the Farren
22 one.

23 MR. SHULL: Okay. Thank you.

24 SEC. TENNANT: That's what I would think.

1 MR. CARDI: Okay. This is Vince Cardi. I
2 tend to disagree that this other remedy is irrelevant.
3 I think it is relevant. In any case, my instincts are
4 to go with Natalie Tennant if a motion is made.

5 SEC. TENNANT: Well, why don't you make a
6 motion, Professor?

7 MR. CARDI: I also have to add, you
8 couldn't make up these facts.

9 SEC. TENNANT: That's why this -- I'm telling
10 you, we're plowing new ground here. All right. I'm
11 open for a motion concerning this. Professor, did you
12 want to offer?

13 MR. CARDI: I move that the objection be
14 sustained.

15 SEC. TENNANT: I second that. It's been moved
16 and seconded. Sorry. I -- it's been moved and seconded
17 that it be sustained. All in favor vote yes.

18 MR. CARDI: Yes, Cardi.

19 SEC. TENNANT: Yes, Natalie Tennant. All
20 opposed vote no.

21 MR. COLLIAS: No.

22 SEC. TENNANT: Gary. Okay. The motion
23 passes.

24 MR. LEACH: That's no as in no phone.

1 SEC. TENNANT: As in no phone. All right.
2 Thank you. On to the fourth one now.

3 MR. LEACH: The final objection in this
4 category is Danford, October 16th, 2015. On your
5 paperwork it is the middle of the three receipts, and
6 the missing information is we have a signature which
7 looks remarkably like printing, but no contributor's
8 name. The contributor's name where we expect the name
9 to be printed under the signature is blank. It's not a
10 legibility issue. The document is very legible.

11 MR. COLLIAS: What's the name again?

12 SEC. TENNANT: It's Dan-f-o-u- or -f-o-r-d.
13 ~~It's under the contributor's signature and there's no~~
14 name under the contributor's name. It was collected by
15 Mary Bower. It's the one in the middle. Although I
16 don't know what the first name is.

17 MR. CARDI: Inge.

18 MS. SUMMITT: I-N-G-E.

19 MR. COLLIAS: I still can't find it. The
20 contributor's name is what now?

21 SEC. TENNANT: The last name is Danford.
22 Don't look for a Dan the first name. Danford is the
23 last name, and I think --

24 MR. CARDI: The middle of page ten.

1 MR. COLLIAS: There's only eight pages in my
2 PDF.

3 MR. LEACH: It's page eight. There's four
4 of them.

5 SEC. TENNANT: Oh, page eight.

6 MR. NICHOLS: Should be the very last page.

7 SEC. TENNANT: What did they call it? Oh,
8 Inge. I understand.

9 MR. COLLIAS: Oh, okay. Okay. I've got it.
10 There's a star beside it. That's good.

11 SEC. TENNANT: Yes.

12 MR. LEACH: That was your first clue, Gary.

13 ~~MR. COLLIAS: So what we've got here is what,~~
14 I guess legally is a signature but no name. Is this the
15 same problem we had in the first one?

16 MR. CARDI: Yes, sir.

17 SEC. TENNANT: Well, I don't know. Did -- can
18 I ask some questions? Any comments from the Walker
19 campaign? Do you have anything to offer?

20 MS. CHARNOCK: There's the receipt.

21 SEC. TENNANT: Oh. And the receipt, the
22 original one is the same as the copied one. It doesn't
23 have the contributor's name filled in either. So I'm
24 going to -- do I have a motion? Do you all want to say

1 anything, Benjamin campaign? I mean you offered --

2 MR. COLLIAS: If this guy has written his
3 name in the signature blank and then put his signature
4 in the name blank (sic), I mean I might not think a lot
5 of it, but basically he's written in a name -- I mean it
6 either doesn't have a signature or it doesn't have his
7 name.

8 SEC. TENNANT: Correct.

9 MR. COLLIAS: Depending on how you want to
10 look at it. Either way, I think that's disqualifying.

11 MS. CHARNOCK: I just would like -- this is
12 Ann Charnock on behalf of the Benjamin campaign. I
13 ~~would just like to offer that looking at this signature,~~
14 it truly looks very much like a printed name, and maybe
15 that -- I'm going to assume that that is how that person
16 signs his/her name and that by doing that, the obvious
17 inference is why would I write my name all over again,
18 it's going to look exactly the same; whereas, I think
19 the point to this exercise is for those of us whose
20 signatures are not readable, yes, you have to print the
21 name because you couldn't read the signature. This
22 signature is clearly legible. It's clearly
23 understanding of what the name is.

24 MR. COLLIAS: What you're saying, Ann, is

1 that the same signing qualifies as both the signature
2 and the printed name?

3 MS. CHARNOCK: You could do that.

4 MR. COLLIAS: It's sufficiently legible.

5 MS. CHARNOCK: And that's the much easier
6 argument that I should have made, but I'm trying to
7 explain the rationale, and because they look printed or
8 signature, it looks the same, why print because you can
9 already read it.

10 SEC. TENNANT: Although I would see where you
11 would go back and look at the Danford part, because when
12 I first looked at it, I thought the name was Tieg. We
13 ~~have a couple -- we have one person running with that~~
14 name. We have a couple of last names of Tee, and that's
15 really what I thought it was at first. I didn't know it
16 was -- what is the name? Inge. I can see what your
17 argument is, but if I'm going to stay consistent, then I
18 have to stay consistent. Any motions? Do I hear any
19 motions or anymore questions?

20 MR. COLLIAS: I'll make a motion that we
21 sustain the objection to this one.

22 SEC. TENNANT: I'll second it. It's been
23 moved and seconded to sustain the motion. All in favor
24 say aye.

1 MR. COLLIAS: Gary votes aye.

2 MR. CARDI: Vince says aye.

3 SEC. TENNANT: Natalie Tennant, aye. So that
4 passes, so now we have moved from the top line. Where
5 do we want to go next, folks?

6 MR. LEACH: We've got -- let's just get an
7 oddball out of the way. There's one contribution
8 challenged because the solicitor and the contributor are
9 the same person.

10 SEC. TENNANT: That's not allowed?

11 MR. LEACH: I don't know. I mean I don't
12 know where the objection comes from. I don't know of
13 any prohibition in the Code that prohibits you from
14 collecting your own signature.

15 SEC. TENNANT: What did they mark as the
16 reason for objecting to it?

17 MR. LEACH: That, quote, collected by
18 contributor, close quote.

19 MR. COLLIAS: Is there anybody for either
20 campaign that has anything to say about that?

21 MR. LEACH: The candidate was here before
22 the meeting started and said she chose to rest on her
23 written materials. She has an observer present. We
24 keep asking him if he wants to contribute.

1 MR. REIDY: I'll just say no.

2 MR. COLLIAS: That's fine. Well, it doesn't
3 sound to me like there's any legal basis for that
4 objection.

5 SEC. TENNANT: My question is --

6 MR. COLLIAS: There's no reason the solicitor
7 and the contributor can't be the same person.

8 SEC. TENNANT: That's the middle one. Okay.
9 Is there anything that says you can't do it? Anything,
10 Joe?

11 MR. REIDY: No, ma'am.

12 SEC. TENNANT: From the -- I almost said
13 ~~Charnock campaign. Anything for the Benjamin campaign?~~

14 MS. CHARNOCK: I would ask that that be
15 denied. It's kind of silly to think I can't write my
16 own check and fill out my own form and sign it.

17 SEC. TENNANT: It's almost like you can't vote
18 for yourself.

19 MS. CHARNOCK: We would ask that it be
20 accepted, that the challenge be denied.

21 SEC. TENNANT: Any other questions, gentlemen?
22 Could I have a motion, please?

23 MR. CARDI: I move -- this is Vince Cardi.
24 I move the objection be denied.

1 MR. COLLIAS: I second the motion.
2 SEC. TENNANT: It's been moved and seconded.
3 All in favor say aye.
4 MR. COLLIAS: Gary votes aye.
5 MR. CARDI: Vince votes aye.
6 SEC. TENNANT: Natalie Tennant, aye. That one
7 passes. All right.
8 MR. LEACH: All right. We have six -- what
9 does that say?
10 SEC. TENNANT: Electronic.
11 MR. LEACH: All right. We have -- wait
12 just a second.
13 MR. NICHOLS: ~~These are the ones that need~~
14 review on the voter's registration.
15 MR. LEACH: They're going to need to review
16 them all.
17 MR. NICHOLS: Well, maybe, but we can knock
18 some of them out.
19 MR. LEACH: Find number one.
20 MR. NICHOLS: Well, this is number one right
21 here.
22 MR. LEACH: Okay. I have in packet one we
23 sent to you this morning, voter registration dash -- or
24 voter reg dash one. There are four.

1 MR. CARDI: What's on the first page? If
2 we stapled them together, what would it be?

3 MR. LEACH: Esker, E-S-K-E-R, contribution
4 11/22/15.

5 MR. COLLIAS: Wait a minute. Wait, wait,
6 wait. You said voter registration packet one. I'm
7 opening that up and the first page says qualifying
8 contribution --

9 MR. LEACH: Yeah, you --

10 MR. NICHOLS: Let him -- what is the first
11 one in that, Gary?

12 MR. COLLIAS: It says qualifying contribution
13 challenge form, Gregory Gellner.

14 MR. LEACH: We may have them out of order
15 on our end.

16 MR. NICHOLS: Yeah, here it is.

17 MR. LEACH: Okay. Right packet, but ours
18 are out of order, so you'll have to bear with us.

19 MR. NICHOLS: We can start with Gregory
20 Gellner and go to the next one.

21 MR. LEACH: Yeah. Okay. Did you find
22 yours, Professor, okay?

23 MR. CARDI: I got mine, yeah. Greg
24 Gellner.

1 MR. LEACH: Great. The objection is did
2 not use SEC form. All six of these have that objection
3 and we've already discussed the form language, but they
4 also added address of West Virginia voter does not match
5 address provided. So it sounds as if they checked the
6 SVRS and got a different address. That's the statewide
7 voter registration system, the acronym is SVRS, and
8 obtained a different address than was on the receipt.
9 The law requires that the contribution be made by a
10 registered West Virginia vote. So the question is, is
11 this the same person who's registered at a different
12 address. Have I got that right? And that's the issue.

13 ~~MR. NICHOLS: Part of what you have in that~~
14 packet is, first you have the receipt that was provided
15 by the campaign, and then you have a page that would be
16 from the statewide voter registration detailing certain
17 things about Gregory Gillner and what information we
18 believe we have, and then that last page on that is
19 going to be the actual voter signature.

20 When we check, you know, when we check for
21 registered voters, one of the things we look for is that
22 voter signature, so even if the -- there are lots of
23 times when a voter might not update his voter
24 registration after moving, and so, you know, it's

1 possible to have a different current address than your
2 voter registration record address.

3 So what we look at typically for those sorts
4 of things are the voters' signatures to see if it
5 compares favorably with the other signature that we
6 have. And so in this situation I think you would be
7 comparing the voter signature on the voter registration
8 record to the signature on the receipt provided by the
9 campaign.

10 MR. LEACH: And I think we summarized this
11 as needs review, which means to us we couldn't feel
12 comfortable making a recommendation. It was too
13 difficult to call, so we left it up to the SEC.

14 SEC. TENNANT: So do we think we've got the
15 same person here?

16 MR. LEACH: I don't know.

17 SEC. TENNANT: Oh, that's the question.

18 MR. LEACH: That's the question.

19 SEC. TENNANT: Because you can look -- if you
20 look at the signature, it's not the same signature.
21 It's this one right here, right?

22 MS. SUMMITT: This one.

23 SEC. TENNANT: And it's not that one.

24 MR. CARDI: It's different from what?

1 MR. LEACH: There's a little -- the last
2 page, if yours is in color, it's got a little yellow
3 picture of a signature on the last page at the top left-
4 hand corner. We're comparing that signature, which
5 comes off the voter's registration database, with the
6 signature that's on the receipt, which is the second
7 page of that individual's package, and the Secretary
8 does not believe it's a match.

9 SEC. TENNANT: This is a business -- that's
10 Nat, is that National Road, N-A-T?

11 MR. CARDI: Okay. Bring this up again.
12 This is Greg Gellner, a lawyer in Wheeling, and the
13 signature, you couldn't find that he was registered to
14 vote or you couldn't be sure. Go through that again.

15 MR. LEACH: Well, we found a Greg Gellner
16 at a different address, and we have the signature of
17 that person, who is a registered voter, to compare with
18 the signature of the person who made the contribution
19 who may not be a registered voter. The addresses don't
20 match, but that's not necessarily current information.

21 SEC. TENNANT: Yeah, because it looks like he
22 used his law office address on here, so that doesn't
23 throw it out.

24 MR. CARDI: But the signature does not

1 match.

2 SEC. TENNANT: So then if it's not the address
3 you have to worry about, then we don't really worry
4 about the voter registration. So then the next question
5 is -- wowzer --

6 MR. CARDI: Okay. I see a signature on
7 here. Yes. So even though you would sign those things
8 through an agent, if that signature's got to be checked
9 and it isn't checked out, you certainly can't sign your
10 voter's registration through an agent.

11 MR. NICHOLS: No, you cannot.

12 MR. CARDI: Well --

13 ~~MR. COLLIAS: I only see the one signature.~~
14 I see it on the receipt. Where is Gellner's signature
15 somewhere else?

16 MR. CARDI: It's three, four pages in, top
17 left-hand corner there's a little box that evidently is
18 his voter's registration signature.

19 MR. COLLIAS: Oh. Oh, oh. The voter's -- he
20 signed it legibly one place and illegibly another place.
21 I do that.

22 MR. CARDI: They're not similar. They're
23 signed by two different people.

24 SEC. TENNANT: I don't know.

1 MR. COLLIAS: Well, that might be true and it
2 might not be true, but if that was the only issue, we
3 wouldn't even be looking at it. I don't know that
4 we're, you know, a fact finding sort of -- you know,
5 we're hearing evidence on some of these. Yeah, I'm not
6 real comfortable with -- I mean a guy with that name,
7 Gregory A. Gellner, with the same middle initial, is
8 registered to vote and he put down an address. I mean
9 it seems to me that on the face of it, it's sufficient.
10 I mean unless we're going to start beating behind the
11 bushes trying to find problems with it.

12 MR. CARDI: So who's got the burden of
13 ~~showing that this guy's not a registered voter? Is it~~
14 the objector?

15 MR. COLLIAS: It has to be, doesn't it?

16 MR. LEACH: Well, they're supposed to state
17 the basis for their objection and submit any facts or
18 anything they want to support the objection.

19 SEC. TENNANT: And that's what they -- address
20 of registered voter.

21 MR. LEACH: Yeah.

22 MR. CARDI: Well, golly. There's a lot of
23 possibilities here. I want to give money to Benjamin
24 but I don't want to use my name, so I pick somebody out

1 of the phone book and use their name. And I'm the one
2 who's contributing, but I'm not -- there's no evidence.
3 You're not going to find out if I'm a registered voter
4 or not because I'm using somebody else's name. I mean I
5 tend to agree with Gary on this.

6 MR. COLLIAS: I think the problem is that's
7 all speculation and it might be true, but, you know, I'm
8 just not real comfortable just assuming facts, and it
9 seems to me that if we don't, if we just take it on the
10 face of this, that there's not a basis to sustain the
11 objection. I mean, it could be that it's a different
12 person but if we're talking about fraud, somebody that
13 ~~wants to commit fraud, they should just do a better job.~~
14 I mean they could just make the signature look similar
15 to the other person, or they could put the right address
16 down and we wouldn't even be looking at it. I mean I
17 don't feel like we can sustain the objection.

18 SEC. TENNANT: You don't feel like that?

19 MR. COLLIAS: I don't feel like we can
20 sustain the objection.

21 SEC. TENNANT: Well --

22 MR. COLLIAS: This guy is a registered voter
23 and we don't know they're two different people.

24 SEC. TENNANT: Well, but my only thing is his

1 signature doesn't match, and if you were going to go
2 vote and your signature didn't match, you would not get
3 to vote. Or provisional. I take that back. I take
4 that back. Provisional.

5 MR. CARDI: Except stop into my office and
6 talk to my secretary, Ralph, and he'll give the ten
7 dollars for me and he'll sign the form, I've authorized
8 him to do that. So Ralph signs my name, which is
9 perfectly legitimate, gives the ten dollars, which is
10 perfectly legitimate.

11 SEC. TENNANT: I wouldn't accept yours either.

12 MR. CARDI: I'm registered to vote. I mean
13 ~~I think we need more evidence that he's not a registered~~
14 voter.

15 SEC. TENNANT: Well, that's the thing, what
16 more evidence would you get, because then -- what we
17 have is not the same address.

18 MR. NICHOLS: If he's not a registered voter,
19 how are you going to prove that they're not if there's
20 no record that they're not a registered voter.

21 MR. COLLIAS: You're not going to.

22 MR. CARDI: The objector can all up Greg
23 Gellner and say, Greg, did you authorize giving ten
24 dollars to Brent Benjamin's fund, yes or no, and he says

1 no. Okay. When we've got somebody who made the
2 contribution and we've got no way of knowing whether
3 they're a voter or not, because the only voter we have
4 as Greg Gellner has told us that he didn't make a
5 contribution, therefore -- I mean that kind of evidence
6 would be fine, and it's not real difficult to get, I
7 suppose. And I agree with Gary that it's not the
8 Secretary of State's office job to do the detective
9 work, is it, on whether they're really registered to
10 vote if it appears they're registered to vote?

11 MR. LEACH: Well, we attempted to analyze
12 all of these as best we could in preparation for your
13 ~~all's actions today so you'd have something to go on.~~

14 MR. COLLIAS: You've done a good job.

15 SEC. TENNANT: And because we are the holder,
16 keeper of the statewide voter registration system, we
17 have that ability.

18 MR. CARDI: I think the chances are ninety-
19 nine percent that the Greg Gellner who's registered to
20 vote in Wheeling under this signature on page four is
21 the person who gave the money and authorized the form be
22 filled out, he just had an agent fill it out. I'm
23 confident on that. I mean I wouldn't bet my house on I
24 it. I'd bet my cat on it.

1 SEC. TENNANT: Cat?

2 MR. COLLIAS: We don't know otherwise.

3 SEC. TENNANT: All right. Let me -- did I
4 already ask the Benjamin campaign?

5 MS. CHARNOCK: Our position would be the
6 statute says you're a registered voter. It doesn't say
7 that your registration has to be current for that
8 address. It also doesn't say what address you have to
9 use. Can you use your business address, can you use a
10 mailing address or you have to use your physical
11 address. It doesn't identify any of that. So you can
12 change your address at the polling place if you're
13 living within the same precinct. So I don't know how
14 you'd --

15 SEC. TENNANT: But how do we know that it's
16 not another Greg Gellner who is in Marshal County and
17 one -- and both of these things are legit that we've
18 pulled up here? How do we know it's the same person?

19 MS. CHARNOCK: I don't know that, because the
20 form doesn't ask what's the address on your voter
21 registration card. If it asked that, maybe we'd do
22 that, and because it doesn't specify an address, you
23 don't even get to the signature.

24 SEC. TENNANT: Are they told that they have to

1 be a registered voter when you go to file -- let me see
2 that form thing again. Is that what our form said?
3 It's in the Code section, so you have to be a registered
4 voter. But I would think that you all would ask as
5 you're asking for qualifications, contributions, you
6 would say are you a --

7 MS. SUMMITT: Must be West Virginia voter, it
8 said that.

9 MR. LEACH: The question is, is that
10 detailed to the contributor. That's the question I --

11 SEC. TENNANT: Yes, because I think it would
12 be, because I don't want to be going and signing up
13 ~~people who aren't registered to vote. I'm going to ask~~
14 them, are you registered.

15 MR. WILLIAMS: It says must be a voter. It
16 doesn't say you --

17 MS. SUMMITT: Just must be registered voter.

18 SEC. TENNANT: I think with the document -- I
19 see where you're coming from, from there. If you didn't
20 look at their voter registration, then you wouldn't know
21 -- my hang-up is the signature. It really is. It's
22 nowhere near close to anything.

23 MS. CHARNOCK: And I understand that, but
24 that's not required.

1 MR. COLLIAS: Well, he could have registered
2 to vote thirty, forty years ago when he was eighteen, so
3 that signature could be thirty or forty years old on the
4 one, and the other it was a few months ago. I mean we
5 don't have the competency to be declaring that the
6 signatures are from different people. They may look
7 different, but maybe the person signs different things
8 differently. I mean I don't know, but I'm not willing
9 to go there.

10 SEC. TENNANT: I am.

11 MR. CARDI: So maybe the most important
12 question here is not whether this guy is registered to
13 vote, it's whether under 3-12-9(b)2, whether this
14 receipt is signed by the contributor, and I don't know
15 if we've got policy on whether the contributor can sign
16 through an agent or not. And then Gary's got a
17 different point, that is we don't have solid proof that
18 this was not signed by the actual contributor as opposed
19 to an agent.

20 What about this, the campaign calls, they want
21 to come by and pick up that contribution that Greg said
22 he'd give us. Well, Greg's out of the office. I'll
23 call him to see if he wants me to give it. And they
24 call Greg, oh (unintelligible). The wife says, yeah,

1 I'll give you the money but I'm out of town; go by and
2 get it from my husband and have him just sign my name on
3 the receipt. Is that her signature?

4 MR. LEACH: The statute says you can't give
5 a contribution in another person's name.

6 MR. CARDI: Yes.

7 MR. LEACH: That doesn't negate your
8 argument, but it should not happen in this --

9 MR. CARDI: Well, you call up your wife and
10 say you give out of our joint bank account a hundred
11 dollars for me, I'm giving it, and when they come by,
12 you sign my name to it.

13 MR. LEACH: I don't tell my wife to do
14 anything, Professor.

15 MR. COLLIAS: We could have spent a lot less
16 time on this if we'd just called Greg Gellner and asked
17 him. I've got his phone number here. I just don't
18 think --

19 SEC. TENNANT: But there you go, though, Gary,
20 that's what you're saying, how far do we go in this.
21 I'm here with -- it's presented. That was the job of
22 the Walker campaign to call and question -- well, no, it
23 wasn't. Maybe it was the job of the Benjamin campaign.
24 I don't know.

1 MR. COLLIAS: Well, what I'm saying is we're,
2 on the face of these documents and what they show, we
3 don't have other extrinsic evidence and information --

4 SEC. TENNANT: But I do.

5 MR. COLLIAS: -- so I don't think we can do
6 anything but conclude he signed it and he's a registered
7 voter.

8 SEC. TENNANT: I mean other than we did have
9 his voter registration card and his signature. Everyone
10 has spoken. I'll accept a motion on the floor.

11 MR. CARDI: Vince Cardi. I move we deny
12 this objection.

13 ~~MR. COLLIAS: Gary Collias, second.~~

14 SEC. TENNANT: It's been moved and seconded.
15 All in favor say aye.

16 MR. CARDI: Aye.

17 MR. COLLIAS: Gary, aye.

18 SEC. TENNANT: All opposed say no. Natalie
19 Tennant, no. Okay.

20 MR. LEACH: All right. Since we're out of
21 order, Gary or Vince, tell us what's next in your
22 packet. What's the name of the next one?

23 MR. CARDI: Okay. It's, in this packet it
24 is Bob Kiblinger.

1 MR. LEACH: Okay. All right. The
2 objection states address provided does not match address
3 of registered West Virginia voter. I know, you know, in
4 that side remark that the Walker campaign is not
5 objecting to the signature; they're just saying it's not
6 the address of a registered voter. And you have the
7 package of that receipt, a screen shot of the SVRS,
8 which is four pages long or three pages long, and then
9 the final page in case you're interested is an image of
10 the signature. The challenge is it's not the address of
11 a registered voter.

12 MR. COLLIAS: Well, is somebody with that
13 name registered?

14 MR. LEACH: Yes, we have somebody with that
15 name registered with a different address.

16 MR. COLLIAS: What are the two addresses? Do
17 you know what they are?

18 SEC. TENNANT: One -- wait a minute -- one is
19 --

20 MR. COLLIAS: One is Daniels.

21 SEC. TENNANT: Yeah, one is Daniels and one is
22 -- why do we have two things -- oh, there's two Robert
23 Kiblingers.

24 MR. LEACH: Oh, yeah. I remember the

1 discussion of this one now.

2 MS. SUMMITT: Assuming a father and son.

3 MR. LEACH: There's a Robert and there's a
4 Bob and Bob and a Bob Junior or something, Bob Senior.

5 MR. COLLIAS: And they're all registered?

6 MR. NICHOLS: And there's a Robert and Robert
7 Junior.

8 MS. SUMMITT: Correct.

9 MR. NICHOLS: There's only two, Robert and
10 Robert Junior.

11 MS. SUMMITT: Bob.

12 MR. LEACH: But neither address matches the
13 SVRS, right?

14 MR. NICHOLS: Correct.

15 MR. COLLIAS: Well, it doesn't matter which
16 one of them he is. We don't have any information that
17 this Bob, you know, Kiblinger, we don't have any
18 information that he isn't registered to vote.

19 SEC. TENNANT: Well, neither of their
20 addresses match the address on this information that
21 they have submitted.

22 MR. COLLIAS: So?

23 MR. CARDI: I think the burden should be on
24 the objector and not on the Secretary of State's office.

1 As long as -- and if the objector says nobody by this
2 name is registered to vote, then that might meet the
3 burden, but if they say, well, somebody by this name is
4 registered but it's a different address, I think that's
5 enough, especially when it's easy enough for the
6 objector to call them up and say did you give money to
7 so and so. Well, if they say no -- do you disagree with
8 me on this?

9 SEC. TENNANT: Well, I'm just going to stay
10 consistent, so I guess I do, because the addresses don't
11 even match and, of course, the signature doesn't match
12 either. I don't know how people -- everybody, I guess,
13 ~~uses different addresses or different signatures.~~

14 Walker campaign, any comment?

15 MR. REIDY: No, ma'am.

16 SEC. TENNANT: Benjamin? Oh, wait a minute.

17 MR. REIDY: Which Bob Kiblinger was this?

18 SEC. TENNANT: That's a good question.

19 MR. REIDY: I don't have that in front of
20 me.

21 SEC. TENNANT: We don't know which one it is.

22 MR. NICHOLS: This is the one they challenged
23 on the address, registration and address, doesn't match.

24 MR. REIDY: Okay.

1 MS. CHARNOCK: This is Ann Charnock. The
2 position of the Benjamin campaign would be as I stated
3 previously, the form says address. It doesn't say
4 business, it doesn't say home, it doesn't say mailing,
5 it doesn't say address at which I'm registered to vote,
6 so --

7 SEC. TENNANT: So you could put any address
8 that you wanted, then.

9 MS. CHARNOCK: Absolutely, because remember
10 you don't have to change your address through the voter
11 --

12 SEC. TENNANT: But then how do you change --

13 MS. CHARNOCK: -- system until -- you can wait
14 until the day you go in and vote and change your address
15 because -- and still be allowed --

16 SEC. TENNANT: Within the county. Within the
17 county.

18 MS. CHARNOCK: Within the county. And still
19 be allowed to vote. You can change your address out of
20 the county, vote provisional and get denied, but you
21 still changed your address. But this doesn't ask, and
22 the statute is clear it just says address.

23 SEC. TENNANT: But it does say a registered
24 voter in West Virginia.

1 MS. CHARNOCK: It says a registered voter but
2 it also says you have to list your address. It doesn't
3 -- they're not -- registered voter at this address.

4 SEC. TENNANT: I get that, but we're never
5 going to argue the intent of the legislature, are we?
6 Let's stay away from that one, right?

7 MR. CARDI: This is this guy's daughter or
8 sister who actually collected the money.

9 SEC. TENNANT: Is it? Is that what it said on
10 there? I can't -- I don't know.

11 MR. CARDI: Stacie Kiblinger was her name,
12 last name.

13 MR. COLLIAS: I'm convinced that one of the
14 problems is these signatures were where people
15 registered to vote thirty, forty or fifty years ago and
16 over the years their signatures have changed.

17 SEC. TENNANT: But you know what, though,
18 Gary, that is an argument and I know a lot of people
19 make that, but these people's addresses are changed but
20 then Ann would say, well, we don't know which address
21 they're using, and when you do change an address --
22 well, not on my voter registration, but generally before
23 four months ago you're going to do a new address,
24 because one of these guys was born in 1970.

1 MR. COLLIAS: I don't think that that tells
2 us what we need to know, though. I'll bet you if we
3 looked at all these people's signatures and their
4 current signatures that by and large they look
5 different.

6 SEC. TENNANT: But you know what --

7 MR. COLLIAS: I signed my Social Security
8 card when I was sixteen and it looks like a twelve year
9 old signed it. I still have that card and my signature
10 today looks nothing like that.

11 SEC. TENNANT: But you know what, though, I
12 could give you that argument in this case if the
13 addresses were the same.

14 MR. COLLIAS: Well, but the addresses are
15 often going to be different, because people could give
16 their business address, they could have multiple
17 residences, they could have moved, et cetera, et cetera.

18 SEC. TENNANT: But they've been informed and
19 they've been asked when they ask for this signature and
20 this money, are you a registered voter. And while it's
21 not written in Code that you have to be, you have to put
22 that address down, that's what would come to my -- you
23 want the address at which I'm a registered voter.

24 MS. CHARNOCK: And if I may --

1 MR. COLLIAS: Well, the trouble I have,
2 Natalie, is to get where you want to go, we have to
3 assume certain facts that might even be probable, but we
4 don't really have a real basis to assume that, like an
5 evidentiary thing. We don't really know that, that
6 that's the case. It's just speculation that because
7 people have a different address, they're a different
8 person. We don't know that, but the names are identical
9 and I just don't think that it's fair to assume those
10 facts.

11 SEC. TENNANT: Then, how do we know these
12 people really live in West Virginia at all?

13 MR. COLLIAS: We don't.

14 SEC. TENNANT: I'm just saying of any.

15 MR. COLLIAS: Well, of any of them. That's
16 exactly right. I mean somebody could make a
17 contribution and use the name and address of a
18 registered voter and they could live in China and
19 there's no way we're going to know that. It's never
20 going to come to our attention. There's never going to
21 be an objection because on the face the documents appear
22 in order. That's always the problem.

23 SEC. TENNANT: But that's why I'm saying when
24 there's this question, then we go to where we can go to

1 get the information and then when that information is
2 presented to us and it doesn't match, that's where I go
3 to. That's where I'm in the location --

4 MR. COLLIAS: It doesn't matter if the
5 addresses are different. The address doesn't have to
6 match, and the signatures, I mean I just don't think we
7 can rely on that, partly because of what Vince said,
8 somebody else could have signed it, but in my view, it's
9 more likely because when they registered to vote and
10 they were eighteen, they signed their name like people
11 do when they're eighteen and it's different now thirty
12 or forty years later.

13 SEC. TENNANT: Well, I mean but still, do they
14 still live in the same house they lived when they were
15 eighteen? This is a discussion for some other time,
16 because I don't necessarily think that that's the case.
17 It's easy to say that if you still lived in that same
18 location. A lot of folks have had address changes
19 because of the 911 system, and so there have been
20 changes made because of that. So that's a discussion
21 later. I love to talk policy with my colleagues on the
22 SEC, but I've given both sides an opportunity to speak.
23 Is there a motion on the floor?

24 MR. CARDI: I move that we deny this

1 objection.

2 MR. COLLIAS: I second the motion.

3 SEC. TENNANT: It's been moved and seconded.

4 All of those in favor say aye.

5 MR. COLLIAS: Aye.

6 MR. CARDI: Aye.

7 SEC. TENNANT: No, Natalie Tennant. That
8 passes. On to the next one, Mr. Tim.

9 MR. LEACH: Which is the next one?

10 MR. CARDI: I also want to say something
11 about the last one. If someone says, Vince, is it more
12 likely than not that this Bob Kiblinger who gave this
13 ~~money is not the Bob Kiblinger who's registered to vote,~~
14 I can't say yes or no. I don't know. I can't say. If
15 I can't say, then I don't have enough evidence to throw
16 this contribution out, is the way I look at it.

17 MR. COLLIAS: I agree with that.

18 MR. LEACH: Okay. Who's next, please,
19 gentlemen?

20 MR. CARDI: It is --

21 MR. LEACH: Okay. Esker, Gary Esker?

22 MR. CARDI: Yeah, Gary Esker.

23 MR. LEACH: All right. Objection is
24 contribution not reported in a timely manner and Gary

1 Esker is not a registered voter. No reason given for
2 that conclusion. We didn't make a recommendation on
3 that.

4 MR. COLLIAS: Well, is there a Gary Esker
5 registered to vote in West Virginia?

6 MR. LEACH: There's a voter registration
7 record there with the name.

8 MS. SUMMITT: Two.

9 MR. LEACH: Two. There's two.

10 MR. CARDI: Yeah, Gary Esker. Yeah.

11 MR. COLLIAS: Well, what's the problem with
12 it, then?

13 ~~MR. LEACH: I don't know, sir. There's no~~
14 reason given. It just says he's not a registered voter.

15 MR. COLLIAS: But you're telling me there is
16 at least one Gary Esker registered to vote in West
17 Virginia?

18 MS. SUMMITT: There's two the same address,
19 yeah. This is born in '62 and this is born in '86.

20 MR. LEACH: Two generations at the same
21 address.

22 MS. SUMMITT: Yeah, and it's a junior, a
23 father and a junior or a senior and a junior.

24 MR. COLLIAS: Well, I don't see the problem

1 with this.

2 MS. SUMMITT: And it's at the same address.

3 SEC. TENNANT: Is the address different --

4 yeah, this is a P.O. box.

5 MR. LEACH: See, that's a whole different
6 can of worms. You can't have a P.O. box for your voter
7 registration, but you can have a P.O. box for every
8 other purpose.

9 MS. SUMMITT: Yeah, it's not on --

10 MR. LEACH: So what's meant by your
11 address.

12 MR. CARDI: Does the objector have any
13 elaboration on the objection?

14 MR. LEACH: Do you know what this is based
15 on, Joe?

16 MR. REIDY: No, sir.

17 MR. LEACH: No, we can't enlighten you any.

18 SEC. TENNANT: And so their signatures -- and
19 now we're going even deeper.

20 MR. LEACH: Madam Secretary, may I offer an
21 observation?

22 SEC. TENNANT: Sure.

23 MR. LEACH: It occurs to me that if the
24 only requirement is to allege that you're not a

1 registered voter, that could be done for all five
2 hundred seventy contributors and we would have to
3 somehow as the SEC investigate and make a determination
4 of whether they are or not. If all you have to do to
5 trigger this process is just make an allegation, then
6 you could allege everyone is not a registered voter, and
7 the SEC would have to do --

8 SEC. TENNANT: But if their signature and
9 their address and everything came up correct as a
10 registered voter, then you wouldn't have that, you
11 wouldn't go any further.

12 MR. LEACH: We would have to do all the
13 research, present all the --

14 SEC. TENNANT: I think we're going to have to
15 do that on some of these anyway.

16 MS. SUMMITT: I'm thinking the reason here is
17 that the address is different. It's strict
18 construction.

19 MR. CARDI: I move that this objection be
20 denied.

21 MR. COLLIAS: I second the motion.

22 SEC. TENNANT: It's been moved and seconded.
23 All in favor say aye.

24 MR. COLLIAS: Gary, aye.

1 MR. CARDI: Aye.

2 SEC. TENNANT: That was Vince, aye. All
3 opposed say no. Natalie Tennant, no.

4 MR. LEACH: Okay. Next is --

5 MR. CARDI: Mike Farrell.

6 MR. LEACH: All right. Michael J. Farrell.

7 Objection, address of registered West Virginia voter
8 does not match address provided.

9 MR. COLLIAS: Where's the -- wait a minute.
10 Hold on. Huntington, yeah. That's where all the
11 Farrells are.

12 MR. LEACH: That's where all the problems
13 are, too.

14 MR. COLLIAS: Yeah, lawyers, he's a lawyer.
15 Yeah, well. So the only problem with this is the
16 address, the address doesn't match, right?

17 MR. LEACH: That's what the allegation is,
18 yes, sir.

19 MR. COLLIAS: Well, I mean we don't need to
20 waste any time on this.

21 SEC. TENNANT: Any comments from the Walker or
22 the Benjamin campaign?

23 MR. REIDY: No, ma'am.

24 SEC. TENNANT: The addresses don't match.

1 MS. CHARNOCK: The Benjamin campaign says the
2 same thing we said before.

3 SEC. TENNANT: You didn't want to say it
4 again?

5 MS. CHARNOCK: I reiterate my prior argument.

6 SEC. TENNANT: Yes, but the signature is
7 closer. That's why it's different for me, because the
8 signature is now the signature, as the other ones
9 weren't the signature. Has it been moved and seconded?
10 Do I hear a motion?

11 MS. SUMMITT: Yeah.

12 SEC. TENNANT: It has been moved and seconded?

13 MR. LEACH: Yeah.

14 SEC. TENNANT: All in favor say aye.

15 MR. CARDI: Aye.

16 MR. COLLIAS: Aye.

17 SEC. TENNANT: Aye. All opposed no. Motion
18 carries. Where are we now.

19 MR. LEACH: We already finished that
20 package, so the next package is two, two people.

21 SEC. TENNANT: These two? Okay.

22 MR. LEACH: This is a voter registration
23 package, too.

24 MR. CARDI: What's the first name?

1 MR. LEACH: Getting there. Is this it?
2 Willis Caldwell.

3 MR. CARDI: Yeah, got it.

4 MR. LEACH: And the objection is address
5 does not match address of registered voter.

6 SEC. TENNANT: Then why are these different
7 than the other ones we just had?

8 MR. LEACH: Sounds familiar.

9 MR. COLLIAS: Is there anything different
10 about it?

11 SEC. TENNANT: Are the signatures different?
12 That's what I'm looking at, because -- oh, the address
13 is illegible. I don't even know where the signature is.
14 That's the same, that's the same. The address is
15 different. Okay. Any comments from the Walker or
16 Benjamin campaign?

17 MS. CHARNOCK: The same.

18 SEC. TENNANT: Do I have a motion?

19 MR. COLLIAS: I move that the objection be
20 overruled.

21 MR. CARDI: Second.

22 SEC. TENNANT: It's been moved and seconded.
23 All in favor say aye.

24 MR. COLLIAS: Gary, aye.

1 MR. CARDI: Aye, Vince.
2 SEC. TENNANT: Natalie Tennant, aye. Motion
3 passes. On to the second one.
4 MR. LEACH: Shereba Hunter (phonetic
5 spelling). Reason for objection, Shereba Hunter is not
6 a registered West Virginia voter.
7 MR. COLLIAS: So her name's not registered at
8 all, right?
9 MR. LEACH: That's what it sounds like. I
10 haven't looked at the document.
11 MR. COLLIAS: If that's right, then that
12 sounds like a meritorious objection.
13 SEC. TENNANT: But we have a registration for
14 her.
15 MS. SUMMITT: It's different.
16 MR. CARDI: So we do have a registration
17 for her?
18 MR. NICHOLS: Yes.
19 SEC. TENNANT: They're saying we don't have
20 any at all.
21 MR. CARDI: I see it. What's the
22 objection?
23 MR. LEACH: It just says it doesn't match
24 any registered voter, the name doesn't match any

1 registered voter.

2 MR. COLLIAS: And you found that it's not
3 true?

4 SEC. TENNANT: Right. We do have a voter
5 registration card.

6 MR. COLLIAS: Well, then that's --

7 SEC. TENNANT: That's right. So that can't --

8 MR. COLLIAS: I move that we overrule that
9 objection.

10 MR. CARDI: Second.

11 SEC. TENNANT: It's been moved and seconded.

12 All in favor say aye.

13 MR. COLLIAS: Aye.

14 MR. CARDI: Aye.

15 SEC. TENNANT: Aye.

16 MR. CARDI: By the way, why was this
17 objection made?

18 SEC. TENNANT: They are --

19 MR. CARDI: No voter registration but you
20 actually have it?

21 MR. LEACH: Yes. The objector said there
22 was no named --

23 SEC. TENNANT: Not a registered West Virginia
24 voter, but we had it.

1 MR. LEACH: It might have been an
2 oversight.

3 MR. COLLIAS: Yeah. Okay. Okay.

4 MR. LEACH: Okay. The next packet --

5 MR. CARDI: Doug Fallini?

6 MR. LEACH: No, wait a minute. We're
7 getting ready to go a different packet. Let's see.

8 MR. COLLIAS: What's the packet number?

9 MR. LEACH: I've been asked to hold just a
10 minute.

11 (WHEREUPON, a discussion was
12 held off the record.)

13 ~~SEC. TENNANT: Gentlemen, we're considering if~~
14 we can take all ten of these at the same time because
15 the whole challenge is that they're not registered at
16 all. Is that the challenge? Let me see. Is that what
17 the challenge says, they're all consistent?

18 MR. NICHOLS: Well, untimely, but we've dealt
19 with timeliness.

20 SEC. TENNANT: We already took care of the
21 timely part, so off to that -- we're considering if we
22 can take all of these at once, because we have found --

23 MR. COLLIAS: That's a good idea. That's a
24 good idea.

1 SEC. TENNANT: But hang on a minute. We found
2 that they do have voter registrations. I just want to
3 make sure that we're being fair to the Walker campaign
4 in doing this in bulk with all ten of them. I guess I
5 would ask the Walker campaign, do you have a challenge
6 for each of these?

7 MR. REIDY: I mean the challenges would
8 stand as filed.

9 SEC. TENNANT: As they are. And, members, you
10 can look through, scroll through and see if those voter
11 registration, for voter registration packet three, if
12 those, if you agree that they are registered voters with
13 the information that was submitted from the SVRS.

14 MR. CARDI: What's the first name on that
15 packet?

16 MR. LEACH: Travis Day. Oh, no, you --

17 MR. COLLIAS: Travis Day.

18 MR. LEACH: Travis Day. Okay.

19 SEC. TENNANT: Can I see that, Tim? Travis
20 Day. Because all they're saying, Travis Day, not a
21 registered West Virginia voter, and what were they
22 saying about the other ones?

23 MR. LEACH: Some of them are different
24 address. Some of them are illegible addresses.

1 SEC. TENNANT: Okay. These are the only ones
2 saying --

3 MS. SUMMITT: So these are all consistently
4 not a voter. They're all --

5 MR. CARDI: I'm sorry. What's the name of
6 this packet?

7 MR. LEACH: Three, voter reg three dash
8 October. It might say October on it. I think you would
9 just take a motion to deal with all ten of them as a
10 group or, if the motion fails, you'll have to deal with
11 them individually.

12 SEC. TENNANT: Gentlemen, you're still looking
13 through it, aren't you?

14 MR. REIDY: Madam Secretary, I would object
15 to these being blanketly accepted or denied.

16 SEC. TENNANT: I would object, too, only
17 because we have a different -- we just saw one that's
18 different now than what the name is. Gentlemen, there
19 are a few differences and I believe -- well, I guess you
20 could overrule me, but we need to stay consistent for
21 going through them each individually.

22 MR. NICHOLS: If you have some issues with
23 one or two.

24 SEC. TENNANT: Because there's a different

1 name of a woman here. Her name is not the same.

2 MS. SUMMITT: It's the same address but --

3 MR. NICHOLS: Give me that record and I'll
4 take back and --

5 SEC. TENNANT: Apgar.

6 MR. NICHOLS: There may be just an error when
7 they printed it off.

8 MS. SUMMITT: The address is the same. The
9 first name's the same, but not the last name. So she's
10 either married or divorced.

11 SEC. TENNANT: And there's actually another
12 one that's the same on Sweetbrier. All right, can we
13 ~~move forward? Let's go with Travis Day right now,~~
14 gentlemen. The question is --

15 MR. LEACH: What's the objection, Madam
16 Secretary?

17 SEC. TENNANT: The objection is that he is not
18 a registered voter. You can see in your first page --

19 MR. CARDI: But he is registered. We see a
20 registration.

21 SEC. TENNANT: Hang on a second. For me this
22 one says that Travis Day signed this on October 19th,
23 and this is where I need help from both sides and from
24 the staff. He became -- he said he signed it on

1 10/19/15. His voter registration became effective 11/30
2 of 2015. Is that what you all -- hang on a minute.
3 Hang on a minute now. He had a mail-in voter
4 registration on 1/31 of '12, so he had a federal
5 mandatory waiting period of ten days in '12. It expired
6 -- that ten days expired on this. His new address. So
7 that still means he was a registered voter before. Is
8 that correct?

9 MR. WILLIAMS: Right, because it wouldn't --
10 it would have been a change of address. It would say --
11 he wouldn't have had all that other --

12 SEC. TENNANT: That's right. He wouldn't have
13 had all of that. So he was still a registered voter
14 when he signed this. I just want to double check that.
15 So he now is a registered voter.

16 MS. SUMMITT: He was at the time.

17 SEC. TENNANT: He was at the time a registered
18 voter.

19 MR. WILLIAMS: He just updated his address.

20 SEC. TENNANT: That's what you contend. What
21 do you contend, Walker campaign? I can start having
22 these discussions with myself, as the staff knows. The
23 only thing is -- and maybe that's what you saw. Do I
24 have a motion on the floor?

1 MR. CARDI: I move that we deny.
2 MR. COLLIAS: I second the motion.
3 SEC. TENNANT: Okay. It's been moved and
4 seconded. All in favor say aye.
5 MR. COLLIAS: Aye.
6 MR. CARDI: Aye.
7 SEC. TENNANT: Aye. Motion carries. The next
8 one, here's where we get into the similar ones with
9 Susan.
10 MR. LEACH: Do we have a name?
11 SEC. TENNANT: Yes. Dennis, what would you
12 say, Meorer?
13 MS. SUMMITT: Yeah. Meorer.
14 MR. CARDI: It's close enough.
15 SEC. TENNANT: Something like that. What are
16 they questioning? Okay. Everything looks in order from
17 my standpoint, even the signature. Anybody else have
18 questions? Do you have a comment?
19 MR. REIDY: May I see that?
20 SEC. TENNANT: Yeah, let him see it.
21 MR. REIDY: (Examines document.)
22 SEC. TENNANT: Any comment, Walker campaign?
23 MR. REIDY: No, ma'am.
24 SEC. TENNANT: Benjamin? Do I have a motion

1 on the floor?

2 MR. CARDI: Do we know why this objection
3 was made?

4 SEC. TENNANT: Well, timely manner, which we
5 addressed already a while ago; address provided does not
6 match address of registered voter --

7 MR. LEACH: You're on the wrong one.

8 SEC. TENNANT: No, we're talking Cleary.

9 MR. LEACH: No. You're on the wrong one.

10 SEC. TENNANT: Oh, sorry. Sorry, sorry,
11 sorry. What's this one's name?

12 MR. LEACH: Dennis Moerer, not a registered
13 voter in West Virginia.

14 MR. CARDI: My question is, since he is a
15 registered voter, correct?

16 MR. LEACH: Yes.

17 SEC. TENNANT: We have a voter registration
18 document.

19 MR. LEACH: Yes. We have one that matches
20 that name.

21 MR. CARDI: Okay. And so what are the
22 grounds --

23 MR. LEACH: None are given.

24 MR. CARDI: -- besides the fact that it's a

1 different address?

2 MR. LEACH: No, there's no address
3 allegation. It just says he's not registered. It's
4 just a bold allegation that he's not registered.

5 MR. CARDI: Right. What evidence do they
6 present?

7 MR. LEACH: None.

8 MR. CARDI: And we think this is probably a
9 good faith objection, it's just maybe an oversight or
10 something?

11 MR. LEACH: Right. I mean if you're
12 looking it up on SVRS, I shudder to think how many
13 mistakes I would make, but I mean it is possible and
14 even maybe not uncommon to just overlook something or
15 type in a letter wrong or something in the name search
16 and --

17 SEC. TENNANT: Oh, if it's a good challenge.

18 MR. CARDI: So we're not missing anything
19 here.

20 SEC. TENNANT: Did you have a challenge?

21 MR. REIDY: I would just say that there
22 were cases where the campaign reports were provided
23 before receipts were provided. There may have been
24 discrepancies on the campaign reports.

1 SEC. TENNANT: I see. Did you all hear that,
2 gentlemen? Because some of this was done before the
3 receipts came in, correct?

4 MR. REIDY: That's correct.

5 SEC. TENNANT: Okay. Got it. Okay. That
6 might have answered your question, Professor.

7 MR. CARDI: Okay. Thank you.

8 SEC. TENNANT: That there was a good faith
9 challenge.

10 MR. COLLIAS: Okay. I move that we overrule
11 this objection.

12 MR. CARDI: Second.

13 SEC. TENNANT: ~~It's been moved and seconded.~~

14 All in favor say aye.

15 MR. COLLIAS: Aye.

16 MR. CARDI: Aye.

17 SEC. TENNANT: Aye. Motion is passed,
18 approved. The next one is Ricky Cleary. The same
19 question was the address doesn't match with a registered
20 voter. We found him registered and for me, mine has
21 been his signature matches. Any comments from either
22 campaign? Motion on the floor?

23 MR. COLLIAS: I move that we overrule the
24 objection.

1 MR. CARDI: Second.

2 SEC. TENNANT: It's been moved and seconded.

3 All in favor say aye.

4 MR. COLLIAS: Aye.

5 MR. CARDI: Aye.

6 SEC. TENNANT: Aye. Motion carries. The next

7 one is Lula Belle Legg. The question is address of

8 registered voter does not match address provided. It's

9 Raleigh County. Signatures match for me. Comments from

10 the campaigns? Motion on the floor?

11 MR. COLLIAS: I move that we overrule the

12 objection.

13 MR. CARDI: I second.

14 SEC. TENNANT: Moved and seconded. All in

15 favor say aye.

16 MR. COLLIAS: Aye.

17 MR. CARDI: Aye.

18 SEC. TENNANT: Aye. Motion carries. Next one

19 is Bailee Ashton Hinxman. The question is she's not a

20 registered voter in West Virginia. We have an address

21 for her and a signature. Any comments? Motion on the

22 floor?

23 MR. COLLIAS: I move that we overrule the

24 objection.

1 MR. CARDI: Second.

2 SEC. TENNANT: Moved and seconded. All in
3 favor say aye.

4 MR. COLLIAS: Aye.

5 MR. CARDI: Aye.

6 SEC. TENNANT: Aye. Motion carries. The next
7 one is O'Hanlon. This is address of registered does not
8 match the address provided. She is a registered voter.
9 Oh, yeah, she did write her signature. Yes, it matches.
10 Comments either side? Motion on the floor?

11 MR. COLLIAS: I move that we overrule the
12 objection.

13 MR. CARDI: Second.

14 SEC. TENNANT: Moved and seconded. All in
15 favor say aye.

16 MR. COLLIAS: Aye.

17 MR. CARDI: Aye.

18 SEC. TENNANT: Aye. Motion carries. Next one
19 is Terry Sanders. Address of registered does not match
20 one provided. Oh, different address. Similar, same
21 signature. Comments? Motion on the floor?

22 MR. COLLIAS: I move that we overrule the
23 objection.

24 MR. CARDI: Second.

1 SEC. TENNANT: It's been moved and seconded.

2 All in favor say aye.

3 MR. COLLIAS: Aye.

4 SEC. TENNANT: Aye. Professor, did you want
5 to register a vote? Maybe you did.

6 MR. CARDI: Oh, I'm sorry. I thought I
7 said aye. I apologize. I'm trying to read these
8 things.

9 SEC. TENNANT: Okay. It passes. I know.
10 Tell me if I'm going too fast.

11 MR. COLLIAS: No, you're not.

12 MR. CARDI: We've got to look at each of
13 these individually.

14 SEC. TENNANT: I know. The next one is John
15 McGlee, not a registered voter, address illegible,
16 although I do see Knottingham Road. There is a
17 Knottingham Road. Voter, the addresses look the same to
18 me, because I could get 1390 out of there. The
19 signature, McGhee, McGlee. Any comments from Walker,
20 Benjamin? Motion on the floor?

21 MR. COLLIAS: I move that we overrule the
22 objection.

23 MR. CARDI: Second.

24 SEC. TENNANT: It's been moved and seconded.

1 All in favor say aye.

2 MR. COLLIAS: Aye.

3 MR. CARDI: Aye.

4 SEC. TENNANT: Aye. Motion passes. And the
5 last one we have is Joanna Day. Where'd she go.

6 MS. SUMMITT: We have one more after this.

7 SEC. TENNANT: Yeah, we've got more after
8 this.

9 MS. SUMMITT: No, no, no, this is the same --

10 SEC. TENNANT: The question is not registered
11 voter. Address is, looks -- they're similar --
12 illegibility -- comments? Do I have a motion on the
13 floor?

14 MR. COLLIAS: I move we overrule the
15 objection.

16 MR. CARDI: Second.

17 SEC. TENNANT: Moved and seconded. All in
18 favor say aye.

19 MR. COLLIAS: Aye.

20 MR. CARDI: Aye.

21 SEC. TENNANT: Aye. Okay. Motion passed. We
22 have this other one. It's Susann Apgar. We have Apgar
23 written on the qualifying contribution receipt. The
24 question, this challenge is not a registered voter. So

1 Susann Apgar is not a registered voter, but --

2 MS. SUMMITT: She changed her name from
3 Apgar. She changed it from Apgar to Murer.

4 MR. NICHOLS: Yeah. Commissioners, we went
5 back and pulled some additional information on this
6 particular record that you have in front of you. It
7 does show what you see in front of you as the current, I
8 don't know how you pronounce that last name, Murer,
9 something like that, it does show that as a current
10 record for Ms. Apgar and the additional information we
11 pulled is that in 2013 she changed her name in the voter
12 registration system from Murer -- or from Apgar to
13 Murer.

14 Now, why she would have signed it as Apgar,
15 could be maybe in between 2013 and the time she signed
16 that receipt, she got a divorce and took her name back.
17 And so these are just things that are not in front of us
18 to understand why. You know, the Secretary has been
19 mentioning, you know, the signature kind of -- it
20 appears to be at least on the first name it matches up,
21 and that's why our office had initially recommended that
22 it was a valid registration.

23 SEC. TENNANT: Yeah, the signature does.

24 MR. CARDI: What about the signature?

1 SEC. TENNANT: It matches.
2 MR. NICHOLS: The signature appears to match.
3 MR. CARDI: Okay.
4 MR. COLLIAS: I move that we overrule the
5 objection.
6 MR. CARDI: I'll second that.
7 SEC. TENNANT: It's been moved and seconded.
8 All in favor say aye.
9 MR. COLLIAS: Aye.
10 MR. CARDI: Aye.
11 SEC. TENNANT: Aye. Motion carries. Where
12 are we now, people?
13 MR. NICHOLS: The same sort of thing for the
14 next ones.
15 SEC. TENNANT: Same sort of thing, but we have
16 two and then a fourteen and a twelve packet.
17 MR. NICHOLS: Yeah.
18 MR. LEACH: It says voter registration
19 packet four. There are two voters to be considered.
20 Two objections.
21 MR. COLLIAS: Okay. Who's on the front of
22 this? What name?
23 MR. LEACH: This would be Ruland,
24 Josephine.

1 MR. COLLIAS: Okay.

2 SEC. TENNANT: Do you guys mind if we take a
3 quick ten-minute break?

4 MR. CARDI: That's fine.

5 MR. COLLIAS: Okay.

6 SEC. TENNANT: In between these packets.

7 MR. COLLIAS: Okay.

8 SEC. TENNANT: We've been going non-stop for
9 another hour and a half. Okay. Just a real quick one.
10 There is food here for anybody to eat.

11 (WHEREUPON, a brief recess
12 was taken.)

13 SEC. TENNANT: We're on packet four now?

14 MS. SUMMITT: Yes.

15 MR. COLLIAS: Is Vince here?

16 MR. LEACH: Yes. I think he is.

17 SEC. TENNANT: What did he say?

18 MR. LEACH: I think he is.

19 MR. CARDI: Yeah, I'm here.

20 MR. COLLIAS: Oh, okay. Yeah, we're ready to
21 roll.

22 MR. LEACH: Voter registration four, first
23 name is Josephine Ruland. I think I got that far before
24 we recessed.

1 SEC. TENNANT: And we'll continue to go
2 through these -- can I just go through them like we did
3 before?

4 MR. LEACH: Sure.

5 SEC. TENNANT: This one was the form timely
6 manner. I see why they're separated. There were three
7 differences -- this one says Josephine is not a
8 registered voter in West Virginia, and we have found her
9 voter registration.

10 MR. CARDI: What's the problem with this
11 one?

12 SEC. TENNANT: Well, they're saying that she's
13 not a registered voter because the address that she
14 provided was a post office box. Her address on her
15 voter registration is a street address, and she, she
16 probably -- oh, she changed, the record was changed for
17 a street audit. So that's probably why. And her Js are
18 the same. Her Js are the same. She goes by V.C. Ruland
19 now is the only difference. Any concerns from the
20 Walker and Benjamin campaign?

21 MR. REIDY: May I see it?

22 SEC. TENNANT: Sure.

23 MR. COLLIAS: Are we ready for a motion?

24 SEC. TENNANT: Hang on for a minute. The

1 Walker campaign is looking at it.

2 MR. COLLIAS: Okay.

3 SEC. TENNANT: Yeah, we found a registration
4 and we think it had to be changed because of a street
5 audit. No questions, guys? No questions. Do I hear a
6 motion?

7 MR. COLLIAS: I move that we overrule the
8 objection.

9 MR. CARDI: Second.

10 SEC. TENNANT: Been moved and seconded. All
11 in favor say aye.

12 MR. COLLIAS: Aye.

13 MR. CARDI: Aye.

14 SEC. TENNANT: Aye. Motion carries. The next
15 one is Erin Shaver. Same address, a registered West
16 Virginia voter, does not match address provided.

17 MR. COLLIAS: Is that the only basis?

18 MR. LEACH: Could you --

19 MS. SUMMITT: This is not --

20 MR. NICHOLS: It's not this.

21 MS. SUMMITT: That's nothing there. That's
22 just a search page. It just printed it accidentally.

23 SEC. TENNANT: Erin L. Shaver. Her signature
24 matches.

1 MR. NICHOLS: You've got everything else,
2 though?

3 MS. SUMMITT: No. There's nothing else
4 there.

5 MR. NICHOLS: Let's skip that one.

6 SEC. TENNANT: We're checking the record page.
7 We're going to have to come back to that one. But the
8 signature did match. So now, we're going to move on to
9 packet five.

10 MR. NICHOLS: That starts with Laura Chapman.

11 MR. CARDI: Okay. Laura T. Chapman.

12 MR. LEACH: Not a registered voter.

13 SEC. TENNANT: Okay.

14 MR. COLLIAS: Is she registered?

15 SEC. TENNANT: Hang on. Yes, she's
16 registered. These really, I don't understand the
17 question on this one, because the address matches -- oh,
18 wait a minute. Oh, Jeanette Laura Wakim Chapman. Yes,
19 it matches. She just used her first name and everything
20 else is as follows. Any comments from the campaigns?
21 Do I hear a motion?

22 MR. COLLIAS: Yeah, I move we overrule the
23 objection.

24 SEC. TENNANT: I'll second that. It's been

1 moved and seconded. All in favor say aye.

2 MR. COLLIAS: Aye.

3 MR. CARDI: Aye.

4 SEC. TENNANT: Aye. Motion carries. The next
5 one is Rhonda Scarbro. Question is a registered voter.
6 We have a registration for her.

7 MR. CARDI: Rhonda K. Scarbro, we have the
8 registration.

9 SEC. TENNANT: Her signature on her first name
10 matches. The K matches. Scarbro --

11 MR. CARDI: The S is different.

12 SEC. TENNANT: The S is different.

13 MR. CARDI: So that's it. I move we
14 overrule this objection.

15 MR. COLLIAS: I second.

16 SEC. TENNANT: It's been moved and seconded.
17 All those in favor say aye.

18 MR. COLLIAS: Aye.

19 MR. CARDI: Aye.

20 SEC. TENNANT: Aye. Motion carries. This
21 next one is Clayton Fitzsimmons. The question is
22 doesn't match the address. We have him as a registered
23 voter, as you all can see. For me, he's probably used
24 his work address, so it doesn't match there and to me

1 the signature doesn't match. Any questions or any
2 comments I mean from the campaigns? Do I hear a motion?
3 MR. COLLIAS: I move we overrule the
4 objection.
5 MR. CARDI: Second.
6 SEC. TENNANT: It's been moved and seconded.
7 All in favor say aye.
8 MR. COLLIAS: Aye.
9 MR. CARDI: Aye.
10 SEC. TENNANT: Opposed say no. No. Motion
11 carries.
12 MR. CARDI: You voted no because of the
13 signatures?
14 SEC. TENNANT: Yes, correct.
15 MR. CARDI: Thank you.
16 SEC. TENNANT: And that one, that one is a
17 question of what Gary brings up, but I don't know. I'm
18 still not sure. I think the address would have changed.
19 The next one is Robert Fitzsimmons.
20 MS. SUMMITT: The signature?
21 SEC. TENNANT: Yeah. So the question is
22 address of registered voter does not match. We found an
23 address because they've given their firm address. It's
24 on there. Let me see. They don't match to me. Any

1 comment from the campaigns?

2 MS. CHARNOCK: Just the same before about the
3 addresses. It didn't specify which address.

4 SEC. TENNANT: Right, right. That's not what
5 I have objection to, but that's not why I'm voting
6 against these. The signature.

7 MS. CHARNOCK: Oh, I understand.

8 SEC. TENNANT: Yeah, yeah. Do I have a
9 motion?

10 MR. COLLIAS: I move we overrule the
11 objection.

12 MR. CARDI: I'll second that.

13 SEC. TENNANT: ~~It's been moved and seconded.~~

14 All in favor say aye.

15 MR. COLLIAS: Aye.

16 MR. CARDI: Aye.

17 SEC. TENNANT: All opposed say no. No.

18 Motion carries. The next one is Alec Cohan. The
19 question is whether he's a registered voter. Well, it
20 looks like the address matches to me.

21 MR. CARDI: Well, one in Maryland. Yeah,
22 living in Maryland, sure.

23 SEC. TENNANT: I'm wondering if they have a
24 see above. Maryland Avenue, Maryland Street, I'm sorry.

1 Maryland Street, they both say Maryland Street, not
2 Maryland. The question that you all should have
3 objected to is this. Okay. That was not their
4 objection. They're a registered voter.

5 MR. CARDI: Yeah, the signatures. Well, it
6 does have a signature.

7 SEC. TENNANT: I don't. That wasn't the
8 objection. They're saying I can't bring that up either,
9 Professor, but any comments from either of you all?

10 MR. REIDY: No, ma'am.

11 SEC. TENNANT: Do I hear a motion?

12 MR. COLLIAS: I move we overrule the
13 objection.

14 MR. COLLIAS: I second it.

15 SEC. TENNANT: It's been moved and seconded.
16 All in favor say aye.

17 MR. COLLIAS: Aye.

18 MR. CARDI: Aye.

19 SEC. TENNANT: Aye. Motion carries. We have
20 Sherri Pennington. The question is not a registered
21 voter. Does not match. I'm sorry. Does not match.
22 Address of registered does not match. We have a -- hang
23 on. So two addresses, the signature fairly matches.
24 Yeah, both not offered too much. Any comments from

1 either campaign?

2 MS. CHARNOCK: same as before.

3 SEC. TENNANT: Thank you. Do we have a
4 motion?

5 MR. CARDI: I move that we overrule the
6 objection.

7 MR. COLLIAS: I second.

8 SEC. TENNANT: It's been moved and seconded.

9 All in favor say aye.

10 MR. COLLIAS: Aye.

11 MR. CARDI: Aye.

12 SEC. TENNANT: Aye. Motion carries. The next
13 one is -- yes, sir. Do you have a question?

14 MR. CARDI: The requirement is you need to
15 reregister if you move voting precincts; is that
16 correct?

17 MS. SUMMITT: Just update.

18 MR. COLLIAS: Update your precinct.

19 MR. CARDI: Just go in and change your
20 precinct?

21 MR. LEACH: You can change your address at
22 the precinct in the county or at a different precinct.

23 MR. CARDI: You don't need to reregister?

24 MR. LEACH: No. You just -- well, you're

1 updating your registration.

2 MR. CARDI: So this document we see here,
3 the registration, is this the latest one?

4 MR. NICHOLS: Yes.

5 MR. CARDI: Or is it changed or is this a
6 different one?

7 MR. NICHOLS: It's the latest that we have.

8 MR. CARDI: But it's your opinion that
9 there are literally hundreds and probably thousands of
10 voters who live at a different address than their
11 current registration address?

12 MR. NICHOLS: I don't know that we say it's
13 our opinion, but I say it's certainly possible. But
14 that's the -- could very well be the case.

15 MR. CARDI: Okay. Thank you.

16 SEC. TENNANT: And we don't need to go through
17 all of that again. They can put an address down and it
18 might be their work address and that's the contention of
19 the Benjamin campaign, that you can have whichever
20 address. So now, James Ruland, the question is does not
21 match, the address does not match the registered voter.
22 Similar signature. Any comment?

23 MS. CHARNOCK: I thought we had skipped Erin
24 Shaver.

1 MS. SUMMITT: We did. We haven't come back
2 to that one. He's in another group.

3 MR. NICHOLS: We'll finish this packet and
4 then we can get back to it.

5 MS. CHARNOCK: Okay. I apologize.

6 SEC. TENNANT: You okay, though? Do I have a
7 motion?

8 MR. COLLIAS: I move we overrule the
9 objection.

10 MR. CARDI: Second.

11 SEC. TENNANT: It's been moved and seconded.
12 All in favor say aye.

13 MR. COLLIAS: Aye.

14 MR. CARDI: Aye.

15 SEC. TENNANT: Aye. Motion carries. The next
16 one is Delby Pool. Delby is not a registered voter in
17 West Virginia, the contention is. The signature matches
18 very well. We have her voter registration. Wowzer.
19 Jane Lew still gets, part of Jane Lew is in Harrison
20 County, too. Any comments?

21 MR. REIDY: May I see that one?

22 SEC. TENNANT: Sure. The Walker campaign is
23 looking at this.

24 MR. REIDY: Thank you.

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SEC. TENNANT: Any comments?

MS. CHARNOCK: Same as before.

SEC. TENNANT: Comments?

MR. REIDY: I would say that is a different person. The middle initials don't match.

SEC. TENNANT: He's contending it is a different person because the middle initial is different.

MR. REIDY: We're taking it from the campaign report.

SEC. TENNANT: A J or a B?

MR. COLLIAS: Well, her maiden name is Barker. Maybe she just went back to --

MR. COLLIAS: Is the address the same?

SEC. TENNANT: No, the address is not the same. I have a feeling they've used -- she's an attorney. Do you know her personally?

MR. COLLIAS: I do.

SEC. TENNANT: I figured that.

MR. COLLIAS: Her office is in Clarksburg and her residence address here is Jane Lew, Harrison County.

SEC. TENNANT: The thing is, her signature, for me, the signatures without the B or the Jane are I mean look at that. They're almost identical. Look at

1 that first name. If Pool would have just had a little
2 more oomph to it. And so that's an objection of the
3 Walker campaign, not thinking it's the same person where
4 we might have someone who thinks it is the same person.

5 MR. REIDY: As reported.

6 SEC. TENNANT: Unfortunately for lawyers, you
7 had the Professor who's probably taught all of these
8 lawyers, so he's able to -- Professor Cardi. Sorry
9 about that, Joe. I'm always on the losing end, too,
10 here because I didn't go to law school. Any comment
11 from the Benjamin campaign?

12 MS. CHARNOCK: No, we think it's the same and
13 it should be accepted.

14 SEC. TENNANT: A motion?

15 MR. CARDI: I move we overrule this
16 objection.

17 MR. COLLIAS: I second.

18 MR. CARDI: Deny the objection.

19 SEC. TENNANT: Yes. It's been moved and
20 seconded. All in favor say aye.

21 MR. COLLIAS: Aye.

22 MR. CARDI: Aye.

23 SEC. TENNANT: Aye. The motion carries. We
24 have Brent Wear. Question is address of the registered

1 voter does not match. Where is his thing? Oh, wait a
2 minute. 86 Oakmont and 29 Oakmont. I don't know if any
3 of that's been changed. Signature is not the same for
4 me. Any comments?

5 MS. CHARNOCK: Same as before.

6 SEC. TENNANT: Okay. No comment. Do I hear a
7 motion?

8 MR. COLLIAS: I move to overrule the
9 objection.

10 MR. CARDI: I Second.

11 SEC. TENNANT: It's been moved and seconded.
12 All in favor say aye.

13 MR. COLLIAS: Aye.

14 MR. CARDI: Aye.

15 SEC. TENNANT: All opposed say no. No.
16 Motion carries. Next one is Justin Waiter, W-I-A-T-E-R,
17 I think, maybe, yes. The same, doesn't match. The
18 address, we have a voter registration residence for him.

19 MS. SUMMITT: The signature's not even close,
20 contributor signature. Oh, wait a minute.

21 SEC. TENNANT: No, this is dead on.

22 MS. SUMMITT: That's dead on. That's dead
23 on. You know what, maybe I need to look back at the
24 other one. I was looking at the wrong signature.

1 SEC. TENNANT: But it passed, it passed. Any
2 comments?
3 MR. REIDY: No, ma'am.
4 SEC. TENNANT: Comments?
5 MS. CHARNOCK: Same.
6 SEC. TENNANT: Yeah, this is a dead on
7 signature. Yeah. Do I have a motion? I need a motion.
8 MR. COLLIAS: Oh, okay. I move we overrule
9 the objection.
10 MR. CARDI: Yeah, I'll second that.
11 SEC. TENNANT: It's been moved and seconded.
12 All in favor say aye.
13 MR. COLLIAS: Aye.
14 MR. CARDI: Aye.
15 SEC. TENNANT: That's for Justin later. Aye.
16 Motion carries. Melissa Knott, it says she's not a
17 registered voter. Oh, same address. She's a registered
18 voter. The address is the same and everything.
19 Comments? I need a motion.
20 MR. CARDI: I'll move we deny this
21 objection.
22 MR. COLLIAS: I second.
23 SEC. TENNANT: It's been moved and seconded.
24 All if favor say aye.

1 MR. COLLIAS: Aye.

2 MR. CARDI: Aye.

3 SEC. TENNANT: Aye. Motion carries. Dolph
4 Santorine, this one says does not match. It's got a
5 P.O. box.

6 MR. CARDI: I can't read that signature on
7 the registration.

8 SEC. TENNANT: Do you think it's the same one?
9 He doesn't have a signature on here. It says see above,
10 and that's not a signature, is it?

11 MR. NICHOLS: He just signed it.

12 SEC. TENNANT: Comments from the campaigns?
13 Benjamin campaign, do you see what --

14 MS. CHARNOCK: My usual.

15 SEC. TENNANT: Well, this one's signature
16 doesn't have a signature. It says see above.

17 MS. CHARNOCK: Well, we don't have it.

18 SEC. TENNANT: I know you don't. Any comments
19 from the commissioners?

20 MR. CARDI: I don't see a difference here.
21 The main objection is not the same person as the voter
22 or what?

23 SEC. TENNANT: Well, their challenge is, is
24 not a registered voter. It doesn't match the address.

1 So the address on here, if you look at an address. The
2 Benjamin contention says any address. My contention is
3 the signature. They didn't sign in the contributor's
4 signature and it's not the same signature, clearly.

5 MR. CARDI: Yeah. I don't think we have
6 enough evidence to overturn that, so I move we deny this
7 objection.

8 MR. COLLIAS: I second the motion.

9 SEC. TENNANT: And I want to sustain it. So
10 it's been moved and seconded. All in favor say aye.

11 MR. COLLIAS: Aye.

12 MR. CARDI: Aye.

13 ~~SEC. TENNANT: All opposed say no. No.~~

14 Motion carries. We have Robin Capehart. This one --
15 oh, we're moving into electronic qualifications. Did we
16 mean to?

17 MR. NICHOLS: No, not yet.

18 SEC. TENNANT: Hang on a minute. We're going
19 to go back to Erin Shaver, okay?

20 MS. SUMMITT: That's number four.

21 SEC. TENNANT: Go back to Erin Shaver in
22 number four. We had all the info. We just didn't have
23 the voter registration information and the address --

24 MR. CARDI: Who is on the front of four?

1 MS. SUMMITT: Dave, tell him the one that was
2 at the beginning of four.
3 MR. NICHOLS: I'll have to find four.
4 MS. SUMMITT: I think it's this one, isn't
5 it?
6 MR. NICHOLS: Yeah, voter reg packet four
7 with two people in it.
8 MS. SUMMITT: Is that not it?
9 MR. CARDI: The first one's Ruland?
10 MR. NICHOLS: Josephine Ruland is the first
11 one in that package.
12 SEC. TENNANT: Yeah. So, we're moving --
13 MR. LEACH: And we're talking about the
14 second one.
15 SEC. TENNANT: Yeah, we're moving down to
16 Erin Shaver. The question was if she was a registered
17 voter. We have a voter registration for her and the
18 signature matches.
19 MR. CARDI: I see.
20 SEC. TENNANT: Do I have a motion on the
21 floor? Did you want to comment?
22 MR. CARDI: This is for Josephine?
23 SEC. TENNANT: No. This one's for Erin.
24 We've already taken care of Josephine.

1 MR. CARDI: This is for Erin? It's for
2 Erin Shaver?

3 SEC. TENNANT: Yes. You all don't have a
4 voter registration card, but we found it.

5 MR. CARDI: Okay.

6 (WHEREUPON; a discussion was held
7 off the record.)

8 SEC. TENNANT: Do I have a motion? I need a
9 motion on the floor.

10 MR. CARDI: I'm still looking for this.
11 Oh, I see, Erin Shaver. I see, okay.

12 MR. COLLIAS: I move we deny the objection.

13 MR. CARDI: I'll second that.

14 SEC. TENNANT: It's been moved and seconded.
15 All in favor say aye.

16 MR. COLLIAS: Aye.

17 MR. CARDI: Aye.

18 SEC. TENNANT: Aye. Motion carries. Now,
19 this is that one from number two.

20 MR. CARDI: Back to Robin Capehart?

21 SEC. TENNANT: Well, we're going to explain a
22 little bit. You notice that the objection is different
23 now. Where are we?

24 MR. NICHOLS: Go to packet six Go to voter

1 reg six.

2 SEC. TENNANT: Did we already do this one?

3 MR. NICHOLS: No. We just did that. We did

4 five.

5 SEC. TENNANT: Okay. We just did five. Okay.

6 MS. SUMMITT: I handed it to you.

7 SEC. TENNANT: I gave something from Robin

8 Capehart.

9 MS. SUMMITT: No. That's Erin Shaver, isn't

10 it?

11 MR. NICHOLS: No, that's Josephine something

12 --

13 SEC. TENNANT: She's with Erin. We just gave

14 --

15 MS. SUMMITT: It's on the back --

16 SEC. TENNANT: Dave, are you sure I didn't

17 give it to you? What's that one right there?

18 MR. NICHOLS: The one you want.

19 MS. SUMMITT: I feel like I'm locked in some

20 kind of --

21 SEC. TENNANT: Yesterday was Ground Hog Day.

22 MS. SUMMITT: It feels like it.

23 SEC. TENNANT: And tomorrow is Ground Hog Day,

24 too. Joe, by tomorrow I've got to know your last name.

1 MR. LEACH: All right, packet six, voter
2 registration packet six, we might be in a position to
3 treat it as a mass ruling again because this is the one,
4 this is -- the staff could not find records of any
5 registration for any of these twelve individuals.

6 MR. CARDI: And what's the name on the
7 front?

8 SEC. TENNANT: Julie Williams.

9 MR. REIDY: Could I see the packet?

10 MR. COLLIAS: It seems to me these are
11 identical situations.

12 SEC. TENNANT: Well, then, you wouldn't be the
13 one objecting, Joe.

14 MS. CHARNOCK: I've looked at those. I don't
15 have any objection, because you don't have any
16 documentation. We would reserve the right to correct
17 that.

18 SEC. TENNANT: Then you get the five days.

19 MS. CHARNOCK: I'm now being asked to prove
20 the negative.

21 SEC. TENNANT: So, gentlemen, for these
22 twelve, as they said, the one that has Julie Williams on
23 the front. The staff has looked through here and the
24 main challenge is that these people are not registered

1 voters in West Virginia, and the staff could not find
2 registrations for them.

3 And so we are proposing to vote on these all
4 together instead of going through each of them, because
5 it would be the same argument. And the Benjamin
6 campaign, do you want to state that to them?

7 MS. CHARNOCK: We're being asked to prove a
8 negative and we can't. We just want the opportunity to
9 correct, to correct the problem. And I would ask that
10 since we're making a record, that those twelve names be
11 read.

12 SEC. TENNANT: We can do that.

13 MR. CARDI: Okay. You're going to read the
14 twelve names and then we'll make a motion?

15 SEC. TENNANT: Yes, and we're going to vote
16 all of these at once.

17 MR. CARDI: Okay.

18 MR. LEACH: Where's the list?

19 SEC. TENNANT: I have the thing.

20 MR. LEACH: She wants you to read all the
21 names.

22 SEC. TENNANT: Okay. So the first one is
23 Julie Williams. You guys make sure I'm reading them
24 right. The second one is John A. Farley. The next one

1 is Leslie A. Spears. Wayne Davis. Melissa Lyons.
2 William H. Salisbury, S-A-L-I-S-B-U-R-Y. Next one
3 Delores Jean Davis. The next one is Marsha Snyder, M-A-
4 R-S-H-A. The next one is Carol J. Shafer with one F, S-
5 H-A-F-E-R. Well, I'm presuming because I'm getting it
6 off the challenged ones. Brenda Quesenberry, Q-U-E-S-E-
7 N-B-E-R-R-Y. Jeff Parker.

8 MS. SUMMITT: With a J?

9 SEC. TENNANT: Yeah, with a J, common
10 spelling. Sara, S-A-R-A, S. Sampson. Is that twelve?
11 Okay. So all contention is they're not registered
12 voters. Do I have a motion on the floor? May I have a
13 motion?

14 MR. COLLIAS: Yeah, I move we sustain the
15 objection to all of those voters.

16 MR. CARDI: Second.

17 SEC. TENNANT: It's been moved and seconded.
18 All in favor vote aye.

19 MR. COLLIAS: Aye.

20 MR. CARDI: Aye.

21 SEC. TENNANT: Aye. Motion carries. All
22 right. So that was number six.

23 MS. SUMMITT: So the only one we have left is
24 the electronic.

1 MR. NICHOLS: We've got to go back to packet
2 five for one.

3 MS. SUMMITT: Did we leave one out of packet
4 five?

5 MR. NICHOLS: Yeah, we did.

6 SEC. TENNANT: Oh, wait. This came off packet
7 six. Do you want that back?

8 MR. LEACH: Thank you. This is a remainder
9 from packet five. The last one we didn't cover. The
10 voter's name is Michelle Redden, R-E-D-D-E-N.

11 MR. CARDI: And what name is on the front
12 of that packet?

13 MR. LEACH: It's out of order now.

14 MR. NICHOLS: Chapman, Laura Wakim Chapman.

15 MS. SUMMITT: Wakim or something like that.

16 SEC. TENNANT: Yeah, Wakim, w-A-K-I-M.

17 MR. COLLIAS: Yeah, Chapman. Yeah, it's
18 Laura Chapman.

19 MR. CARDI: I thought we took a look at
20 her.

21 SEC. TENNANT: Yes, but Michelle Redden, the
22 last one in it, go to the end of that, is being
23 challenged.

24 MR. CARDI: Okay. Thank you.

1 SEC. TENNANT: We do have a voter registration
2 for her. We also have her signature that it works for
3 me. Any comments from the two candidates' campaigns?
4 Could I have a motion, please?

5 MR. COLLIAS: I move that we overrule the
6 objection.

7 MR. CARDI: I second that.

8 SEC. TENNANT: It's been moved and seconded.
9 All in favor say aye.

10 MR. COLLIAS: Aye.

11 MR. CARDI: Aye.

12 SEC. TENNANT: Aye. Motion carries.

13 MR. NICHOLS: ~~Now, gentlemen, don't get rid~~
14 of that packet yet, because you're still going to have
15 to come back to that one for one more before we get
16 finished up here.

17 MR. LEACH: We're doing it now, right?

18 MR. NICHOLS: No, we can't do it now unless
19 you're doing all electronic now.

20 MR. LEACH: That's what I was going to talk
21 about.

22 MR. NICHOLS: So do you want them to look at
23 -- this read first and then we'll talk electronic?

24 MS. SUMMITT: That would make sense.

1 MR. LEACH: Okay.

2 MR. NICHOLS: Okay. So go to the next one up
3 from Michelle Redden in that same packet. It should be
4 Robin Capehart.

5 SEC. TENNANT: Okay.

6 MR. NICHOLS: There are multiple objections
7 here. What you need to do on this one is just look and
8 talk about whether or not you think -- I don't think you
9 need to vote on this one yet because we haven't cleared
10 all of the objections. So you need to, we're looking at
11 the challenge to the voter registration at the moment.

12 SEC. TENNANT: So we've cleared -- it does
13 have multiple objections. We've already cleared the SEC
14 form question.

15 MR. NICHOLS: Yes.

16 SEC. TENNANT: Electronic contributions.

17 MR. NICHOLAS: That we have not talked about.

18 SEC. TENNANT: Let's go to the address.

19 MR. LEACH: Yes.

20 MR. NICHOLS: Yes.

21 SEC. TENNANT: Let's go to the address first.

22 I don't have an address.

23 MR. NICHOLS: Okay. We'll leave that one.

24 SEC. TENNANT: We're going to go find if he's

1 registered.

2 MR. NICHOLS: Yes.

3 SEC. TENNANT: We have the signature, so we
4 know he's something.

5 MR. LEACH: All right. And we have another
6 issue that I identified long ago at the beginning of
7 this meeting, which is the legality of accepting
8 contributions online or electronically.

9 The next packet includes six voter
10 registrations in which that is the issue. It is
11 electronic and not form is the style of the packet. The
12 first name on the top of the list is Darrell Shull.

13 MR. SHULL: I've heard of him.

14 MR. COLLIAS: Okay.

15 MR. SHULL: I'm glad to be in Ann's
16 company.

17 SEC. TENNANT: Could I see that?

18 MR. LEACH: Sure. I'll let you have the
19 packet while I explain what the issue is.

20 SEC. TENNANT: Oh, okay.

21 MR. LEACH: The issue is, I'm kind of
22 simplifying it and I apologize if I oversimplify. The
23 issue is a receipt must have a signature of the
24 individual who both collected the contribution and who

1 made the contribution. We've been through that already.

2 Electronic filing provides for an electronic
3 signature in some types of programming. An electronic
4 signature is an acceptable legal verification in most
5 law cases. But the statute here is very particular to
6 contributions and it says must have a signature.

7 And as the Secretary has carefully explained
8 in all these previous votes, the reason for the
9 signature is so that a comparison can be made to see if
10 it is the voter or person we're talking about, comparing
11 the signature on the voter's registration with the
12 signature on the receipt. If you have an electronic
13 receipt, the signature, you can't compare anything.

14 So the challengers object to the Benjamin
15 campaign using electronic contributions. The Code, I do
16 point out, allows for payment by check, cash, credit
17 card, or electronic means. But the Code also requires
18 that there be a signature. So it's kind of a conflict
19 in the Code there about whether you can do this
20 electronically or not. So that's the preliminary
21 outline of what the issue's about.

22 Now, we have six that involve, require a vote
23 on whether to sustain the objection or reject the
24 objection. So you want to go through them one at a time

1 again, I assume.

2 MR. COLLIAS: There's no reason to go through
3 them individually if it's the same issue on all of them,
4 right?

5 MR. LEACH: Yes.

6 MR. CARDI: I agree with that.

7 MR. LEACH: The receipt is like a PayPal
8 receipt or something of that nature, if you look at your
9 packet. And it's not in receipt form, but we've already
10 addressed that issue. The other idea is it's an
11 electronic transaction, which the challengers argue is
12 not permitted by statute because of the missing
13 signature element.

14 MR. COLLIAS: So when you say it is an
15 electronic signature, you don't mean there's a copy, a
16 facsimile of a physical signature. You mean it's
17 nothing but the name typed on it?

18 MR. LEACH: Right. It's not like you take
19 your finger and trace on a keypad or something, and make
20 a signature and then there's an image of that.

21 MR. COLLIAS: Right.

22 MR. LEACH: This is a digital number of
23 some sort. It's a sign. Isn't that the way it works?

24 MR. COLLIAS: It sounds to me like the way

1 you've explained it, Tim, that there isn't really any
2 question. This doesn't comply with the statute.

3 MR. CARDI: Well, wait a minute.

4 MR. COLLIAS: I mean you're saying the
5 statute requires a signature and you're saying there's
6 not a signature.

7 MR. LEACH: Yeah, there's not what we call
8 a wet signature. There's not a wet signature.

9 MR. CARDI: There's an electronic
10 signature. Now, who sends this in? Is it the
11 contributor?

12 MR. LEACH: No. The committee for the
13 candidate sends it in.

14 MR. CARDI: Okay. So it doesn't have the
15 signature of the contributor?

16 MR. LEACH: That's correct.

17 MR. CARDI: Okay. It's not because -- so
18 it may have the signature of the collector, which 3-12-9
19 seems to require, because the collector or the
20 collector's principal is actually sending this form in
21 to the Secretary of State, correct?

22 MR. LEACH: I don't have --

23 MR. CARDI: The problem is the contributor
24 is not sending anything in electronically.

1 SEC. TENNANT: This one is Darrell's, so let's
2 pull this one.

3 MR. COLLIAS: It doesn't have anyone's
4 signature, does it?

5 SEC. TENNANT: Let's look here. It says
6 received by Darrell Shull on behalf of the committee.

7 MR. LEACH: I don't have the paperwork.
8 I'm sorry.

9 SEC. TENNANT: This is Catherine Delligatti.
10 We kind of moved -- I'm looking at Catherine Delligatti.
11 It's the second one, because I don't want to confuse us
12 with Darrell's and Darrell's own.

13 And so Catherine Delligatti has, it says
14 received and signed electronically with a transaction
15 number. Then it says received by Darrell Shull on
16 behalf of the Committee to Reelect. I mean this might
17 be a time when you all come in here, because this is
18 fairly new for us, if you have something you want to
19 say.

20 MS. CHARNOCK: Well, the problem -- well,
21 there are a lot of problems, but when you look at the
22 definition of a qualifying contribution, it says in the
23 form of, or in the form of an electronic payment. So
24 it's clearly authorized as a qualifying contribution.

1 The reality is how do you get a signature on PayPal?

2 Because that's, I think that's what they use.

3 MR. LEACH: Right.

4 MS. CHARNOCK: So --

5 MR. CARDI: So Delligatti sends the money
6 electronically to Shull.

7 SEC. TENNANT: That's my next question.

8 Because the way I'm asking here is that Darrell can
9 submit and receive his own. How is he receiving
10 Catherine's? How does he have that ability to receive
11 hers?

12 MS. CHARNOCK: I mean that's -- it goes on
13 PayPal, but he's the one, because there has to be a
14 receipt, right?

15 MR. SHULL: Correct. I get documentation
16 from PayPal, which is auditable that says this payment
17 was made by a person named Catherine Delligatti, and
18 that matches the information that was submitted on the
19 form. And the moneys are deposited in the PayPal
20 temporarily until they're transferred to the bank
21 automatically.

22 MR. LEACH: And there's a charge for the
23 service?

24 MR. SHULL: There's a charge for the

1 service.

2 MR. CARDI: We have nothing that is sent by
3 Catherine Wilkes Delligatti. We've got no paper and
4 we've got no copy of an electronic --

5 SEC. TENNANT: We do. Right?

6 MR. CARDI: Where?

7 SEC. TENNANT: That's what this is. That
8 second sheet where it says it's from Darrell Shull,
9 info@justicebenjamin.com, contribution receipt, it was
10 sent to Catie Wilkes Delligatti back in October.

11 MR. CARDI: Yes.

12 SEC. TENNANT: So I don't know if that's
13 considered a receipt.

14 MR. CARDI: Well, that means it's signed by
15 Darrell Shull, which 3-12-9 requires, but where is it
16 signed by Catherine Wilkes Delligatti, the contributor?
17 Because this is not her email.

18 SEC. TENNANT: I think under transaction ID
19 454712 blah, blah, blah, blah, blah.

20 MR. CARDI: Where?

21 SEC. TENNANT: On down that email.

22 MR. NICHOLS: Next to the last line.

23 SEC. TENNANT: Yeah, next to the last line.

24 MR. CARDI: I see it. Okay. Received and

1 signed electronically by -- was received by Darrell
2 Shull and signed electronically by Catherine Delligatti.

3 SEC. TENNANT: By that transaction. What's
4 that?

5 MR. LEACH: It's a late file.

6 MR. CARDI: There's nothing here that links
7 -- it's Darrell Shull saying that maybe it's saying that
8 Delligatti is sending something in this transaction ID,
9 but we don't have a copy of that.

10 SEC. TENNANT: Well, we're going to let
11 Darrell explain for a minute, because he's presented to
12 us now this hard receipt that has both her signature and
13 both the transaction number that is the same. So go
14 ahead.

15 MR. SHULL: Understanding that there are
16 situations where there are registered voters that are
17 outside of the state for a period of time or traveling
18 or simply inaccessible, we have the electronic process.
19 Our process has been to submit electronically, we
20 provide the electronic signature to the Secretary of
21 State and we request a hard signature from the
22 contributor on the proper form to show the matter at
23 this point. And as those come in, we then file.

24 So for the six that are here, yesterday before

1 the complaint was filed, we electronically transmitted
2 to the Secretary of State copies of all six of those
3 hard copies. Just as for Catherine Delligatti, knowing
4 that the issue is when there is a challenge, you need to
5 have a way to verify the information.

6 MR. CARDI: So this 454712, da dah, da dah,
7 da dah, is actually what Catherine Wilkes sent to you,
8 Darrell Shull?

9 MR. SHULL: Correct. The number we have is
10 the unique identifier that ties back to the audit trail
11 that PayPal has certified that Catherine Delligatti is
12 the one that submitted the payment to us. And then out
13 of an abundance of caution, we follow up to get a
14 physical signature.

15 MR. CARDI: Okay. Forgetting what you
16 followed up with, let's go back. Let's say the
17 collector of the contribution goes to the contributor
18 and says, okay, you're contributing fifty dollars. Sign
19 this receipt.

20 You keep the receipt and what I send to the
21 Secretary of State is my statement that you gave the
22 money and you signed the receipt, and that's it? But
23 we're not sending the Secretary of State the receipt
24 signed by the contributor?

1 MR. SHULL: We are --

2 MR. CARDI: That's what we have here. Not
3 counting your follow-up. Just this document right here.

4 MR. SHULL: That is correct. We send the
5 electronic version so that there's a timely filing and
6 then attempt to gather the signature.

7 MR. CARDI: Okay. So the electronic
8 version with Catherine Wilkes' electronic signature was
9 not submitted until yesterday or today or whatever?

10 MS. SUMMITT: Yesterday.

11 MR. SHULL: The electronic signature was
12 submitted --

13 SEC. TENNANT: In October.

14 MR. SHULL: -- in a timely fashion. So it
15 would comply. The physical signature --

16 MR. CARDI: Who's --

17 MR. COLLIAS: I'm having trouble hearing you.

18 MR. CARDI: Who's electronic version -- or
19 signature?

20 MR. SHULL: Was filed in a timely manner.

21 SEC. TENNANT: Catherine's, because she paid,
22 she gave, she donated in October, October 4th, so they
23 needed to file by November the 3rd, as we already
24 indicated. So they filed that.

1 MR. CARDI: And the document that was
2 forwarded to the Secretary of State?

3 MR. LEACH: Yeah, just moments ago.

4 MS. SUMMITT: Yesterday.

5 SEC. TENNANT: These six were given yesterday.

6 MS. CHARNOCK: Right. But the electronic --

7 MR. NICHOLS: The electronic was filed on
8 time. This is what got sent to us in November.

9 SEC. TENNANT: Yes.

10 MR. NICHOLS: So the electronic one was sent
11 in November. Was that your question, Professor?

12 MR. CARDI: Well, where on this piece of
13 paper I have here, it says two at the top --

14 SEC. TENNANT: Yes.

15 MR. CARDI: Where is her electronic
16 signature?

17 SEC. TENNANT: It's that last line 454712.

18 MR. LEACH: It's not an electronic
19 signature, Professor. It's an electronic transaction
20 identifier.

21 SEC. TENNANT: Yeah, it's a misnomer. It's a
22 certificate of authen -- no, what is it?

23 MR. NICHOLS: Authentication.

24 SEC. TENNANT: Authentication.

1 MR. CARDI: It says received and signed
2 electronically. Who received what?
3 SEC. TENNANT: Darrell Shull received this
4 payment from Catherine Delligatti.
5 MR. WILLIAMS: Did she receive this email
6 back?
7 MR. SHULL: Yes.
8 MS. CHARNOCK: And she went to PayPal.
9 MR. CARDI: And who signed it?
10 SEC. TENNANT: She received the email back
11 verifying that they would take twenty-five dollars from
12 her email account, or her PayPal account.
13 MR. CARDI: So this says Darrell Shull
14 received it?
15 SEC. TENNANT: Yes.
16 MR. CARDI: And Darrell Shull signed it
17 electronically?
18 SEC. TENNANT: He did not. He only received
19 it. She signed -- how do you say it --
20 MR. CARDI: We looked at an unusual
21 explanation. The one person received it and a different
22 person signed it.
23 MS. CHARNOCK: Could we start over again?
24 This is on the website, right?

1 SEC. TENNANT: On which website?

2 MR. SHULL: It is no longer on the website,
3 because the qualifying period has passed, but I have,
4 back at the office, I have the screen shots of what it
5 was.

6 MS. CHARNOCK: Right. But I mean if you were
7 on the Benjamin website and you wanted to make a
8 payment, it directed you -- and you wanted to do it
9 electronically, it directed you to your PayPal, right?

10 MR. SHULL: Correct.

11 MS. CHARNOCK: And then you paid, you did your
12 PayPal. PayPal acknowledges receipt of it. Darrell got
13 that. That goes to Darrell, right, because PayPal knows
14 who to send those Benjamin contributions to.

15 He gets acknowledgement from PayPal that that
16 payment's been made. He turns around and asks her to
17 sign to verify that that was her. I mean there's no way
18 you can contemporaneously sign something and do PayPal.

19 But since the statute allows electronic
20 transmission, you've got to be able to follow up and get
21 that signature. Otherwise, the statutes are not going
22 to, can't line up together. You can't follow one and
23 follow the other.

24 SEC. TENNANT: And so when you say follow up

1 and get that signature, it's this one here that you're
2 talking about?

3 MR. CARDI: Didn't Catherine Wilkes sign
4 something electronically?

5 SEC. TENNANT: By her participation in PayPal.
6 I think we're missing that part.

7 MS. SUMMITT: There's a user name and
8 password.

9 SEC. TENNANT: Unless you have PayPal also,
10 you can't sign on and pay through PayPal. So by her
11 being a partner and signing on to PayPal, that was her
12 electronic signature, her electronic authorization.

13 ~~MR. CARDI: Where does the Secretary of~~
14 State have to show that she authorized that payment?

15 SEC. TENNANT: Well, now we have it in hard
16 form, because the Benjamin campaign not only took it
17 electronically and got her permission electronically and
18 that's really what it is. When we say electronic
19 signature, we really mean electronic authorization.
20 That's --

21 MR. CARDI: That's fine.

22 SEC. TENNANT: So then they, what did you guys
23 do, have her sign this and send it? Did you send her
24 something? What did you do?

1 MR. SHULL: Correct. And these
2 transactions were early transactions before we modified
3 the process. These six are exceptions.

4 SEC. TENNANT: Yes.

5 MR. SHULL: But we then after she made her
6 contribution, prepared a receipt for her just as though
7 somebody had called and given us a credit card number
8 over the phone.

9 We prepared a receipt for her. Sent her that
10 receipt and requested her signature on that receipt. So
11 out of an abundance of caution, we can present to the
12 Secretary as soon as we receive it all the pertinent
13 information you need.

14 MR. CARDI: I didn't hear most of that.

15 SEC. TENNANT: You'd better sit right here
16 beside him.

17 MR. CARDI: I'm understanding that the
18 collector went ahead and asked her for some kind of
19 electronic confirmation and she sent it to you, the
20 collector; is that correct?

21 MR. SHULL: The electronic authorization
22 was automatic in the transaction. We followed it up
23 requesting a physical signature from Catherine
24 Delligatti.

1 MR. CARDI: Okay.

2 MR. SHULL: And she physically signed a
3 receipt and sent it back to us.

4 MR. CARDI: Okay. And the electronic
5 authorization from her, we don't have that here?

6 MR. SHULL: You do. We filed, we received
7 the electronic.

8 MR. CARDI: Not on this piece of paper that
9 I have in front of me.

10 SEC. TENNANT: You do. You have it under
11 transaction ID 454712, all those numbers. That's her --
12 let's not call it a signature. Let's call it an
13 electronic authorization. ~~If we take signature out,~~

14 it's a little clearer to understand. It's not someone's
15 physical name. It's the electronic authorization.

16 MR. CARDI: I understand all of that. But
17 potentially it's just like somebody collecting money
18 physically and having the contributor sign and then the
19 contributor keeps whatever they sign. And the collector
20 just says, oh, they signed it. And I'm stating right
21 here they signed it. I'm not giving it to you, but I'm
22 just telling you they signed it. That's what we have
23 here. Is that correct?

24 MR. SHULL: I wouldn't characterize it that

1 way, because the contributor received everything that we
2 supplied to the Secretary of State in a timely fashion.
3 And then subsequent to the electronic transaction, the
4 contributor received a filled out physical form from us,
5 which she signed and returned to us.

6 SEC. TENNANT: And where is --

7 MR. CARDI: But the collector never
8 received -- if the collector received anything
9 electronically signed by the contributor, that was not
10 sent to the Secretary of State's Office until, you know,
11 much later.

12 MR. SHULL: No, it was sent -- any
13 ~~electronic authorization was sent in a timely fashion to~~
14 the Secretary of State's Office to comply with the
15 reporting requirements.

16 MR. CARDI: Okay. Well, I think a number
17 of things. One, I still don't understand how the
18 Secretary of State on this piece of paper received
19 anything from the Catherine Wilkes. Two, I think the
20 statute doesn't do a real good job of taking all of this
21 into consideration. And three, I'd like to know what
22 the objector is doing with the electronic transactions
23 or contributions made to the objector's campaign,
24 whether they're treating it any differently. And I'm

1 not suggesting that we sustain the objection. It's not
2 worked out well enough.

3 MR. LEACH: Professor Cardi, it's a good
4 question, but it's apples and oranges. The Walker
5 campaign, who are the objectors, are not running under
6 public financing. So they can accept their money
7 without receipts. They do have to report all that they
8 get on periodic and timely finance reporting. But they
9 do not have to supply receipts with signatures on them.
10 So it's a different solution for them.

11 MR. CARDI: I see. Okay. I'm through.

12 SEC. TENNANT: For me, do you have six of
13 these?

14 MR. SHULL: I have six of those.

15 SEC. TENNANT: And what I'm holding up,
16 Professor, is the hard copy of the receipt that you've
17 seen copies of from various other people.

18 MR. CARDI: Yes.

19 SEC. TENNANT: And so, well, I guess my only,
20 my question to the Benjamin campaign, why didn't you
21 present these in November?

22 MR. SHULL: Because in November --

23 SEC. TENNANT: When you filed this?

24 MR. SHULL: That's correct. We had a

1 process in place starting September 23rd for electronic
2 contributions, which to the best of our knowledge was
3 adequate, and we learned in November there might be
4 concerns. So in November, we began a process of then
5 following up with a paper receipt. There's a lag time
6 with Catherine Delligatti's and the other five simply
7 because the process changed when we became aware there
8 might be a concern.

9 But for any electronic contributions received
10 after the 6th, the timeline is tightened tremendously.
11 And we electronically transmitted this prior to the
12 objections coming in yesterday. And hopefully you have
13 that in your opinion yesterday.

14 SEC. TENNANT: Did you get them? Is that what
15 they're --

16 MS. KINDER: Yes, I got these yesterday.

17 SEC. TENNANT: You got the six?

18 MS. KINDER: Yes.

19 SEC. TENNANT: Okay.

20 MR. REIDY: Can I say something? Could you
21 read those names?

22 SEC. TENNANT: Sure. Are we going to go
23 through these individually or are we going to do them as
24 a whole? Well, they're the same thing. So the Walker

1 campaign wants the names of everybody. You all have
2 them. Darrell Shull, do you want to look at these
3 again? I can name them off. Darrell S-H-U-L-L,

4 MR. REIDY: I have Delligatti as well.

5 SEC. TENNANT: Catherine with a C, Mary
6 Harrington, Kenneth Reed, Eric Bell, with a C, E-R-I-C,
7 Jane G. Charnock. We keep it in the family around here.
8 And then what about Robin Capehart? Isn't his with this
9 one?

10 MR. NICHOLS: It is, but you still haven't
11 decided the registration on that as well.

12 SEC. TENNANT: Okay. Any comments?

13 MR. REIDY: No.

14 SEC. TENNANT: Anymore comments?

15 MS. CHARNOCK: No. I think that we complied
16 with the statute that allows electronic payments and
17 that's how you have to make an electronic payment.
18 There weren't any rules to tell the campaign any
19 differently. Once it was brought to the campaign's
20 attention that maybe we needed something different,
21 that's been done. Bottom line is, went back and got
22 these six. So you do have the actual receipt and you
23 can tell it's different, because all the blocks are
24 printed in. It's not handwritten like, right?

1 SEC. TENNANT: Oh, I see what you mean.

2 MR. SHULL: We also placed the same
3 authorization tracking number on the original receipt as
4 well as the signed receipt. So that there's an audit to
5 show they're related to the same transaction.

6 MS. CHARNOCK: And if you look at the Benjamin
7 Campaign reports you will see expenditures to PayPal.
8 So you'll see this going on every month that they had to
9 pay PayPal to get these funds.

10 SEC. TENNANT: Any other comments from
11 Professor or Gary?

12 MR. CARDI: No.

13 MR. LEACH: ~~Is there any objection from~~
14 either party to treating this as a group vote since the
15 issue appears to be identical for all six cases?

16 SEC. TENNANT: Are these all the same ones
17 again? This is -- I see the things written out. Why is
18 the transaction of Jane Charnock a different number?

19 MR. SHULL: If I may took a look, I might
20 be able to answer that for you.

21 SEC. TENNANT: Sure.

22 MR. LEACH: Maybe I spoke too soon.

23 SEC. TENNANT: And then also I guess, Mary
24 Harrington.

1 MR. SHULL: Let me take a look here. All
2 right. I apologize. Jane Charnock's contribution was
3 made by electronic check directly from her bank.

4 SEC. TENNANT: Okay. That makes sense.

5 MR. SHULL: So it was not a PayPal
6 transaction. And that is simply, we did, we recorded it
7 on the PayPal transactions because they're eighteen
8 digit alpha-numeric numbers. They weren't different
9 from the database and I didn't feel like typing eighteen
10 digital numbers all the time. But we didn't have a
11 method for transferring the electronic check payment
12 over. There was a previously filled out form submitted
13 for Jane Charnock also, which is in the records already.

14 SEC. TENNANT: Yeah, I have a feeling it's
15 some of these right here. Where did Leonard go? I'm
16 trying to look through. There's Catherine, there's
17 Mary, and then some of this is the reason when we were
18 talking last night, why there would be odd change.
19 Because for some of these, you know, Mary Harrington
20 gave twenty-five dollars, but the fee charged to her was
21 \$1.03 so the campaign got \$23.07 or \$23.97.

22 MR. SHULL: Well, Mary Harrington
23 contributed that twenty dollars. PayPal and then
24 immediately turns around and withdraws the fees from our

1 account. We've been treating the contributions twenty
2 dollars and the fee as an expense. So twenty dollars
3 income, three dollars expense.

4 SEC. TENNANT: So the Walker campaign just
5 didn't challenge all these, then?

6 MR. LEACH: Yet.

7 SEC. TENNANT: All the electronic, yet?

8 MR. LEACH: Yet. There's a box.

9 SEC. TENNANT: Joe.

10 MR. REIDY: We got more yesterday.

11 SEC. TENNANT: I see.

12 MR. NICHOLS: You know, his name now.

13 ~~SEC. TENNANT: Reed, now? It's Reed, right?~~

14 MR. REIDY: Reidy.

15 SEC. TENNANT: Reidy. Okay. So --

16 MR. SHULL: I will trade you paperwork. My
17 copies for your copies.

18 SEC. TENNANT: I'm not giving you anything.

19 What are you talking about. Give me Jane Charnock.

20 We've got a pile of Charnocks set aside.

21 Okay, gentlemen, what is your pleasure? To do
22 all of these together since they're all similar,
23 actually the same argument, challenge. I mean my only
24 argument is -- I don't have an argument. We don't have

1 any legal, legal precedent to lean on for this. You're
2 leaning on Code, but how else would you do it. If you
3 say -- why have it in Code and say you can get
4 electronic form if you can't get electronic form, is
5 what you're saying.

6 MS. CHARNOCK: Thank you. Yes. Why would you
7 allow an electronic payment if you can't find a way to
8 receive it?

9 SEC. TENNANT: Right. And in addition to that
10 question being asked, you came and brought us the same
11 with the other situation where it all didn't get copied
12 on the copier. You gave us a hard copy and said this is
13 ~~the person's employment and job. So that's why I lean~~
14 toward this electronic payment. Any comments of
15 anything else, Joe, you want to say from the Walker
16 campaign?

17 MR. REIDY: No.

18 SEC. TENNANT: You guys talked. Anything
19 else? Is there a motion or are there comments from the
20 Commission?

21 MR. CARDI: Well, these might be different.
22 This -- I mean I'm not sure what to do with some of
23 these. Although my instincts are that we should okay
24 these, especially in light of the fact that they have

1 brought in actual copies of paper documents signed by
2 the contributors. Even though it is late, it is
3 certainly before the end of the five day period. But
4 the PayPal with Kenneth Reed, this document we have here
5 is sent by PayPal on behalf of Kenneth Reed, correct?

6 MR. SHULL: That is correct. That is the
7 notification that our campaign received from PayPal.

8 MR. COLLIAS: So it's the contributor --
9 excuse me, it's PayPal telling us that Kenneth Reed
10 authorized the payment; is that correct?

11 MR. SHULL: That is correct and also
12 transmitting the other required information, employer,
13 occupation, as collected by PayPal on our behalf.

14 MR. CARDI: Right. Whereas, Catherine
15 Wilkes, there's nothing from her here.

16 MR. SHULL: That's correct.

17 MR. CARDI: There's something from the
18 collector, but there's nothing from Catherine Wilkes or
19 any agent of Catherine Wilkes except the collector. Is
20 that correct?

21 MR. SHULL: In the electronic notice that
22 we received and sent back to Catherine Delligatti at the
23 time of the contribution, it is correct that the
24 information that we sent to the Secretary of State and

1 to Catherine is in a different form than the PayPal
2 notifications.

3 That is because my contribution and
4 Catherine's and I believe one or two others occurred in
5 the first few days of being able to collect electronic
6 signatures. As we looked at that and realized I would
7 be hand typing several hundred notices, we made the
8 process decision to switch over to sending the PayPal
9 information to the donor. But again, that only impacted
10 the ones that are in front of you today. So we also are
11 in bold new waters and we were attempting to perfect the
12 process while still complying with all the requirements.

13 MR. CARDI: So there's nothing from her to
14 you. There's just something from you to her referring
15 to something from her to you?

16 MR. SHULL: In the milliseconds of the
17 electronic transaction, that is correct. And then in
18 the time which passed after that, that's when the paper
19 form was received from her.

20 MR. CARDI: And the paper form was given to
21 the Secretary of State today?

22 MR. SHULL: Yesterday.

23 SEC. TENNANT: Yesterday.

24 MR. CARDI: Yesterday, okay.

1 MR. SHULL: Before the complaint, but yes.
2 The time that it takes to get signatures back from
3 individuals is going to vary based upon factors. And so
4 it's difficult to put any sort of time constraint on
5 when the mail delivers the paper form back from the
6 contributor.

7 MR. CARDI: But they sent something,
8 Catherine Wilkes sent something electronic to somebody.

9 SEC. TENNANT: Through PayPal. She sent her
10 authorization through PayPal. She may have used PayPal
11 in other areas, but for this specific transaction, that
12 was her authorization. I mean it's the same way that
13 she may buy something from someone else and give
14 authorization for PayPal to pay their PayPal account.

15 MR. CARDI: We haven't received anything
16 from PayPal on her, whereas we did receive something
17 from PayPal --

18 MR. SHULL: Correct. The authorization.

19 MR. CARDI: That's why I think they're
20 different.

21 MR. SHULL: That's correct. The
22 authorization for Catherine Delligatti is a reference
23 back to the audit documents that PayPal retains and we
24 still have access to it, which is what we sent in the

1 consequent contributions, too. So that is easily
2 remedied, but again, we were attempting to perfect the
3 process on those first few contributions.

4 MR. CARDI: Yeah. Well, Gary Collias is
5 smart enough to understand all this stuff, and so he's
6 going to tell me, he's going to make the motion to tell
7 me what to do with it.

8 SEC. TENNANT: But you are right, Professor,
9 too, that I feel as though, here we go, we're plowing
10 new territory, we are setting a precedent with this
11 vote. Am I putting too much emphasis on that when I say
12 that?

13 MS. SUMMITT: No.

14 SEC. TENNANT: Setting a precedent with this
15 vote?

16 MS. SUMMITT: Yeah.

17 MR. COLLIAS: Yeah, I think we are.

18 SEC. TENNANT: And there's no precedent when
19 it comes -- I mean, but it's a little different. As
20 candidates who have to file their forms electronically
21 online, we have a signature that the Treasurer says by
22 hitting submit I authorize, but the Treasurer has
23 already signed it previously, correct? Missy?

24 MS. KINDER: Yes.

1 SEC. TENNANT: Okay. There was something that
2 was a previous acknowledgement written, handwritten, a
3 real signature, and now it becomes an electronic
4 authorization that's an electronic signature. So yes,
5 this is setting a precedent. So I'm open for a motion
6 if everyone is ready to. And I can offer it.

7 MR. CARDI: My instincts are that at this
8 point to the extent that I'm ready to say anything, is
9 that for those of these six that we have something sent
10 from the contributor, that we've got evidence of
11 something sent from the contributor.

12 SEC. TENNANT: And we do ultimately now by
13 ~~what was presented to the Secretary of State's office~~
14 yesterday.

15 MR. CARDI: Yeah, and that's a different
16 question. In other words, at present I probably say no
17 to the Catherine Delligatti and then yes to the Mary
18 Harrington that something came from PayPal that was then
19 sent to us.

20 And then a separate question is, okay, does it
21 change because we got this message from the contributor
22 to us yesterday. And the obvious answer is at some
23 point we say sure. Do we say that today or do we say,
24 no, you've got to -- we can take it and we'll apply it

1 to that five-day period. I don't know. What's your
2 feeling on this, Madam Secretary?

3 SEC. TENNANT: Well, my thought still goes
4 back, while it's not an official, and I can see where
5 your holdup is, that it's coming from the Committee to
6 Reelect rather than PayPal. I still look at the
7 transaction ID. Wait a minute, where did it go. I'm
8 looking at somebody's. I'm looking at Darrell's. I'm
9 still looking at the transaction ID from Catherine
10 Wilkes Delligatti, and that wouldn't have come from
11 anybody else than PayPal, right?

12 MR. SHULL: Correct.

13 SEC. TENNANT: And you just made PayPal have
14 all of those numbers if it came in that direction
15 because -- no, that doesn't make sense, because yours is
16 different than Catherine's.

17 MR. SHULL: Again, that might have been due
18 to perfecting the process. May I take a look? PayPal
19 provides two numbers to us.

20 SEC. TENNANT: Yes, here is yours and hers.

21 MR. SHULL: A receipt number and an
22 authorization ID. There's a transaction ID on mine
23 also, which ties back to the same way as Catherine
24 Delligatti's.

1 SEC. TENNANT: Okay.

2 MR. SHULL: So the exception to the
3 transaction ID was for Jane Charnock, because she didn't
4 go through PayPal. She sent us a direct contribution
5 electronically through her bank system.

6 SEC. TENNANT: Well, Mary Harrington's is a
7 unique ID, too, a unique transaction.

8 MR. SHULL: Bear with me. Correct. So
9 that unique transaction ID, the unique transaction ID is
10 the same as our transaction ID terminology.

11 SEC. TENNANT: And Kenneth Reed's is
12 different, too.

13 ~~MR. SHULL: Correct. That number is unique~~
14 to it. And every PayPal transaction we received,
15 whether we noticed it on an email receipt from us or
16 with the transaction from PayPal, contains that unique
17 transaction ID, which ties back to PayPal's
18 authorization of the charge.

19 SEC. TENNANT: Okay. I see that. I can
20 understand that. Now, if you guys -- I've got all of
21 these out of hand now. Mary Harrington goes with Mary
22 Harrington. Darrell's was first, then Catherine, then I
23 believe Mary Harrington, right? Eric Bell, his ID is
24 right there. This is his with the question. Jane

1 Charnock was last, Kenneth Reed.

2 Okay. We're still waiting on a motion. No
3 other comments? No other comments.

4 MR. CARDI: Well, the statute requires that
5 a receipt be signed by the contributor. The statute
6 doesn't say it's enough to have a signed receipt, a
7 receipt signed by the collector, which receipt says the
8 collector certifies that the contributor was such and
9 such and they made the contribution and I'm certifying
10 that. That's not enough, a piece of paper. And that
11 seems to me to be, and I could easily be wrong here, but
12 I haven't been convinced. It seems to me that that's
13 what we've got in Catherine Wilkes' case.

14 Maybe not so much to the others because it is
15 not the collector's, the collector didn't send this
16 document. PayPal sent this document and said the
17 contributor authorized us to do this. And they sent it
18 to the collector and the collector forwarded it to us.
19 I don't have much of a problem with that.

20 It's the one where the collector says the
21 contributor gave the money and here is the code number
22 on her check that has her signature. I mean to compare
23 it to a paper document. So I don't know if that's a
24 precedent we want to set when there are easy ways to

1 take care of it, I believe.

2 MR. SHULL: This is Darrell Shull again.
3 In our discussions with PayPal in setting this up and in
4 setting up the process, the authorization number PayPal
5 sends to us is the legal reference to the electronic
6 authorization of the contributor. It's not the email
7 that PayPal sends to us. It's that multi-digit
8 authorization ID.

9 So let's imagine that Catherine Delligatti
10 made a contribution at 4:05 on Tuesday. And we were
11 able to get to her quickly enough and have her sign the
12 paper copy of that form at 4:08 on Tuesday. We never
13 would have transmitted to you the electronic email from
14 PayPal in the first place. We would have placed the
15 transaction ID on her receipt so that we have an audit
16 trail so we can prove to you the timing of the
17 contribution and the relevance of the receipt back to
18 that contribution.

19 The same is likely to be true with subsequent
20 contributions where a person makes a contribution on
21 Saturday. We request a signature and we receive the
22 signature on Friday within a number of days of when they
23 made the contribution and submit that to you. If that
24 passed over the end of a month, we might have sent you

1 this receipt without having the signature, because it
2 still had that authorization number, which is according
3 to PayPal and our agreement with them, the only legal
4 reference to it.

5 MR. CARDI: Okay.

6 SEC. TENNANT: Professor, I have a question
7 for you. If you have a hangup here for some of the
8 electronic, how do you square the Code reading, saying
9 that we should accept electronic contributions?

10 MR. CARDI: Catherine Wilkes could have
11 easily electronically sent an electronic message to the
12 campaign, I've authorized PayPal to contribute twenty-
13 ~~five dollars to the campaign, here's my name and~~
14 address. And so she never signed any piece of paper.
15 She just sent it electronically to the campaign.

16 SEC. TENNANT: No, she didn't. I don't think
17 she did.

18 MR. CARDI: No. She could.

19 MS. CHARNOCK: In essence she did.

20 SEC. TENNANT: She could or couldn't? I mean
21 she went this way. I mean she didn't go this way, she
22 went this way to get there.

23 MR. CARDI: That electronic message to the
24 campaign to qualify as the 3-12-9(b) written receipt.

1 It's electronic to the campaign. She didn't sign
2 anything physically and that would comply with, I mean
3 that would be something that could be covered by this
4 statute. That might be the purpose. I just have a
5 problem with there's nothing that the Secretary of State
6 received that came from Catherine Wilkes to anybody.
7 This is third party saying that she did it, and that
8 doesn't seem to be consistent with this receipt.

9 SEC. TENNANT: He's just saying that this
10 email said. Who's to say that Darrell Shull didn't just
11 type up this email?

12 MR. SHULL: And not send it.

13 SEC. TENNANT: What?

14 MR. SHULL: And not send it to Catherine
15 Delligatti. Yeah.

16 SEC. TENNANT: All right, yes. Or even send
17 it to her. Of course, I guess the justification comes
18 in typing in this transaction number, and then it says
19 that Catherine Delligatti okayed this.

20 MR. SHULL: Correct.

21 SEC. TENNANT: So that's, I guess that's the
22 only -- does that satisfy him?

23 MR. SHULL: Well, not to argue against my
24 own case, but if it was the intent of the contributors

1 to commit fraud, they could also commit fraud on
2 falsifying the PayPal documentation that came in. Which
3 is why I get back to the authorization number. That
4 multi-digit number is the only legal identifier of the
5 authorization and it ties back to an audit trail that is
6 still in place to show that Catherine Delligatti was the
7 contributor. Not to make her famous throughout multiple
8 hours of saying her name.

9 SEC. TENNANT: Oh, she wouldn't mind it
10 because she's running for office, so.

11 MR. CARDI: She's running for judge.

12 SEC. TENNANT: Exactly. Everybody in that
13 district or that circuit is running.

14 MR. SHULL: Prosecutor, Berkley County
15 Prosecutor.

16 SEC. TENNANT: For prosecutor, that's right,
17 not judge.

18 MR. CARDI: What if they got a receipt
19 signed by Darrell Shull that says Shirley Smith of such
20 and such address contributed twenty-five dollars to the
21 campaign by leaving the twenty-five dollars through the
22 -- in the mailbox and I certify that I received it and
23 he signed it and sent it to us? Would we say that
24 satisfies this receipt requirement?

1 MS. KINDER: A signed receipt.

2 MR. CARDI: We say no. She's got to sign
3 something. And she might be able to sign something --
4 have an agent sign it, but obviously the collector could
5 not be her agent in this regard. I sort of compare what
6 I see here for Catherine Wilkes to that.

7 Now, what do we do? I suppose the
8 conservative thing to do would be to say for at least
9 Wilkes and the others like that, I don't think all six
10 are like that, and to say we will sustain the objection,
11 she's got, the campaign has five days to correct it and
12 it sounds to me they've already corrected it. I bet
13 ~~we'll just treat it as a correction. And then the -- we~~
14 examine it in more detail with -- and maybe come up with
15 a new reg to do that. I'm not sure.

16 SEC. TENNANT: Well, then let's just do this,
17 Professor. Let's separate these and not do all six at
18 the same time.

19 MR. SHULL: To save us time, though, what
20 the Professor has proposed appears reasonable. That we
21 have five days to make the correction if you disqualify
22 it.

23 SEC. TENNANT: But then it doesn't address the
24 Code. See, I mean for me, for the SEC for future, it

1 doesn't address. And I'm afraid if we make a vote and
2 then it sets precedent and then you never have this,
3 which we agree partially on. He agrees partially on and
4 I'm ready to accept it. So that's why I don't want to -
5 - I want to, I mean I because there's no -- he doesn't
6 have an argument for not accepting Ken Reed's. So we
7 should accept Ken Reed's.

8 MR. CARDI: Where is the Code language
9 here?

10 SEC. TENNANT: Find it for me, Jane. You'll
11 be my lawyer now. I mean Ann.

12 MS. CHARNOCK: I'm looking at 3-12-3 in the
13 ~~definition section 13, which says a qualified~~
14 contribution, dot, dot, dot, or in the form of an
15 electronic payment or debit or credit card payment.

16 MR. CARDI: 3-12-13 what?

17 MR. LEACH: No. 3-12-3 paragraph 13.

18 SEC. TENNANT: In the form of what again?
19 Will you say that, electronic form?

20 MS. CHARNOCK: Of an electronic payment or
21 debit or credit card payment.

22 SEC. TENNANT: And we don't have definition of
23 electronic payment. Is that right, Julie? See Julie's
24 been quiet over here, Julie Archer who helps, too.

1 MR. CARDI: 3-12-3-13.

2 MR. LEACH: Paragraph 13. Wait a minute
3 that says primary. Oh, it's 14. I'm sorry. We
4 renumbered. Jane probably has a renumbered version.
5 I'm sorry. Ann probably has a renumbered version,
6 because there was an amendment made. It's paragraph 14.

7 MR. COLLIAS: Yeah, 3-12-3-14. Okay. This
8 is the first time I've read this. Has anybody cited
9 this before?

10 MR. LEACH: Has anybody cited it?

11 MR. COLLIAS: Yeah, I mean in this
12 discussion. Let me read it in.

13 ~~MR. LEACH: No, we just said it's in the~~
14 Code is all we said. We didn't really quote it or
15 anything.

16 SEC. TENNANT: Professor, if we have -- I just
17 want to clarify something. That the Code in another
18 section, what Code is this section, does not allow the
19 campaign to correct a contribution. They are allowed to
20 replace it. It's not going to count at all.

21 MS. SUMMITT: It's an additional.

22 SEC. TENNANT: Like Ann Charnock's is gone,
23 correct? Did we reject yours?

24 MS. CHARNOCK: That's what I understood that

1 we were going to speak to Mr. Leach about afterwards.
2 Because if we're kicking out all of these electronic --
3 what concerns me is I don't have a chance to give you a
4 phone number and yet my contribution is out. And the
5 campaign, I assume, has to reimburse me, right? Or does
6 my hundred dollars go to the state?

7 SEC. TENNANT: It goes to the state public
8 financing.

9 MR. NICHOLS: That's not a part of our
10 discussion, but I think that's a possibility. But I
11 also think there may be the possibility that then you
12 give a contribution. You can't correct the one you did.

13 ~~MS. SUMMITT: But you can give an additional~~
14 one.

15 MR. NICHOLS: But you can give an additional
16 one.

17 MR. LEACH: It opens a window of five days
18 to collect, to submit, it says additional contributions.

19 SEC. TENNANT: It doesn't say correct?

20 MS. SUMMITT: No, it's collect additional.

21 MR. LEACH: No, we kind of let the
22 conversations drift into the correct camp, but --

23 SEC. TENNANT: And it's not. It doesn't say
24 correct.

1 MS. SUMMITT: May file a report of an
2 additional contribution collected for consideration as a
3 qualification.

4 SEC. TENNANT: And why would you not be --
5 okay. So here's my question, then. Is it hers, if hers
6 was not really a contribution because it was incorrect,
7 why can't a brand new one with her phone number on it be
8 a brand new contribution?

9 MR. LEACH: We'll have to address that.

10 SEC. TENNANT: We're not saying that it's
11 corrected. We're just saying that that one is gone.

12 MS. SUMMITT: But the date wouldn't be
13 current.

14 MR. NICHOLS: No, no. If she gave a new
15 contribution, it would be within the five-day period.

16 SEC. TENNANT: She would be one of the new
17 five-day people.

18 MS. SUMMITT: Right. That's what I'm saying.
19 She can't take her old one and write a phone number and
20 resubmit that one, but she could do a new one with a
21 phone number.

22 MR. LEACH: Could we slow down, please?
23 New contributions are subject to challenge by any
24 person. There might be an argument being made. I don't

1 know, there might be an argument being made to the SEC
2 that you cannot accept a redo of a contribution. We
3 haven't addressed that issue yet, because it isn't
4 before us.

5 SEC. TENNANT: Joe? I'm only joking, Joe.
6 But he's right about that.

7 MR. LEACH: I don't know how much the SEC
8 can rule on an issue that's not before them and which
9 there's going to be arguments made from one side or the
10 other and they haven't heard those arguments.

11 SEC. TENNANT: Okay. So, Professor Cardi, do
12 you see why we brought that one out? I mean that just
13 kind of addresses -- we've got to get back to
14 electronic.

15 MR. CARDI: Well, I'm actually not there.
16 First of all, I've missed a lot of this discussion
17 you've just been having among yourselves, which is okay.
18 But as far as your apparent -- Secretary Tennant, as far
19 as your apparent concern about this electronic
20 contribution in 3-12-3-14 there's no question that this
21 contribution is a qualified contribution even though it
22 was made electronically. There's no question about
23 that. That's fine.

24 It's whether the reporting or the

1 acknowledgment by receipt on 3-12-9 has been satisfied.
2 That's the issue. This is clearly a qualified
3 contribution. But 3-12-9 says each qualified
4 contribution shall be acknowledged by a written receipt.
5 And we've been discussing whether these different
6 receipts satisfies 3-12-9. And now we're talking about
7 this electronic receipt and whether it satisfies 3-12-9.
8 It certainly satisfies a qualified contribution. But
9 does it also serve as an acknowledgment by written
10 receipt that includes whatever it is. An electronic,
11 the word electronic appears in here a couple of times,
12 but my question is, does the electronic document we have
13 for Ms. Wilkes satisfy this stuff?

14 MR. SHULL: In essence, there's no
15 practical way to comply if a transaction number does not
16 suffice as the information received from PayPal.

17 MR. CARDI: Okay. Let's think about this.
18 I want to give you money in cash for a campaign. So I
19 give you a fifty dollar bill and I say this is for
20 candidate X, and you say fine. Does that satisfy 3-12-
21 9? And the answer is no, we've got to do something
22 else.

23 Now, instead of giving you the money in cash
24 directly, I call up PayPal and say PayPal credit this

1 account of this candidate. That's delivering the money.
2 Delivering the receipt, satisfying the receipt is
3 something different. That's easily done. You can do
4 that electronically, too. That is Wilkes just sends you
5 an email. I just sent --this is to confirm that I gave
6 fifty bucks and I live at such and such address, and she
7 sends you that email. That seems to be a way to
8 electronically satisfy 3-12-9. Because satisfying 3-12-
9 9 is something different than actually delivering the
10 money.

11 You can deliver the money by cash. You can
12 deliver it electronically. You can produce a written
13 ~~receipt in one of these forms and so forth or you can~~
14 produce it electronically as long as it satisfies 3-12-
15 9, you've got that information. And the electronic
16 signature is the signature of the person that sent this
17 email to the campaign with that information.

18 MR. SHULL: And there's a practical
19 consideration as well. If the contribution is made at
20 11:59 PM on the last day to make the contribution, the
21 electronic signature transaction ID from PayPal is the
22 only practical item that is in the possession of the
23 campaign in a timely manner. We can ask the contributor
24 to send back their email, but they may not have

1 sufficient time to send it back before 12:00 PM or
2 twelve midnight.

3 MR. CARDI: Okay. You and I are closing
4 the bar at 11:59. I say, look, before I forget about
5 it, here's fifty dollars cash for the campaign. And you
6 say fine, Vince. Or I just give it to you in a check
7 and you say fine, Vince. And how do you go about
8 getting a receipt? The same, you've got the same
9 problem producing the 3-12-9 receipt. You've got the
10 same problem with that cash at 11:59 at the bar as you
11 do with this PayPal authorization.

12 And both of them are easily satisfied. One of
13 ~~them is you get some kind of document that says I gave~~
14 the money or I'm giving the money and here's my name,
15 here's where I work, and here's my phone number and so
16 forth, whatever is required by 3-12-9. And you can do
17 that with the bar. You can do that with the PayPal.
18 You can do it with a piece of paper in a bar, you can do
19 it with a piece of paper mail, you can do it with
20 PayPal, you can do it with an email electronically at
21 the bar, you can do it with email electronically with
22 PayPal. It's just two different things.

23 MS. CHARNOCK: I don't agree. Professor
24 Cardi, this is Ann Charnock. I don't agree with your

1 premise. If you and I are at the bar and you hand me a
2 fifty dollar bill, I'm right there. Or a fifty dollar
3 check, I'm right there receiving that. When I make a
4 payment on PayPal, you're expecting somebody to be
5 monitoring some kind of an account or some kind of
6 screen to be watching this, and that's not the reality.

7 MR. CARDI: Let's say that instead of cash
8 at the bar, I actually mail you a check, but there's no
9 receipt. It's just a check on my bank account. And
10 that qualifies as a payment because that check qualified
11 as a 3-12-9 acknowledgment with a written receipt. And
12 isn't it true that it does not, the check does not, I've
13 ~~got to somehow give you a receipt? Either you come to~~
14 my office the next day and get me to sign one, or I sign
15 one and I mail to you, or I sign one and I hand deliver
16 it, or I email it to you. Isn't it the same thing?

17 MS. CHARNOCK: And the campaign was doing that
18 in those situations. But the problem is the statutes
19 don't work together and there are no rules to show a
20 campaign how to do something. So if an election --

21 MR. CARDI: Well, but so I leave a fifty --
22 I send you a fifty dollar check. Do you contact me for
23 a receipt or you just let it go?

24 MS. CHARNOCK: I'm going to ask Darrell to

1 answer because he was doing it.

2 MR. CARDI: Okay.

3 MR. SHULL: If either of you hand me a
4 fifty dollar check and you haven't handed me a receipt
5 at exactly the same time or you mail me a fifty dollar
6 check and didn't mail a receipt, I'm going to contact
7 you and make an attempt to get a receipt back from you
8 that is signed with all the appropriate --

9 MR. CARDI: If you don't get the receipt
10 back from me, what happens?

11 MR. SHULL: I'm going to follow up with you
12 and attempt to get the receipt. That all works great
13 ~~until you're at the last day of the filing period for~~
14 the month or you're at the last day of the qualification
15 period, because that --

16 MR. CARDI: But that's a different
17 question. We actually -- we addressed that earlier.
18 I'm not sure what we did with it, but, you know. That
19 is just before midnight of the last day of the month,
20 that's a different question.

21 I mean I just don't see the fact that the
22 money was sent electronically is any different, raises
23 any different issue, than the money is sent by a check
24 in the mail. Except the statute says none of those can

1 qualify as a contribution and it doesn't address the
2 receipt question, which is an entirely different
3 question.

4 MR. SHULL: And this may be to the point,
5 to Ann's point, on some conflict. If we receive money
6 electronically on January 15th or January 20th or
7 December 15th, let's say December 15th, and we request
8 the receipt, but the receipt arrives on January 1st, do
9 we report to the Secretary of State's Office the
10 contribution being on December 15th or do we report it
11 on January 1st?

12 If we report it on January 1st, we have
13 ~~accepted and deposited money without a receipt and~~
14 haven't reported it to you. If we report it to you on
15 December 15th but we don't yet have a physical
16 signature, then we have submitted -- we're not
17 submitting you all the information.

18 So what the campaign has attempted to do is
19 file in a timely manner with every bit of information we
20 have, including a transaction ID, which is from our
21 understanding, appropriate for an electronic signature
22 for the purposes of accepting the contribution. And
23 then following up to get the physical signature to aid
24 when there's a challenge.

1 MR. CARDI: I still don't see how that's
2 any different than a cash delivery and you've got to go
3 back and get some kind of receipt, electronic or paper
4 receipt. If somebody gives you five hundred dollars in
5 cash and they haven't sign a receipt, what does your
6 office do with the cash? Do they put it in the bank?

7 SEC. TENNANT: Let's leave it at fifty because
8 you can't do five hundred.

9 MR. SHULL: Let's leave it at fifty
10 dollars. We would -- well, we have received the
11 contribution. It's arrived. We would attempt to get
12 the receipt in a reasonable period.

13 MR. CARDI: Right.

14 MR. SHULL: But we would have received the
15 money. In the case of an electronic --

16 MR. CARDI: What happens to that money
17 before you get the receipt?

18 MR. SHULL: In the case of electronic
19 transactions, we're not making the decision to deposit
20 the money. The contributor is making the decision to
21 deposit the money and it goes into our account. So --

22 MR. CARDI: And what about the cash?

23 MR. SHULL: Well, we're not talking about
24 cash here. I don't have any -- I don't have an answer

1 for that.

2 MR. CARDI: I'm talking about the cash. I
3 don't see any difference. I mean one difference is
4 you've got to decide whether to deposit it or not and
5 the electronic is just already there. But my guess is
6 the normal campaign does not leave cash setting around
7 in drawers except for people who you read about in the
8 papers.

9 MR. SHULL: I have not faced that in
10 processing transactions for this campaign where somebody
11 gave me cash without a receipt, so I can't answer to
12 what we would have done on that particular instance.

13 MR. CARDI: Well, at the present point, at
14 the present time, I'm not willing to treat at least the
15 Catherine Wilkes situation as a one that is acknowledged
16 by a written receipt. I'm not counting the thing that
17 was turned in yesterday. That's a different question.
18 If you want to address that, I'll be glad to address
19 that. So I don't think anything from Catherine Wilkes.
20 So I would move for those that are like the Wilkes
21 objection, I move that we sustain the objection.

22 MR. LEACH: Wilkes and any like Wilkes.

23 MR. CARDI: Leaving the question of whether
24 we want to consider the document delivered yesterday as

1 satisfactorily fixing that. That might be fine. I'm
2 fine with that.

3 SEC. TENNANT: Well, I guess, then, we do need
4 to separate these, then.

5 MR. CARDI: Simply this, the two questions
6 I just talked about or each of these six items?

7 SEC. TENNANT: Each of the six items I think
8 is probably what we're going to have to do. Just don't
9 want to get the precedent set. But then -- so then when
10 you separate the Catherine Wilkes Delligatti, then you
11 can make that argument, you know, your question about
12 the receipt early on, but now she has the receipt. So
13 we've established something about electronic donations,
14 and then we've established her not having that receipt
15 that you want to see. But yet seeing it when it came in
16 now.

17 MR. CARDI: Well, let me put it this way.
18 It's my position that the electronic document we have
19 before us does not satisfy 3-12-9. Now, if we want to
20 address the question of whether the document we got
21 yesterday satisfies 3-12-9 for purposes of the objection
22 made today, then that's a whole different question, and
23 I'm willing to hear about that, but I don't know much
24 about that. You guys know about that.

1 SEC. TENNANT: Well, can we do this, can we
2 take these six and go through them individually?

3 MR. CARDI: Okay.

4 SEC. TENNANT: Does that help? Tim, what does
5 that do to you?

6 MR. LEACH: That's fine. Let's move.

7 SEC. TENNANT: All right. Joe, what do you
8 have?

9 MR. REIDY: Nothing.

10 MR. LEACH: What else could be said?

11 SEC. TENNANT: All right. So what we're going
12 to do is take these individually. We're going to take
13 the Darrell Shull contribution. Do I have a motion? Do
14 I have Gary Collias, is the question.

15 MR. COLLIAS: Yeah, I'm here.

16 SEC. TENNANT: All right. We've missed you.

17 MR. COLLIAS: You don't want to know about
18 me.

19 SEC. TENNANT: I don't. Do I have a motion
20 for the Darrell Shull? I move that we deny the
21 objection to the contribution of Darrell Shull.

22 MR. CARDI: Because we have an electronic
23 message from Darrell Shull to the campaign saying that
24 this was made. Is that why?

1 MR. SHULL: I don't have the paper in front
2 of me, but I believe this Darrell Shull person's
3 paperwork is of the same form as Catie Delligatti
4 paperwork.

5 SEC. TENNANT: Yes, it is. It is. Sorry,
6 Professor.

7 MR. CARDI: I see it differently myself.
8 Because you've got Shull -- we've got an electronic
9 document here from Shull, which says, hey, I gave to the
10 campaign.

11 SEC. TENNANT: But it's not from him. It's
12 from info@justicebenjamin, if you want to make that
13 argument.

14 MR. CARDI: It's from what?. I'm sorry.

15 SEC. TENNANT: The email is from
16 info@justicebenjamin.com.

17 MR. SHULL: Yes, I sent a confirmation as
18 the receiver to myself as the contributor in this
19 instance.

20 MR. CARDI: Which is something that the
21 contributor could never deny was being sent, since the
22 contributor is the one who sent this intermediary memo.
23 Whereas, in the Catherine Delligatti, Catherine
24 Delligatti could deny that, at least based on this

1 document, because it's not sent from Catherin Delligatti
2 to the campaign. It was sent from Shull to Catherine
3 Delligatti.

4 SEC. TENNANT: Okay, so --

5 MR. CARDI: I see the two things as
6 different.

7 SEC. TENNANT: So can you -- I don't have to -
8 - my motion wasn't quite finished. So would you like to
9 make that motion and finish out what you were saying,
10 Professor?

11 MR. CARDI: I mean --

12 MR. LEACH: I don't think he needs to.
13 Professor, I --

14 MR. CARDI: I'm in favor of your motion for
15 Shull for reasons I gave. We don't need to put the
16 reasons in here.

17 SEC. TENNANT: Okay. So that's my motion. Is
18 there a second?

19 MR. COLLIAS: I'll second.

20 SEC. TENNANT: It's been moved and seconded.
21 All in favor say aye.

22 MR. CARDI: Aye.

23 SEC. TENNANT: Aye.

24 MR. COLLIAS: This is a motion to deny the

1 objection?

2 SEC. TENNANT: Yes.

3 MR. LEACH: Yes, that's correct.

4 MR. COLLIAS: I vote no.

5 SEC. TENNANT: All opposed, no.

6 MR. COLLIAS: I vote no.

7 SEC. TENNANT: Okay. The motion carries.

8 MR. COLLIAS: I'm going to vote no on all of
9 these.

10 SEC. TENNANT: Okay.

11 MR. COLLIAS: I think the objection should be
12 sustained on all of them. I don't see any signatures on
13 any of them. I understood these documents the first
14 thirty seconds I looked at them. I understood what they
15 were.

16 SEC. TENNANT: And remember that there are
17 signatures on all of these now.

18 MR. COLLIAS: Yeah, I know that, yeah.

19 MR. CARDI: That's a different question.
20 We need to address that separately.

21 MR. COLLIAS: Now, let's just go through them
22 and vote, and vote on them. We don't need to write
23 opinions on these things. We just need to vote.

24 SEC. TENNANT: Correct. So --

1 MR. CARDI: But --

2 SEC. TENNANT: Go ahead, Professor.

3 MR. CARDI: But that means we can still

4 address whether these, for any we deny, we can reopen if

5 we want to say the problem has been cured by what was

6 delivered today or yesterday.

7 MR. LEACH: No.

8 MR. CARDI: When we want to talk about

9 that.

10 MR. COLLIAS: The problem isn't going to be

11 cured. I mean it doesn't cure the problem to get us

12 something tomorrow or next week or next year or

13 ~~yesterday. The problem is with the file when they were~~

14 made.

15 MR. LEACH: I don't think you could -- I

16 don't think you could after you voted to deny the

17 objection, I do not believe you could bring up another

18 reason to grant the objection. So you're done with

19 Shull.

20 MR. CARDI: Pardon?

21 MR. LEACH: So you're done with Shull.

22 MR. CARDI: We're done with Shull, because

23 we've approved it, right? We haven't denied it.

24 MR. LEACH: That's right. But any of them -

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MR. CARDI: We had a vote.

MR. LEACH: Yes, we had a vote. We had a motion, a second, a vote two to one that Shull contribution is sustained.

MR. CARDI: Okay.

MR. COLLIAS: No, no. The objection isn't sustained. It's the other way around.

SEC. TENNANT: The challenge is denied.

MR. LEACH: Yeah, I'm sorry.

MR. COLLIAS: Right. Right. The challenge is denied. Okay. What's the next person?

~~MR. LEACH: I thought he said the~~
contribution was sustained.

MR. COLLIAS: What's the next one?

SEC. TENNANT: The next one is Catherine Wilkes Delligatti. Do I have a motion?

MR. LEACH: If the Professor wants to bring in an additional issue, he'll have to frame his motion carefully.

MR. CARDI: Yes. Can -- I think that the document we have does not satisfy 3-12-9. The question we haven't discussed is, can the document they delivered yesterday rectify that. If it does rectify it, then

1 I'll vote to deny the objection. But if it can't
2 rectify it because it's late, then I guess I would
3 sustain the objection. But there's been no discussion
4 on that.

5 And I assume that's something that you people
6 have some experience with in the past. That is, there's
7 been a record that hasn't been sent but it was received
8 before the hearing, and they decided whether to let the
9 new received evidence cure the problem.

10 MR. LEACH: I don't know. The nearest
11 analogy I can think of is candidate filing. Missing
12 information on a candidate filing form. The deadline
13 approaches. You can refile or correct your filing as
14 long as it's before the deadline for filing.

15 SEC. TENNANT: But you can also amend it after
16 the deadline.

17 MR. CARDI: Is there some deadline that
18 we're talking about on these things?

19 SEC. TENNANT: The candidate filing? Wait a
20 minute. Oh, candidate filing. I'm thinking campaign
21 finance reports. Sorry, sorry. Yes, you're right,
22 you're right, candidate filing.

23 MR. NICHOLS: That would be a good example
24 for that.

1 SEC. TENNANT: That's where I thought you were
2 going. That's what I had in my head.

3 MR. NICHOLS: You can go back at some point
4 and correct.

5 MR. LEACH: That was the other analogy if
6 you didn't hear that, Professor. Campaign finance
7 reports are due on date A. But if you file by date A
8 and errors are discovered, you can amend and correct
9 those at any date, even years afterward after the fact.

10 But, you know, it seems to me like there has
11 to be an end point at some -- if we're going to allow
12 corrections of these receipts, there has to be some
13 stopping point.

14 MR. CARDI: Well, what's the argument that
15 these corrections that are submitted are not timely?

16 MR. LEACH: I think that argument would be
17 at the risk of speaking for the objectors. If there's a
18 deadline to submit a receipt, it is January -- well, not
19 to submit it, but to obtain a contribution, which is
20 January 30th, and the contribution must be accompanied
21 by a receipt. Accompanied by or acknowledged by a
22 receipt. I mean there's nothing in the Code that says
23 that it has to be the second that the contribution is
24 granted. It's just not clear, you know.

1 MR. NICHOLS: You do have to have it all in
2 by February 2nd.

3 MR. LEACH: Yes, but is a receipt without a
4 signature or a received valid on January the 31st? So
5 is the receipt complete until you get the signature?
6 Therefore, does the signature have to come in by January
7 30th? I do not. As a lawyer, I don't know that answer.
8 We're going to find out from some court opinion soon, I
9 expect, but we don't know the answer. Do you all have
10 anything you want to --

11 MR. CARDI: Gary, what's your feeling on
12 this question we're talking about now?

13 MR. COLLIAS: Me, you're asking me?

14 MR. CARDI: Yeah.

15 MR. COLLIAS: Well, I don't really need to
16 cross that ground because I don't think that any of
17 these meet the requirements of the Code because none of
18 them contain signatures. But I think the answer to the
19 question is, is that it can't be later corrected.

20 MR. CARDI: So that's the issue we're
21 talking about now.

22 MR. COLLIAS: Right. So if that's
23 determinate for you, then it seems to me that you should
24 vote to overrule the objections and let it count. But

1 for me, you know, I think the objection to all of these
2 should be sustained because there are not signatures, no
3 signatures. They don't comply with the code. They
4 might in modern times, but that's how I feel and I just
5 think we just need to vote on these and resolve them and
6 go on.

7 MR. CARDI: Gary, we've got a separate
8 issue. If what was submitted satisfies the Code, then
9 it doesn't make any difference about these late things.
10 If they didn't satisfy the Code, then the paper ones
11 delivered yesterday that actually have a signature,
12 question, does that somehow correct it? You said, no,
13 because it's late.

14 MR. COLLIAS: It's no on both counts.

15 MR. CARDI: Okay.

16 MR. COLLIAS: My opinion is it's no on both
17 counts.

18 MR. CARDI: Okay.

19 MR. COLLIAS: And what I'm saying is -- well,
20 we just need to vote on these and resolve these.

21 SEC. TENNANT: But what if the signature came
22 in before the challenge?

23 MR. COLLIAS: We've spent an hour and a half
24 stirring mud.

1 MR. LEACH: It didn't so we might address
2 that at another time.

3 MR. CARDI: Secretary Tennant, do you think
4 that the documents delivered yesterday correct the
5 defect? Because I think the next one there's a defect.
6 I didn't think that on the first one, but I think it on
7 this next one, that is Catherine Delligatti. I don't
8 think what we have satisfies it. Do you think that what
9 was delivered yesterday corrects it?

10 SEC. TENNANT: No.

11 MR. LEACH: Tomorrow there is no what if.
12 It's an actual issue.

13 SEC. TENNANT: That it came in before?

14 MR. LEACH: Yeah.

15 SEC. TENNANT: Got it.

16 MR. LEACH: Okay.

17 SEC. TENNANT: So, but why can't that be
18 addressed today? Like what --

19 MR. LEACH: It could be discussed.

20 SEC. TENNANT: Right.

21 MR. NICHOLS: We worry about precedent being
22 set today.

23 MS. SUMMITT: Right.

24 SEC. TENNANT: But, Gary, don't you have a

1 concern about -- what part of Code is that in?
2 Electronic, being electronic, obviously code is
3 conflicting here.

4 MS. CHARNOCK: A qualifying contribution --

5 MR. COLLIAS: Well, no, no --

6 SEC. TENNANT: It can be taken electronically.

7 Because what if she gave this in October 4th and then
8 signed the thing on October 25th?

9 MR. COLLIAS: No, because --

10 SEC. TENNANT: It would have no problem, but
11 he would still have a problem.

12 MR. COLLIAS: No, you can pay electronically
13 and still get a paper receipt submitted.

14 SEC. TENNANT: So you're saying, okay. Well,
15 that's what my concern is, is that if we say no that
16 there's no contribution electronically --

17 MR. COLLIAS: Well, no, a person can
18 contribute money electronically. It's just that when
19 the reports are made to the Secretary of State's office
20 there's got to be something that's signed.

21 MR. SHULL: And it's our --

22 SEC. TENNANT: It's the Benjamin campaign's
23 opinion that they --

24 MR. SHULL: The multi-digit transaction ID

1 number, which is the only, according to PayPal, the only
2 part of the email they send to us, which is a valid
3 identifier to authorize the transaction, that
4 transaction ID number was submitted to the Secretary of
5 State in a timely way.

6 SEC. TENNANT: So that, you said something
7 earlier when we started this that electronic
8 authorizations like this are being accepted in a court
9 of law?

10 MR. LEACH: There's an electronic signature
11 law that sets forth all the requirements and what the
12 legalities --

13 SEC. TENNANT: And so, Gary, you're not
14 satisfied with that, the electronic signature law?

15 MR. COLLIAS: No, because it's a different
16 question. We're not talking about generally speaking.

17 MS. SUMMITT: It's specifically addressed.

18 SEC. TENNANT: Addressed in 12-9, whatever it
19 is.

20 MR. COLLIAS: I mean I'm just taking it
21 literally. I think there needs to be a signature from
22 the contributor. And there's not a signature from the
23 contributor. Case closed. This whole subject wouldn't
24 have been a matter of one minute's discussion to me. I

1 mean it's just there's no ambiguity in it at all in my
2 view. Objections to all these should be sustained.

3 Maybe the legislature should change the law,
4 but the way it is, there's no signatures from the
5 contributors. I don't care if it came directly from Ann
6 Charnock. It doesn't make any difference to me. That's
7 why I think we ought to vote on it, but if you all
8 disagree with me, then --

9 SEC. TENNANT: No, I'm good with voting on it.
10 The next one is Catherine Delligatti, which Professor
11 has a question about. So I think that then he should
12 probably vote no on it also. I don't --

13 MR. LEACH: No on the objection.

14 MR. CARDI: I haven't been getting any
15 help. The state statute says if a statute requires
16 there be a signature, then that signature can be
17 electronic. That's what it says. And therefore, I
18 think a document from Catherine Delligatti that's not in
19 paper form, it's electronic, that means there's an
20 electronic signature. I don't see such a document here.

21 The only thing I see that has got an
22 electronic signature is something that was sent not from
23 the contributor, but by the collector. And that's why I
24 don't believe that that document satisfies the statute.

1 SEC. TENNANT: So, Professor, what's going to
2 happen here?

3 MR. CARDI: But the remaining question is
4 has it been corrected by this thing they delivered
5 yesterday.

6 SEC. TENNANT: Right. It's not being
7 corrected by it. Is that what he said? Okay.

8 MR. LEACH: No. He says the question is,
9 is it corrected.

10 SEC. TENNANT: But I don't think that's the
11 question before us now. This is where Gary is saying
12 vote up or down.

13 MR. CARDI: No, I disagree. We've got two
14 issues. If -- Gary and I both think that the Catherine
15 Delligatti document does not satisfy the statute. We
16 both think that. But if the documents delivered
17 yesterday do satisfy the statute, then we can uphold it.

18 MR. COLLIAS: And I think the answer to that
19 is no, it doesn't.

20 SEC. TENNANT: He's saying no, no, and I'm
21 saying yes. It doesn't matter.

22 MR. CARDI: That's what I want guidance on
23 from people who've been dealing with this stuff for
24 years. What do you do with these late documents? The

1 statute says what? You say it was written late so we've
2 got to deny it because it was sent late even though we
3 received a correction late but before the meeting.
4 That's your position, Gary.

5 MR. COLLIAS: Yeah. Yeah. No, I mean it's
6 simple. It's so straightforward it's like you would
7 explain it to a first grader. The papers have to be
8 filed on a certain day. The papers weren't adequate.
9 Therefore, the objection should be sustained.

10 MS. CHARNOCK: Can we talk about the practical
11 implication, which is you're going to, by this vote,
12 isn't this going to throw out every electronic
13 contribution?

14 MR. LEACH: It might, but the circumstances
15 might be different in those other contributions. Right
16 now we don't have a challenge before the SEC for
17 different contributions.

18 MS. CHARNOCK: I understand that there were
19 hundreds of electronic contributions made Saturday.

20 MR. LEACH: No, no. The ruling on these
21 six individuals does not control the hundreds. We don't
22 go and start throwing out contributions unless they are
23 challenged and the SEC says it doesn't qualify.

24 MR. SHULL: So today's ruling, the term

1 precedent setting makes my ears pop up a little bit,
2 because today's ruling could impact tomorrow's ruling.

3 MR. LEACH: The thinking and logic behind
4 today's ruling might impact tomorrow, but tomorrow is
5 probably going to be a different set of circumstances.
6 So there's no guarantee.

7 But even if there weren't any tomorrow, we
8 would not go and change them all based on this ruling.
9 This is not a ruling saying that all electronic filings
10 are improper. It's a ruling that yours is proper and
11 Delligatti's may or may not be. And that's as far as
12 we've gone in the analysis.

13 SEC. TENNANT: And that's only because the
14 Professor thinks that the transaction isn't enough.

15 MR. LEACH: Maybe it's time to call for the
16 question. We discussed it a long time.

17 SEC. TENNANT: To ask for a motion.

18 MR. LEACH: Yes.

19 SEC. TENNANT: That's what I asked them for.

20 All right. Do I have a motion on the floor? I move --
21 do I have a motion?

22 MS. SUMMITT: This is for Catherine only?

23 SEC. TENNANT: This is for Catherine

24 Delligatti. Do I have a motion on the floor? I'm going

1 to make it a motion and they can number two it or not, I
2 don't know. I move that we deny the objection to
3 Catherine Delligatti's contribution. Is there a second?
4 So without a second --

5 MR. COLLIAS: Well, in that case it fails for
6 lack of a second. I'll make a motion. My motion is
7 that we sustain the objection with regard to her. Do I
8 have a second?

9 MR. LEACH: We have to move the issue.
10 Somebody has to make a second. You don't have to vote
11 the same --

12 MR. COLLIAS: Vince, you've got to second one
13 of the two motions.

14 MR. LEACH: That's right. We can't leave
15 this hanging like we did last year or two years ago.

16 MS. SUMMITT: They're opposite.

17 MR. LEACH: The person who makes a second
18 doesn't have to vote the same way. Let's just get it on
19 the vote. Make a second.

20 MR. CARDI: Natalie, do you feel that
21 Delligatti is okay because of what they turned in
22 yesterday, that is was corrected by that?

23 SEC. TENNANT: No, that's not why I'm
24 accepting that. Because we're trying to keep that

1 separate, are we not? I am looking at it from the --

2 MR. CARDI: Except we were talking that
3 once we vote to deny, we cannot reopen it.

4 SEC. TENNANT: Unless you're on the prevailing
5 side, right?

6 MR. LEACH: I don't know. That's
7 Parliamentary Rules. I don't know if that applies here
8 or not.

9 MR. WILLIAMS: That would be different.

10 SEC. TENNANT: My only thing, Professor, your
11 concern is that this authorization or this
12 acknowledgement of the authorization came from the
13 receiver, but it still went to the contributor who was

14 Catherine Wilkes Delligatti. And she didn't counter
15 this and say hold the phone, I didn't do this. She
16 accepted it.

17 MR. CARDI: That's not enough to be a
18 signature on a receipt.

19 SEC. TENNANT: Okay. Even if she followed up
20 for a receipt no matter what time that receipt came?

21 MR. CARDI: I think we've got to receive a
22 receipt signed by the contributor and we haven't
23 received it for her.

24 SEC. TENNANT: Well, we did. We received it.

1 yesterday.

2 MR. CARDI: Yesterday.

3 SEC. TENNANT: Correct.

4 MR. CARDI: It's clear in my mind, at least
5 I'm comfortable with saying that this electronic
6 document we have in front of us does not satisfy the
7 Code. And if there's been nothing delivered yesterday,
8 that's an easy question for me now that I've thought it
9 through. But there's a separate question. Gee, was
10 that defect corrected by what was delivered yesterday.
11 Gary says no and you seem to say no. And if that's
12 true, then I'm ready to vote no on all this stuff.

13 SEC. TENNANT: No, don't --

14 MR. CARDI: If the two people with
15 experience say that, gee, a late submitted document
16 doesn't correct the lack of the earlier documents.

17 SEC. TENNANT: Well, here's, here's -- because
18 we've set precedent already. And here's why I would say
19 that it is acceptable. Because when we got the one
20 sheet where the copy was cut off the bottom and they
21 showed us the hard copy today, we all accepted it today.
22 Today, yesterday. Was it addressed, given us -- no, it
23 was given us today.

24 MR. SHULL: Correct, right.

1 SEC. TENNANT: So we accepted it today as a
2 fulfilled contribution list. So what's the difference
3 between that one and getting her signature yesterday?

4 MR. CARDI: Well, there's two differences.
5 One is we were satisfied that the receipt was executed
6 in a timely manner on the one that we talked about
7 earlier today. It's just there was a mistake in the
8 transmission of it.

9 SEC. TENNANT: Okay.

10 MR. CARDI: The one we're talking about
11 now, there was never any satisfactory signed receipt
12 sent to us.

13 SEC. TENNANT: But I'm not sure there was a
14 mistake.

15 MR. CARDI: It's not that their
16 reproduction was deficient. It's just that we never
17 received it.

18 SEC. TENNANT: I'm not sure there was a
19 mistake when receiving this information from Catherine
20 Delligatti.

21 MR. CARDI: It was copied wrong.

22 SEC. TENNANT: Yes, yes. No, no, I'm saying
23 that that was just a transaction -- well, that's not a
24 good way to use a transaction or --

1 MS. WILLIAMS: Clerical error.

2 MR. COLLIAS: If that's what you're talking
3 about, I don't think that's relevant to what we're
4 talking about now. Am I correct that both you and Gary
5 think that a late submitted receipt doesn't correct it?

6 SEC. TENNANT: No, I don't know what it's
7 going to do tomorrow, but I don't think so.

8 MR. CARDI: The defect. You don't have any
9 problem with it because you don't think there's a
10 defect. You think the original thing sent was timely.
11 Gary thinks it was -- Gary thinks it was not
12 sufficient. So if you both think that what we received
13 ~~today on Delligatti, or what we received yesterday on~~
14 Delligatti, can't correct the problem, then I go with
15 you on that and I'll sustain the objection, because I
16 don't think the original document satisfies this.

17 SEC. TENNANT: I think it can, but you all are
18 saying it can't.

19 MR. LEACH: The motion is, the motion is to
20 sustain the objection to the contribution.

21 SEC. TENNANT: It hasn't been seconded, so
22 didn't it die, too?

23 MR. LEACH: No, because we've been arguing
24 about it.

1 MR. COLLIAS: Do I have a second? Did you
2 second that motion, Vince?

3 MR. CARDI: No, there's no motion on the
4 floor. It has not been seconded.

5 MR. LEACH: There is a --

6 MR. COLLIAS: That's what we're trying to do
7 is get a second for my motion to sustain the objection.

8 MR. CARDI: That's right, and I'm trying to
9 get the opinion of the experienced people here as to
10 whether a late following satisfies 3-12-9, partly
11 because they could submit it within the next five days.
12 I don't know what all that means as far as these times
13 and qualifications and so forth. That's what I was
14 looking to you guys for.

15 But if you both think that what was submitted
16 yesterday would not correct the defect that existed on
17 the original submission, then I'll go ahead and vote to
18 sustain the objection. Because I don't think the
19 original document we have before us satisfies 3-12-9.
20 And if it's not corrected by the one submitted
21 yesterday, then let's reject it then.

22 MR. COLLIAS: Well, then, do you vote, Vince,
23 to second the motion or not?

24 MR. CARDI: I'm trying to get Natalie's

1 opinion here on whether she thinks that what was
2 submitted yesterday corrects the first one if there were
3 a defect in the first one.

4 SEC. TENNANT: Well, those are two separate --
5 this is where I'm with Gary. Let's address this.

6 MR. CARDI: What's your answer to the
7 second issue, the second question?

8 SEC. TENNANT: I don't know whether it
9 corrects it or not, but I know the example that I
10 showed, you all didn't accept as a correction.

11 MR. CARDI: I'm sorry. What? I didn't
12 understand what you said.

13 ~~SEC. TENNANT: Well, what I said was that the~~
14 example that I was using of being able to accept the
15 contribution after the copying problem, it was accepted.
16 And it was late. And it was today. But you all aren't
17 taking that as a reason.

18 MR. CARDI: Yeah, we think the receipt
19 submitted on that fellow satisfied the statute. It's
20 the receipt they actually signed. When they submitted
21 it, it was mistakably cut off in the copying. And we
22 thought that was de minimis and we were willing to say
23 that written receipt as submitted satisfies it. This is
24 something different. Because this one really wasn't

1 produced until recently, right? What was delivered
2 yesterday on Ms. Wilkes was not produced until recently?

3 MR. LEACH: That's correct.

4 SEC. TENNANT: I thought you guys said you
5 started getting, collecting the signatures. You did
6 this in October. You started hearing, we didn't, but
7 they corrected it early on.

8 MR. SHULL: Correct. And we obtained the
9 signature a significant amount of time after we did our
10 filings in the Secretary of State's Office on this
11 particular case and transmitted electronically to you
12 last night.

13 MR. LEACH: Last night. Again, the motion
14 is to sustain and we're looking for a second. We've
15 been discussing, but to sustain the objection if the
16 motion is transformed or changed into accepting or
17 denying the objection on the basis of Dr. or Professor
18 Cardi's arguments, that's a different matter. But
19 that's not the form of the motion at present and we're
20 still waiting to see if there's a second.

21 SEC. TENNANT: So we need a second to just
22 vote on this and discuss the other area later, right?

23 MR. LEACH: Well, you won't be discussing
24 on this case because you will vote it to sustain or

1 reject the objection.

2 SEC. TENNANT: And we don't know if we'll have
3 any other discussion on any of them.

4 MR. COLLIAS: I mean can I say something
5 here? It seems like everybody wants everybody to agree
6 with them. I mean it's like trying to get everyone to
7 agree on who the next President should be. It's never
8 going to happen. That's why we have what are called
9 votes and you vote and then based on the tally of the
10 vote the determination is made and that's where we need
11 to get. Because we're stopped because Vince wants
12 Natalie to say something and she doesn't want to say it.
13 ~~And I have my opinion and Vince has his and we're never~~
14 all going to agree. We need to vote and move on.

15 SEC. TENNANT: Well, yes, you're right about
16 that.

17 MR. CARDI: Make your motion again.

18 SEC. TENNANT: At the same time, then, you
19 have to understand that a vote does set precedent for
20 later on.

21 MR. COLLIAS: Well, fine. I mean, and later
22 on if we set a precedent, then that will have to be
23 dealt with.

24 SEC. TENNANT: And circumstances may be

1 different in another area. So you have made a motion,
2 so we're going to vote up or down on this. So I will
3 second your motion, even though I'm going to vote
4 against it. Just so we can be up or down.

5 MR. COLLIAS: So the motion is to sustain the
6 objection on this Delligatti lady, okay? All in favor
7 vote aye.

8 SEC. TENNANT: That's what I get to do. I'm
9 the Chair now. You gave it over to me. All in favor
10 vote aye.

11 MR. COLLIAS: Aye. That's two ayes.

12 SEC. TENNANT: No, no, no. I only hear one
13 aye.

14 MR. LEACH: He voted twice.

15 SEC. TENNANT: So Gary votes aye. Any other
16 ayes? Vince did you vote aye?

17 MR. CARDI: Yeah.

18 SEC. TENNANT: Okay. All against vote no.
19 Natalie votes no. Motion passes. Next we're going to
20 move on to Mary Harrington. Do I have a motion? I move
21 that we deny the objection to this contribution. Is
22 there a second? It can't be. We can't die it.

23 MR. COLLIAS: Let me make a motion, then,
24 Natalie. Let me turn it around and make a motion.

1 SEC. TENNANT: Well, you could second my
2 motion as I seconded yours.

3 MR. COLLIAS: But I don't support your
4 motions.

5 SEC. TENNANT: Well, I didn't support yours
6 either.

7 MR. COLLIAS: I know. Let me make a motion
8 that with regarding this next person. What did you say
9 the name was?

10 SEC. TENNANT: Mary Harrington, which is
11 similar, Professor Cardi, to Darrell Shull.

12 MR. COLLIAS: I make a motion that the
13 objection be sustained. Do I get a second?

14 SEC. TENNANT: There's been a motion. Is
15 there a second?

16 MR. CARDI: Okay. I'll second, but I'll
17 need to discuss it.

18 SEC. TENNANT: Is there discussion? Yeah,
19 these are the other ones, Professor. These are part of
20 the six and the Delligatti one was the one in question.

21 MR. CARDI: I understand, but what we have
22 here is a document sent from PayPal. Is that right?

23 SEC. TENNANT: Web accept payment, is that
24 PayPal?

1 MR. CARDI: What is this document?

2 MR. SHULL: This is the notification from
3 PayPal containing the transaction ID number for Mary
4 Harrington. In this particular case, this was
5 downloaded from their website not at the time of the
6 email was sent to us. Because the email bounced back
7 for some reason. But we downloaded this from their
8 website directly from PayPal.

9 MR. CARDI: Okay. Mr. Shull, this document
10 satisfies 3-12-9(b). How, where is the signature of the
11 contributor here?

12 SEC. TENNANT: Darrell, up top is the
13 transaction number.

14 MR. SHULL: The transaction ID number is
15 contained in this document and we believe the
16 transaction ID number, according to our agreement with
17 PayPal, is the unique identifier that authorizes the --

18 SEC. TENNANT: Because remember this came --
19 your concern, Professor, was this one came from PayPal
20 and not the receiver.

21 MR. CARDI: I understand, yeah. Yeah.
22 It's coming back to me now. And so is this signed by
23 Mary Harrington? And I'm not persuaded at this point
24 that it is. And so I'm ready to vote, unless there's

1 anything else any interested parties want to say.

2 SEC. TENNANT: Anything else interested --

3 MS. CHARNOCK: We've made the argument these
4 two statutes aren't compatible. You can't do a credit
5 card transaction and get a signed receipt right then and
6 there, and so we would just ask that this be allowed.

7 SEC. TENNANT: And because we have allowed.
8 Are we keeping track of the ones we've allowed? Who is
9 doing that, Missy?

10 MS. SUMMITT: I think everybody is.

11 SEC. TENNANT: Okay. Because this one was,
12 this one was accepted.

13 MR. LEACH: Can I have the ones we've
14 already ruled on?

15 SEC. TENNANT: These two right here.

16 MR. LEACH: Thank you.

17 SEC. TENNANT: Okay.

18 MR. CARDI: At most I think this is a
19 signature on a check signed by Mary Harrington. And I
20 don't think that would satisfy the written receipt. And
21 so that's my opinion at this time.

22 SEC. TENNANT: So it's been moved and seconded
23 to sustain this objection. All in favor vote aye.

24 MR. COLLIAS: Aye.

1 MR. CARDI: Aye.

2 SEC. TENNANT: All opposed vote no. No.

3 Motion carries. We have Eric Bell. Similar situation,
4 contribution made. Walker, Benjamin, any comments? Is
5 there a motion?

6 MR. COLLIAS: Which one is this?

7 SEC. TENNANT: Eric Bell.

8 MR. CARDI: Is this in this --

9 SEC. TENNANT: Yes, and it does not have a
10 separate sheet. It only has the transaction number
11 identification on it. And a signature -- wait a minute,
12 no. And a signature.

13 ~~MR. REIDY: Excuse me. Can I see that?~~

14 MR. CARDI: I'm sorry. So after Mary
15 Harrington, I've got Kenneth Reed.

16 SEC. TENNANT: I'm sorry. I could be out of
17 order. Do you want to go Kenneth Reed, then?

18 MR. REIDY: When was this one?

19 MR. SHULL: Last night.

20 MR. REIDY: So this was not what that
21 complaint, does not refer to this document?

22 SEC. TENNANT: I think it does. There's the
23 complaint.

24 MR. REIDY: Not that. Not that form. That

1 form only came in last night.

2 SEC. TENNANT: I see what you mean. I see
3 what you mean. Okay. But the complaint is still
4 standing for those reasons.

5 MR. REIDY: Yes, ma'am.

6 SEC. TENNANT: All right. We're going to talk
7 Kenneth Reed now. Is there a motion on the floor? And
8 you see PayPal has the receipt given to Ken Reed. Do I
9 have a motion?

10 MR. COLLIAS: I move that the objection be
11 sustained.

12 MR. CARDI: I need to read through this.

13 ~~PayPal. Hello, Committee. You received a hundred~~
14 dollars from Ken Reed. So this could be the bank
15 telling --

16 SEC. TENNANT: Well, if you look clear up at
17 the top, Professor, where it says Ken Reed. He's a
18 member of PayPal and it came from him to Darrell Shull.

19 MR. CARDI: I see. From Ken Reed via
20 PayPal. This is different than Mary Harrington,
21 correct, in some ways?

22 SEC. TENNANT: Probably for you because it is
23 satisfying you that it is initiated from Ken Reed. So
24 that's where you would see the difference. Not to speak

1 or think for you, but --

2 MR. CARDI: Yeah, you've got to think it's

3 the same, but --

4 SEC. TENNANT: Yeah, but I see where you see

5 it's different because it came from Ken Reed, so it is a

6 little different.

7 MR. LEACH: Have you reviewed it,

8 Professor?

9 MR. CARDI: I'm doing it here. I'm

10 thinking.

11 MR. LEACH: I didn't mean to rush you.

12 Sorry.

13 MR. CARDI: Of course you meant to rush me.

14 That's okay. I don't mind that. I don't mind being

15 rushed. I'm ready to vote on this. Do we have a

16 motion?

17 MR. LEACH: Gary, do you want to make a

18 motion?

19 MR. COLLIAS: Yeah. I move that the

20 objection be sustained to this one.

21 MR. LEACH: Gary's moved to sustain the

22 objection for this one. No second yet.

23 MR. CARDI: I'll second it.

24 SEC. TENNANT: It's been moved and seconded.

1 All in favor vote aye.

2 MR. COLLIAS: Aye.

3 MR. CARDI: Aye.

4 SEC. TENNANT: All opposed vote no. No. That
5 was the Ken Reed question. Now can we go -- is Eric
6 Bell next? Yes.

7 MR. CARDI: What packet is this?

8 MR. LEACH: This is still in electronic and
9 not form.

10 MR. CARDI: whose name is on the front of
11 it?

12 SEC. TENNANT: Darrell Shull was on the front
13 of that one I believe, right?

14 MR. LEACH: I think that's right. So we've
15 ruled on four. We have two to go in this packet.

16 SEC. TENNANT: Correct, so Eric Bell --

17 MR. COLLIAS: Yeah, Harrington, Reed. Yeah,
18 I get that, too.

19 SEC. TENNANT: Is there a motion? Oh, you
20 have a question?

21 MR. REIDY: Yeah, that came in yesterday.

22 SEC. TENNANT: The receipt came in yesterday.

23 MR. SHULL: It came in the same as the
24 other ones.

1 MR. LEACH: It's the same issue.

2 SEC. TENNANT: We just don't have the separate
3 piece of paper that has the transaction number on it.

4 MR. REIDY: The receipt was not what the
5 challenge was based on. It was based on --

6 SEC. TENNANT: What was it based on?

7 MR. LEACH: Joe's talking about it.

8 MR. COLLIAS: We have no other piece of paper
9 to look at, though.

10 MR. LEACH: You just have a cover sheet and
11 that's all?

12 SEC. TENNANT: Correct.

13 MR. LEACH: All right.

14 SEC. TENNANT: What did you base it off of,
15 then? What did you base this challenge off of?

16 MR. REIDY: Well, I don't know. I would
17 say that there was a receipt and, if not, there's no
18 receipt.

19 MR. SHULL: Ken Reed paperwork was
20 submitted the same as the other paperwork was submitted.

21 SEC. TENNANT: We're missing an Eric Bell.

22 MR. LEACH: We need the PayPal statement or
23 whatever it is. Can we move on to a different one?

24 SEC. TENNANT: Sure. The next one is Jane

1 Charnock. Electronic contributions. This is in a
2 different form, though, because it comes from her bank
3 account.

4 MR. SHULL: And a signed receipt from Jane
5 Charnock was transmitted to you on Monday. It should be
6 in your records. So that one did not come in yesterday.
7 It came in on the first.

8 SEC. TENNANT: So it came in before any
9 challenge.

10 MR. LEACH: Yeah. The other ones came in
11 February 2.

12 SEC. TENNANT: So this one is different
13 because her receipt came in before the challenge,

14 MR. CARDI: What packet are we talking
15 about?

16 SEC. TENNANT: The same packet with Darrell
17 Shull on the front. Jane Charnock is the last one, so
18 it should be like page twelve or thirteen. Go ahead,
19 Joe. This is the Walker campaign.

20 MR. REIDY: If that receipt was changed on
21 Monday at 4:50, then those were picked up on Tuesday
22 morning. And all those should be based off --

23 SEC. TENNANT: Of Tuesday morning?

24 MR. REIDY: Yes, ma'am.

1 MR. LEACH: What are you saying, that you
2 mean you think you have it covered tomorrow?

3 MR. REIDY: No, what I'm saying --

4 SEC. TENNANT: No, no, this is today.

5 MR. REIDY: What I'm saying is that the
6 receipts that came on Monday came in right before close
7 of business. They were not picked up until Tuesday
8 morning.

9 MR. LEACH: Right. And you filed your
10 objections.

11 SEC. TENNANT: Tuesday evening, Tuesday what
12 time?

13 MS. SUMMITT: Tuesday at like four o'clock.
14 What's your point?

15 SEC. TENNANT: You're just basing it on
16 electronic, anyway, probably straight electronic.

17 MR. REIDY: It was based on electronic.

18 SEC. TENNANT: Yeah. But based on electronic
19 without -- I don't know. I mean you could have known
20 the receipt was there. But we know that's not for us to
21 decide. We just know there's a challenge here based on
22 the electronic.

23 The electronic reads did not comply with the
24 requirements, so we know that we received this receipt

1 on February 1st. So that would be, whether it was
2 electronic or not, that would make this claim null and
3 void, because it was received before the complaint.

4 MR. LEACH: No, I didn't say it had to be
5 received before the complaint. It said it may be argued
6 that it has to be received by the close of, it has to be
7 obtained by the close of the contribution period, which
8 would be January 30th. I don't know what the answer is,
9 but that's an argument.

10 But nevertheless, the complaint that we have
11 before us is that it doesn't comply. Not that it -- the
12 complaint is not that the attempt to correct fails. The
13 ~~complaint is that the document you have in your hand~~
14 does not comply for having a written signature. There's
15 no complaint about this.

16 SEC. TENNANT: I go back to, I mean I've
17 stayed consistent. I go back to my point of what we did
18 earlier with the copy. The copying question was
19 corrected today. I still stay consistent that we
20 received, whether it's Catherine Wilkes, whether it's
21 Jane Charnock's, we still received it now. And there
22 is, I mean so it doesn't -- then why are we worried
23 about whether we received something before the
24 challenge?

1 MR. LEACH: I didn't know we were, ma'am.
2 I didn't understand you're expressing that.

3 SEC. TENNANT: Okay. Do I have anymore
4 comments?

5 MR. REIDY: I'm going to go back to keeping
6 my mouth shut.

7 SEC. TENNANT: Oh, come on. I like when
8 you're talking. How about the Benjamin Campaign?

9 MR. SHULL: Just that this one is different
10 than the others you've already decided, and that Jane
11 Charnock's receipt was received by the campaign and
12 transmitted to you on Monday, not Tuesday.

13 SEC. TENNANT: Is there a motion on the floor?
14 Do I hear a motion?

15 MR. CARDI: I looked through all these
16 emails. I can't find this. So I --

17 SEC. TENNANT: This is the same one that we
18 had with the Mary Harrington and the Catherine
19 Delligatti. If you just scroll down a little bit more,
20 correct?

21 MR. LEACH: It should be in the last, the
22 last one in that packet.

23 SEC. TENNANT: The last one in that packet.

24 MR. CARDI: The last one I have here is

1 Reed, unless I'm wrong here.

2 SEC. TENNANT: You could be. You could be
3 correct.

4 MR. LEACH: Reed, Harrington, Shull --

5 MR. WILLIAMS: How many pages is that
6 document, Professor?

7 MR. CARDI: Well, the one I printed out is
8 one, two, three, four, five, six, seven, eight, nine,
9 ten, eleven, twelve, thirteen, fourteen, sixteen.

10 MR. LEACH: Sixteen.

11 MR. CARDI: And what I've -- I've just been
12 scrolling through the computer here going through them
13 again, and it seems to also end with Reed. David, which
14 of these emails are we looking at? Which was it
15 attached to? I'll look at it again.

16 MR. WILLIAMS: It's in the packet, it's in
17 the same one that Ken Reed and the title should be
18 electronic and not form. That should be in that PDF.

19 MR. CARDI: Was it packet one, two, three,
20 four, five, six?

21 MR. WILLIAMS: No, it was a separate one that
22 was electronic and not form, should be the title.

23 MR. CARDI: I see it. Okay.

24 MR. WILLIAMS: Okay. It will be in that

1 packet.

2 MR. CARDI: Now, let me go through it.

3 MR. WILLIAMS: Okay.

4 MR. CARDI: This one starts with Ken Reed.

5 MR. WILLIAMS: Okay.

6 MR. CARDI: Well, I should be able to find
7 it now, I suppose.

8 MR. WILLIAMS: Yeah.

9 MR. CARDI: No, this one, this ends with
10 Ken Reed.

11 SEC. TENNANT: Maybe we sent two -- I don't
12 know. I haven't looked at my stuff that he sent.

13 MR. LEACH: Okay. Do you want to try to
14 send him another one?

15 MR. CARDI: What's different about this
16 one?

17 SEC. TENNANT: Jane Charnock is.

18 MR. LEACH: The difference is the
19 correcting attempt came in one day earlier than the
20 other correcting attempts. The transmission of the
21 signature came in Monday instead of Tuesday. That's the
22 difference.

23 MR. CARDI: Why does that make a
24 difference? It's not timely, right, still? Or is

1 Monday timely?

2 MR. LEACH: It's an open question, so far
3 as I can tell, Professor. The final reports don't have
4 to be filed until two business days after the close of
5 the deadline, which would be February 2nd, Tuesday. So
6 it may not be in any different status than all the other
7 ones.

8 MR. CARDI: Harrington was corrected in a
9 timely manner?

10 SEC. TENNANT: Charnock, Jane Charnock.

11 MR. LEACH: All of them have been corrected
12 by February 2nd.

13 MR. CARDI: ~~So why can't the corrections be~~
14 corrections if they're not late?

15 MR. LEACH: Because that wasn't the motion.

16 MR. CARDI: They weren't in the original
17 one, but they were on time.

18 MR. LEACH: Well, that wasn't the motion.
19 The motion was just to sustain the objection to the
20 contribution. And --

21 MR. CARDI: Yes, but to get all the
22 information and the opinion on whether a correction made
23 a difference, Gary said no, it's late and you can't do
24 it. If you've got to meet the date, you've got to meet

1 the date. If it's past that date, then it can't be.
2 And the somehow I missed the fact that it wasn't with
3 the original, but it was timely as far as meeting the
4 date or am I wrong? Or because these were not January
5 contributions, it had to be in February, they were like
6 December and November?

7 MR. LEACH: Well, I think the contributions
8 were early, right?

9 MR. SHULL: The contributions were October.

10 MR. LEACH: In October, so they should have
11 been filed November 1st, barring some unusual --

12 MR. CARDI: Okay. So the fact that they
13 were submitted on February 1st or 2nd or 3rd makes no
14 difference, because none of those dates are timely. Is
15 that correct?

16 MR. LEACH: I don't know what's correct,
17 sir. That's certainly a plausible interpretation.

18 MR. CARDI: Okay. That's what Gary went
19 with and that's what I went with. Okay. So is there
20 any reason that this should be treated differently than
21 Harrington, other than one was a day early?

22 MR. LEACH: Not that I'm aware of. That's
23 the only difference, is it came in a day earlier.

24 MR. CARDI: Okay.

1 MS. CHARNOCK: But it's different in that it
2 was an electronic check.

3 MR. CARDI: I think I've heard enough
4 without finding it.

5 SEC. TENNANT: That's the difference here. It
6 was an electronic check.

7 MR. LEACH: I'm sorry. I didn't have the
8 document in front of me. There is another difference.

9 SEC. TENNANT: This one is a check. The
10 Charnock is a check from United Bank, check number 9016,
11 as a matter of fact.

12 MR. CARDI: Okay. And we would hold, I
13 ~~suppose, that a check does not satisfy the 3-12-9~~
14 written receipt, I assume, and therefore this shouldn't
15 make a difference.

16 SEC. TENNANT: Even with her, I mean my, you
17 know, I obviously accept the electronic form. I don't
18 know if the fact that hard copy of their signatures in
19 addition to the electronic form makes a difference for
20 you all.

21 MR. CARDI: Does the electronic form --
22 where is this electronic form on Charnock say?

23 SEC. TENNANT: It says --

24 MR. CARDI: Is it from PayPal to the

1 campaign?

2 SEC. TENNANT: It says, Thank you. The
3 committee to reelect Justice Brent Benjamin has received
4 your contribution. Your receipt is below. Received one
5 hundred dollars, 10/4/15, Jane G. Charnock, her address,
6 her phone number, she's a lawyer, the contribution will
7 be assist in obtaining public financing, this
8 contribution is made without coercion and you have not
9 been reimbursed or promised anything of value for making
10 this contribution. Received and signed electronically,
11 transaction, United Bank number 9016, received by, and
12 Darrell Shull is the receiver on behalf of the committee
13 to reelect Justice Brent Benjamin.

14 MR. CARDI: Okay. A receipt signed by the
15 collector accompanying a check signed by the
16 contributor. Does that satisfy 3-12-9? I don't think
17 so.

18 SEC. TENNANT: Does it satisfy you that the
19 receipt, that her signature has been presented?

20 MR. LEACH: Late.

21 SEC. TENNANT: You're saying late.

22 MR. CARDI: No, that's like the bank saying
23 you signed a check. The contributor signed the check.

24 SEC. TENNANT: Well, I mean had she got it in

1 January 30th at 4:52 PM, then it would have been
2 correct.

3 MR. LEACH: I can't say that.

4 SEC. TENNANT: You're saying it was October.

5 MR. LEACH: When I say late, I don't mean
6 that I'm ruling that it's late --

7 SEC. TENNANT: No, no, no.

8 MR. LEACH: -- and not acceptable. I'm
9 saying it came in after the fact, would be a better way
10 to say it.

11 SEC. TENNANT: After the fact of --

12 MR. LEACH: After the filing of the notice
13 of the contribution --

14 MS. SUMMITT: Qualifications.

15 MR. LEACH: Then the signature tried to
16 catch up with the filing of their contribution. That's
17 all I'm saying.

18 MR. CARDI: Okay. When was this
19 contribution made?

20 MR. LEACH: October 4th.

21 MR. CARDI: Okay. And these checks and so
22 forth were submitted Monday of this week?

23 MR. LEACH: Well, the notice of the
24 electronic transfer was filed with the October reports.

1 MR. CARDI: Okay. And then --

2 MR. LEACH: But the signature element was

3 added February 1.

4 MR. CARDI: Okay. Yeah, it sounds to me

5 like it's not timely. I mean it's not only not timely,

6 it's just not a receipt, I guess, in my reading of it.

7 SEC. TENNANT: No, it's a receipt, but it's --

8 MR. LEACH: Did we get a motion or are we

9 just --

10 SEC. TENNANT: We don't have a motion. Is

11 there a motion?

12 MR. CARDI: Well, I'll move that we sustain

13 ~~the objection on the grounds that it doesn't satisfy the~~

14 ~~written receipt acknowledgement.~~

15 MR. COLLIAS: I'll second the motion.

16 SEC. TENNANT: It's been moved and seconded.

17 No discussion. We've discussed. All in favor say aye.

18 MR. COLLIAS: Aye.

19 MR. CARDI: Aye.

20 SEC. TENNANT: All opposed say no. No.

21 Motion carries. Now, let's go back to Eric Bell. We do

22 have the PayPal receipt from Eric Bell that they

23 received money from him as a qualifying contribution.

24 Any discussion? Same discussion. Do I hear a motion?

1 MR. CARDI: Again I don't have that
2 document.

3 SEC. TENNANT: It's the same as Ken Reed's. I
4 do have the document. You do not, unless it came in
5 with your stuff. I just didn't have my hard copy. It's
6 similar to Ken Reed's. Is there a motion?

7 MR. COLLIAS: I move we sustain the
8 objection.

9 SEC. TENNANT: Do I have a second to that
10 motion?

11 MR. CARDI: We denied Ken Reed's, right --
12 or, excuse me, we sustained the objection on Ken Reed?

13 MR. LEACH: Right.

14 SEC. TENNANT: Yes.

15 MR. CARDI: Okay. I'll second it.

16 SEC. TENNANT: It's been moved and seconded
17 All in favor say aye.

18 MR. COLLIAS: Aye.

19 MR. CARDI: Aye.

20 SEC. TENNANT: All opposed say no. No.
21 Motion carries.

22 MR. LEACH: There's one left.

23 SEC. TENNANT: We have one left. What did you
24 do with it? Somebody's got it here. Do you have it?

1 Okay. This is the one left. This is Robin Capehart.

2 MR. LEACH: This was in the package of
3 fourteen. Voter's registration number five and we had
4 to pull it out because we realized that there was a
5 challenge in addition to there not being a registered
6 voter to the electronic contribution arguments, which we
7 hadn't explained at that time.

8 So now that you're cognizant of them, I'll let
9 the Secretary -- so we have three issues. Not on an SEC
10 form, electronic contributions not allowed because
11 there's no signature, and not a voter -- address of the
12 registered voter does not match the address provided.
13 That's the three objections to this one.

14 SEC. TENNANT: So we do have a voter
15 registration for him. And so then the question is under
16 the electronic form, then. Do I have a motion? Any
17 questions, any comments?

18 MR. REIDY: May I see that?

19 SEC. TENNANT: Sure.

20 MS. CHARNOCK: The same comment as always.

21 MR. LEACH: What is the format of the
22 electronic transmission?

23 SEC. TENNANT: Oh, good question.

24 MR. LEACH: Is it a bank draft of a PayPal

1 or what, because they don't have these.

2 SEC. TENNANT: The form is like the one for
3 Mary Harrington. It has the unique transaction
4 identification of payment received and it's just like
5 that one, qualifying contribution. Is there a motion on
6 the floor?

7 MR. CARDI: So this sounds to me like it's
8 Mary Harrington?

9 SEC. TENNANT: Yes, sir.

10 MR. CARDI: I don't have the document.

11 MR. LEACH: You probably have it,
12 Professor, but it's buried way back in -- it's in
13 ~~voter's registration five and it's either the next to~~
14 last or the last of those fourteen records. The voter's
15 name is Robin Capehart.

16 MR. CARDI: Oh, okay, I'm sorry. What
17 happened to Eric Bell? I'll find Robin again. I have
18 Robin here.

19 MR. LEACH: We voted on Bell.

20 SEC. TENNANT: We voted on Bell. It looked
21 exactly like Ken Reed's.

22 MR. CARDI: I apologize.

23 SEC. TENNANT: That's okay.

24 MR. CARDI: Okay. I've got Robin here and

1 the objection is that this web accept payment doesn't
2 qualify as a 3-12-9 receipt. Is that right?

3 MR. LEACH: That's one of the three
4 objections. The first objection is it's not on an SEC
5 form, which we discussed much earlier this morning. The
6 second objection is the address doesn't match that of a
7 registered voter. And we've confirmed that he is a
8 registered voter.

9 MR. CARDI: Right. There's no problem.

10 MR. LEACH: So the third one is the
11 problem.

12 MR. CARDI: Yeah. He failed to meet the
13 regs. Okay.

14 MR. LEACH: Yes, that's the issue.

15 MR. CARDI: Okay. Thanks.

16 MR. LEACH: Have a motion?

17 SEC. TENNANT: Is there a motion on the floor?

18 MR. COLLIAS: I move we sustain the
19 objection.

20 MR. CARDI: This is sent by who? Who sent
21 this?

22 SEC. TENNANT: PayPal, the same as Mary
23 Harrington's, if you remember. If that's the question
24 you're asking.

1 MR. CARDI: So this is, campaign, Robin
2 Capehart, authorized us to give you money and we're
3 crediting you with this money. That's what it says? Is
4 this correct?

5 SEC. TENNANT: Web accept payment received,
6 yes, sent to info --

7 MR. CARDI: So it's PayPal or something
8 like it?

9 SEC. TENNANT: Yes.

10 MR. CARDI: Sending the campaign a message
11 that --

12 SEC. TENNANT: Correct.

13 MR. CARDI: -- Capehart authorized us to
14 credit your account?

15 SEC. TENNANT: Correct.

16 MR. CARDI: And we're doing it?

17 SEC. TENNANT: Correct.

18 MR. CARDI: Okay. That seems like the
19 others. Do we have a motion?

20 SEC. TENNANT: We have another question from
21 the Walker campaign.

22 MR. REIDY: Did the addresses match? I'm
23 sorry.

24 SEC. TENNANT: The question was --

1 MR. LEACH: The challenge was the address
2 did not match.
3 SEC. TENNANT: Did not match the registered
4 voter, but he has a valid voter registration.
5 MR. REIDY: With a different address?
6 SEC. TENNANT: Yeah. The address could have
7 been -- this was the question.
8 MR. REIDY: And no signature?
9 SEC. TENNANT: He does have a signature.
10 MR. REIDY: But no signature --
11 SEC. TENNANT: No signature on the
12 contribution.
13 MR. LEACH: Nothing to compare. We have a
14 motion to sustain the objection.
15 SEC. TENNANT: Yes, is there a second?
16 MR. CARDI: Second.
17 SEC. TENNANT: It's been moved and seconded.
18 All in favor say aye.
19 MR. COLLIAS: Aye.
20 MR. CARDI: Aye.
21 SEC. TENNANT: All opposed say no. No.
22 Motion carries.
23 MR. LEACH: Okay. That concludes the
24 subject matter of the meeting today. I do have some

1 matters to take care of. We have received more
2 objections and we have to meet tomorrow to deal with
3 those.

4 SEC. TENNANT: We received them not to the
5 Benjamin campaign, but to the Wooton campaign?

6 MR. LEACH: No, these are all to the
7 Benjamin Campaign.

8 SEC. TENNANT: Okay. The Benjamin campaign
9 has received more.

10 MR. LEACH: Three hundred and sixty-five
11 new and additional objections, so we need to set aside
12 some time to go through three hundred and sixty-five
13 objections to contributions.

14 MR. COLLIAS: These objections were made by
15 who?

16 SEC. TENNANT: By the Beth Walker campaign
17 against Brent Benjamin. But do we not have in addition
18 Walker --

19 MR. LEACH: No.

20 SEC. TENNANT: She didn't challenge Wooton?

21 MR. LEACH: No. We've got a matter we've
22 got to take up, but I just wanted to let people know
23 about this.

24 SEC. TENNANT: So we know we have three

1 hundred sixty-five more to go from the Walker campaign.

2 MR. COLLIAS: Are many of these objections
3 exactly the same?

4 MR. LEACH: Gary, I haven't seen them, but
5 I think -- I don't know.

6 SEC. TENNANT: What we'll do tonight here in
7 the Secretary of State's office is work to separate them
8 as you all received yesterday, today, sometime --

9 MR. LEACH: This morning.

10 SEC. TENNANT: -- this morning. So we have to
11 do the same thing, but times two, two and a half, one
12 fifty-five. That's one and a half percent, or 1.5 times
13 more.

14 MS. SUMMITT: And three sixty-five.

15 MR. LEACH: At least you all will be
16 familiar with the issues tomorrow.

17 SEC. TENNANT: Did you have a question, Joe?

18 MR. REIDY: Yes. I believe that there were
19 in the cover letters, were a couple of issues --

20 MR. LEACH: Yeah, I'm going to bring that
21 up.

22 MR. REIDY: -- addressing specific
23 contributions.

24 SEC. TENNANT: Okay. So broad issues. Can we

1 go and before this meeting we will adjourn this meeting
2 and we will address how many have been accepted and how
3 many not accepted from this meeting from the one fifty-
4 five today?

5 MR. LEACH: I've got a list. I mean I
6 don't understand.

7 SEC. TENNANT: Do you see what I mean. Like
8 we approved eighty-six this morning plus thirty-eight
9 and twelve and twenty-six, no, no, no, plus thirty-
10 eight. Do you see what I mean?

11 MS. CHARNOCK: I think you're at one thirty-
12 one.

13 ~~SEC. TENNANT: I'm asking of the one fifty-~~
14 five, how many did we approve and how many did we not
15 approve?

16 MR. NICHOLS: We can get a total together.

17 SEC. TENNANT: Do you all need to know that
18 tonight?

19 MS. CHARNOCK: Absolutely.

20 MR. LEACH: You haven't been keeping track?

21 MS. CHARNOCK: I just told you what I thought
22 my number was.

23 SEC. TENNANT: One thirty-one.

24 MR. NICHOLS: We'll get that this evening.

1 That's something we can come across fairly easy this
2 evening. I don't know if we have that.

3 MR. LEACH: With three hundred and sixty
4 more.

5 SEC. TENNANT: Okay. Well, I mean I don't
6 know how many over they had. How many did you submit?

7 MR. LEACH: Oh, they had fifty or sixty
8 over.

9 SEC. TENNANT: So basically you're being
10 challenged on all your contributions. Is that correct,
11 Joe? You're challenging all their -- well, one fifty-
12 five plus three sixty-five is --

13 MR. LEACH: Five hundred and twenty.

14 SEC. TENNANT: Is it really? You're
15 challenging them all?

16 MR. WILLIAMS: It's a long night.

17 MR. LEACH: Okay. There's another issue
18 for the Commission's --

19 SEC. TENNANT: Hang on a minute. He still has
20 a question about --

21 MR. LEACH: No, he's trying to get to this
22 one.

23 MR. REIDY: No, I was going to say I don't
24 know if this is appropriate here, but has anything else

1 been received today?

2 SEC. TENNANT: Other than the three hundred
3 sixty-five? That wasn't enough for you?

4 MR. REIDY: From either campaigns trying to
5 receive public financing.

6 MR. LEACH: Yes, we have contributions --
7 or we have certification requests from both candidates.

8 SEC. TENNANT: Does that answer your question?

9 MR. REIDY: Yeah, I would like copies.

10 MR. LEACH: That's going to trigger a
11 meeting within three working days of today of the SEC.
12 But if I may advance this argument, in addition to the
13 ~~particular and individually itemized objections, the~~
14 Walker campaign has filed letters, raising what I would
15 call general objections without specifying particular
16 and specific contributions, and has argued that receipts
17 that do not include the signature of the person who
18 collected the contribution, and the signature of the
19 contributor as required by three -- by code, there's a
20 miss-cite there. You all know the code, we talked about
21 it all day.

22 Contributions made by persons who were non-
23 registered voters and receipts that are not on required
24 SEC form is challenged. So they're attempting to

1 challenge without identifying which particular
2 contributions. They're challenging, the Walker campaign
3 wants there to be an SEC hearing to address these
4 challenges. The statute, if I may be so bold, the
5 statute is West Virginia Code 3-12-10 paragraph G as in
6 gravy. And I read it to you at the start of the meeting
7 today.

8 "Any person may challenge the validity of any
9 contribution listed by a participating candidate by
10 filling a written challenge with the State Election
11 Commission setting forth any reason why the contribution
12 should not be accepted as a qualifying contribution. If
13 a contribution is challenged under this sub-section, the
14 State Election Commission shall decide the validity of
15 the challenge."

16 My reading of that is that a general challenge
17 to all contributions is not contemplated by the Code,
18 but they have to specify which contributions they are
19 challenging and the reasons as they have today a hundred
20 and fifty-five times, and presumably have for tomorrow
21 three hundred sixty-five more times. They have to file
22 a specific challenge to a specific contribution. We
23 have none filed of a specific nature for the Wooton
24 campaign. I told the campaign I would raise their issue

1 in their letter.

2 SEC. TENNANT: Which campaign, the Walker
3 campaign?

4 MR. LEACH: The Walker Campaign with the
5 SEC and get the SEC's feeling of whether or not they're
6 going to entertain challenges of a generic or overall
7 overreaching nature.

8 SEC. TENNANT: So you have challenges --

9 MR. REIDY: Was that the letter with
10 today's or yesterday's?

11 MR. LEACH: It's yesterday's, but the only
12 difference is today's may have added an item or
13 something.

14 MR. REIDY: I don't have a comment.

15 SEC. TENNANT: So there is a challenge --there
16 is just a blanket challenge just saying we're
17 challenging it, but we have no particular reason for
18 doing so?

19 MR. REIDY: It's been submitted.

20 MR. LEACH: There's nothing given in the
21 letter. Is just says we challenge all unregistered
22 voters.

23 MS. SUMMITT: This is Wootton?

24 MR. LEACH: Yeah.

1 MS. SUMMITT: Yeah, that's what's in the
2 letter.

3 SEC. TENNANT: Shall I read this to the
4 Commission members?

5 MS. SUMMITT: You sent it to them, right?

6 MR. LEACH: No.

7 SEC. TENNANT: Here's what it says. You still
8 with me, Professor and Gary?

9 MR. CARDI: Yes. Vince Cardi.

10 MR. COLLIAS: Yes.

11 SEC. TENNANT: By this letter I respectfully
12 challenge the validity of qualified contributions
13 submitted by William R. Bill Wooton, Candidate for
14 Supreme Court Justice. I respectfully challenge all
15 contributions reported on January 13 of 2016, and
16 February 2nd of 2016 because they are not reported in a
17 timely manner. West Virginia Code 3-12-7 requires that
18 at the beginning of each month a participating candidate
19 shall report all contributions received during the prior
20 month to the Secretary of State.

21 In addition, this letter constitutes notice of a
22 challenge to all contributions on the following basis.
23 Receipts do not include both the signature of a person
24 who collected the contribution and the signature of the

1 contributor as required by Code 31-19. Contributions
2 made by a person who are not registered voters and
3 receipts are not on the required SEC form. I reserve
4 the right to submit challenge form as soon as possible.
5 Thank you for the attention to this matter. This came
6 yesterday?

7 MR. LEACH: And we had another one of a
8 similar nature today.

9 SEC. TENNANT: So, but they're still
10 generalized in things that we've already addressed?

11 MR. LEACH: Yes, expect for perhaps the
12 mention of the January 13th reports.

13 ~~SEC. TENNANT: Right. That would have to be~~
14 reported to us by February 2nd.

15 MR. NICHOLS: There's another issue there
16 because those are -- whether there's a contribution or
17 not.

18 MR. REIDY: With one exception.

19 MR. LEACH: Yes, I think there is.

20 MR. NICHOLS: Well, point out the exception.

21 SEC. TENNANT: That's what I think, that, you
22 know, instead of this generalized, I'll take -- I mean
23 obviously the Commission decides on this, because what I
24 think Tim is asking is do we want specifics on these

1 because we've made a lot of decisions already that are
2 going to apply to this.

3 MR. LEACH: My point is that if this
4 general letter qualifies to meet this statute, then the
5 SEC has to address all six hundred and some Wooton --
6 eight hundred and some contributions the Wooton campaign
7 has taken up, one at a time, one contest at a time
8 tomorrow. Because we got the request today.

9 SEC. TENNANT: We got the request yesterday.

10 MR. LEACH: Yesterday.

11 MR. SHULL: And you would have to do that
12 before addressing ours because the request came in
13 before our request.

14 MR. LEACH: I don't know about that.

15 SEC. TENNANT: You were hoping that.

16 MR. LEACH: No, I think we're going to make
17 you come and sit through that whole presentation.

18 SEC. TENNANT: Yes, sir.

19 MR. REIDY: What would be the appropriate
20 action? One of each of those forms for every one that
21 was submitted late?

22 MR. LEACH: That's up to the Commission.

23 MR. REIDY: They weren't submitted until
24 halfway through the month. What do you guys need?

1 SEC. TENNANT: Well, that's what's on behalf
2 of the Commission, but if you want us to look at these
3 challenges, I would think that you would have to
4 specifically, because, you know, I mean today I feel
5 like we gave, you know, each individual the right to
6 dispute.

7 MR. REIDY: When I initially came to Mr.
8 Leach, he said that there wasn't a form and you could
9 write a letter, and then you did produce a form.
10 However, this is a large amount that were not in a
11 timely manner. Do you need us to print off each one? I
12 need some guidance.

13 MR. LEACH: You mean a form?

14 MR. REIDY: Yes, sir. They weren't, I
15 think the 12th through the 13th, there went online the
16 13th, and we believe they were submitted on the 13th of
17 January, December.

18 MR. LEACH: I think it's helpful to the
19 Committee personally to have a separate form for each
20 objection.

21 SEC. TENNANT: Right. And I think that it's
22 only fair, too, because you're asking them to --

23 MR. LEACH: You're asking them to respond
24 and they are due some notice about what they're going to

1 be defending.

2 SEC. TENNANT: Correct.

3 MR. LEACH: So my question that I promised
4 to put forth on behalf of the Walker campaign is the
5 will of the Commission. Does the Commission wish to
6 review every single contribution made to see if it fits
7 any of these three objections or four objection basis or
8 does the Commission will for the person making the
9 objection to identify which contributions specifically
10 they're objecting to?

11 SEC. TENNANT: Ask that again. Go ahead,
12 Gary.

13 MR. COLLIAS: I'll speak to that. I'll start
14 off by saying I think that it's kind of like an
15 objection in court. I mean you need to be able to
16 articulate what you're objecting to. You just can't
17 stand up and say I object to this entire proceeding and
18 everything that ever happens. And I mean I don't know
19 how we're supposed to adjudicate, decide objections if
20 we don't know exactly what the objection is to which one
21 and why it's being made. So my view is, is that if they
22 can't, I mean I don't think the law contemplates a
23 general blanket objection. I object to all the
24 contributions made to this candidate. That's how I feel

1 about it.

2 MR. REIDY: Would it be appropriate to
3 object to the timeliness of the report?

4 SEC. TENNANT: Joe Reidy from the Beth Walker
5 campaign has a question. What's your question, sir?

6 MR. REIDY: I said would the timeliness of
7 the report be appropriate?

8 MR. LEACH: The timeliness of reports
9 required does not relate to the validity or correctness
10 of them.

11 MR. REIDY: If they're not received in a
12 timely manner, then they do not count.

13 MR. LEACH: That's true.

14 MR. REIDY: Isn't that what we decided
15 today, two business days?

16 MR. LEACH: Well, I'm --

17 MR. REIDY: Two weeks?

18 MR. LEACH: That is an issue. Yes, the
19 receipts that, but if the reports --

20 SEC. TENNANT: Were only due at the beginning
21 of the month, were they not?

22 MR. REIDY: The receipts are not due at the
23 -- When are the receipts due?

24 MR. LEACH: We don't know, Joe. We haven't

1 figured this out yet.

2 MR. REIDY: We have the answer, I assume,
3 from this --

4 SEC. TENNANT: Well, that's what I felt that
5 we ruled on today, was the receipt of -- I mean we had a
6 couple of incidences where it was into the --

7 MR. REIDY: It was in the whole thing. The
8 report is the entire thing.

9 MR. LEACH: Wooton report did nothing
10 online.

11 MR. REIDY: There's no question of online.
12 The reports were not received in a timely manner.

13 SEC. TENNANT: Received by whom?

14 MR. REIDY: Your office.

15 MR. LEACH: Which reports? Tell us which
16 reports.

17 MR. REIDY: The December reports, which I
18 believe that letter --

19 SEC. TENNANT: This doesn't say anything about
20 the December reports.

21 MR. REIDY: Because they were not received
22 until January 13th.

23 SEC. TENNANT: I respectfully challenge all
24 contributions reported on January 13th. I see --

1 MR. LEACH: Instead of January 1st.

2 SEC. TENNANT: Yeah, I see.

3 MR. LEACH: But our response is those are
4 not reports. Those are not contributions.

5 SEC. TENNANT: Those weren't qualifying.
6 Those were exploratory.

7 MR. LEACH: Except for one.

8 SEC. TENNANT: Except for one.

9 MR. LEACH: And so why is it difficult to -
10 - excuse me. I don't mean to get short tempered. Why
11 is it an issue for the campaign to identify the one that
12 we're talking about?

13 MR. REIDY: So when was the report of the
14 qualifying or the exploratory report due?

15 MR. LEACH: They're due at the first of the
16 month also.

17 MR. REIDY: Okay.

18 MR. LEACH: But they're not subject to
19 challenge. This is for challenging contributions that
20 qualify, not contributions for exploring.

21 MR. REIDY: So you need one report from me
22 tomorrow?

23 MR. LEACH: we need you -- I mean you
24 can't, in my belief, you can't just say I want you to

1 investigate all eight hundred of these and make sure
2 they are registered voters. That is not what the
3 challenge -- the challenge is I know this guy. He lives
4 in Arizona. He doesn't live in West Virginia. He's
5 registered in Arizona. He cannot make a contribution.
6 That's what the challenge is, and then we rule on them
7 one at a time. You don't turn over your responsibility
8 to the State Election Commission and say investigate the
9 whole package.

10 SEC. TENNANT: And I think that that's what
11 Gary was saying. Does that answer your question? What
12 other questions do you have?

13 MR. REIDY: Just the timely manner.

14 SEC. TENNANT: The timely manner. But your
15 question, the timely manner of the exploratory
16 contributions and not the --

17 MR. LEACH: We'll just have to deal with it
18 when he tells us which ones.

19 SEC. TENNANT: Okay. So when they -- and
20 that's the reason for the specifics of what are your
21 specific challenges.

22 MR. LEACH: Well, can we move on to trying
23 to plan a meeting time for tomorrow?

24 SEC. TENNANT: Oh, this is the rule. It says

1 the challenger shall cast any relevant evidence,
2 affidavits, or notarized statements to form. Challenge
3 forms must be filed with a receipt by the Secretary of
4 State within two business after the close of the --

5 MR. LEACH: That might be the basis for an
6 objection.

7 SEC. TENNANT: With the close of the
8 qualifying period for the filing of candidates'
9 application, whichever is earlier. So we don't have to
10 accept any of these.

11 MR. LEACH: I've seen it.

12 SEC. TENNANT: You've seen it. Maybe, but
13 we're still going to --

14 MR. LEACH: Can we get a time schedule?

15 SEC. TENNANT: Yes. I have no idea --

16 MR. LEACH: Is there a -- Gary and Vince,
17 how much time can you give us and how early tomorrow?

18 MR. CARDI: Well, not the whole day.
19 What's the suggestion?

20 MR. LEACH: Well, we've got three times the
21 work to do tonight that we had last night. We were here
22 till ten o'clock last night, so we're going to need some
23 time tomorrow to get all this stuff organized and
24 shipped to you. So I don't know if we can be ready at

1 ten or ten-thirty. Maybe after lunch. I don't know.

2 MR. COLLIAS: How about two o'clock? Let me
3 start off by telling you I'll be in Kentucky tomorrow
4 morning. And if I want to participate, I'm not going to
5 be able to start until three-thirty, four, or four-
6 thirty in the afternoon. I'm not going to be back.

7 MR. LEACH: We won't have a quorum without
8 him, so we can't start without him.

9 MR. COLLIAS: So I might be able to do it as
10 early as three-thirty, maybe. But then I can go the
11 whole evening. I mean, but I'm going to be gone. I'm
12 obligated to be down there in the morning and it's going
13 to take several hours to get there and back.

14 MR. LEACH: Do you want to go for four
15 o'clock to give him time?

16 MR. NICHOLS: Yes.

17 MR. LEACH: Is four o'clock all right,
18 Professor?

19 MR. CARDI: Yes, it is.

20 MR. LEACH: Okay. We'll send out an
21 emergency notice that there will be a meeting at four
22 o'clock tomorrow to consider the next of these
23 challenges.

24 MS. CHARNOCK: Now, which challenges? I hate

1 to ask. Are these the Wooton challenges or the Benjamin
2 challenges?

3 MR. LEACH: There are no Wooton challenges.

4 SEC. TENNANT: Well, wait a minute. What do
5 you mean there's no Wooton challenges? What is this
6 thing?

7 MR. LEACH: Because they haven't filed any
8 of them yet.

9 SEC. TENNANT: Well, what is this?

10 MR. LEACH: Specificity, ma'am.

11 SEC. TENNANT: Got it, got it. Okay. So four
12 o'clock tomorrow is Benjamin, then?

13 MR. LEACH: Yes.

14 MR. SHULL: We're honored.

15 SEC. TENNANT: Now, who's coming, Jane or Ann?

16 MS. CHARNOCK: I'll answer to anything unless
17 it's Bill or John. I draw the line there.

18 MR. LEACH: I think it's time to call for
19 further business.

20 SEC. TENNANT: Is there any other business,
21 Commissioners? If not, then I will entertain a motion -
22 - oh, we do have another question from Benjamin.

23 MS. CHARNOCK: I just want to make sure that
24 our objections to everything that was turned down or

1 sustained today, that that's reflected and that she has
2 that. And I also want to know when is it going to be
3 appropriate that we have a discussion on the information
4 provided by the Secretary of State staff as to these
5 electronic transmissions? Can we start that tomorrow as
6 opposed to just diving right into them, you know, these
7 three hundred and sixty-five --

8 SEC. TENNANT: That's a fair question. Will
9 that change much of what we've talked about today? I
10 don't want to hold us up any.

11 MS. CHARNOCK: We didn't make up this process
12 out of thin air.

13 SEC. TENNANT: ~~The electronic form process?~~

14 MS. CHARNOCK: Right.

15 SEC. TENNANT: I understand that.

16 MS. CHARNOCK: I mean I would argue there's a
17 detrimental reliance argument here. And we rely, I mean
18 we contributed to those conversations. And I'm not
19 suggesting that there was an edict, here's how you're
20 going to do it. There were conversations that led to
21 this process that we are learning today jeopardizes
22 every electronic payment -- contribution.

23 MR. LEACH: Yes, I mean staff will be
24 available to talk with you.

1 SEC. TENNANT: Yes, we will.

2 MR. LEACH: If you want to hang around here
3 after the meeting or if you want to try to get --

4 MS. CHARNOCK: We're more than happy to stick
5 around and talk to you once this meeting ends, but we
6 want to get this before the Commission that this wasn't
7 something that the campaign invented.

8 MR. CARDI: Why wasn't this mentioned
9 today, this estoppel argument?

10 MS. CHARNOCK: Because we really have not had
11 an opportunity. We dove right into the first name and
12 off we went to the races.

13 MR. LEACH: Well, ~~electronic filing did not~~
14 -- is the issue we're most concerned about. And that
15 didn't come up until the last group of six near the end
16 of the day. So perhaps we should have addressed it at
17 that time.

18 SEC. TENNANT: And that is what your concern
19 is, is from the electronic form?

20 MS. CHARNOCK: And then the second concern is
21 these people that you turned down today, including the
22 Charnock sisters, we cannot make this up or not?

23 MR. LEACH: Ms. Charnock, I don't know the
24 answer to that. I'm saying if you do make it up, it's

1 subject to challenge. The new contribution is subject
2 to challenge. So I don't know how your opposition is
3 going to interpret the statute. Or how, yes, it's even
4 ruled on any arguments about how the statute is
5 interpreted.

6 SEC. TENNANT: So that would be the
7 suggestion, is to make it new.

8 MS. CHARNOCK: Okay. We've got a bunch of
9 people that we need to contact in the next five minutes
10 to get them to redo something so that they can be
11 refiled.

12 MR. LEACH: But you have five working days
13 to do that.

14 SEC. TENNANT: Yeah.

15 MR. SHULL: But we're already cutting into
16 that time. So if we have four working days, twenty-
17 three hours, we don't have five working days.

18 MR. NICHOLS: Tomorrow is day one.

19 MS. CHARNOCK: Okay.

20 SEC. TENNANT: And I think that you have the
21 three fifty-five that you have to address now. What is
22 it, three sixty-five?

23 MS. CHARNOCK: And that's what we're doing
24 tomorrow?

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COMMISSION MEMBERS:

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GARY A. COLLIAS, Chairman

VINCE CARDI

February 4, 2016

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DAVID NICHOLS
MISSI KINDER
JUSTIN WILLIAMS

I N D E X

Page

Meeting opened by Secretary Tennant. 4

Reporter's certificate, 130

1 request for recusal as before.

2 SEC. TENNANT: Correct.

3 MR. LEACH: Gary and Vince, if you would
4 remember, please, at least at the start of the marathon,
5 when you speak, state your name so the court reporter
6 can identify who's speaking.

7 MR. CARDI: Okay.

8 MR. LEACH: All right. And that was who?
9 On the agenda today is three hundred and sixty-five
10 challenges to individual contributions as invalid filed
11 by the challengers. And I have some preliminary matters
12 to discuss with the Commission, if I might.

13 First, we're required to rule on each
14 challenge, and yesterday it was a slow slug. I've
15 checked with some other legal opinion and we are not
16 bound by the rules of parliamentary procedure, which
17 means we do not have to have a motion and a second for
18 every single assessment.

19 SEC. TENNANT: Okay.

20 MR. LEACH: And the Chair or the acting
21 Chair can just allow debate and then call for the
22 question. Either the contribution will be allowed or
23 the contribution will be dismissed or however you want
24 to word it, and call for a vote. All those in favor of

1 one side vote aye and all those in favor of the other
2 side --

3 SEC. TENNANT: Got it.

4 MR. LEACH: That might save us a lot of
5 time instead of painfully waiting to get a motion and a
6 second.

7 SEC. TENNANT: And a second.

8 MR. LEACH: If that is the will and
9 pleasure of the Commission. We do not have a procedural
10 rule that requires parliamentary procedures be followed,
11 but we do not have a statute that mandates parliamentary
12 procedures be followed. This body, since I have been
13 here, has followed parliamentary procedures.

14 I think you're not bound to, but you might
15 decide amongst yourselves to suspend or not follow that
16 process for this meeting. So that maybe is the first
17 thing we ought to discuss, is whether we want to require
18 parliamentary procedures or if -- at least on the votes.

19 Now, other issues are discretionary and you're
20 probably better off to have a motion and a second to
21 take up some other topic. But we're required to rule on
22 these votes -- or on these challenges. So my point is,
23 we can't let a vote fail for lack of a second. We have
24 to go one way or the other.

1 SEC. TENNANT: We still call the question and
2 then make a vote.

3 MR. LEACH: Yes. At least in terms of the
4 individual challenges and things of that nature.

5 SEC. TENNANT: Any comment on that, gentlemen?
6 Do I have a motion on the floor? Do you want to
7 continue with calling for a motion and a second, or can
8 I just call for question and then it will be a vote,
9 though, a yay or nay vote?

10 MR. CARDI: Vince Cardi. The latter seems
11 to be efficient. That's what was suggested by Tim
12 Leach?

13 ~~SEC. TENNANT: Yes~~

14 MR. CARDI: Is that correct?

15 SEC. TENNANT: Yes.

16 MR. CARDI: That's okay with me.

17 MR. COLLIAS: Yeah, this is Gary. That's
18 fine. However you want to handle it, Madam Secretary.

19 SEC. TENNANT: Okay. We can do it that way.
20 I just want to make sure that the parties also
21 understand, because we were kind of getting into a
22 rhythm and an opportunity for each side to speak a
23 motion and then vote. So we'll still have the
24 opportunity, obviously, and we'll just call the question

1 and make the vote then real quick, because as Tim points
2 out, we can't leave anything unattended without a second
3 motion.

4 MR. LEACH: The second procedural matter
5 I'd like to bring to the Commission's attention involves
6 the number of these challenges. We, our staff has
7 sorted them and categorized them into twenty-one
8 different combinations --

9 MR. NICHOLS: Twenty-three.

10 MR. LEACH: Twenty three, I'm sorry. You
11 all have been busy. Twenty-three various combinations
12 of different broad issue type challenges. For example,
13 ~~not a registered voter. For example, not timely~~
14 reported. For example, electronic -- many of the things
15 we discussed yesterday at length.

16 It may be possible if the Commission will, to
17 discuss and rule on a general posture for each of these
18 types of issues and then allow the staff to identify, as
19 we've done in these packets, which particular individual
20 cases go with or apply, have that decision apply.

21 So what I envision is you would vote on
22 whether or not to allow electronic filings without a
23 signature, for example. And then we would tell you, if
24 the vote was those challenges will be sustained, we

1 would tell you which individual voters were involved
2 instead of passing around all the paper and looking at
3 each piece of paper and things of that nature. We've
4 already done that work and lumped them together.
5 However, if there's an objection, it would be the time
6 to hear it.

7 SEC. TENNANT: Go ahead, Darrell.

8 MR. SHULL: We have found in the groupings
9 that there are subcategories within these. And for
10 example in the electronic signatures, there are a number
11 of donors that are, that we did file paperwork with
12 physical signatures that are included in the electronic
13 signature batch.

14 MR. LEACH: Okay. Well, I guess that
15 killed that idea.

16 MR. SHULL: I'm sorry.

17 MR. NICHOLS: And to a certain degree, maybe
18 on that particular one. Certainly, you know, we grouped
19 them based on exactly what it said on the form as best
20 we could.

21 And so from that perspective, obviously, there
22 will be ones that you may have an objection to within
23 it. And I think like, you know, if you're looking at
24 this category list, you know, if there are twenty-four

1 in group six. If there's one in group six that's in
2 dispute, I think the Commission could probably vote on
3 the other twenty-three, separate out that twenty-fourth
4 one and work it individually.

5 MS. CHARNOCK: A couple of questions. Do we
6 have a list of the categories?

7 SEC. TENNANT: Yes, we were going to ask.
8 Does anybody need a copy of this?

9 MR. WILLIAMS: Here's an extra copy of it.

10 MS. CHARNOCK: And number two, is there a
11 list, say we do group thirteen.

12 SEC. TENNANT: Correct.

13 MS. CHARNOCK: That's forty-one people. Is
14 there a separate list of who those forty-one are?

15 MR. NICHOLS: Do you have that
16 electronically?

17 MR. SHULL: We didn't have an opportunity
18 to get that printed.

19 MR. LEACH: They don't have a list. What
20 they have is forty-one copies of paper. But we would be
21 willing to read off the names of the voters in that.

22 MR. SHULL: That may be an issue, though,
23 because with yesterday --

24 MR. LEACH: Could we have some order,

1 please? Wait just a second.

2 SEC. TENNANT: I'm sorry. What did you need,
3 Tim?

4 MR. LEACH: Some order. We've got to have
5 some order.

6 SEC. TENNANT: Here's one. Here's an extra
7 one. Is that what you want?

8 MR. LEACH: All right. Mr. Shull, you were
9 saying?

10 MR. SHULL: We've not had adequate time to
11 look within the groupings and identify which ones are
12 exceptions.

13 MR. LEACH: So why are you insisting that
14 we go through them one at a time?

15 MR. SHULL: I would request that when we
16 get to the grouping, we reserve the right to say we're
17 okay with the grouping or we're not okay with the
18 grouping.

19 SEC. TENNANT: I can allow that. I think
20 that's appropriate.

21 MR. COLLIAS: This is Gary Collias. Can I
22 ask some questions?

23 SEC. TENNANT: Sure.

24 MR. COLLIAS: Okay. These are challenges by

1 whom, by the Beth Walker campaign?

2 SEC. TENNANT: Yes, Beth Walker. This is a --
3 this --

4 MR. COLLIAS: And they're challenges to whom?

5 SEC. TENNANT: Brent Benjamin.

6 MR. COLLIAS: Brent Benjamin. And when were
7 these challenges received?

8 MR. LEACH: Yesterday.

9 MR. COLLIAS: February 3rd?

10 MR. LEACH: Yes, sir.

11 MR. COLLIAS: Okay. Am I not reading this
12 right? But aren't these all, every one of these
13 challenges untimely under our reg 4.7.3?

14 MR. LEACH: If I may, Mr. Collias, the
15 answer is yes and no. The regulation does say that they
16 have to be filed within two business days of the end of
17 the filing period, which would have been February 2nd.
18 However, there is no such restriction or time limit in
19 the Code itself. Furthermore I don't think it is due
20 process to allow someone or require someone to file a
21 challenge before they've received the filings, which
22 were not filed until February 2nd.

23 So in this case it would be my professional
24 opinion and recommendation that you go with the statute

1 as opposed to going with regulation and allow the
2 analysis of the complaint or the challenges.

3 MR. COLLIAS: Right. So what you're saying
4 is that, this of course is Gary Collias, what you're
5 saying is that since the report, since the reports
6 themselves weren't due, contribution reports weren't due
7 until the same day that the objections to them or
8 challenges were due that's it's basically not fair to
9 apply that time period?

10 MR. LEACH: Yes, unless we're willing to
11 allow the challenged form to be a blanket challenge to
12 all unidentified cases which may fall into these fax
13 situations, which we addressed yesterday and did not
14 welcome.

15 MR. COLLIAS: Okay, but let me ask you this,
16 then. This distinction between the time periods, the
17 time limits that are in the regulations and those in
18 statute, that applies also to the reporting dates at the
19 end of each month for the Brent Benjamin campaign that
20 we talked about yesterday, too, doesn't it?

21 MR. LEACH: I don't see your distinction.
22 Reporting dates are required by the Code. It's not a
23 regulation that does that.

24 MR. COLLIAS: The within two days, the within

1 two days period in the Code?

2 MR. LEACH: Well, you mean two business
3 days after the filing? Yes, that's in Code.

4 MR. COLLIAS: Where is that in the Code?
5 I've got it here in front of me.

6 MR. LEACH: It is in 3-12-9, paragraph G as
7 in gravy.

8 MR. COLLIAS: 3 -- okay, hold on. Let me
9 find it here. 3-12-9, sub paragraph G.

10 MR. NICHOLS: Yes.

11 MR. COLLIAS: Okay. All right. I think
12 that's still something that we need to address.

13 MR. LEACH: Yes, sir.

14 MR. COLLIAS: Here at the beginning rather
15 than not address it at all or wait till the end. I
16 think we need to decide which, you know, what the
17 Commission, how the Commission feels about that and
18 whether or not these should be deemed untimely or
19 considered on their individual merit.

20 MR. LEACH: This is a matter which you
21 cannot, I don't believe, exempt the parliamentary
22 procedure. So you need to have discussion, a motion,
23 and a second if you're going to, if anybody is going to
24 make a motion to dismiss the challenges.

1 MR. COLLIAS: Well, what do you think about
2 this, Vince?

3 MR. CARDI: Well, I want to hear the
4 attorney's explanation again why the regs should not
5 rule over the statute. Are you saying that if the
6 statute doesn't have a time limitation, then the regs
7 should not be able to add a time limitation? Is that
8 what you're saying, one of the things you're saying?

9 MR. LEACH: That's one of the things I'm
10 saying. The general rule for statutory construction is
11 that the statute can delegate or the legislative body
12 can delegate certain functions to the SEC, but the SEC
13 ~~cannot create new rights and/or restrictions on the~~
14 parties by regulation unless the Code itself put the
15 restrictions.

16 It would be as if, to use our argument we had
17 yesterday about real signatures versus electronic
18 signatures, it would be as if the Code said you had to
19 have a real signature and use that wording and the
20 regulation says an electronic signature prevails. The
21 statute -- when there's a murkiness or a contradiction
22 between what's required and what's in the regulations,
23 what's required by the Code and what's in the
24 regulation, the code triumphs.

1 I don't have the case and citation before you.
2 I know of a 1996 Supreme Court case involving the
3 Workers' Compensation system where that issue was
4 debated vigorously and the regulation was challenged
5 over that basis.

6 But there is other case law, too. That is a
7 well-known -- I believe, Professor, that's a well-known
8 ruling that courts use all the time. If they see a
9 conflict between regulation and the Code, the Code
10 itself triumphs over the regulation. And it's my point
11 that we do not have authority to create additional
12 restrictions on people other than what are in, what is
13 in the Code specifically.

14 MR. CARDI: In your legal opinion -- this
15 is Vince Cardi. Your legal opinion is that if the Code
16 states requirement A, B, and C, but says nothing about C
17 -- D -- A, B, and C and there's nothing about D, it's
18 just silent on it. If a reg adds restriction D, then
19 that's inconsistent and should not be enforceable?

20 MR. LEACH: That is correct. As long as
21 it's a restriction or adds a restriction or limits
22 someone's rights or something of that nature. Now, if
23 it's simply a procedural matter, you know, you can do
24 things of that nature. You can define the nature of a

1 form or a notice that needs to be filed or something of
2 that nature. The Code doesn't have to be that specific.

3 But if you're talking about a list of
4 prerogatives, rights, or restrictions, the regulators do
5 not have the ability to expand that list. We tried to
6 expand, this body tried to expand campaign financing to
7 acknowledge the historical and well-used understanding
8 that campaign finance contributions may be used to pay
9 filing fees. Every politician in this building just
10 about has used campaign finance contributions to pay
11 their filing fees. However, in the list of specific
12 things that are usable for campaign financing, that is
13 not there.

14 So we tried by regulation to just acknowledge
15 what the common and conventional interpretation was and
16 the legislature said you do not have that authority and
17 made us amend the regulation. We also lost some other
18 remedy for use of campaign contributions. So this body
19 is aware of that kind of a process because we went
20 through it last December.

21 SEC. TENNANT: Yeah, a month ago.

22 MR. CARDI: Vince Cardi again. This is
23 even where the statute is not inconsistent, but just
24 silent?

1 MR. LEACH: Right. Because you're adding
2 something to the statute. You're not interpreting the
3 statute. You're not establishing a procedural matter.
4 You are adding a restriction or requirement. Only the
5 legislature can put restrictions and requirements on the
6 candidates and the parties involved.

7 MR. COLLIAS: Okay. This is Gary again. I
8 still don't think that's the best argument. I mean what
9 you're telling me, make sure I understand it right, is
10 that the reporting of the qualified contributions,
11 they're due the same day the challenges are, and that's
12 just an unreasonable burden on the challenging party.
13 Is that what you're saying?

14 MR. LEACH: Well, no. That's a supporting
15 argument for my general argument. The general argument
16 is --

17 MR. COLLIAS: Well, I don't think a whole lot
18 of your general argument, but your supporting argument
19 appeals to me. Am I right, for example, that for
20 January the reporting of the contributions was due from
21 the Benjamin campaign on February 2nd? Am I right about
22 that?

23 MR. LEACH: Yes.

24 MR. COLLIAS: Am I also right that any

1 challenges from the Walker campaign were also due on
2 February 2nd? Is that true?

3 MR. LEACH: If you take this interpretation
4 of the regulation, yes. The difference is, the two-day
5 limit on the filing of the Benjamin reports is in Code.
6 The two-day limit --

7 MR. COLLIAS: I understand.

8 MR. LEACH: -- on the filing of the
9 challenge is not in Code. It was added to a regulation,
10 which makes it the equivalent of Code and we're not a
11 legislative body.

12 MR. COLLIAS: Okay. I understand. But what
13 I'm getting at is, it seems to me absurd to expect the
14 Walker campaign to file a challenge to a, you know, to a
15 contribution that wasn't reported on February 2nd. The
16 challenge has to be filed the same day.

17 MR. LEACH: Well, I agree, but I think
18 that's my additional argument in addition to the main
19 argument. It works an absurd outcome if you follow the
20 regulation and follow it, you know, and require that it
21 be followed like that.

22 MR. COLLIAS: Well, that absurd outcome is a
23 more appealing reason to reject the regulation than that
24 other general abstract argument that you made, because I

1 see regulations like that all the time.

2 MR. LEACH: Well, I'm glad that I said
3 something that impressed you.

4 MR. COLLIAS: Yeah. In my view, unless they
5 conflict with the, you know, the legislative, the
6 statute of legislative intent or go way beyond it, I
7 think that regulations can do that. But I don't think
8 we need to reach that because I think I agree with your
9 conclusion, but maybe for your secondary reason. So I
10 understand.

11 SEC. TENNANT: So, gentlemen, unless you have
12 a little more to say I will take comments from Beth
13 Walker's campaign and from the Benjamin campaign. Did
14 you all want to add to the discussion?

15 MR. REIDY: I have a few questions. Will
16 there be written decisions issued based on yesterday and
17 today?

18 MR. LEACH: The Code requires us to notify
19 the parties of any rejected contributions. So we
20 haven't done that yet because we've still got, we kind
21 of thought we might do that all together.

22 MR. REIDY: Okay. But that will be done?

23 MR. LEACH: But it doesn't say anything
24 about rejected protests, I guess is what I'm saying. So

1 we're just going to say these were, these objections
2 were sustained and these qualifications no longer count.
3 That's all we're going to say. The rest of them, you
4 won't get a notice. You'll just have to figure out,
5 scratch off from the list.

6 SEC. TENNANT: Pertaining to this question
7 that Chairman Collias had, does the Benjamin campaign?

8 MS. CHARNOCK: We don't have anything to add,
9 no.

10 SEC. TENNANT: Okay. Yes, sir? Oh, please
11 say your name. I don't think we've established a name.

12 MR. REIDY: Joe Reidy. Another question
13 was, is this today an evidentiary hearing?

14 MR. LEACH: Does that definition have a
15 significance to you? Because I'm not sure if I can
16 answer.

17 MR. GATES: Yesterday was not. So today --

18 MR. LEACH: How do you define what an
19 evidentiary hearing is?

20 MR. REIDY: Well, I was told that I was
21 required to bring evidence today. But I was also told -
22 -

23 MR. LEACH: Well, we considered what you
24 brought us yesterday. And we'll consider what you

1 brought us today.

2 MR. REIDY: I was told yesterday that I had
3 to bring evidence --

4 SEC. TENNANT: Hang on. Please state your
5 name. Go ahead, Joe.

6 MR. REIDY: I was told yesterday that I had
7 to bring evidence to back up my challenges today.

8 MR. NICHOLS: If you chose to do so.

9 MR. REIDY: Okay.

10 MR. GATES: Kent Gates from Walker
11 campaign. Yesterday's hearing, well, you made it clear
12 during yesterday's hearing it's not an evidentiary
13 hearing, right?

14 MR. LEACH: No.

15 SEC. TENNANT: That was never stated.

16 MR. LEACH: We never categorized it.

17 MR. REIDY: Okay. Thank you.

18 SEC. TENNANT: Back to the first topic that
19 Chairman Collias brought up. So we are continuing.
20 Anymore questions, Gary or Professor?

21 MR. COLLIAS: No, I'm prepared to go forward
22 and consider these all on their merit in the groups that
23 they're broken down on, down in. I'm satisfied that I
24 think it wouldn't be right to strike all of these

1 challenges based on the timeliness issue. I don't think
2 that would be right, and so I'm ready to go forward.

3 SEC. TENNANT: Any other -- and we're getting
4 ready to move forward also, Gary. Anything else that
5 you wanted to say, Tim?

6 MR. LEACH: (Negative nod.)

7 SEC. TENNANT: So we're going to dive into
8 these.

9 MR. NICHOLS: There were some other issues
10 that we needed taken up before.

11 SEC. TENNANT: That's what I was asking. Hang
12 on a minute, Dave. Joe?

13 MR. REIDY: What copy of what Code are we
14 using?

15 MR. GATES: What copy of the regulations
16 are we using, the adopted ones or the original ones?

17 MR. LEACH: Adopted or original?

18 MR. GATES: Right.

19 MR. REIDY: There was an amended --

20 MR. LEACH: In 2015?

21 MR. REIDY: Yes, sir. It seemed as though
22 Judge Charnock yesterday had a different copy than the
23 Secretary was using.

24 MR. NICHOLS: This one is not yet approved.

1 It's currently before the legislature, so this is the
2 one that is currently approved and in force.

3 MR. REIDY: Great. I just wanted to --
4 okay. Thank you.

5 MS. CHARNOCK: May 1st, 2014?

6 SEC. TENNANT: Is that what it says?

7 MR. NICHOLS: Yes, that would be.

8 SEC. TENNANT: Because the one is still in
9 legislative ruling.

10 MR. NICHOLS: Yes. That's correct.

11 SEC. TENNANT: Did you have another question,
12 Joe?

13 MR. REIDY: I don't think so.

14 SEC. TENNANT: Dave Nichols?

15 MR. NICHOLS: I heard some talk that one of
16 the campaigns may have some issues to bring up before we
17 jump into things. I don't want to -- if they have fraud
18 things they'd like to discuss, I'd hate for them to miss
19 it. But again, that's the prerogative of the
20 Commission, not mine, so.

21 MS. CHARNOCK: Yes. This is Ann Charnock on
22 behalf of the Benjamin campaign. We did have some
23 issues that we wanted to bring forward before we started
24 going into the business today.

1 The first one was, I don't know how to do
2 this, but I would ask that the Commission go back to one
3 of the challenges yesterday, was as to whether Deloris
4 Jean Davis was registered to vote, and I have a
5 certified copy of her voter registration card from the
6 Kanawha County Courthouse showing that indeed she was
7 registered to vote. And I would just surmise that
8 Deloris was spelled differently. There are two
9 different ways to spell Deloris and perhaps that's what
10 happened. But I've got this and I didn't bring copies
11 and I apologize, but there is a seal on it, and I would
12 ask if the Commission can go back and review that
13 decision from yesterday.

14 SEC. TENNANT: Okay. Do you want to do the
15 new today or review? What is the will of the
16 Commission? Would you prefer to go finish with these
17 new ones and then go back and review the questions that
18 are being -- and our procedures may not be that we go
19 and reconsider.

20 MR. LEACH: Well, I've heard, I mean I've
21 been asked the question can you reconsider, and I think
22 if we had a vote, you can.

23 SEC. TENNANT: If we had a vote by the
24 Commission?

1 MR. LEACH: It may not be just this one
2 case. I mean I don't know.

3 SEC. TENNANT: How many of those --

4 MR. COLLIAS: Well, how many -- this is Gary.
5 How many cases are there that we're being asked to
6 reconsider? Just this one from yesterday?

7 MS. CHARNOCK: This is the only specific case
8 I'm asking you to reconsider, only because I have a
9 piece of paper that I think answers the question whether
10 she was registered or not.

11 MR. SHULL: It illustrates, though, how
12 easily it can be researched.

13 MS. CHARNOCK: ~~That was six years ago.~~

14 SEC. TENNANT: Did we not accept hers?

15 MS. CHARNOCK: She was rejected.

16 MR. COLLIAS: Well, is this a person, is this
17 a person where we sustained the challenge because the
18 Secretary of State's records didn't reflect that she was
19 registered, but now we know she really was? Is that
20 what we're talking about?

21 MS. CHARNOCK: This is Ann Charnock again.
22 This was that group of twelve that was on one motion
23 because the Secretary of State's office had no
24 documentation that she was registered

1 SEC. TENNANT: Oh, that's right. Thank you,
2 thank you.

3 MS. CHARNOCK: And I am bringing forth a
4 document today that shows that indeed she is and,
5 therefore, I'm asking you all to reconsider that vote in
6 light of this document.

7 SEC. TENNANT: Because you have new evidence.
8 That's right. And we had written all the names. I knew
9 the name was up and I'm like, well, we didn't look at it
10 because we had written them down.

11 MR. LEACH: So you probably need a motion
12 to reconsider that vote and a second and then a vote.

13 MR. CARDI: This is Vince Cardi. What is
14 the name here?

15 SEC. TENNANT: It's Robin Jean Davis. No,
16 it's not.

17 MR. CARDI: It's not Robin Jean Davis.
18 Okay.

19 SEC. TENNANT: No, it's Deloris Jean Davis.

20 MR. CARDI: Okay. It's my feeling that
21 this should be left to the end.

22 SEC. TENNANT: I'm sorry, what did you say?

23 MR. LEACH: He said leave it to the end.

24 SEC. TENNANT: Oh, left till the end. Okay.

1 I am considering that, too. Just so we can get through
2 these and then we'll do that. We'll put this in with
3 number three hundred and sixty-six.

4 MS. CHARNOCK: That's fine. Do I get a
5 number, too? Ann Charnock again. I asked a question
6 yesterday, but I am again asking it. The State Election
7 Commission made a ruling on the contributions, the
8 qualified contributions in which the objection was
9 sustained, the twenty or so from yesterday. Where does
10 that money go? Does the Benjamin campaign have to, need
11 to refund the donor or --

12 MR. LEACH: I researched that question and
13 the answer is that money, unless somehow it gets cured
14 with a process of replacement or something of that
15 nature, that money is not documented by a proper
16 receipt, approved by the State Election Commission, and
17 has to be paid to the State Election Public Campaign
18 Financing Fund.

19 MS. CHARNOCK: So these twenty donations go to
20 that fund?

21 MR. LEACH: Yes.

22 MS. CHARNOCK: And the Benjamin campaign has
23 to write a check to the fund for those donations?

24 MR. LEACH: Well, I guess that's how you

1 would do it, yes.

2 MS. CHARNOCK: Well, they've got the money. I
3 guarantee you Ann Charnock's not writing another check.

4 MR. LEACH: Oh, do you mean does the
5 individual person who made the donation have to pay the
6 fund? No, I think --

7 MS. CHARNOCK: No. The money is with the
8 Benjamin campaign, so they're the ones that have to make
9 that payment?

10 SEC. TENNANT: Yes.

11 MS. CHARNOCK: Okay. Number two. Again, I
12 brought this up yesterday and I'm asking again for a
13 ruling. The twenty or so people for whom the objection
14 was sustained yesterday, may they make a donation? They
15 may donate again?

16 MR. LEACH: I don't know if the Commission
17 wants to talk about this or not. It concerns me as a
18 lawyer that we set a policy or a ruling on interpreting
19 the statute when we don't have the facts before us as
20 they exist. I suppose if both sides wanted to argue it
21 and then have the Commission adopt a policy, it could be
22 done. I'm a little concerned that we didn't get -- did
23 we amend the agenda to include that?

24 MS. SUMMITT: Uh-huh.

1 MR. LEACH: We did? Okay. I understand we
2 amended the emergency agenda to include a discussion of
3 parameters, I think is what it is, for replacement or
4 additional. So that's on the agenda, but --

5 MS. CHARNOCK: And that's fine if it's going
6 to be brought up later. I just want to make sure.

7 MR. LEACH: As I understand it, it's just
8 scheduled as a discussion, not necessarily a ruling,
9 because again, we haven't heard, we want to hear from
10 all sides before we issue a ruling, and then come back
11 later and hear an argument we didn't consider and have
12 to face changing our minds.

13 MS. CHARNOCK: ~~I'm going to keep going.~~
14 Yesterday there was some discussion about the Electronic
15 Signature Act. And I can bring this objection up when
16 we get into this, but I wanted to bring forward that
17 state act and the federal act about that, wanted to make
18 sure the Election Commission was aware of those acts and
19 what they say.

20 MR. LEACH: Well, they're aware of the
21 state act because I sent them a copy of it. I didn't
22 send them a copy of the federal act, so.

23 MS. CHARNOCK: And then I want to make a
24 request under the hardship request, under the Rules,

1 146-5-11.3.2 that the campaign be given an exemption to
2 submit a filing because we haven't been able to make it
3 electronically.

4 MR. LEACH: And when was this due?

5 MS. CHARNOCK: That's a good argument. When
6 was it due? There's a report due the first of every
7 month.

8 MR. LEACH: Which month are we talking
9 about?

10 SEC. TENNANT: November? Was this the
11 November one where you had the difficulty on October
12 31st?

13 ~~MR. SHULL: This is final report on~~
14 exploratory contributions.

15 MR. LEACH: Oh, the exploratory, okay. Let
16 me address the Commission about this issue. All
17 campaign finance reports and receipts, for that matter,
18 are to be filed electronically with the Secretary of
19 State on certain deadlines. In the statute there is an
20 exemption process by which they may, a party may ask for
21 exemption from that filing requirement by, filing
22 electronic requirement, not from the filing requirement
23 but from the electronic filing requirement, at the vote
24 of the SEC.

1 What is involved in this issue is an unusual
2 part of this law that requires the reporting of carried
3 over, is how I would describe them, pre-candidacy money.
4 These are not monies raised while the candidate was
5 seeking qualification or certification, or even had
6 filed as a pre-candidate using the public finance money.

7 What this is, is a pre-candidate, a regular pre-
8 candidate account rather than an exploratory committee
9 that belonged to this candidate and there was some money
10 in the account. And the money apparently was raised
11 after January 1, 2015, but before September 15, 2015, as
12 a pre-candidate for some office, perhaps Supreme Court,
13 maybe an unidentified office.

14 And our West Virginia Code for pre-candidate
15 filings requires those to be reported at the first
16 financial report of the year following. It would either
17 be an annual report or, if it was election year, the
18 primary first. But this law, this public financing law
19 says that all money you have in any pre-candidate
20 accounts between January 1 and your declaration of
21 intent becomes public financing exploratory funds.

22 And there's a different reporting requirement
23 deadline for exploratory funds. You have to report any
24 that you've raised and any that you've expended, which

1 as I understand it, the campaign did neither. But you
2 also have to report your rollover balance, how much you
3 started with and how much you ended with each month.
4 It's treated the same as a regular exploratory
5 contribution even though it's -- I mean a regular
6 qualifying contribution report, so it's due at the first
7 of each month for activities from the month before,
8 although the activity would be zero dollars
9 transactions. Balance started at A, ended at A.

10 Unfortunately, our electronic filing system is
11 not set up to recognize this type of deposit or
12 transaction. There's no field for that transaction
13 ~~because this is not like a regular pre-candidate report,~~
14 which we could accept electronically. It's a special
15 type of report that the programming and software does
16 not accommodate. So the candidate was, as I understand
17 it, unable to file during the months required. Could
18 file a paper report and is seeking exemption in order to
19 file a paper report listing the no transactions but the
20 account's starting and ending balance.

21 And that's the extraordinary circumstance and
22 a hardship that's placed upon the candidate that they're
23 seeking relief from. Any questions from the Commission
24 members about what I just tried to explain?

1 MR. CARDI: Am I right in thinking that
2 this has nothing to do with the qualifying for public
3 funds?

4 MR. LEACH: That's correct.

5 MR. CARDI: It's something entirely
6 different?

7 MR. LEACH: It's something to do with the
8 requirements of the laws for public campaign financing,
9 yes, but not for challenging qualifying contributions.

10 MR. CARDI: Okay. And is there some hurry
11 on this?

12 MR. COLLIAS: Well, they haven't gotten their
13 exemption, so they haven't filed yet so they're late. I
14 don't know if more late is worse than late. I mean so
15 I'm sure they would like to get going on it. But
16 urgency? I don't know how to categorize it.

17 MR. CARDI: Well, we have a bunch of real
18 urgent stuff here that actually is all related to this
19 qualification.

20 MR. LEACH: So, yeah, it's --

21 MR. CARDI: I hate at the beginning of the
22 meeting to address something else --

23 MR. LEACH: Okay.

24 MR. CARDI: -- if not critical for some

1 reason.

2 MR. LEACH: That your wish, too, Madam
3 Secretary.

4 SEC. TENNANT: Yes.

5 MR. LEACH: Okay. So we'll bring that up
6 later.

7 MS. CHARNOCK: That's fine. Now, is the
8 Commission going to, I know that Mr. Leach's
9 recommendations will -- the comment was that these
10 contributions that are not valid would go to the
11 election fund. As a matter of process, does the
12 Election Commission have to issue an order that says
13 ~~that or will that be part of your ruling you set in~~
14 response to Mr. Reidy about something in writing?

15 MR. LEACH: Well, bear in mind that this is
16 our second go at campaign public financing and we didn't
17 deal with this process the first time. It's anticipated
18 that we would list the people who were denied and the
19 date of the contribution and the amount. And then we'd
20 probably just put something in -- I don't think it's an
21 order. Just going to be a notice you owe this.

22 SEC. TENNANT: To the fund. To the --

23 MR. LEACH: We did have some money
24 refunded. We had some money refunded last time where

1 someone started an exploration attempt and decided not
2 to run and they transferred all that money to us. We
3 just called or emailed them and said you owe this.

4 MS. CHARNOCK: But that's under statute, isn't
5 it? Isn't that spelled out under the statute?

6 MR. LEACH: Well, this is, too.

7 SEC. TENNANT: That's what he's saying, that
8 it was in statute of giving the money back.

9 MR. LEACH: This is in the statute, too. I
10 mean I didn't just make it up. It's in the statute that
11 if you have a contribution receipt that doesn't qualify,
12 that money goes to the state election or the public
13 financing fund.

14 MS. CHARNOCK: Thank you very much.

15 SEC. TENNANT: Anything else?

16 MR. LEACH: Any other preliminary matters?

17 SEC. TENNANT: No, nothing? All right. Well,
18 let's start with the first section, number one. Are we
19 taking these one down or --

20 MR. WILLIAMS: That's your prerogative.

21 MR. NICHOLS: That's how they are in the
22 book.

23 SEC. TENNANT: So, gentlemen in this number
24 one section we have twenty-five that are challenged

1 because of -- hang on -- because did not use the SEC
2 form. Now, if you'll remember from yesterday, we made
3 the ruling that as long as the information was there is,
4 the form did not matter. Is there any question and do
5 you prefer to take all twenty-five of these at once?

6 MR. CARDI: I'd like to take all twenty-
7 five at once, so maybe the names should be read off real
8 quickly, the last names. Does that make sense? We're
9 talking about Tester, Welsh, Swartz.

10 SEC. TENNANT: Yes, yes, but remember, yeah, I
11 mean I can do that. And I can go through --

12 MR. NICHOLS: Remember they're on the back of
13 the pages, too, front and back.

14 SEC. TENNANT: Thank you for saving me.
15 Please don't leave.

16 MR. CARDI: I mean does that make sense, is
17 the question. Should we do that so we have a record of
18 --

19 SEC. TENNANT: Well, I think for, I mean if
20 you want to do it for the record, yes. And you all have
21 looked through these.

22 MR. CARDI: If you don't think that's
23 necessary because we've got group one, and the staff can
24 record what group one is, that's fine, too. I think we

1 ought to address them all at one time.

2 SEC. TENNANT: If the Walker, Beth Walker's
3 campaign has a question about any of these, because I
4 believe what's going to take place is we're going to say
5 we've addressed this and the SEC --

6 MR. REIDY: I would have one question.
7 Since there's not going to be any record unless they
8 are, unless it's not allowed, then I would think that it
9 would be good for it at least to be read aloud for the
10 recording of it.

11 SEC. TENNANT: That works.

12 MS. CHARNOCK: And that's fine. When I
13 ~~initially asked for names, I was provided with this~~
14 notebook. So now I know who the names are. And I think
15 that's, I don't have any objection to --

16 SEC. TENNANT: For the record. Okay.
17 Professor, I'm going to read the names. Brigitte
18 Tester; Rosalind Welsh; Mark Swartz; Mary Swartz; James
19 Squibb; Anne Forbes Reed; Holly Planinsic; Tom Newcomer;
20 James Matzureff; Erica Lord; Mark Kelley; David Jividen;
21 R. Edison Hill; Earl L. Forman, II, Esquire; Lesli R.
22 Forbes; Ellen Clarke Forbes; William Jesse Forbes;
23 William C. Forbes; okay, Marianne Forbes; Terry E.
24 Courtwright; Marc Chernenko, W. Kent Carper; Thomas

1. Burgoyne; Ray Bruning; Penny L. Bice. That's it. Was
2 that too fast? I'm sorry. Any comment?

3. MR. REIDY: No, ma'am.

4 SEC. TENNANT: Any comment from the Benjamin?
5 I call to question of whether or not we accept these.
6 Oh, geez. That's not how we say it.

7 MR. LEACH: You can phrase it however you
8 want to. You can --

9 SEC. TENNANT: Oh, since I'm calling the
10 question, I can phrase it.

11 MR. LEACH: You can take a vote for
12 accepting or no is against or however you want to word
13 that.

14 SEC. TENNANT: Well, I'm going to try to stick
15 with how we phrased it yesterday.

16 MR. LEACH: Well, yesterday we talked about
17 sustaining --

18 SEC. TENNANT: And denying.

19 MR. LEACH: -- and denying the challenge.

20 SEC. TENNANT: I call the question, the
21 denying of the challenge for these twenty-five that
22 don't have an SEC form. All in favor say aye.

23 MR. COLLIAS: Yeah, this is Gary. I vote
24 aye. I think the challenges should be denied.

1 MR. CARDI: Aye, denied.

2 SEC. TENNANT: Aye, Natalie Tennant. All
3 twenty-five of those are denied. Number two.

4 MR. LEACH: Take a deep breath.

5 SEC. TENNANT: Gary, are you ready? So these
6 are the electronic receipt no signature.

7 MR. LEACH: Why did you all make that
8 number two?

9 SEC. TENNANT: Well, fresh, for everybody to
10 be fresh. And do they want to present evidence? I
11 didn't ask if they had the evidence for the no forms.

12 MR. WILLIAMS: Yes, you did. The same thing.

13 SEC. TENNANT: Okay. So now I'm going to read
14 these hundred and twenty-eight. Is there any in
15 particular that you want to pull out?

16 MR. SHULL: We've not had a chance to
17 review each and every one of these, but we have found at
18 least one and more than one where a form was submitted
19 to you. But we're not prepared to say which of these
20 objections didn't have forms presented to you because we
21 haven't had a chance to review each and every one of
22 them. But at least one has.

23 SEC. TENNANT: So we'll go through them
24 individually. We won't do this as a blanket, one

1 twenty-eight.

2 MR. SHULL: I attempted to prepare for that
3 by having the receipts alphabetical to speed the
4 process.

5 SEC. TENNANT: Very good. So the first one
6 we're discussing is Kevin Burgess. Gentlemen, do you
7 have that in front of you?

8 MR. CARDI: Wait a second, wait a second.
9 Why are we going to address these individually as
10 opposed to a group?

11 SEC. TENNANT: Because the --

12 MR. CARDI: There's a feeling that maybe
13 ~~one of them is okay? Can we not identify which one?~~

14 SEC. TENNANT: No, they have identified. They
15 haven't looked through every one. They know they have
16 at least one and they are thinking they have more than
17 one, and they are asking that they go through
18 individually to see if they recognize another. Is that
19 fair?

20 MR. COLLIAS: They have at least one that's
21 what?

22 MR. SHULL: Kevin Burgess signed a printed
23 receipt, a physical signature, which we filed in a
24 timely fashion after the contribution.

1 MR. CARDI: This is Benjamin camp speaking?

2 SEC. TENNANT: Yes, I'm sorry. Darrell,
3 state your name.

4 MR. SHULL: Darrell Shull with the Brent
5 Benjamin campaign. Kevin Burgess donated on 1/29/2016.
6 We submitted a signed receipt by close of business
7 February 2nd, 2016, for his contribution.

8 MR. CARDI: So why is he in this group?

9 MR. LEACH: Because we didn't find the
10 receipt.

11 MR. WILLIAMS: The challenge.

12 MR. LEACH: No, why is he categorized in
13 this group?

14 MR. WILLIAMS: Because that's what the
15 challenge was.

16 MR. LEACH: Right.

17 MR. WILLIAMS: The challenge --

18 MR. CARDI: Is there a receipt?

19 MR. LEACH: So they didn't have the
20 receipt. The challengers did not have the receipt when
21 they filed their notice. Is that right?

22 MR. SHULL: That is also -- this is Darrell
23 with the Benjamin campaign. I can't speak to that
24 except we filed the receipts with the Secretary of

1 State's office a day before they filed their challenge.

2 MR. WILLIAMS: The claim is that there was no
3 receipt. This is Justin Williams. There is a claim by
4 the challenger that there was no signature on the -- and
5 it's an electronic receipt with no signature. The
6 Benjamin campaign is now submitting that they have a
7 signature on a piece of paper that was submitted --

8 MR. SHULL: Prior to the end of business
9 February 2nd.

10 SEC. TENNANT: So, Professor, that's why we're
11 going through them. And I am then asking the Beth
12 Walker campaign if they have any evidence that there is
13 no signature. And so Joe has said -- why don't you say
14 it out loud.

15 MR. REIDY: No, ma'am.

16 SEC. TENNANT: He has said no, so that means
17 --

18 MR. LEACH: How do have evidence that
19 there's no signature?

20 SEC. TENNANT: Well, that's my question to
21 them. What is the challenge if you have no evidence?

22 MR. REIDY: The challenge, we're just going
23 to let that stand as it was submitted as we did
24 yesterday.

1 SEC. TENNANT: Okay. So they have no
2 evidence, and so the question would be they have no
3 challenge, then.

4 MR. NICHOLS: Do they have --

5 SEC. TENNANT: What is the question?

6 MR. NICHOLS: Is the challenge valid?

7 MR. CARDI: Okay. This is Vince Cardi.

8 SEC. TENNANT: Oh, oh, is the challenge valid
9 then becomes the question. If they have no evidence to
10 this challenge, is the challenge valid?

11 MR. LEACH: They're not required to submit
12 evidence in support of their allegations.

13 SEC. TENNANT: ~~They are or are not?~~

14 MR. LEACH: They are not.

15 SEC. TENNANT: Yes, they are not required, but
16 they can't --

17 MR. COLLIAS: There's a difference between a
18 challenge being valid and being meritorious. I mean
19 being valid means that they probably asserted it and
20 it's entitled to be adjudicated and decided. Whether or
21 not it's meritorious is another question.

22 MR. WILLIAMS: That's a good -- that's an
23 excellent point.

24 MR. LEACH: So what we have is an

1 allegation that there is no signed receipt, and the
2 other party is willing to document that there is a
3 receipt.

4 SEC. TENNANT: Okay.

5 MS. SUMMITT: At the time of filing.

6 MR. CARDI: Okay. Vince Cardi. The reg
7 7.3 says the challenger should attach any relevant
8 evidence, affidavits, or notarized statements to the
9 form. That's the challenge form. Query, if -- do these
10 have evidence? Any of these sixty-three have evidence
11 and, if not, didn't we opine yesterday that you can't
12 just say this thing doesn't qualify? You have to have
13 some evidence it doesn't qualify.

14 SEC. TENNANT: Correct, sir. I mean that's
15 what -- we did talk about that. That's what I mean by
16 correct.

17 MR. LEACH: Yeah, we're trying to avoid
18 just baseless allegations. I understand that. Oh, it's
19 a regulation and I'm looking in the Code.

20 MR. SHULL: Lack of sleep.

21 MR. LEACH: Of course, I'm using the old
22 Code. I hope it hasn't changed.

23 MR. CARDI: It's 146-7-3.

24 MR. LEACH: 57.3.

1 MR. CARDI: Yeah, 57.3. Didn't we discuss
2 this yesterday? You just can't say, well, this person
3 is not registered to vote. You've got to say we looked
4 into it and here's the evidence that shows that they're
5 not registered to vote. Otherwise, we're wasting our
6 time trying to do our investigation when it's the
7 challenger that's got the burden of moving forward.

8 MR. WILLIAMS: That would be the prerogative
9 of the Commission.

10 SEC. TENNANT: Yeah. That is the prerogative
11 of the Commission. This one might need a motion,
12 because it will set the tone on how to address these if
13 there's evidence. Do you have evidence for any of
14 these?

15 MR. REIDY: Only what was submitted.

16 SEC. TENNANT: Which is just the challenge
17 page that was submitted?

18 MR. REIDY: Yes.

19 SEC. TENNANT: Okay. So all we have are
20 challenge pages with no evidence, with nothing to back
21 up the challenges.

22 MR. SHULL: That's on all three hundred
23 sixty-five?

24 SEC. TENNANT: Is that on all three hundred

1 sixty-five? Yes. Unless you brought evidence with you.

2 MR. REIDY: No, ma'am.

3 SEC. TENNANT: Yes, that's on all three
4 hundred sixty-five.

5 MR. CARDI: Well, I mean if there's no
6 evidence, then what's the basis of the challenge? I
7 mean why is there a good faith reason to believe that
8 these don't qualify if there's no evidence that they
9 don't qualify?

10 SEC. TENNANT: That's a fair question. I mean
11 is that a motion you're making then?

12 MR. CARDI: Well, I'll make that motion
13 that unless there's some evidence accompanying the
14 challenge, then it's not a challenge that we need to
15 consider.

16 MR. COLLIAS: Well, I mean, this is Gary. I
17 mean some challenges can be based on the face of the
18 document.

19 SEC. TENNANT: And that's evidence.

20 MR. COLLIAS: Yeah. Right. So --

21 SEC. TENNANT: But they don't have the
22 document or the evidence. Well, there's a difference
23 between extrinsic evidence and what's contained in the
24 document itself. I mean if the document doesn't have a

1 name of the contributor, that's not extrinsic evidence.

2 I mean because --

3 MR. CARDI: That's evidence. Yeah, that's
4 evidence.

5 MR. COLLIAS: It's still evidence, so when
6 the Walker campaign says that they don't have any
7 evidence, he's talking about extrinsic evidence. It
8 still doesn't mean that on the face of the matter some
9 of the objections might not have merit or do you count
10 that might not have merit?

11 MR. CARDI: But they have not asserted any
12 evidence on the face of it. There's no signature. I
13 mean they've got to say, look, here's the receipt and
14 it's not signed. I mean does that make sense, Gary?

15 MR. COLLIAS: Yeah, but isn't that what
16 they've done? Aren't these, haven't these been put in
17 groups where the issue is set forth? And you're right,
18 Vince. I mean for some of these the issue might depend
19 on whether or not there's extrinsic evidence and there
20 isn't any, and so we have to reject the challenges.

21 But for others, for example, if there's a
22 group, I don't know how the groups are, you know, what
23 they are, but let's say there's a group of those that
24 don't identify the contributor and there's ten in that

1 group, well, that's something we need to look at.

2 MR. CARDI: They don't say, and the
3 evidence is, we looked at the document and there's no
4 name on it. That's our evidence and here's the
5 document. But they're not posing any evidence on these,
6 as far as I can tell. I mean, I'm ready to hear it, but
7 I thought you said there's no evidence.

8 MR. COLLIAS: Hello?

9 SEC. TENNANT: Yes. I mean we're listening to
10 your conversation and debate. I mean that, the
11 Professor is correct.

12 MR. COLLIAS: Well, but for example --

13 SEC. TENNANT: They present this challenge,
14 but they don't have the evidence that this challenge is
15 there. For instance, like number twelve is a missing
16 signature, but they have no evidence that there is a
17 missing signature.

18 MR. COLLIAS: Well, for example, let's look
19 at group two. The last group we were talking about.
20 The first person, Kevin Burgess. Okay. It's indicated
21 that that was an electronic receipt with no signature.
22 So I'm assuming that that appears on the face of the
23 document that we have.

24 SEC. TENNANT: We don't have those documents.

1 MR. CARDI: They haven't submitted that
2 document, Gary.

3 SEC. TENNANT: They haven't submitted the
4 document.

5 MR. COLLIAS: Well, what -- yeah, but didn't
6 the Benjamin campaign support a document seeking to have
7 that contribution qualify?

8 SEC. TENNANT: I don't -- I mean go ahead,
9 Benjamin campaign.

10 MR. COLLIAS: Don't you have that document?

11 MS. CHARNOCK: This is Ann Charnock. The
12 burden of proof isn't on us. We filed the report and we
13 ~~filed the receipts. They filed a challenge, but they~~
14 don't have any evidence of what their challenge is.

15 MR. COLLIAS: Well, what I'm saying is, the
16 receipt that's in the possession of the Secretary of
17 State's office, that receipt is the limit of the
18 evidence. But if on the face of that receipt it shows
19 that the qualifying contribution is inadequate for some
20 reason, then that's all they need. I mean what more are
21 you expecting them to do if something is evident on its
22 face?

23 MR. CARDI: Attached to this challenge
24 form, the document submitted to the Secretary of State

1 and say, look, attached to this challenge form is the
2 evidence that there's no signature. And I don't see
3 that. I don't see the evidence here.

4 And I mean I thought in our discussion
5 yesterday that this was one of your main points. You
6 can't just assert something. You've got to show some
7 evidence.

8 MR. COLLIAS: Well, right.

9 MR. CARDI: Without the filed receipt as
10 the evidence, well, they've got to present that filed
11 receipt. I mean I don't know --

12 MR. COLLIAS: You think they have to present
13 it even though we already have it?

14 MR. CARDI: I don't have it.

15 MR. COLLIAS: The Secretary of State's office
16 has it.

17 SEC. TENNANT: Yes, because just because we
18 have it doesn't mean that we necessarily agreed to the
19 same case.

20 MR. SHULL: In the case of the voter
21 registration cards yesterday. You have them.

22 SEC. TENNANT: Right.

23 MR. SHULL: But is it your burden to have
24 to look every single one up? That's what you --

1 SEC. TENNANT: Yes, we don't have them at this
2 meeting and this is not, you know, how do we know that
3 we see the same -- we need the evidence from the
4 challenger. Is there a motion, Professor?

5 MR. CARDI: I move that we deny any
6 challenge that is not accompanied by some evidence
7 presented by the challenger to support the challenge.

8 MR. COLLIAS: But that begs the question,
9 though. The whole thing we're debating, not agreeing
10 on, is what is evidence. I mean I agree with that
11 statement in the conclusory way that you've made it, but
12 I think that if -- let's just simplify this and say
13 there was only one challenge made to one qualified
14 contribution, and they said that John Smith gave a
15 hundred dollars to the campaign and he didn't sign the
16 receipt, okay? And, you know, that's it.

17 And we, we, I mean the State Election
18 Commission and Secretary of State's office, we're in
19 possession of that receipt. That seems to me that
20 that's adequately described the basis of the objection,
21 and we should look at the receipt and see if there's any
22 merit to that. And what you're saying is they have an
23 obligation to get the receipts themselves and attach it.
24 Is that where we're disagreeing?

1 SEC. TENNANT: Correct. They have the
2 receipts. They've looked at it. It is their
3 obligation.

4 MR. COLLIAS: Even though we already have it?

5 SEC. TENNANT: Right, but we're not the ones,
6 and Professor can probably clarify it more than I can,
7 but we're not the ones who are making the challenge.

8 MR. COLLIAS: Yeah, I understand that, but to
9 me this is akin to a party making a motion in a court
10 case and it's based on documents that are already in the
11 court record. And what you're saying is it doesn't
12 matter if they're in the court record, that if in making
13 that motion you don't separately attach a copy of it in
14 support of your motion, you can't rely on what's in the
15 record. To me that's the analogy that I see here.

16 MR. CARDI: I understand. I understand.

17 MR. COLLIAS: And I mean I know this is an
18 overwhelming task because there's so many of them, but
19 presumably the Walker campaign didn't make identical
20 objection to every single one of these. I mean they're
21 not objecting to every one of them, all three hundred
22 and sixty-five as being electronic, are they?

23 SEC. TENNANT: Well, no, they had --

24 MR. CARDI: Every one --

1 SEC. TENNANT: Go ahead, Professor.

2 MR. CARDI: Every one in this group says
3 that. I mean we certainly cannot sustain the objection
4 based upon what we have in front of us. Now, if you're
5 saying that, Gary, if you're saying that, well, when
6 they made this the Commission's staff should have
7 produced these so we can look at it, if that's what
8 you're saying, then maybe that makes sense.

9 I mean I'm assuming that the objectors here
10 took a look at Kevin Burgess', the receipt filed for
11 Kevin Burgess and said there's no signature on it. I'm
12 assuming they did that. That they didn't just make this
13 up, just hoping that they would luck out that there's no
14 signature just because it's electronic. I mean, if
15 that's what they did, is that a good faith objection?
16 Just sort of guessing that since it's electronic that
17 there's no signature.

18 They must have seen it and so I think they
19 should have attached it. But Gary's point is well taken
20 and that is, well, we've got it, so maybe they shouldn't
21 have to produce it, that it is the job of our staff
22 within this eight waking hours after receiving the
23 objection, for the staff to go and find it after the
24 objector supposedly already found it, but didn't want to

1 attach it here and have the staff go and do it. I mean
2 at that point, I see your point, Gary. But since our
3 staff didn't do it, what's your proposal here?

4 MR. COLLIAS: We certainly -- well, let me
5 ask this. How is it that yesterday when we were going
6 through all these objections we were looking at the
7 receipt for the contributions one after another after
8 another? Where did they come from?

9 MS. CHARNOCK: The Benjamin campaign.

10 MR. LEACH: No.

11 MR. CARDI: I don't remember. I mean I
12 don't remember who produced them. I assume that the
13 objector produced them. I don't know.

14 MR. COLLIAS: Tim Leach, where did they come
15 from yesterday.

16 MR. LEACH: We made them.

17 SEC. TENNANT: They came from the Secretary of
18 State's office. But as we reviewed the challenges as
19 they came in, if you'll remember when we looked over the
20 blanket challenge that we had, we realized that it is,
21 the challenger should be the one who attaches any
22 relevant evidence, affidavits, or notarized statements
23 to the form. And challenge forms must be filed with the
24 Secretary of State as we've been talking about.

1 And so it is incumbent on the challenger to
2 provide the evidence because they have the evidence that
3 they said, well, they have the information that they say
4 is lacking. They have it, they've seen it, and they did
5 not bring a copy or present the evidence.

6 MR. COLLIAS: But how is it different? You
7 still haven't explained to me how is it different than
8 yesterday?

9 SEC. TENNANT: We don't have any evidence
10 today in front of us.

11 MR. COLLIAS: Just because staff didn't have
12 the time to go gather it all and present it?

13 SEC. TENNANT: No, not at all, Gary. Not at
14 all. When we see that the challenger, I mean the same
15 question could be asked of either the Benjamin campaign
16 or the Walker campaign, why don't they have the
17 evidence, why did they not bring it. Because we sit as
18 judge here, that as judge on these complaints, we should
19 not be bringing the evidence. And that was what we
20 conveyed to the Walker campaign right after our meeting,
21 what we conveyed to the Benjamin campaign right after
22 our meeting yesterday is that now sitting as judge we
23 realize that we shouldn't be the ones to present their
24 evidence and offer their evidence, that the Walker

1 campaign themselves should be.

2 MR. COLLIAS: So what you're saying is that
3 the way we're looking at these claims today and the way
4 we're looking at the evidence is different than
5 yesterday because it happens to be --

6 SEC. TENNANT: Not at all. Not at all because
7 if it's the same evidence that they wanted to present,
8 then they would have presented it.

9 MR. COLLIAS: Well, right. That's what I'm
10 saying.

11 SEC. TENNANT: Because it's the same evidence.
12 It's not different.

13 MR. COLLIAS: Yesterday when we looked at
14 these, we looked, we had the staff get copies of the
15 contribution forms, the receipt forms. But today you
16 told them that if they wanted to have these considered
17 today that they would have to have the evidence
18 themselves. So there's a difference. There's a
19 difference.

20 SEC. TENNANT: Well, I'm saying that the same
21 evidence that they used to challenge yesterday and the
22 same evidence that they used to challenge today is the
23 evidence that they should bring to this meeting.

24 MR. COLLIAS: Right. Okay. And I mean --

1 SEC. TENNANT: And they chose not to.

2 MR. COLLIAS: I'll bet you that the reason
3 that the lawyers from neither group did that is because
4 they already knew that we had, we had the evidence. But
5 I'll let them speak for themselves.

6 SEC. TENNANT: Okay. If you would all like to

7 --

8 MR. CARDI: This is Vince Cardi. There was
9 a discussion yesterday, I believe, this is my
10 recollection, that when a statement was made that the
11 eight hundred, that a blanket objection to all eight
12 hundred or something was going to be filed at some
13 point, that the Commissioners stated that no, the person
14 objecting has to specify what the objection is and
15 produce the evidence upon which it's based.

16 It is not the -- it is not up to the
17 Commission to go out and check to see whether these
18 people are registered to vote or not. It's up to the
19 objector to do the investigation and say, hey, these
20 people aren't registered to vote. And so that from then
21 on it was up to the objectors to produce the evidence.
22 Now, is this an accurate memory or not an accurate
23 memory?

24 SEC. TENNANT: Correct. It came from the

1 letter that we received, and that, yes, we were still in
2 the meeting when I read the letter out loud concerning
3 the other challenge that the Walker campaign was
4 preparing. And you're right, Professor. And that's
5 where this came from, is that I even think you said
6 something about, you know, how can you make a blanket
7 campaign with no specific evidence and no specific -- or
8 a blanket challenge with no specific evidence and no
9 specific challenge.

10 MR. COLLIAS: Well, I'm in agreement about
11 the need to specify the challenge as to each
12 contributor. But I don't know how you can expect them,
13 if they say that John Doe was not a registered voter in
14 Raleigh County, I don't know how you expect them to
15 prove that he's not. I mean how could they prove a
16 negative?

17 SEC. TENNANT: Well, then, how did they come
18 up with the challenge is the question, then. How can
19 they challenge -- so then you're saying that it's a
20 blanket challenge with no basis to their challenge.

21 MR. COLLIAS: Well, I assume that they
22 checked some database that would reflect that and saw
23 that he wasn't. But that's the same database available
24 to the Secretary of State we already have. I just --

1 MR. CARDI: But once you take the --

2 SEC. TENNANT: Then why didn't they -- that's
3 my question. Go ahead, Professor.

4 MR. CARDI: Well, let's take the voting.
5 If they just say these people were not registered voters
6 and they've got no evidence of that, it essentially
7 shifts the burden on o the other party or onto the
8 Commission to actually take a look to see if they're
9 voters. That seems to me abuse of the, of this
10 objection process and also inconsistent with the regs
11 that seem to say you've got to have grounds for the
12 objection. It can't just be a guess.

13 ~~And so on the voters, I suppose they go and~~
14 they take a look to say, hey, nobody is registered in
15 this name to vote. I think they sort of did that on
16 some of these people. They said, well, there is
17 something. We went and took a look and a person of this
18 name is registered to vote with a different address.
19 That's why we think they're not registered. And that
20 was the evidence. We found it wasn't good enough
21 evidence, but at least some evidence. Here I don't see
22 any evidence.

23 MR. COLLIAS: Yeah, but the reason, Vince,
24 you don't see any evidence is because, it's because the

1 staff, our staff hasn't gone and done the same thing
2 they did with the first batch of objections. They
3 haven't gone and --

4 SEC. TENNANT: No.

5 MR. CARDI: I agree with that, Gary.

6 SEC. TENNANT: No, no, no. I will counter
7 that. The reason that you don't see the evidence,
8 gentlemen, the reason that you don't see the evidence,
9 gentlemen, the reason that you don't see the evidence is
10 because they didn't present it.

11 MR. CARDI: Did they present it yesterday?

12 MR. COLLIAS: Good point.

13 ~~SEC. TENNANT: No, they didn't. They didn't.~~

14 MR. CARDI: Well, why --

15 SEC. TENNANT: But then we realized with the
16 help of you, Professor, that it was not incumbent, just
17 with the words that you just said, it was not incumbent
18 on us and as a matter of fact is it fair. Is it fair to
19 either side if we are the judge and finding the evidence
20 to either side? Would you like to speak, Kent? This is
21 -- hang on a minute. They're probably still on there.
22 Hang on a second, Kent. Go ahead, Gary.

23 MR. COLLIAS: I understand. I just want to
24 say that I completely understand what the issues are and

1 why people are disagreeing.

2 SEC. TENNANT: Now, we do have someone from,
3 are you from --

4 MR. GATES: Kent Gates of the Walker
5 campaign. If someone, for a challenge if someone is not
6 a registered voter and we have to provide evidence that
7 they're not a registered voter --

8 SEC. TENNANT: Correct.

9 MR. GATES: Where do we get it?

10 SEC. TENNANT: Well, then how are you making
11 the challenge?

12 MR. GATES: We looked it up in the
13 database. You guys are the ultimate keepers, the judge
14 is the ultimate keeper of the database, right? And
15 you're the final word.

16 SEC. TENNANT: Well, then, what database are
17 you basing -- I mean it could be any database. I don't
18 know what database you're talking about.

19 MR. GATES: How else can we do it? You're
20 the ones that have the ultimate, I mean the final say
21 about it. I mean that's my problem. The registered
22 voters in particular. You've got --

23 SEC. TENNANT: But what data, I mean what
24 database are you looking at? Like the business

1 database, it wouldn't be there. You see what I mean.
2 What database are you looking at?

3 MR. GATES: The ones that RNC's collected
4 from. Or from you. But you're the ones that have the
5 final database. If it's not -- you're the one that will
6 finally be able to say definitively yes or no is this
7 person a registered voter. There would be no other way
8 to prove it. You can prove they are a registered voter.

9 SEC. TENNANT: But where is the evidence?
10 You haven't provided us with evidence that we have to
11 check that. You only made a challenge. What were you
12 going to say, Ann?

13 MS. CHARNOCK: I was just going to suggest,
14 this is Ann Charnock on behalf of the Benjamin campaign,
15 and I certainly don't want to take, don't want to be
16 offering legal advice to the Walker campaign, but the
17 evidence would have been an affidavit signed by whomever
18 checked that database to state that bottom line was
19 there was no registration.

20 Attached to the form was supposed to be the
21 evidence and the evidence included an affidavit. So
22 that's how you would, that's the evidence. And since
23 there aren't any, of course the Benjamin campaign
24 suggests that you deny the objections to all three

1 hundred and sixty-five.

2 SEC. TENNANT: That's your suggestion to the
3 Commission?

4 MS. CHARNOCK: That's my suggestion to the
5 Commission. Thank you.

6 SEC. TENNANT: What is the Walker suggestion?
7 Because you have very few, which -- well, I don't want
8 to say very few. In comparison -- hang on a second.
9 You have very few when you talk about voter
10 registration. What is your evidence for someone who
11 doesn't have a signature?

12 MR. REIDY: First, I just want it to be
13 clear that the Walker campaign does not have a lawyer
14 present. It was suggested there was a lawyer and I am
15 not a lawyer. So I am just --

16 SEC. TENNANT: That's me and you, Joe. The
17 rest of these people.

18 MR. REIDY: And I don't have a comment on
19 that.

20 SEC. TENNANT: Do you see where the point is,
21 that we could even go down and look through in the voter
22 registration ones, but there is no evidence presented
23 for --

24 MR. REIDY: We're just going to let these

1 stand as they were submitted.

2 SEC. TENNANT: Okay. So, gentlemen, what is
3 your pleasure then?

4 MR. CARDI: Gary, where are you on this?
5 You got a motion?

6 MR. COLLIAS: Well, no. I mean it seems to
7 me that you and Madam Secretary agree that they have the
8 burden of presenting evidence and they haven't presented
9 evidence. And I don't agree with that, but -- so it's
10 not my motion to make because I'm not, you know, I'm not
11 going to get a second or have a majority.

12 MR. CARDI: Is my memory correct that
13 yesterday we said that any objections had to be
14 accompanied by some evidence that supported the
15 objection?

16 SEC. TENNANT: Any challenges you mean?

17 MR. CARDI: Yeah, I'm sorry. Yeah, any
18 challenges. And, Gary, even if you agreed with that,
19 you might say, well, yes, but they wouldn't expect that
20 they had to produce the signature because we have
21 possession of the documents that show whether it's got
22 the signature or not.

23 MR. COLLIAS: Right. That's the whole point.
24 The challenges are based on the inadequacy of the

1 documents that were submitted to us. And so they are
2 coming to us saying that the documents that were
3 submitted to you are inadequate. And our response
4 appears to be, well, you haven't produced the documents.
5 No, the Walker campaign didn't produce the documents.
6 The Benjamin campaign produced them. But we have them
7 in any event. That's how I see it.

8 MR. CARDI: And so are you suggesting that
9 we either sustain all these because somebody challenged
10 these and we've got the evidence but we didn't bring it
11 here so we can't take a look at it? Or do you say we
12 put this off until another day when we can actually have
13 these produced by the staff?

14 We discussed yesterday the problem with taking
15 a look at all of these objections, and we discussed, I
16 believe it was at the meeting, that what we would do is
17 divvy these up into like kind of receipts. So for
18 example, those electronic, which do have a signature
19 arguably, and those which clearly do not have a
20 signature, they would be in two different groups.

21 But of course we haven't done any of that. We
22 don't even have the documents in front of us. I don't
23 want to adjourn until nine o'clock tonight and have them
24 put those together with all this other stuff. Is your

1 suggestion that we adjourn and address this another day
2 and let the staff bring all these documents and to go
3 through them to respond?

4 MR. COLLIAS: Well, let me ask a question.
5 Maybe you can answer it, Natalie. For example, this
6 group two, for the first individual, Kevin Burgess,
7 where it says the reason for the challenge is electronic
8 receipt, no signature. Do we know, I mean does the
9 Secretary of State's office know, do we have any idea at
10 all if that's true, that it was an electronic receipt or
11 don't we really know at all right now?

12 SEC. TENNANT: So your question is if the
13 Benjamin -- ask that question again.

14 MR. COLLIAS: Yeah, my question is, for the
15 challenge, the reason given for the challenge is an
16 electronic receipt, no signature. What I'm saying is,
17 do we, by we I mean the Secretary of State's office and
18 the State Election Commission, do we know or have any
19 information at all about whether or not that's true that
20 it was an electronic receipt or don't we, right now at
21 this very moment, we don't have any idea if that's even
22 true?

23 MR. NICHOLS: At this moment, no, we don't
24 have that in front of us.

1 SEC. TENNANT: At this moment, no.

2 MR. COLLIAS: No. Okay. Well, then, I think
3 Vince's point, which is right, is how can we go ahead
4 and decide these unless it's done on a purely legal sort
5 of basis.

6 SEC. TENNANT: Correct.

7 MR. COLLIAS: In other words, if the
8 challenge is one that even if true we reject, we can
9 reject that challenge. But if it's one that depends on
10 whether or not the allegation and the challenge is true
11 or not, then there's no way we can decide it because we
12 don't have any kind of record in front of us.

13 SEC. TENNANT: Well, that --

14 MR. COLLIAS: And my impression was that in
15 that circumstance you and Vince were inclined to reject
16 it because the challenger failed to present the
17 evidence.

18 SEC. TENNANT: Correct. Because they must
19 have had a reason behind the challenge. What was their
20 reason?

21 MR. CARDI: The reason is not a signature.
22 Not that it was electronic, but this no signature.

23 SEC. TENNANT: But where do they get that,
24 that there was no signature or no electronic receipt?

1 MR. CARDI: I don't know. You'll have to
2 ask them.

3 SEC. TENNANT: Where did you all get that?

4 MR. REIDY: From the documents that came
5 from you.

6 SEC. TENNANT: He said -- did you hear him?
7 From the documents that came from us through the
8 campaign.

9 MR. CARDI: Okay. And what about this
10 document, what about it that showed no signature? Why
11 was the electronic signature on that not a signature or
12 was it just not a signature at all? I mean what was
13 defective about it?

14 MR. REIDY: I don't have a comment on that.

15 SEC. TENNANT: I mean do you have -- I can't
16 answer the question. He has no comment. Does no
17 comment mean you don't know? Does no comment mean just
18 no comment?

19 MR. NICHOLS: Just no comment. Thank you,
20 former reporter.

21 SEC. TENNANT: I know. Well, you know, I
22 never meant for no comment, Dave, so I can't take it
23 here either. He has no comment.

24 MR. CARDI: So, Gary, are you saying it is

1 incumbent upon us because we have possession of this
2 document, we have it here?

3 MR. COLLIAS: Well, I guess what I'm really
4 saying is that going into this the challenging party
5 should know the rules. They should know what's expected
6 of them or what's not expected of them. I mean there's
7 nothing wrong with the rule that you and Natalie are
8 suggesting, which is simply that you have to have
9 attached to your challenge some sort of statement or
10 document or whatever. It doesn't necessarily have to be
11 admissible and under the rules of evidence in circuit
12 court, but just something to demonstrate the basis of
13 the objection.

14 If they knew that was the rule going in, then
15 that's fine. Okay? But the problem is, is that I think
16 that the challenger relied on common sense, which was
17 we're saying that what was filed with you was
18 inadequate, and for this reason, and they are
19 articulating the reason, and they know we have the
20 document and we can look at it. And if the reason is
21 it's not signed, they know we can look at the receipt
22 and see if it's signed or not.

23 SEC. TENNANT: But they should be the one to
24 present that.

1 MR. COLLIAS: Well, then, I understand, and
2 then that's how you feel about it and that's how Vince
3 feels about it, and if that's the rule, then we should
4 make that the rule. The only criticism I have of that
5 is, it's a little unfair at trial, here today at the
6 hearing to decide the rules for admission of the
7 evidence and then retroactively apply them to the
8 challenges.

9 SEC. TENNANT: Gary, we didn't make that
10 today. You talked about the rules and actually Mr.
11 Gates asked which rules from which we were working, and
12 so they are familiar with that for one. So that's
13 ~~what's in our rule 7.3 -- I'd have to go through the~~
14 whole numbers -- but 7.3. So that was established when
15 they first filed their qualifying challenge form. So
16 they should have anticipated that they brought the
17 evidence with them yesterday. Well, they should have
18 had that prepared not knowing the Secretary of State's
19 office would do that.

20 Then yesterday we informed them that it is
21 their responsibility once again. So it's not midstream
22 in which they are learning that they should have the
23 evidence. They knew this well in advance because
24 they've been working from this rule also, as from the

1 question that was presented earlier.

2 MR. COLLIAS: Yeah. I think that the only
3 problem is that they may have believed that when we
4 talked, when that regulation talks about relevant
5 evidence, affidavits, or notarized statements to the
6 form, they may have assumed that the form itself, since
7 we already have it, wouldn't have to be offered by them.
8 But I understand what you're saying.

9 SEC. TENNANT: Well, it says that challengers
10 should attach. It doesn't say shall or may, so they
11 could or could not. So it says that that is their
12 responsibility.

13 MR. CARDI: Well, this is Vince. I mean
14 Gary's point is well taken and it seems to be that, two
15 things. One, we have the evidence just like a court's
16 got attached to the complaint, the contract. And,
17 therefore, if somebody makes a motion to dismiss because
18 the contract's not signed, they don't have to actually
19 produce the unwritten contract because it's attached to
20 the complaint. The court already has it. Is that your
21 point?

22 And two, you're saying yesterday they did not
23 bring the documents in even though the Secretary says
24 they should have brought it in because of this

1 regulation. But we had no precedent and so maybe they
2 relied on that today to not bring them in because they
3 didn't have to bring them in, as it turned out, they
4 didn't have to bring them in yesterday because we had
5 them.

6 SEC. TENNANT: But you forget we informed
7 them. When we were informed of the three hundred sixty-
8 five additional challenges, the same timeframe, the same
9 equal level, that we informed them they would have to
10 provide the evidence and not the Secretary of State for
11 that reason. For the reason that we're the court and
12 that we should not be choosing either side, presenting
13 evidence for either side. And we informed them of that.
14 So this was like a brand -- so in my eyes this was a
15 brand new challenge that was made. We opened this
16 meeting as a brand new meeting, as a brand new
17 challenge, and said here is what the rules say.

18 MR. CARDI: This is Vince Cardi. That is
19 my memory. I think Gary doesn't have that memory. Is
20 that correct?

21 SEC. TENNANT: I can't speak for him if he can
22 remember it or not.

23 MR. COLLIAS: I'd like to blot all of
24 yesterday out if I could. No, I think the only -- this

1 is the misunderstanding. Okay. When I hear the word
2 evidence, I'm thinking of those facts that are in
3 possession of the tribunal that decides a case that, you
4 know, is relevant material and the case is based upon
5 it. And so to me that, what we already have, the forms
6 that we already are in possession of, that to me is the
7 intrinsic evidence of the forms. And to me what this
8 regulation 7.3 is talking about is what I call extrinsic
9 evidence, something else other than what's in the
10 record. And that's where the disagreement is.

11 SEC. TENNANT: Yeah, that is a disagreement.

12 MR. COLLIAS: I understood it one way. I
13 ~~remember that conversation. But I understood it to mean~~
14 one thing and obviously Vince and Natalie understood it
15 to mean something else. So I'm in the minority.

16 MR. CARDI: Well, I mean it's certainly
17 unfair to surprise them.

18 SEC. TENNANT: But, sir, as I said, we did not
19 surprise them. Because we could have said that they
20 surprised us with one hundred fifty-five and then at the
21 same time three hundred sixty-five. So if they didn't
22 surprise us, then we didn't surprise them.

23 MR. CARDI: Well, I don't see the three
24 fifty-five as a surprise in the same sort of estoppel

1 kind of way. I mean it certainly surprised us, the
2 whole week's been a surprise for us.

3 SEC. TENNANT: Well, I don't know. Yeah,
4 maybe for some of us, but probably not for all of us
5 here.

6 MR. CARDI: Okay. Does anybody else
7 remember exactly what we said yesterday? Anybody at the
8 meeting.

9 SEC. TENNANT: I mean I can -- that's what I
10 remember from sitting here reading this, and Dave was
11 sitting there and we read the -- and that's what started
12 -- the second letter from Elizabeth D. Walker and I read
13 it out loud. I don't know if you remember that. And
14 that's what started the whole discussion when the
15 question was, and I think I even looked at Joe and said
16 you're going to do a blanket, a blanket challenge and
17 you have no specific challenges. And he gave me a we
18 stand on what's written, something like that.

19 MR. CARDI: I guess the real question is
20 who is to have in their possession today at this meeting
21 these receipts? That's the way you see it, Gary, right?
22 Who should have them? And maybe we didn't make it clear
23 enough that you also had to bring the receipts we
24 already have.

1 SEC. TENNANT: I believe that we've made it
2 clear enough. I know that Dave Nichols called Joe and
3 you all had the conversation. And as a matter of fact,
4 their phone call was cut off. They talked again. You
5 talked to some folks in your office, too, but I don't
6 want to speak for you.

7 MR. REIDY: I was just curious if this is
8 the same regulation that contains the two business days
9 from the beginning of this --

10 MR. LEACH: Yes, yes, it is.

11 MR. REIDY: It's the -- okay.

12 MR. CARDI: David, or anybody. Does
13 anybody remember whether it was made clear yesterday
14 that they had to bring in these documents which we had
15 in our possession or whether they would actually be here
16 in our possession?

17 MR. NICHOLS: After the meeting?

18 MR. CARDI: Either in the meeting or after
19 the meeting.

20 MR. NICHOLS: I feel from my end that in my
21 conversation with Joe with the Walker campaign that that
22 was made fairly clear or actually very clear. I can't
23 speak for whether or not Joe believes that's the case or
24 not.

1 MR. CARDI: That you made it clear to them
2 that they actually had to bring in the receipts if their
3 objection was based upon the content of the receipt,
4 they had to bring in the receipt?

5 MR. NICHOLS: I'm sorry. I didn't mean to
6 interrupt. My comment to them was any evidence they
7 needed to present, they would need to provide because
8 the Secretary of State's office staff would not be going
9 through and looking up each one of those as we did with
10 the ones from the meeting yesterday.

11 MR. CARDI: So I mean the point here, if in
12 fact they were justifiably led to believe that we would
13 have these in front of us, that we would have them
14 present at the hearing so they could say, hey, look at
15 Burgess', and here's the problem with Burgess, and we
16 could pick up the Burgess and look at it, then Gary's
17 may be right.

18 But if they were clearly led to believe that
19 we may have possession of it, but it's not our job to
20 produce it, you've got to bring what we already, you've
21 got to bring another copy of what we already have in our
22 possession.

23 MR. NICHOLS: That was the intent of what I
24 was conveying in the phone call last night, yes.

1 MR. COLLIAS: Vince, I agree with exactly the
2 way you put it there. That's exactly what I think the
3 distinction is.

4 MR. CARDI: Yeah.

5 SEC. TENNANT: And it -- I mean I can't speak
6 for Joe. Was it clear to you?

7 MR. REIDY: Yes, ma'am.

8 SEC. TENNANT: He said it was clear to him.

9 MR. CARDI: Joe is who?

10 SEC. TENNANT: Joe, Joe is Joe. Joe is Joe
11 Reidy from the Walker campaign. He's the one who's been
12 with us the last two days.

13 MR. NICHOLS: Okay. And the one I spoke with
14 on the phone.

15 SEC. TENNANT: And the one that Dave spoke
16 with.

17 MR. CARDI: Okay. And does Joe agree with
18 David that it was made clear to him last night that if
19 they wanted to base their objection on the content of
20 the receipt, they had to bring the receipt and not
21 depend upon the Commission staff to produce that?

22 MR. REIDY: Yes, sir.

23 MR. NICHOLS: Did you hear that, Professor?

24 MR. COLLIAS: Yeah, I heard it. That seems

1 to resolve the issue.

2 MR. CARDI: Yeah, yeah, it does.

3 MR. COLLIAS: I mean my concern was -- I
4 don't care, you know, which way these challenges go as
5 between the Benjamin and the Walker campaign, but it's
6 important that, you know, I want to be fair, too, you
7 know, to both parties in this. And I just didn't want
8 to apply a new rule now to what's admissible or
9 considered evidence, you know, that they didn't know
10 about yesterday. And it doesn't seem like that's really
11 an issue, and Natalie is right.

12 SEC. TENNANT: Could we say that again. I
13 ~~don't know if we're recording.~~

14 MR. CARDI: Based on that evidence, I move
15 that we deny these sixty-three objections.

16 MR. COLLIAS: It's three hundred and sixty-
17 five objections, isn't it?

18 MR. WILLIAMS: Yes.

19 SEC. TENNANT: Well, three sixty-five minus
20 twenty-five now.

21 MR. CARDI: This is group two, correct?

22 MR. NICHOLS: Oh, he's on group two.

23 SEC. TENNANT: Are you doing just the ones
24 from group two, Professor?

1 MR. CARDI: I thought that's all we were
2 addressing. That's what I thought we were addressing.

3 SEC. TENNANT: Okay. But the question, the
4 point still stands there's no evidence, unless Joe tells
5 me something different, for all these others.

6 SEC. TENNANT: I'm not sure I understand what
7 you mean.

8 MR. LEACH: I don't think that's a fair
9 statement. You were presented with 7.3 as --

10 MR. REIDY: Yes.

11 MR. LEACH: -- I mean this group considers
12 7.3 as a basis to deny all three hundred and sixty-five
13 of your challenges and decided not to follow the
14 provisions of 7.3. So what you're saying is now we are
15 following the provisions of 7.3?

16 MR. REIDY: Yes. That was it, yes.

17 MR. LEACH: Okay. I think that's a fair
18 statement, Madam Secretary.

19 SEC. TENNANT: Okay. You may have to say that
20 again for me.

21 MR. REIDY: That we opened up the meeting
22 by saying that the SEC was going to ignore 7.3, the two
23 business days. Now we're going back to 7.3 and saying
24 it does, we are going, you are going to use that as a

1 basis.

2 MR. COLLIAS: Yes, but that's because those
3 are two different portions of 7.3. One of them, one
4 portion, the two-day business limit, we rejected.

5 SEC. TENNANT: Is not written in here, yeah.

6 MR. COLLIAS: But the other is what the
7 challenge is based on in terms of evidence. So they're
8 both in 7.3, but they're two different matters.

9 MR. REIDY: Okay. So those are two
10 different sections of 7.3?

11 MR. COLLIAS: Yes, they are two different
12 sentences, yeah.

13 ~~SEC. TENNANT: Two different sentences.~~

14 MR. REIDY: Two different sentences is, I
15 don't --

16 SEC. TENNANT: But what would remain is that
17 you still don't have evidence to back this up.

18 MR. REIDY: Because the Elections
19 Commission ignored and then used the same regulation.

20 SEC. TENNANT: I would say that the Secretary
21 of State-- now, remember we're separate. The SEC
22 doesn't have a staff.

23 MR. REIDY: Okay.

24 SEC. TENNANT: The State Election Commission

1 does not have a staff. The Secretary of State's office
2 has a staff, and we can assist when we can. And I would
3 say that we offered extra information. Just as we
4 printed out all of these, there was extra information.
5 So it's not that we brought any evidence in. And it
6 goes back to this. So ignoring is a strong word.

7 MR. COLLIAS: Well, what we've done is give
8 the Walker campaign the benefit on the two-day business
9 rule.

10 SEC. TENNANT: Correct.

11 MR. COLLIAS: But that doesn't mean that
12 that invalidates the rest of that regulation. The rest
13 of the regulation doesn't have the problem. I mean
14 there's a severe problem with that applying the two-day
15 limit to the Walker campaign. I thought it was unfair
16 and unjust, and there's questions that Tim Leach
17 described with regard to adopting regulations that might
18 be inconsistent with the statute.

19 But the language with regard to the challenge
20 should attach relevant evidence, affidavits, or
21 notarized statements to the form, that doesn't seem to
22 me to have any problem, any legal problem at all.
23 That's exactly the sort of regulation that the
24 legislature expects us to adopt.

1 So, yes, they're both contained in regulation
2 7.3, but they're two different provisions for two
3 different reasons, and we're following one for one
4 reason and rejecting the other for another reason.

5 MR. REIDY: Thank you.

6 SEC. TENNANT: Now, I understand. We had a
7 motion -- were you making a motion? I don't know who
8 was making it. Gary was making it.

9 MR. CARDI: Yes. I move that group two
10 objections be denied.

11 MR. COLLIAS: I second the motion.

12 SEC. TENNANT: It's been moved and seconded.

13 ~~All in favor say aye.~~

14 MR. COLLIAS: Aye.

15 MR. CARDI: Aye.

16 SEC. TENNANT: Aye. Motion carries.

17 MR. COLLIAS: Now, it seems to me that all
18 the rest of the objections, all the various groups all
19 fit in this same category, don't they?

20 SEC. TENNANT: Unless they have evidence. I
21 mean and I think to be fair to the Walker campaign, if
22 you want to go through each section and just ask every
23 time if they have evidence.

24 MR. CARDI: You mean each group?

1 SEC. TENNANT: Yeah, is that what I said?
2 Section, group. Yes. So the next --

3 MR. CARDI: By the way, do we need to read
4 the names of the last one or we did not need to read the
5 names?

6 MR. LEACH: Well, we could, but it's not
7 necessary since none of them were sustained. They're
8 not going to be, nobody's going to be listed as
9 disqualified, so.

10 MR. CARDI: Okay. And nothing inconsistent
11 was stated earlier in our meeting on that?

12 MR. LEACH: Yeah, we can read them off.

13 MR. COLLIAS: ~~Didn't we already decide that~~
14 we would read them off?

15 SEC. TENNANT: Yes, yes, and I think, who
16 wanted them read?

17 MS. CHARNOCK: Ann Charnock on the Benjamin
18 campaign. We wanted them read, but subsequent to that
19 we were provided a notebook that had all the forms, so I
20 now know the names.

21 MR. COLLIAS: Yeah, I don't think there's any
22 reason for us to read all these names, three hundred and
23 sixty-five names.

24 MR. CARDI: Well, how about this. There is

1 a reason to record the names of each one that we made a
2 decision on. It's fine with me if the staff at the end
3 of this read into the record the members in each group
4 that we voted on so there's a record on who we voted on.

5 MR. LEACH: All right. Or we could file a
6 copy of the notebook we have here in front of us, which
7 actually you don't have, you have emails instead, as an
8 exhibit or an attachment to the transcript of the
9 proceedings.

10 MR. COLLIAS: That's a good idea.

11 MR. CARDI: That's good.

12 SEC. TENNANT: The court reporter --

13 MR. CARDI: Okay. Let's move on, good.

14 SEC. TENNANT: All right. Hang on, Joe has a
15 question.

16 MR. REIDY: I was just curious if that
17 would be appropriate for yesterday, to ask for that for
18 yesterday's as well.

19 SEC. TENNANT: Attach to the record when we
20 give it to the court reporter?

21 MR. REIDY: Yes, ma'am.

22 SEC. TENNANT: Yes, we can give it to the
23 court reporter.

24 MR. LEACH: Will we put them in the right

1 order that they were considered? I don't remember --

2 MR. NICHOLS: Well, we've got minutes.

3 MR. LEACH: Okay.

4 MR. NICHOLS: That Missi took, so we can get
5 them in that order.

6 MR. LEACH: Yeah, we'll take care of that,
7 too.

8 MR. NICHOLS: It will take us some time, but
9 we will.

10 SEC. TENNANT: Now, on to section three, group
11 three is the forty-six. This is electronic receipt, no
12 signature, and not a registered voter at given address.

13 MR. COLLIAS: Well, is there any evidence in
14 support of this?

15 SEC. TENNANT: Joe?

16 MR. REIDY: Just what was filed yesterday.

17 SEC. TENNANT: Just what was filed yesterday
18 is what he said.

19 MR. COLLIAS: Well, I mean doesn't it fit in
20 the same -- I mean don't all the remaining challenges,
21 three hundred or so of them, don't they all fail for the
22 same reason that we just voted on?

23 SEC. TENNANT: Unless he has anything -- I
24 mean I --

1 MR. REIDY: I don't have anything else.

2 MR. LEACH: Could you ask if there is any
3 exception to any --

4 SEC. TENNANT: Okay. As I go through the
5 section, I'll ask if there's any exception.

6 MR. LEACH: I think we can do them all at
7 once.

8 MS. SUMMITT: You can do them all at once.

9 MR. LEACH: Just ask if there's any --

10 SEC. TENNANT: Well, then do some subtraction
11 for me, people.

12 MR. LEACH: Just ask the campaign if they
13 have any evidence for any of these, any of these
14 categories.

15 SEC. TENNANT: Do you have any?

16 MR. REIDY: Nothing other than what we
17 submitted.

18 SEC. TENNANT: Nothing other than what they've
19 submitted.

20 MR. LEACH: All right. So I don't think
21 you need to go through all twenty-three of them. Just
22 take a motion for the remainder.

23 SEC. TENNANT: Okay. Remainder. Okay. Do I
24 hear a motion on the floor for the remainder of the, for

1 the remainder two hundred and twelve challenges to --
2 what's your pleasure on the remainder two hundred and
3 twelve? I could have said it and they could have said -
4 -

5 MR. COLLIAS: I guess what we're talking
6 about is rejecting them for the reason that there's no
7 supporting evidence, because that seems to be the rule
8 that we've decided to adopt.

9 MR. CARDI: And it's stipulated by the
10 parties here that there's no evidence other than the
11 challenge form itself?

12 SEC. TENNANT: Correct.

13 MR. CARDI: I've not looked at these.

14 SEC. TENNANT: Yes, that is correct. So I
15 have a motion from Gary to deny these two hundred and
16 twelve remaining. Do I have a second?

17 MR. CARDI: Second.

18 SEC. TENNANT: It's been moved and seconded.
19 All in favor say aye.

20 MR. COLLIAS: Aye.

21 MR. CARDI: Aye.

22 SEC. TENNANT: Aye. Motion carries for the
23 remainder.

24 MR. COLLIAS: I want to say by way of comment

1 that I don't think that's a very good rule, and I think
2 that the regulations should be made clear, clearer than
3 it is. I voted the way I did because the Walker
4 campaign basically conceded that they had been told
5 yesterday that there would have to be, you know,
6 supporting attachments and it wouldn't be sufficient to
7 just rely on forms that were sent by the Benjamin
8 campaign. But I still think it's troublesome and I
9 don't like it and feel very good about it.

10 MR. LEACH: Well, an amendment to the rule
11 is currently pending before the legislature and perhaps
12 there's a way we can call an SEC meeting. I don't know.

13 MR. NICHOLS: I think the question there,
14 Gary, is going to be there is a, you know, you guys do
15 have an amendment to the rule pending before the
16 legislature. The question will be can -- because it
17 sounds to me as though this could get a bit more
18 complicated and we don't want to just throw something
19 together, would be my assumption for the Commission.

20 But I'm more than happy to work on, as I have
21 in the past, work on getting an amendment to the rule if
22 the Commission decides that they would like to offer
23 something up during this legislative session. Or we
24 could send the rule back to the -- an additional

1 amendment through the rulemaking process next session if
2 that, whatever the Commission's will would be.

3 MR. LEACH: An amendment to this rule would
4 not really take effect until three years from now,
5 right?

6 MR. NICHOLS: That's correct. It's not going
7 to --

8 MR. LEACH: So we have time. Even if we
9 amended the rule tomorrow, it wouldn't --

10 MR. NICHOLS: It's not going to be in effect
11 until June.

12 MR. COLLIAS: Yeah. Well, I think it's
13 important when going into something like this that the
14 people challenging these qualified contributions need to
15 know exactly what's expected of them even to get to bat.
16 And the problem here is the Walker campaign really
17 didn't even get to bat on some of these objections,
18 which may have had real merit, because of this apparent,
19 what I thought was a misunderstanding, but apparently as
20 of yesterday it wasn't a misunderstanding. But
21 nevertheless I don't think it's a very good way of doing
22 this. So we just need to try to clarify it.

23 MR. CARDI: And this is Vince Cardi, and I
24 agree with Gary. It was crucial to me that it became

1 clear that it was the understanding yesterday that they
2 could not rely on the documents being in our possession,
3 they had to produce the evidence.

4 SEC. TENNANT: Because remember, they've
5 already looked through. They have the same evidence as
6 everyone and they've already looked through them. So
7 they're not going blind on this unless they're just
8 blindly challenging, which they made the case that
9 they're not, so. Right.

10 MR. COLLIAS: Well, let me ask you this. Do
11 we still have that one for reconsideration from
12 yesterday?

13 SEC. TENNANT: Correct. Yeah, Ann Charnock
14 would like to speak.

15 MS. CHARNOCK: This is Ann Charnock on behalf
16 of the Benjamin campaign. In light of today's vote I
17 would ask you to reconsider all of the ones that were
18 sustained yesterday because of the same problem. There
19 was no evidence presented by the Walker campaign on any
20 of them.

21 SEC. TENNANT: But there was evidence though.

22 MR. LEACH: But we had not presented, we
23 did not present any notice to the Walker campaign before
24 yesterday as we had today.

1 MR. COLLIAS: Yeah, and also we had the
2 documents before us. I mean we can't just turn a blind
3 eye to what we were looking at that we had.

4 MS. CHARNOCK: And I understand that I did not
5 provide a phone number. However, you're treating donors
6 differently based on which day their challenge was
7 filed.

8 MR. COLLIAS: Ann, if you will recall, I
9 voted in favor of rejecting the challenge to your
10 contribution.

11 MS. CHARNOCK: I appreciate that and I'll be
12 giving you my phone number later. But you're not
13 treating donors in the same manner based on which day
14 their challenge was presented.

15 SEC. TENNANT: But we're not talking about
16 donors. We're talking about the receipt and the job of
17 the campaign.

18 MS. CHARNOCK: There's still a group of donors
19 whose donations were filed before the last forty-eight
20 hours or whatever this last push was. They were treated
21 differently yesterday than the ones that were here
22 today. The Walker campaign, and I'm not going to speak
23 for Mr. Reidy, but I'm sure he's going to say he didn't
24 have anything yesterday either. He said it yesterday.

1 So I'm asking to reconsider all the twenty, the nineteen
2 or twenty that were sustained yesterday.

3 SEC. TENNANT: What is the will of the
4 Commission?

5 MR. CARDI: This is Vince Cardi. I have a
6 memory of six that we might need to, that I want to
7 reconsider if in fact my memory of what happened with
8 them is correct. The other's I don't know. How many
9 were actually sustained yesterday? How many objections?

10 MS. KINDER: Nineteen.

11 MR. NICHOLS: Nineteen.

12 MR. CARDI: Nineteen. And so we're going
13 to reconsider one, if we decide to right now. The one
14 we talked about earlier to David. I have maybe six in
15 mind, if I remember the facts correctly. And we'll get
16 to that if we want to address the Davis. And then
17 beyond that, we can talk about it. Do we want to
18 address the Davis? Does anybody have a motion to
19 reconsider the Davis? We've been asked by Ann Charnock
20 to reconsider the Davis.

21 SEC. TENNANT: Well, yes, we don't have either
22 the challenge or the evidence in front of us from
23 before.

24 MR. COLLIAS: This is Gary. I move that we

1 reconsider the Davis one.

2 SEC. TENNANT: Yeah, I don't know who's on the
3 prevailing side, but it doesn't --

4 MR. CARDI: Okay. I'll second that.

5 SEC. TENNANT: Well, if we don't have to use
6 Roberts Rules of Order in this case necessarily, so
7 whoever was on the prevailing side. So then what is the
8 motion? So we are reconsidering now, so then what's
9 your motion?

10 MR. LEACH: You vote on the motion to
11 reconsider.

12 SEC. TENNANT: All in favor. I've got a first
13 and a second, a motion and a second to reconsider. All
14 in favor say aye.

15 MR. COLLIAS: Aye.

16 MR. CARDI: Aye.

17 SEC. TENNANT: Aye. That passes.

18 MR. LEACH: Now there's no ruling on Davis.
19 So you need a new vote on Davis.

20 SEC. TENNANT: Now there's no ruling on Davis.

21 MR. COLLIAS: Okay. Now, let me make sure I
22 understand Davis. The actual physical paper we took
23 with her signature was submitted in a timely manner
24 within a two-day period. Is that right?

1 SEC. TENNANT: No, she was part of the twelve
2 altogether that didn't have voter registration.

3 MR. NICHOLS: We did not find a voter
4 registration.

5 MR. COLLIAS: Oh, I'm sorry. Yes. The proof
6 of a voter registration was submitted in a timely
7 manner, though?

8 MR. LEACH: It was submitted today.

9 MR. COLLIAS: It was submitted today?

10 MR. LEACH: In support of a motion to
11 reconsider.

12 MR. COLLIAS: So basically our decision was
13 just factually wrong because we had assumed she wasn't
14 registered to vote, but now we know with certainty that
15 she really was. Is that --

16 SEC. TENNANT: Correct. That's right.

17 MR. CARDI: So wasn't it your obligation to
18 bring us this evidence yesterday?

19 MS. CHARNOCK: Do you want me to speak to
20 that?

21 MR. NICHOLS: Yeah, I think that's a question
22 for you.

23 MS. CHARNOCK: Professor Cardi, this is Ann
24 Charnock. When the Benjamin campaign appeared yesterday

1 at 10:30, we didn't have those hundred and fifty-five
2 pieces of paper in front of us. We still haven't seen
3 the hundred and fifty-five challenges from yesterday or
4 they came electronically.

5 So we didn't know, believe me, I didn't know
6 that I was one of the people that was being challenged.
7 I didn't know my sister was going to be. And so we
8 didn't have any way of going to look at voter
9 registration records. We did recognize the name, so I
10 went to the voter's office this morning and got this
11 copy to prove that she was registered. But I didn't, we
12 didn't have any opportunity to bring other evidence
13 yesterday.

14 MR. CARDI: And so why did we decide to
15 sustain the objection yesterday? What was, what
16 evidence did we rely on that she was not a registered
17 voter?

18 MR. LEACH: We relied upon research
19 conducted by the Secretary of State staff who could not
20 find a voter registration record of that individual and
21 eleven others. We lumped them together in a group of
22 twelve, made a statement that our research could not
23 document that they were registered voters, and the
24 Commission voted to sustain the challenges to all

1 twelve.

2 MR. CARDI: So the question before us is,
3 is it reasonable for us to reconsider the objection
4 based upon not registered to vote on the grounds that
5 one, the Benjamin campaign did not have time to collect
6 evidence because they didn't have sufficient notice of
7 this in advance; and two, we relied on our evidence,
8 which turned out to be faulty, mistaken. Is that
9 correct?

10 MR. LEACH: That seems to be a fair
11 summation.

12 SEC. TENNANT: And there is submitted evidence
13 today. She doesn't have submitted evidence from the
14 eleven others.

15 MS. CHARNOCK: No, no, this is the one I have.

16 SEC. TENNANT: Correct.

17 MR. SHULL: We didn't have time to go to
18 every courthouse today.

19 MR. CARDI: So Ann Charnock, are you trying
20 to set a precedent that we can reopen every case in
21 which there is no evidence when it was presented, but
22 then rehear them once somebody comes up with some
23 evidence? Is that what you're asking or is that
24 different?

1 MR. LEACH: Do you have a time limit?

2 MS. CHARNOCK: Well, conceding that we're all
3 kind of walking blindly, which is not the nice way to
4 say it, but that this is new to everybody, my point is
5 that for whatever reason Mrs. Davis, who has been
6 registered to vote in Kanawha County West Virginia since
7 2003, for whatever reason her voter registration card or
8 name or however the system is set up in the Secretary of
9 State's office wasn't found by staff. And now that I
10 can show you -- so she was part of that group of twelve
11 that I can show unequivocally that she is registered to
12 vote. And that's why I'm asking, because that was the
13 point, was she wasn't registered. I can prove that she
14 is. I'm asking you all to reconsider because there's no
15 doubt that she is. Now, if there were more time --

16 MR. COLLIAS: I seems to me this is the merit
17 of the case. What Ann's asking us to do here is a lot
18 narrower than a broad sweeping reconsideration of all
19 the rest of them.

20 MS. CHARNOCK: That's true.

21 MR. COLLIAS: And for that reason I agree
22 with her. I mean I think that decision was just
23 erroneous and wrong and we now know and that it was and
24 I think we ought to reverse our ruling with regard to

1 this person.

2 SEC. TENNANT: Well, we do. We have it open
3 now, because we've already voted on that. So if you
4 choose to make a motion, you can.

5 MR. LEACH: Yeah, all we did was take away
6 the ruling that you made yesterday. So we have a blank
7 slate now.

8 MR. COLLIAS: Right. What do you think,
9 Vince?

10 MR. CARDI: Well, if she wants to -- I mean
11 I certainly don't want to walk in on Monday and
12 reconsider everything we ruled on today because new
13 evidence is submitted on Monday. But --

14 SEC. TENNANT: Yeah, there is nothing.
15 There's nothing in code or rules that say about the
16 reconsidering, is there?

17 MR. CARDI: -- I'll go along with it.

18 MR. COLLIAS: Okay. Well, I'll make a
19 motion, then. My motion is that we reject the challenge
20 with regard to this lady.

21 SEC. TENNANT: Hang on a second. Let Joe say
22 something.

23 MR. REIDY: I'm sorry. Wasn't that just
24 voted on?

1 MR. LEACH: No, that was a motion to
2 reconsider.

3 SEC. TENNANT: We voted on lifting the formal
4 ruling, former ruling.

5 MR. GATES: You already voted to redo what
6 you did yesterday, which he said he didn't want to do
7 next week, right?

8 SEC. TENNANT: Correct.

9 MR. LEACH: We voted to reconsider, which
10 means we could have voted the same way, but we're just
11 going to take a new vote, is what that means.

12 MR. REIDY: Okay. There doesn't have to be
13 a reason for that? It just --

14 MR. LEACH: I think they've stated the
15 reasons.

16 SEC. TENNANT: Because there's new evidence.

17 MR. REIDY: Because there's new evidence.
18 Okay.

19 MR. LEACH: Well, it's a little broader
20 than that, but they both made long speeches.

21 MR. SHULL: This is a challenger.

22 MR. REIDY: Reconsidering because of new
23 evidence.

24 MR. SHULL: This is the respondent

1 reconsidering because a challenge was sustained which
2 should not have been sustained.

3 MR. REIDY: Because of the new evidence
4 presented. Okay. Thank you.

5 MR. COLLIAS: Can we get vote?

6 SEC. TENNANT: Do we have a motion?

7 MR. LEACH: Not yet. We need a motion.

8 SEC. TENNANT: Well, I as Chair, can I ask to
9 reconsider the motion?

10 MR. CARDI: I second it.

11 SEC. TENNANT: Well, don't second it. I'm
12 asking to reconsider the first and the, why do I call
13 them the first and the second, the motion and the
14 second. Because I don't know if it was Professor or
15 Gary. I think it was Professor asking Ann if you're
16 ready to set precedent. Because what's going to happen
17 and everyone in this room realizes it, that they're
18 going to come back and want to --

19 MR. CARDI: This is Vince Cardi. Did Gary
20 make the motion that we deny the objection to --

21 MR. LEACH: Yes, he did.

22 MR. CARDI: -- to Davis?

23 MR. LEACH: Yes, he did.

24 MR. CARDI: I second it.

1 SEC. TENNANT: Well, Professor -- what's that?

2 MR. NICHOLS: There's a motion and a second.

3 SEC. TENNANT: Okay. Well, I'd like to have
4 discussion. And, Professor, you asked this to Ann
5 Charnock of whether she was prepared to set precedent of
6 allowing new evidence to be presented on votes that have
7 already been taken. So by all rights, we could redo all
8 the one hundred fifty-five that we did yesterday.

9 MR. COLLIAS: Well, but they're all
10 different. Right now, we're only voting on this one.

11 SEC. TENNANT: Well, hang on a minute, Gary.
12 Hang on a minute, Gary, because there could be new
13 ~~evidence that's presented in all of those and there~~
14 could be new evidence that's presented in the three
15 hundred sixty-five that we just voted on.

16 MR. COLLIAS: Okay. Well, maybe that means
17 you don't want to vote in favor of the motion.

18 SEC. TENNANT: I don't want to vote at all.

19 MR. COLLIAS: I mean it seems like what
20 you're trying to get consensus --

21 SEC. TENNANT: I'm just trying to point out
22 what the precedent that's being set.

23 MR. COLLIAS: Well, I think because,
24 regardless of what someone says is a precedent, that

1 doesn't make it one. Okay. And this decision would be
2 made on these facts.

3 SEC. TENNANT: Okay. Well, it's been moved
4 and seconded to deny the challenge to Deloris Jean
5 Davis. All in favor say aye.

6 MR. COLLIAS: Aye.

7 MR. CARDI: Aye.

8 SEC. TENNANT: Aye. Motion carries.

9 MR. COLLIAS: Okay. Now, is all that leaves
10 then is the general question that Ann's request that we
11 set aside all the other determinations? Is that all
12 that's left from yesterday?

13 MR. LEACH: Well, there's some discussion
14 topics on the agenda when we get through with all the
15 challenges.

16 SEC. TENNANT: Yes, sir. Joe has a question
17 also.

18 MR. REIDY: Aren't there still eleven
19 unresolved then?

20 SEC. TENNANT: She's not challenging those.

21 MR. LEACH: She only made a motion for one
22 of the twelve.

23 SEC. TENNANT: She doesn't have evidence for
24 those.

1 MR. REIDY: So she just removed the one
2 from the twelve. Okay.

3 MS. CHARNOCK: We just removed Mrs. Davis, not
4 the others.

5 MR. REIDY: Okay. Thank you.

6 MR. LEACH: But she has suggested that we
7 reconsider all hundred and thirty --

8 SEC. TENNANT: No, twenty-one.

9 MR. WILLIAMS: No, nineteen, eighteen now.
10 The eighteen remaining.

11 MR. LEACH: All eighteen that we rejected
12 yesterday are still rejected. She made a request of the
13 Commission to do that.

14 MS. CHARNOCK: Correct.

15 MR. LEACH: But that's the will of the
16 Commission.

17 MS. CHARNOCK: Correct.

18 MR. COLLIAS: What's the reason for those,
19 changing our decision in the other ones?

20 MS. CHARNOCK: That's because the Walker
21 campaign had just as little evidence yesterday as they
22 have today. All the evidence that was yesterday was
23 provided by the Secretary of State's office, and it
24 seems that today you decided that isn't the proper forum

1 for the evidence.

2 MR. COLLIAS: Okay.

3 MR. CARDI: This is Vince Cardi. I think
4 that we not reconsider based on those grounds. Those
5 are not grounds to reconsider. That's my motion.

6 MR. COLLIAS: Yeah, as I recall, there was
7 two arguments against that. The one was that the Walker
8 campaign didn't have the prior notice. So it would be
9 unfair to apply those rules. And the second reason was
10 that we in fact looked at the receipts and the documents
11 we had in the packet of materials. And so no matter
12 where it came from, we still had evidence. So to me
13 there's that distinction.

14 MR. CARDI: And so did they -- did you
15 second my motion, Gary?

16 SEC. TENNANT: What was your motion?

17 MR. COLLIAS: What was your motion?

18 SEC. TENNANT: I missed that.

19 MR. LEACH: Well, his motion was not to
20 reconsider the other cases.

21 SEC. TENNANT: Oh, that was your motion?

22 MR. CARDI: Not to reconsider based on
23 those grounds.

24 MR. COLLIAS: Yeah, I second that motion.

1 SEC. TENNANT: It's been moved and seconded.

2 All in favor say aye.

3 MR. COLLIAS: Aye.

4 MR. CARDI: Aye.

5 SEC. TENNANT: Aye. Motion carries. We're
6 not reconsidering those.

7 MR. CARDI: On those grounds.

8 MS. CHARNOCK: Thank you for giving me the
9 opportunity.

10 SEC. TENNANT: Thank you for shooting you
11 down.

12 MR. CARDI: When I was reading the statute
13 last night, I thought I remembered some electronic
14 contributions, which we decided were not signed, but
15 within two days of January 30th satisfactory qualifying
16 receipts were delivered to the Secretary of State's
17 office. That's my memory. There were five or six of
18 those. And it was decided that those receipts came too
19 late to essentially cure the unsatisfactory electronic
20 receipt.

21 MR. LEACH: Give us a moment --

22 MR. CARDI: And reading the statute last
23 night, I think if they were delivered before or by
24 February 2nd, that they were timely.

1 MR. LEACH: Professor, can you give us, the
2 staff here a second to try to find yesterday's packet so
3 we'll know which one we're talking about.

4 MR. CARDI: Yeah. I have no other memory
5 than what I just gave.

6 MR. LEACH: There were a couple of
7 different ones involving electronic signatures, and I
8 want to make sure we've got the right one.

9 MR. CARDI: It would be the ones for which
10 paper receipts, I believe, my memory, were delivered to
11 the Secretary of State's office sometime by February
12 2nd.

13 MR. LEACH: I've got my notes. I have to
14 go get them. Do you want to call a recess?

15 SEC. TENNANT: I think we should call a
16 recess. It's a good time. I will tell you guys that
17 there is food out there for everyone if you need
18 anything to eat. So we stand in recess, you two.
19 They're going to look for the papers.

20 MR. CARDI: What else is on the agenda?

21 SEC. TENNANT: We do have the exploratory
22 question, because we put that on the agenda.

23 MR. LEACH: We have a request for exemption
24 due to hardship for filing electronically some --

1 MR. CARDI: Okay. I understand. Thank
2 you.

3 MR. COLLIAS: How long are we adjourning for?

4 MR. LEACH: Well, we could, instead of
5 adjourning, we could proceed with that one.

6 SEC. TENNANT: We're just recessing for a
7 second.

8 MR. LEACH: Well, that's because we don't
9 have the staff material. But we could take up other
10 issues while the staff is getting that stuff together.

11 MR. COLLIAS: Well, you mean for about five
12 minutes we're taking a break?

13 SEC. TENNANT: Yeah, five, ten minutes.

14 MR. COLLIAS: Okay. Okay. I'm just sitting
15 here doing nothing else. So I'll wait till you get --

16 SEC. TENNANT: That's good. Give us ten
17 minutes.

18 (WHEREUPON, a brief recess
19 was taken.)

20 SEC. TENNANT: Okay. We are back into
21 session. Gary, Professor, are you on?

22 MR. CARDI: Vince Cardi is here.

23 MR. COLLIAS: Gary's here.

24 SEC. TENNANT: All right. Thank you. Tim, do

1 you want to resume the question that you had?

2 MR. LEACH: Yes. Professor, it was
3 referencing a packet of six that were identified as
4 electronic and not on a form, and Mr. Shull was amongst
5 that package. In fact, he survived the challenge to his
6 contribution, but the other five were rejected.

7 It's a factual situation, as I believe my
8 memory is, that the Benjamin campaign submitted copies
9 of receipts with signatures on them on February 2nd.
10 But the Commission voted not to accept those as timely
11 filed. Is that your recollection, Professor?

12 MR. CARDI: Yes, it is.

13 MR. LEACH: Okay. So if we're referring to
14 voters Reed, Delligatti, oh, you wanted to say that,
15 didn't you, Harrington, Charnock, unfortunately Jane,
16 and Eric Bell. I'm sorry, Eric Bell. All right. So
17 what's your pleasure, Professor?

18 MR. CARDI: Well, last night I was reading
19 3-12-13-(c)2. It says participating candidates and
20 certified candidates shall comply to this section in
21 addition to any other reporting requirement. C, no
22 later than two business days after the close of the
23 qualifying period, a participating candidate shall
24 report to the Secretary of State on appropriate forms a

1 summary of all qualifying contributions received and
2 funds expended or obligated during the qualifying period
3 together with copies of any receipts not previously
4 submitted for qualifying contributions.

5 And that suggests to me that late receipts can
6 be sufficient. And we did not address that yesterday
7 with these six. And these late receipts for these five,
8 I guess, actually were received by two business days
9 after the closing period, which was January 30th. And
10 the two business days would be Monday the 1st and
11 Tuesday the 2nd.

12 And so it leads me to believe that maybe those
13 late receipts cured the problems with the insufficient
14 electronic receipts. And I wanted to bring those up,
15 because one, we have the evidence before us; and two, we
16 may have made an error in interpretation of the law. So
17 we're not considering anything new except a relook at
18 the statute, which we did not discuss on yesterday when
19 we made those decisions.

20 SEC. TENNANT: So --

21 MR. LEACH: Are you going to make a motion
22 or --

23 SEC. TENNANT: Yeah.

24 MR. LEACH: -- do you want further

1 discussion or --

2 MR. CARDI: Well, I can make the motion and
3 then we have discussion. But why don't we have some
4 discussion first? So that's my reading of the statute
5 that seems to authorize the submission of qualifying
6 receipts for after the first of the month reporting
7 period. And we have discussed a number of instances by
8 which a receipt might not be forwarded on the first day
9 of the month following the receipt of the contribution.

10 So if a contribution is made and accepted on
11 October 8th, let's say in cash or by check, but the
12 receipt is not collected until January 10th. This seems
13 to say that if it's submitted by two days after the
14 closing, it authorizes submission of it two days after
15 the closing, which suggests that maybe that can cure it.
16 And since this statute seems to be written to implement
17 a public policy of having public funding for candidates
18 for the Supreme Court, it should be liberally
19 administered to that end.

20 SEC. TENNANT: So I have a question. The
21 twenty that we denied to you, the eighteen rather that
22 were left, were these five part of those?

23 MS. CHARNOCK: Yes, ma'am.

24 SEC. TENNANT: Okay.

1 MR. CARDI: It's up to the staff to tell us
2 that. I believe they said there were a total of twenty
3 or twenty-one that were denied yesterday. We changed
4 one of them and whatever is left, these five would be
5 among whatever is left.

6 SEC. TENNANT: Well, correct. But if you'll
7 remember, if you'll remember, this is what I asked Ann
8 Charnock just now. I asked if these five electronic
9 ones, to which you're referring, are included into those
10 eighteen that we then denied again and she said, yes.

11 MR. LEACH: Yeah, she denied --

12 MR. CARDI: I'm not sure what you mean by
13 denied again.

14 MR. LEACH: We denied a motion or we passed
15 a motion denying reconsidering based upon the fact that
16 we wanted to change the evidentiary proceedings from the
17 first hearing or first meeting to the second meeting.

18 MR. CARDI: I think, I think these five
19 were among those eighteen, and I said I was voting to
20 deny reconsideration based on her grounds. Her grounds
21 being new evidence. These five don't involve new
22 evidence. We had the evidence and it was submitted by
23 the 2nd. And if I'm correct in reading this statute,
24 then we had the evidence before us. So a new decision

1 would not be based on new evidence. It would be based
2 on a reinterpretation of the law.

3 SEC. TENNANT: Okay.

4 MR. CARDI: A law that was not, a statute
5 that I did not see and nobody else mentioned when we
6 were talking about this yesterday.

7 SEC. TENNANT: Gary, do you have any thoughts?

8 MR. COLLIAS: Yeah. I agree with everything
9 Vince just said. It seems from reading that and it's
10 envisioned by the statute, that it's time was filed the
11 first two business days of the next month. And with
12 regard to the issue of reconsidering it, I mean it's not
13 like we're hearing the case again. I mean it's, you
14 know, it's well established that until, you know, the
15 courts or any tribunal loses jurisdiction of something,
16 they can always go back and correct a decision that's
17 wrong. I think that's what we're doing.

18 MR. CARDI: Yeah, I think we made an error
19 on the law, is what I'm feeling.

20 SEC. TENNANT: Okay. And this is Joe Reidy
21 again from Walker campaign.

22 MR. REIDY: I'm just a little confused
23 about the timeline. Is it two days after the two days?
24 So the period closes and then the timely manner was

1 decided that it was two business days. Or is the
2 question that there's another two business days to allow
3 or --

4 MR. LEACH: No, he was just --

5 MR. REIDY: -- just the initial two
6 business days?

7 MR. LEACH: He just read the statute as
8 it's written, which says that the reports and the
9 receipts are due two business days after the close of
10 the contribution period, which would be February 2nd.
11 But the part that's significant is that it says any
12 receipts not previously filed. So it's --

13 MR. REIDY: So anything that wasn't filed
14 before the two business days in the previous month, can
15 then be filed two business day in the next month?

16 MR. LEACH: That's an interpretation.

17 MR. REIDY: Well, what does it say? I need
18 someone to interpret it for me, then.

19 MR. LEACH: That's what we're trying to
20 decide, what it means.

21 MR. REIDY: And I'm not following.

22 MR. LEACH: We're getting ready to take a
23 vote on it.

24 MR. COLLIAS: I mean the contribution period

1 ended on July 31st, didn't it?

2 MR. LEACH: No.

3 MR. COLLIAS: I'm sorry, January 31st, didn't
4 it?

5 MR. LEACH: January 30th.

6 MR. COLLIAS: January 30th I believe.

7 MR. LEACH: But the 30th was a Saturday and
8 the 31st was a Sunday. The first two business days
9 would be the 1st and 2nd of February, Tuesday, February
10 2nd.

11 MR. COLLIAS: Right, right. Well, that's
12 when the two days -- no, I mean the period that you were
13 reporting for ended at the end of January, though. So
14 if you had --

15 MR. CARDI: I thought it was January 30th.

16 MR. LEACH: Right. That's correct.

17 MR. COLLIAS: Okay. And then you have the
18 first two business days of the next month in order to
19 make your report.

20 MR. LEACH: Yeah, it's not two more
21 additional. It doesn't go up to the 3rd or the 4th.
22 It's just two days after.

23 MR. COLLIAS: Right, right. That's what I'm
24 saying. That's the point that Joe, I think that's what

1 Joe was asking. So, yeah. But the reporting period
2 ends at the end of January, and then you have the first
3 two days of February in which to make the report. But
4 the period you're reporting for is the preceding month,
5 right?

6 MR. CARDI: But the qualifying period under
7 the definitions 3-12-3-14, the qualifying period begins
8 on September 1st and ends on the last Saturday in
9 January of the election year. And so that would be
10 January the 30th.

11 MR. COLLIAS: Okay.

12 MR. CARDI: And then this other provides
13 that two business days after the close of the period.
14 So Sunday is not a business day. So Monday the 1st is a
15 business day and Tuesday the 2nd is a business day. And
16 it was, I thought we were told yesterday that the
17 Secretary of State's office had received written
18 receipts on these five by the end of February 2nd or
19 before then at some time. And yesterday we seemed to
20 think, well, because they weren't submitted on the 1st
21 day of the month in which they were received, therefore
22 they don't cure the problem with the inadequate receipt.

23 And this statute that I read last night seemed
24 to say we can receive those receipts up until February

1 2nd, and evidently we have received them. I mean I've
2 not seen them, but that was the testimony yesterday of
3 the staff. Is that correct?

4 MR. COLLIAS: I agree with all that. I agree
5 with everything Vince said, yeah. And for that reason I
6 think that we ought to reconsider this decision.

7 SEC. TENNANT: Do you have any questions or
8 comments, Joe?

9 MR. REIDY: No, ma'am.

10 SEC. TENNANT: The Benjamin campaign have any
11 questions or comments?

12 MS. CHARNOCK: We think this is a good idea.

13 SEC. TENNANT: I was wondering if you did.

14 This is where I can call -- I probably need a motion.

15 MR. LEACH: No, you can't. Yeah.

16 SEC. TENNANT: Let's just do a motion.

17 MR. LEACH: Because you're reconsidering.

18 SEC. TENNANT: Yeah. All right. Do I hear a
19 motion on the floor?

20 MR. CARDI: I move that we reconsider
21 these.

22 MR. COLLIAS: I second that motion.

23 SEC. TENNANT: These five electronic. Okay.

24 It's been moved and seconded to reconsider the five

1 electronic receipts that then had receipts by the two-
2 day deadline of February 2nd. All in favor say aye.

3 MR. COLLIAS: Aye.

4 MR. CARDI: Aye.

5 SEC. TENNANT: Aye. All opposed -- no I don't
6 need to say that. Motion carries.

7 MR. CARDI: Okay. I move that we deny the
8 objection to these five.

9 MR. COLLIAS: I second the motion.

10 SEC. TENNANT: It's been moved and seconded.

11 All in favor say aye.

12 MR. COLLIAS: Aye.

13 MR. CARDI: Aye.

14 SEC. TENNANT: Aye. Motion carries.

15 SEC. TENNANT: So now you have the five back.

16 MR. LEACH: Okay. Is there anything else?

17 We have an agenda item. We have been asked to discuss,
18 the Commission to discuss its interpretation of what is
19 meant by the replacement, the five days to find
20 replacement contributions for the any rejected non-
21 qualifying contributions. And I think I just misspoke,
22 because it doesn't say rejected.

23 It says, it actually says you have, it's Code
24 Section 3-12-10(g). And at the end of that section it

1 says, within five business days of a challenge, the
2 candidate or candidate's committee who listed any
3 contribution that is subject of a challenge may file a
4 report with the State Election Commission of an
5 additional contribution collected pursuant to Section 9
6 of this article for consideration as qualifying
7 contribution.

8 So I think when I described this process
9 yesterday, I inadvertently said they had five days from
10 when a challenge was sustained to replace that. But
11 actually the five days begins to run on the date of the
12 challenge.

13 MR. COLLIAS: That's right.

14 MR. LEACH: And it doesn't matter whether
15 it is sustained or rejected or not. They can submit, I
16 guess, backups for lack of a better way of describing
17 it. So in any event there's been many questions raised
18 informally about what is meant by an additional
19 contribution, some of which may have just been answered
20 by saying it doesn't have to be a rejected contribution.

21 SEC. TENNANT: But, and so I guess a question
22 would be if there were a hundred, if there were three
23 hundred and sixty-five challenges, then you have the
24 opportunity to gather three hundred and sixty-five more

1 even if they, just because they were challenged.

2 MR. LEACH: Well, that's one way of reading
3 the Code, yes. As a backup plan, so to speak.

4 MS. SUMMITT: Contingency.

5 SEC. TENNANT: And it gives you that extra
6 five days.

7 MR. LEACH: But you have to submit them.
8 You can't just sit on them and hold them. Because the
9 five days starts with the date of the challenge. You
10 have to submit them by the end of the five days. So you
11 would be submitting excesses in anticipation of maybe
12 losing some in the challenge process.

13 MS. CHARNOCK: But you still have the fifty
14 thousand dollar limit, right?

15 MR. LEACH: Well, if you exceed the limit,
16 it's going to go to the State Election Commission fund.

17 MS. CHARNOCK: Right. But it's another
18 consideration.

19 MR. LEACH: Well, I mean it's a strategic
20 decision the campaign has to make. I can't make that.

21 MS. CHARNOCK: Right. But what I'm saying is
22 it's still there.

23 MR. COLLIAS: Let me interrupt by saying I'm
24 kind of uncomfortable about us giving advisory opinions

1 on the meaning in the state code on something that's not
2 before us.

3 MR. LEACH: Well, so is the Secretary's
4 lawyer. I'm uncomfortable with that, too.

5 MR. COLLIAS: Right. And I think I know what
6 this means. I mean it seems pretty straightforward.
7 But, you know, you can always find a question or an
8 issue in it.

9 MR. LEACH: Well, actually, Gary, many of
10 the questions we were asked were in anticipation of a
11 rejected contribution. So a sustained challenge and the
12 way this is written, I don't think they have to hang
13 around and wait for that.

14 SEC. TENNANT: For the outcome, that's right.

15 MR. LEACH: So the questions were such like
16 can the same person who has already made one donation
17 that gets rejected make a second. So it may be all moot
18 now and then you have the issue of dealing with a matter
19 that's not presently before the authority of the SEC.

20 MR. COLLIAS: Yeah. I'm just, you know, I
21 mean I just don't think we ought to be -- I mean there's
22 no limit or end to the questions people could ask about
23 the -- a lawyer's job is to reasonably advise their
24 clients and then act accordingly, and then if it comes

1 in front of us, we'll have to make a decision.

2 SEC. TENNANT: If this is a question that
3 needs voted on, we can't vote on it for one.

4 MR. LEACH: No, it's not on the agenda as
5 an action item. It's just a discussion point.

6 SEC. TENNANT: Right. Okay.

7 MR. COLLIAS: Well, I mean it's not just our
8 place to be voting on stuff like this anyway, but we
9 don't have this in front of us, this question in front
10 of us.

11 SEC. TENNANT: Correct.

12 MR. LEACH: Right. It's listed on the
13 agenda as a topic of discussion. And if you're not
14 comfortable and the other members aren't comfortable,
15 you don't have to discuss anything.

16 MR. COLLIAS: Yeah, I mean I take a pretty
17 broad view of this. I mean it looks to me like, it
18 doesn't say the same person can make a contribution or
19 can't make it, or a different person, or it's got to be
20 the same amount. It doesn't say any of that, so I mean
21 it would be hard for me to read that into the statute.
22 But if and when a case comes up, then we can decide it.

23 MR. LEACH: And he didn't want to discuss
24 it.

1 SEC. TENNANT: I know. All right. So we're
2 just going to -- we've had this discussion, and we've
3 discussed the two items on the agenda, but we did have a
4 question about the exploratory report that we were going
5 to come back to.

6 MR. LEACH: We haven't ruled on that.
7 That's right. You have a request from a --

8 SEC. TENNANT: And we did. It was the
9 hardship that there was leeway in the agenda that you
10 posted that allows it. Is that correct?

11 MR. LEACH: Well, no, it's --

12 MS. SUMMITT: It was written just all
13 challenges, action on challenges.

14 MR. LEACH: I don't know. That's a
15 thought. We may have to put it on our agenda if it's
16 going to take a vote of the Commission, but we have some
17 more hearings coming up, or meetings coming up, so we
18 can get it on there.

19 MS. CHARNOCK: That's fine. The point of the
20 exercise was to get it before the Commission so that --

21 SEC. TENNANT: You're talking about the
22 contribution or the exploratory, the exploratory, yes.

23 MR. LEACH: Why don't you make that request
24 in writing and submit it to us and we'll try to get it

1 on the agenda as soon as we can.

2 MS. CHARNOCK: Okay.

3 MR. LEACH: Is that all the business, then?

4 SEC. TENNANT: I don't believe there's
5 anything else to come before the Commission.

6 Commissioners, we're going to discuss when the next
7 meeting is taking place.

8 MR. LEACH: Oh, I'm sorry. Yes. Gentlemen
9 and members of the audience, we have a request for
10 certification from both candidates who are seeking to
11 run for public finance. One of them involves the
12 Benjamin campaign and we've not been able to move
13 forward with that request for certification because we
14 don't know how many, until maybe this evening, we didn't
15 know how many contributions would be counted or would
16 not be counted.

17 But the other campaign is already on the clock
18 and we need to have a business meeting within, or a SEC
19 meeting within three working days of receipt of the
20 request for certification, which was received Wednesday.
21 So we have to have a meeting Monday. That would require
22 a determination by the SEC whether or not the
23 candidate's, Bill Wooton, qualified for payment of a
24 share of the public finance money. So can we agree on a

1 time and schedule that meeting while we're here now? I
2 mean I don't know if Mr. Downs' disqualification applies
3 to the Wooton campaign or not. We'll have to check into
4 that. But that is --

5 MR. COLLIAS: I don't think that it would.

6 MR. LEACH: In any event, we need to --
7 just informally check your availability and then we can
8 possibly agree upon a time and post a proper notice.

9 MR. COLLIAS: Well, what time do you want to
10 set? I mean 10:00 AM or 2:00 PM. Give us a time.

11 MR. LEACH: We'll get the Secretary's
12 schedule. How about you, Professor? Any particular
13 time?

14 MR. CARDI: Well, I cannot meet probably
15 before 9:30.

16 MR. COLLIAS: Well, that's not going to be a
17 problem. We've never had a meeting any earlier than ten
18 in history.

19 MR. LEACH: There went the 6:00 AM plan.
20 We're just waiting on the Secretary's schedule to check
21 it.

22 (WHEREUPON, a discussion was held
23 off the record.)

24 SEC. TENNANT: Ten is good.

1 MR. LEACH: Ten sounds good?
2 MR. COLLIAS: 10:00 AM?
3 MR. LEACH: 10:00 AM.
4 MR. COLLIAS: I have it down.
5 MR. LEACH: For now the agenda will be
6 solely the candidacy of or the request for Candidate
7 Wooton to be certified.
8 SEC. TENNANT: And the exploratory question.
9 MR. LEACH: No, she's going to -- but for
10 now that's all we're planning. But it can be
11 supplemented later.
12 SEC. TENNANT: Okay.
13 MR. COLLIAS: How long do you think that
14 meeting is going to take?
15 MR. LEACH: Between thirty-seven seconds
16 and a day and a half. I really don't know. I think
17 there's going to be an issue discussed of legal
18 consequence and I guess it will depend on how long you
19 and the Professor want to argue.
20 MR. CARDI: Well.
21 MR. COLLIAS: Well, the problem is we're both
22 so brilliant. We balance each other out.
23 MR. LEACH: Okay. So ten o'clock.
24 SEC. TENNANT: Yes, ten o'clock.

1 MR. COLLIAS: Okay. Since we have a motion -
2 - do we have to move to adjourn?

3 SEC. TENNANT: We have a question before.

4 MR. REIDY: I understood the issue in
5 question is something that the Walker campaign brought
6 up. Is that something that we should be present for?

7 MR. LEACH: It's up to you.

8 MR. REIDY: Okay.

9 SEC. TENNANT: I mean what issue?

10 MR. LEACH: It's a legal issue. A legal
11 issue about the qualifications of the candidate.

12 SEC. TENNANT: Oh. Yeah, but it's a request
13 for certification, so if there's any question --

14 MR. LEACH: You're certainly, well, what
15 you might want to do is submit something in writing just
16 to reaffirm your position or explain what it is. I know
17 it's in one of those letters. But this meeting is not
18 going to be open to the public. It's going to be a
19 closed meeting and then we will announce our
20 determinations afterwards. So if you want something
21 presented to them, you might want to give us some time
22 that day or earlier.

23 MR. REIDY: So a letter, I mean we
24 presented a letter.

1 MR. LEACH: It might work, but just I mean
2 your objection is stated in the letter. I recognize
3 that.

4 MR. REIDY: Yes.

5 MR. LEACH: Okay. If you want to add any
6 arguments to that or anything other than just the bold
7 statement that's there, I'll make sure that gets
8 presented and addressed by the SEC.

9 MR. REIDY: Are we welcome to attend?

10 MR. LEACH: No, it's a closed meeting. I
11 mean you can, we have to announce the results at the end
12 of the closed meeting, but --

13 MR. REIDY: Okay. But we can't be there?

14 MR. LEACH: Not in the meeting, no. And it
15 won't be on the webcast either.

16 MR. REIDY: Okay.

17 SEC. TENNANT: So we have our next meeting
18 scheduled for Monday, February 8th at 10:00 AM. No
19 business to come before the Commission, I entertain a
20 motion to adjourn.

21 MR. COLLIAS: I move we adjourn.

22 SEC. TENNANT: All right.

23 MR. CARDI: Second.

24 SEC. TENNANT: All in favor say aye.

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MR. COLLIAS: Aye.

MR. CARDI: Aye.

SEC. TENNANT: Aye. Motion carries. Thank
you.

(WHEREUPON, the hearing was
adjourned at 7:07 PM.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF PUTNAM, To-wit:

I, Penny L. Kerns, Certified Court Reporter,
do hereby certify that the foregoing is a correct
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place set forth herein.

I certify that the attached transcript meets
the requirements set forth within Article 27, Chapter 47
of the West Virginia Code.

Given under my hand this 11th day of
February, 2016.

Penny L. Kerns, CCR
Notary Public

My commission expires May 13, 2018.

STATE OF WEST VIRGINIA
STATE ELECTION COMMISSION
PUBLIC CAMPAIGN FINANCE CHALLENGE

COMMISSION MEMBERS:

SECRETARY OF STATE, NATALIE TENNANT, Acting Chairman
GARY A. COLLIAS, Chairman,
VINCE CARDI

February 5, 2016

10:00 AM

OFFICE OF THE SECRETARY OF STATE

1900 Kanawha Boulevard, East

Charleston, West Virginia

PENNY L. KERNS
Certified Court Reporter
and Notary Public

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JUSTIN WILLIAMS
MAUREEN LEWIS

I N D E X

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P R O C E E D I N G S

SEC. TENNANT: Gentlemen, you are on and we have the webcast started also. And, Gary, you are chairman. Do you still want me to chair?

MR. COLLIAS: Absolutely.

SEC. TENNANT: Okay. I call this emergency meeting of the State Election Commission to order. And today we are here to address the certification request from Brent Benjamin and from Bill Wooton.

And before we begin the process of certification, I'm going to ask Tim if there's anything that we need to discuss beforehand. I know we need to first discuss the hardship waiver for the Brent Benjamin. And since Brent Benjamin's certification request came in first, we're going to address the case first.

MR. LEACH: Did you establish a quorum?

SEC. TENNANT: Oh, I'm sorry. Gary, you are on, right?

MR. COLLIAS: Yes.

SEC. TENNANT: Gary and Professor Cardi?

MR. CARDI: Yes.

SEC. TENNANT: And then I'm present, so that's three of us and we do have a quorum for this meeting.

So that's now been established.

MR. LEACH: And I presume Taylor Downs continues to be recusing himself. I haven't heard from him today.

SEC. TENNANT: I have not heard from him. Anyone else? He had recused himself, as folks who have been here and paying attention, recused himself early on in the process. Or he may not be recusing himself since this is a different process. He may not be able to be here and doing other work that he was previously scheduled to do.

MR. LEACH: All right. Early this morning as follow-up from yesterday's conversations and meetings, I received an email request from the Benjamin Campaign informally asking for a waiver of the, a hardship waiver of the electronic filing requirements for their exploratory reports. We talked about what that was involved yesterday at that meeting. If anybody has any questions, I can go back over to outline the situation. Let me get the committee members first. Any Commission member questions?

SEC. TENNANT: Gentlemen, are you two familiar or remember what we had talked about yesterday and why there was the request for hardship waiver on the

Benjamin Campaign?

MR. CARDI: Well, roughly. Summarize it again for me, please. This is Vince Cardi.

MR. LEACH: All right. Well, they have a requirement to each month, much like the receipts except even when there's no exploratory receipts coming in, they have to report the carryover from, the balance from the previous month showing starting and ending balance. It's kind of like a campaign finance report. So it just summarizes all activities in the month. So even if there's no activities, you still have to make a report showing the starting and ending balance, which carries over to the next month.

But through or up to and including January --

oh, let me back up a half a step. That requirement by statute has to be filed electronically. But there is in the statute a proviso that with the permission of the SEC for unusual hardship reasons, the electronic part of it can be waived and they can file by paper or, you know, mail or whatever.

So the campaign has advised us, me and the Secretary, we confirmed that our electronic reporting software system is not set, doesn't recognize the animal of public campaign financing pre-candidate filings. The

law tends to treat them much as an exploratory committee and they are or I mean as a pre-candidate committee, but in fact they're a different animal. They're exploratory public finance rollover reports.

So in any event there's no way to get those into our system because it's not designed for that peculiar animal. So they've asked for a waiver of the electronic filing requirement.

MR. CARDI: Thank you.

SEC. TENNANT: Any questions or comments?

MR. LEACH: And I would add for the benefit of the Commission that this is in many places in campaign financing reports besides just public financing. And the waiver exists in all those places, and there's no definition in the statute of what constitutes a hardship. So it's pretty much at your discretion.

MR. CARDI: This is Vince Cardi. Do the facts support the contention that there was no way really to file these electronically because the Secretary of State's software wasn't set up to receive it?

MR. LEACH: Well, it has to be -- the program has to be written to acknowledge that report

which it didn't recognize. It's a different animal than what our programming is set up to receive from the general pre-candidacy reports. It's exploratory report for public financing.

Pre-candidacy reports are not due until April of the following year. And they're trying to shove a report into our electronic system in November, December, January, whenever, and it's not April of the following year and the system just says can't do that.

SEC. TENNANT: So the answer to your question is yes, the facts do support what's being stated. Any other questions with the Commission? Did you have a question, Joe?

MR. REIDY: Yes, I had two things. First, I believe that the Wooton campaign did file exploratory reports.

MR. LEACH: The ones in January that you're talking about?

MR. REIDY: Yes. That was the beginning. That was -- they filed in January exploratory contributions that reflected in December, which was the only period of their exploratory. That was it, that period.

MR. LEACH: All right.

MR. REIDY: And it was also noted yesterday, I believe, that there was a zero balance exploratory with the Benjamin campaign?

MR. LEACH: Well, I was the one talking. I may have misspoke. I don't have the report.

MR. GATES: There was a -- this is Kent Gates with the Walker campaign. There was a discussion yesterday about the pre-candidacy report that you guys tried to file as well, correct? And you stated that there was a zero -- that there was no money raised and no money spent in that process.

MS. CHARNOCK: No, I didn't say that. This was the question -- when there's a legal question, I believe there's a legal question between an exploratory reporting and a regular candidate's pre-candidacy and that's not what's at issue. We're just trying to clear up that if we wanted to file as an exploratory, may we go ahead and do that. Because at the time we tried and couldn't get it to go through.

MR. REIDY: Well, isn't anything prior to declaring for public financing exploratory?

MS. CHARNOCK: I think there's a question of whether your intent was to entertain public financing.

MR. REIDY: Okay. Well --

SEC. TENNANT: Yeah. This is not really discussion between the two campaigns. This is a question of hardship.

MR. REIDY: Well, is there an exploratory report?

SEC. TENNANT: Is there an exploratory report for whom?

MR. REIDY: From the Benjamin Campaign.

MR. LEACH: The question before the Commission is can they get a hardship.

MR. REIDY: So is the certification application going to be considered without an exploratory report?

MR. LEACH: The question before the Commission is can they get a hardship. We're just dealing with that. We are not talking about certifications of anybody.

MR. GATES: But the issue yesterday was a discussion of their pre-candidacy exploratory report, not their qualifying reports. And there was a discussion yesterday about there was no money raised and no money spent in that process.

SEC. TENNANT: But that may have been a misstatement.

MR. LEACH: I --

MR. GATES: It was stated by the Benjamin campaign and by the general counsel for the Election Commission.

MR. LEACH: All right. We can carry on if you want to keep asking questions. It's got nothing to do with the issue we're going to try to get a ruling on.

SEC. TENNANT: So what is the will of the Commission? The question is, does the State Election Commission grant a hardship waiver to the Brent Benjamin Campaign.

MR. CARDI: This is Vince Cardi. Let me ask another question, which may just repeat my first question. What Code section has allegedly not been complied with?

MR. LEACH: The electronic filing requirement, which is in several places. But in particular, the problem involves exploratory matters. So let me find that Code section. I think it's 3-12-13, Professor Cardi.

MR. CARDI: Okay.

MR. LEACH: Paragraph B and also --

MR. CARDI: 12-13 or 14?

MR. LEACH: 13 Paragraph B and the proviso

is the last of that paragraph. And then of course you also have paragraph C tying in with paragraph B, which we discussed in a lot of detail yesterday.

MR. CARDI: Okay. In the staff's opinion, did the Benjamin campaign make a good faith effort to comply with these applicable code sections?

MR. LEACH: I can't supply that answer. I don't know.

SEC. TENNANT: You're asking if the Benjamin campaign --

MR. LEACH: He's asking in the staff's opinion, did they make a good faith effort to comply.

MR. CARDI: Well, do the facts show this? That's my question.

MR. LEACH: I don't know.

MR. CARDI: Did you say that they tried to do it, but because of some problems with the design of the software, that it couldn't be done? Is that what we have here?

MR. LEACH: Say again, I'm sorry. We were talking. I apologize.

MR. CARDI: Okay. Do the facts show that this information could not be responded to or received, whatever the problem is, because the software or what

was done in the Secretary of State's office was unable to do it?

MR. LEACH: Yes, the facts support that.

MR. CARDI: Then is there any reason for the Commission not to grant this request?

MR. LEACH: I can't cite the instances, but I would remind the State Election Commission that we have granted similar hardship requests in the past.

SEC. TENNANT: And one of them was --

MR. CARDI: This is Vince Cardi. I move that we grant this hardship request.

MR. COLLIAS: I second the motion. This is Gary Collias.

SEC. TENNANT: It's been moved and seconded. All in favor say aye.

MR. COLLIAS: Aye.

MR. CARDI: Aye.

SEC. TENNANT: Aye. Motion carries. And if I may address a question that came up. So the waiver has been granted to the Benjamin campaign.

MS. CHARNOCK: Thank you.

SEC. TENNANT: Before we go any further with any misunderstanding, your question, Joe, you talked about the Wooton Campaign. It was not exploratory.

monies in report.

MR. WILLIAMS: It was exploratory, but not pre-candidacy. This is Justin Williams. So when the Wooton, not the Wooton, when the Benjamin campaign started, they started as a regular pre-candidate, which would normally be a required report in March. When they switched to the public financing exploratory committee, that money, those funds they had before would not transfer into the system.

MR. GATES: Just for a point of clarification, they made it very clear there was no money spent or raised at that point. Isn't that what you said yesterday?

MR. WILLIAMS: I don't know about that. I'm just talking about the facts of the system.

SEC. TENNANT: They did not say that. I think that was Mr. Leach said that and I think that he misspoke.

MR. WILLIAMS: But the system, so when the Wooton campaign started, they started as an exploratory public financing. So they didn't have the two separate types of campaigns. Where the Benjamin campaign had two separate types of campaigns that don't mesh together, and Wooton only had the one type of campaign.

MR. REIDY: So there's three different, there's a pre-candidacy, there's an exploratory, okay, and what's the difference?

SEC. TENNANT: Yes. This is like a pre-candidacy for a House of Delegate member --

MR. REIDY: I understand, I understand --

SEC. TENNANT: -- the end of March and this is how the Benjamin campaign started out.

MR. REIDY: Yes, ma'am. Okay.

SEC. TENNANT: Then they became an exploratory.

MR. REIDY: When does exploratory turn into qualifying?

MR. NICHOLS: At the declaration of intent.

MR. WILLIAMS: Yeah, they bonded that with the Code by filing all the paperwork.

MR. REIDY: So there is two separate declarations of intent here, then? There's a declaration of intent to start the exploratory.

MR. LEACH: No.

MR. REIDY: When does that begin?

MR. LEACH: No. It's a retroactive application of the law. It says when you file your declaration of intent, any monies that you've raised

before then automatically become exploratory money for the public campaign finance. So that's when the money shifts from the bank, if you want to think of it as a different account, from one account to another. It's done by act of law. Not by will or announcement of the candidate will or the campaign.

MR. REIDY: So when you declare that you want to pursue public financing, anything that you have in your account previously becomes exploratory?

MR. NICHOLS: Yes.

MR. LEACH: Yes.

MR. GATES: That should have been reflected on this first report, correct? Which they filed in September, October because he announced on September 11th he was seeking public monies.

MR. LEACH: I think we just read the Code. Every month you have to file all exploratory and --

MR. GATES: So why is that? I guess my question is how is that all of a sudden an issue today when they should have figured that out as --

MR. NICHOLS: I can answer that one.

SEC. TENNANT: Say your name.

MR. NICHOLS: This is David Nichols. I've spoken with our campaign finance specialist. The system

itself allows you to be an exploratory or a participating candidate. It does not, for whatever reason in the programming, allow you to mesh the two. So once he filed a declaration of intent and became a participating candidate, it wouldn't let him file, now won't let them file that final December or February 2nd report.

MR. GATES: But the way your general counsel just referred to it as law.

MR. LEACH: All right. I misspoke.

MR. GATES: Well, just now, though, is that that does transfer. So that whatever they raised as a pre-candidate should have transferred over on their very first filing report as a candidate intending to seek public financing. Pull up your chart there. And now they're saying --

SEC. TENNANT: Right.

MR. GATES: But now they're saying they couldn't do it just now. This problem, my point is this problem should have been identified at the filing of their very, very, very first report seeking public financing, and we're just finding it out today, which is four months later.

SEC. TENNANT: Right. That could be the case.

MR. GATES: So there's something missing somewhere.

SEC. TENNANT: But they've been granted a waiver to file it by paper.

MR. REIDY: So what is included in this report that got the waiver?

SEC. TENNANT: I don't know.

MR. LEACH: The requirement that they file, that any of the past filings that they had were due we waived for electronic filing.

MR. REIDY: What does that encompass?

SEC. TENNANT: Are you asking what is required in the exploratory or what is in their exploratory?

MR. REIDY: I'm asking what's required in that report.

SEC. TENNANT: What's required in the exploratory report?

MR. REIDY: Yes, ma'am.

SEC. TENNANT: Okay. We're looking.

MR. WILLIAMS: Did you find that, Tim?

SEC. TENNANT: Page 555.

MR. LEACH: Yeah, that's what I'm looking at. The reference that I made to the rollover is in Section 3-12-8, paragraph A. At the time the

participating candidate formally declares his or her intent to qualify for public campaign financing in accordance with Section 5 of this article, which is the intent to participate, any unexpected or undedicated contributions received during any pre-candidacy period which preceded the exploratory period shall be deemed to be exploratory contributions for the candidate. So there's no limit or restrictions on pre-candidate contributions.

MR. REIDY: But when do pre-candidacy funds become exploratory funds?

MR. LEACH: Yes, I think that's what I'm trying to get across, yes.

MR. REIDY: So the pre-candidacy becomes the exploratory?

MR. WILLIAMS: As far as funds, yes.

MR. GATES: Shouldn't the report, the pre-candidacy report have been required to be filed within the first exploratory report, which would have been in September and not January?

MR. WILLIAMS: So October would be the original chance to file and if they were unable to file in the system, they've now --

MR. REIDY: Which included pre-candidacy,

the pre-candidacy funds became exploratory funds, which the other campaign was able to file.

MR. GATES: They never had --

MR. REIDY: But the pre-candidacy became the exploratory funds.

MR. WILLIAMS: You can't compare the campaigns on these things. It's not fair to compare them.

MR. REIDY: So the pre-candidacy funds become the exploratory funds. Is that correct?

MR. GATES: I'm more concerned about the timing of this becoming an issue. To me the fact that they couldn't roll their pre-candidacy into their qualifying report should have been the very first report. That trigger should have been at the very first reporting period, because they had to roll those funds over. If that's not the case, that's an issue that's got to be fixed in the future. I mean, sure, I mean --

MR. WILLIAMS: They have now applied for a hardship and have gotten it. That's where we're at currently is that they applied for a hardship and received it from the Commission.

MR. GATES: Without discussion of this issue, right?

MR. WILLIAMS: Well, I mean that's up to the

Commission what they discuss.

SEC. TENNANT: Commissioners, any comments or questions? We're going to move on to the certification request of Brent Benjamin.

MR. CARDI: Okay.

MR. LEACH: We're doing Mr. Benjamin's first because his notice of certification or request for application for certification came in first. And the Code says they will be treated in the order received.

So February 2, 2016 I received a sworn notarized letter from, I'm sorry. Wrong one. It's farther back. Here it is. Still dated February 2nd, 2016, we received a request, a sworn statement of application for certification to receive public finance from Brent Benjamin. It has the required elements in it and I will list those off and what the State Election Commission has to determine.

So the State Election Commission is required to meet within three business days of the close of the filing period for reports and contributions, which was February 2nd, due to the business days. So that made today the deadline. Now, the Benjamin campaign actually had some extra time or the SEC had extra time to deal with the Benjamin campaign because of the challenges.

When there are challenges filed and addressed by the SEC, there's extra, there's six business days to conduct the certification instead of just three.

Yet, the Code still says we have to take these in the order received. And there was no deadline extension for the Wooton campaign. So one of the conflicts or contradictions in the Code is it's forcing us to take the Benjamin campaign before we address the Wooton campaign. And the deadline for the Wooton Campaign is today. The deadline for the Benjamin campaign is next Wednesday perhaps. So that's why we're in the posture that we're in.

So the SEC must now determine upon receipt of this document that the candidate has met and continues to meet all requirements of eligibility including, and staff has done preparation work for you. The candidate has signed and filed the declaration of intent, which was done, let me get the right -- which was done September 11, 2015. So there is a signed declaration of intent on file.

The candidate has obtained enough, the minimum number, five hundred, at least ten percent from each of the state's three congressional districts, and amount, thirty-five thousand dollars, of qualifying

contribution. After our process, including verification and sampling and the actions of the State Election Commission in rejecting some of the contributions, we have a total of five hundred and twelve total contributions.

I will note that I believe that the campaign thinks it's a higher number and we're just not sure where the disagreement or discrepancy is. But if it's a higher number, then they're further over the bar. If it's our number, they're still over the bar with five hundred and twelve.

Of those five hundred and twelve, 22.2 percent were collected in district one, 46.8 percent were collected in district two, 31.0 percent were collected in district three. So all three districts qualify as having met the ten percent of the contributions.

The final bar is the thirty-five thousand dollar minimum raise. After deducting the challenged contributions and deducting the results of our own random and verification process, we have a balance collected of thirty-six thousand one hundred and seventy-four dollars, which is above the thirty-five thousand dollar minimum bar.

The candidate has also complied with the

contribution limits and restrictions. None of the accounted contributions exceeded one hundred dollars. No more than one contribution was credited from any single person. All accepted and credited receipts were from registered West Virginia voters. None were collected before the defined declaration of intent in September. None were collected after the close of the contribution period January 30, 2016. All were receipted with all necessary information and statements, the process we've been challenging over the last two days. The candidate is eligible to be certified under 3-5-9.

Let me just take a look at that one so I can summarize what that means. I believe that's a misstatement. Let me go there. I may have gotten the citation wrong. Let me look at that. 3-12-10. Just luck we didn't catch that error on there. Well, that's my own memorandum and I'm not sure what I intended there because -

-- oh, here it is. Is eligible -- it's in 3-12-10, paragraph C, I'm sorry, B number 4. Is eligible as provided in Section 9 Article 5 of this chapter, which is 3-5-9, to appear on the primary and general ballot.

So that is a certification by the Secretary that the candidate is eligible to be or it will appear

on the ballot. So they're eligible to be certified by the Secretary, assuming we have a filing certificate of announcement and a payment of a filing fee, which we do have for this candidate.

And then the final qualification requirement is the candidate has met all other requirements of the Code. So that is for the decision now of the State Election Commission.

SEC. TENNANT: Gentlemen, do we have any discussion?

MR. CARDI: Well, we've just been told -- this is Vince Cardi. We've just been told that the facts are that they've met 3-12-10(b)1 and 2 and 3 and 4. Is that correct?

MR. LEACH: Correct.

MR. CARDI: But you didn't say anything about 5. Have they met 5? You seem to be asking us to confirm that, but what are the facts?

MR. LEACH: Well, I think you're about to hear an argument, but --

MR. CARDI: Okay.

MR. LEACH: -- so far as we're aware, the only issue might be the timeliness of some of the reports and does that disqualify you. But I was kind of

waiting for that issue to be raised and discussed.

MR. CARDI: Okay. So you weren't asking us, you were asking someone else?

MR. LEACH: Yes.

MR. CARDI: Thank you.

SEC. TENNANT: I think the question what five is has, you know, met one, two, three, and four, has all other requirements, has met all other requirements of this article. So what is the question that has not been met?

MR. LEACH: I think there's a handling error.

SEC. TENNANT: Okay.

MR. REIDY: May I see the application for certification, please?

MR. LEACH: Yes.

MR. REIDY: And this was submitted on the 2nd of February?

MR. LEACH: Yes, it was.

MR. REIDY: Because I was told both on the night of the 2nd by staff and the morning of the 3rd that it had not been submitted.

MR. LEACH: Here it is. That's your letter, sorry. Here it is.

MR. REIDY: And then the evening of the 3rd after we left this meeting, I was given this.

SEC. TENNANT: I can't read any of them.

MR. REIDY: They have different date stamps on them.

MR. LEACH: Well, the date stamp on the document on the Secretary's right is my own date stamp when I got the email. Or when I opened the email, not when I got the email, but when I opened it.

MR. REIDY: So what's the other one and which one is the one that matters? Because I was told by you on Wednesday --

SEC. TENNANT: They both say the 2nd. What is your --

MR. REIDY: That they're different stamps and I was told on the 2nd, the evening of the 2nd and on the 3rd that it had not turned in, been turned in. Mr. Leach on the morning of the 3rd said that it had not been turned in. And --

MR. LEACH: Well, I think when we talked I told you we had --

SEC. TENNANT: I understand. I understand that he may have told that to you. You know what we've been doing for the last three days.

MR. REIDY: Oh, yeah. We've been doing it to.

SEC. TENNANT: I stand by the filing that is on here. I mean this says --

MR. REIDY: Which one?

SEC. TENNANT: This is the Secretary of State's stamp. It says Secretary of State.

MR. REIDY: Okay.

SEC. TENNANT: February, 2016, February 2nd. This one is one that is a stamp here. This is the official timed in stamp.

MR. REIDY: So that's when that was received?

SEC. TENNANT: Well, I don't know. This is when it was stamped in.

MR. REIDY: Okay.

SEC. TENNANT: So what is the question? And both of them say the 2nd, so I'm wondering what is the

--

MR. GATES: He said, he said he stamped his when he got the email. But if he knew he had it on the 2nd, why did he tell us on the morning of the 3rd?

MR. LEACH: I don't open my emails when they come in. I'm sorry.

SEC. TENNANT: I don't understand why someone misspeaking is an issue.

MR. REIDY: Because we were told it wasn't in on the 2nd.

SEC. TENNANT: So now you've been told it has been and now you've been shown the stamp, so what is the issue?

MR. REIDY: Okay. That was the issue. That we were told conflicting things.

SEC. TENNANT: I apologize if you were told conflicting things.

MR. REIDY: Okay.

SEC. TENNANT: You know, this is a practice in getting people on the ballots who are eligible to be on the ballots, and I know you question that.

MR.

SEC. TENNANT: Okay. I understand.

MR. GATES: It's about giving him five hundred and twenty-five thousand dollars of the taxpayers' money as long as they follow the process accurately.

SEC. TENNANT: Right. And we have had a three-day process of that, and that's exactly what we're doing. And we have asked the SEC, the Secretary of State's office has asked a lot. So when there are

questions asked off the cuff as someone's leaving, and you know what we were doing the night of the 2nd or what was it, the night of the 3rd. You know, we --

MR. REIDY: It was the night of the 2nd and the morning of the 3rd.

SEC. TENNANT: Well, but you said that you asked Mr. Leach the night of the 3rd as we left had you received --

MR. REIDY: No, I asked him in the morning. Ms. Walker asked him in the morning when we arrived. I asked him for the paperwork leaving the meeting. The night before on the 2nd --

SEC. TENNANT: I'm already lost in the meetings. You see how easy it is to --
- right. That's what I'm saying. This is maybe what Tim had received. This is what the Secretary of State's office received.

MR. REIDY: Okay.

SEC. TENNANT: So I mean, so we're good with this. It came in on the 2nd. We're all in agreement, correct?

MR. REIDY: Okay.

SEC. TENNANT: Whether he misspoke or not, I apologize for that. I mean are we good with that?

MR. REIDY: Yes, ma'am.

SEC. TENNANT: I mean the filing is the filing and I can't change that. So I apologize. Oh, that one is yours.

MR. GATES: Next issue.

SEC. TENNANT: You have a question?

MR. GATES: Yeah, this is Kent Gates with the Walker campaign. Before you guys move to certify for the candidacy, how are you going to certify without all their paperwork being in, because they don't have all the reports filed yet that they're required to file? You just gave them a hardship for their pre-candidacy report.

SEC. TENNANT: Did you understand that, Commissioners?

MR. COLLIAS: No.

SEC. TENNANT: I didn't think they --

MR. GATES: How are you going to --
- I mean

how are you going to vote to qualify a candidate whenever the paperwork that they should have filed to become the candidate is not in yet because you just gave them the exemption, the hardship exemption, for reporting?

SEC. TENNANT: Correct. I mean we --

MR. GATES: That still hasn't been filed.

SEC. TENNANT: And we may not. We don't know what we're doing, but that's a question that none of us have the answer to right now. And I don't know if they have the report and are prepared to file it.

MS. CHARNOCK: I don't have it on me right now, no.

MR. CARDI: Okay. This is Vince Cardi. I'm a little bit confused. Do I take it that the Secretary is satisfied that the stamped date is a credible conclusionary evidence that it was received on the 2nd --

SEC. TENNANT: Sir --

MR. CARDI: -- and we are moving on to a different question now?

SEC. TENNANT: Yes. I'm sorry, Professor. You are exactly right.

MR. CARDI: Okay.

SEC. TENNANT: Right. On both documents that Mr. Reidy showed, both documents say February 2nd. He may have been misinformed when asked had they received it or not.

MR. CARDI: I understand.

SEC. TENNANT: Mr. Leach is not the official receiver of these documents.

MR. CARDI: Okay. And so we're moving on to a new question, and the new question is if the Benjamin campaign has asked for a hardship extension for something or other, then are we really ready today to grant the certification if whatever the extension's for is required to get the certification?

SEC. TENNANT: Correct.

MR. CARDI: Is that what the question is before us now?

SEC. TENNANT: Yes, sir. That is the question. Ann Charnock from the Benjamin campaign says that she doesn't have the report. So what we could do, gentlemen, is table this question until we receive the report, because remember, the Benjamin campaign, as Mr. Leach just indicated, that while they were the first to ask for certification, the SEC does not have to address them until we said Wednesday because they were challenged and they get six days to file -- or six days to -- for the SEC to address their certification request.

MR. CARDI: And so you want a motion to --

SEC. TENNANT: I don't know.

MR. CARDI: -- postpone the certification request until this six day date?

SEC. TENNANT: I don't have that motion. That would be at the will of the Commission.

MR. CARDI: I mean do you want a motion? Is that what you're suggesting --

SEC. TENNANT: We could have more discussion if we -- I mean that has to be part of the certification of the requirements in 3-12-10.

MR. CARDI: Well, let's go back a second. Earlier Tim Leach went through all the requirements in 3-12-10 and said they were all met. Does that mean they're all met despite the fact they need an extension for something?

MR. LEACH: Well --

MR. CARDI: Does what they need an extension for not one of these basic requirements?

MR. COLLIAS: This is Gary Collias. I'm confused also. I thought that what Tim Leach said was that they had met all the requirements. How could he know that if he didn't have the report?

MR. LEACH: I thought all I was doing was listing off what the requirements were and telling you where we had the information, which was mainly the numbers, and also telling you that in response to Section 3.5-9 that we had the certificate of candidacy

and filing fee.

MR. COLLIAS: Well --

MR. LEACH: In fact, I thought Professor
Cardi --

MR. COLLIAS: What --

MR. LEACH: I thought Professor Cardi
pointed out that I didn't make a comment about all the
other requirements. I don't believe I said they were
met.

MR. COLLIAS: Well, what is it we don't have?

MR. LEACH: I think the issue is about not
having the exploratory reports, which we granted a
waiver for filing electronically just a few moments ago.

MR. CARDI: Which is Section 10(b)5?

That's what we delayed for?

MR. LEACH: Well, you have to conclude
whether they have met all the requirements. We can't
say.

MR. COLLIAS: I thought they had filed them
but they were untimely and that what we were doing was
taking the reports that were not timely, giving them a
hardship exemption and accepting them timely. You're
telling me the report hasn't been filed at all. Is that
what you're saying?

SEC. TENNANT: No. We're saying that they were not able to file it electronically. They've been granted the hardship waiver to file it by paper.

MR. COLLIAS: But they haven't already filed it by paper yet?

SEC. TENNANT: No, because they didn't have, they weren't granted the hardship to be allowed to do that and they had no mechanism in which to file electronically.

MR. COLLIAS: And what information is that report going to contain that we don't already have?

MR. LEACH: Well, we haven't seen the report.

SEC. TENNANT: I don't know.

MR. COLLIAS: Well, okay. That's a good answer, Tim. But what I'm trying to figure out is just sort of categorically what information is that report intended to contain other than the information that you just read to us, Tim, when you went through all the first four criteria?

MR. LEACH: No. This report is for exploratory contribution activity, contributions and activity, and it includes the money that was rolled over when they became a declared candidate. And so there are

some reports that we don't have.

SEC. TENNANT: And so the final -- but the final -- I don't know what the correct term -- the final submission of the five hundred and twelve qualifying contributions is what we looked at, is what we've seen and what we have.

MR. COLLIAS: Well, it sounds to me like you're telling us that we don't have all the information we need to certify the candidate because we don't have the report that we just gave an extension of time for them to provide to us.

SEC. TENNANT: Well, I'm with Tim, I don't know what is in that report and --

MR. COLLIAS: Well, the report's required by the statute, right?

MR. LEACH: Correct.

MR. COLLIAS: And we don't have the report yet, right?

MR. LEACH: Correct.

SEC. TENNANT: Correct.

MR. COLLIAS: Okay. So it seems to me that we don't have one of the pieces that we need to have before we can certify the candidate. I don't want this to sound like cross-examination, but what am I missing?

MS. CHARNOCK: May I --

SEC. TENNANT: We have the Benjamin campaign who would like to speak.

MS. CHARNOCK: I'm looking at the next section, subparagraph H that says that if you certify someone, that that may be revoked if there's a violation of this article. The question today is whether the qualifying contributions meet the right numbers and meet the right amounts. They do, no questions asked. What the discussion is right now is contributions raised before the qualifying contributions were raised, and I would suggest that if indeed once that report is filed pursuant to the hardship waiver, if there is a problem, it can be taken care of then.

SEC. TENNANT: And deny or --

MS. CHARNOCK: And you can come back and revoke or we can discuss that then, but the thing about the exploratory is you can't go over twenty thousand dollars and there's no number -- you know, those things don't apply to the thirty-five thousand dollars, the five hundred donors, ten percent from each dist -- those contributions don't count towards that. Therefore, the question before you is whether the qualifying contributions are proper, and my understanding is staff

has cert -- not certified -- staff has determined that it is, and that's the issue before you today.

MR. COLLIAS: Tim Leach, do you agree with what Ann Charnock just said?

MR. LEACH: You can --

SEC. TENNANT: That's what I was trying -- go ahead.

MR. LEACH: 3-12-10 says the State Election Commission shall determine one, two, three, four, five. We've certified -- we've verified four. Has met, number five says --

SEC. TENNANT: But we met all other requirements. Where does five go back to them?

MR. LEACH: This article. It approves everything in the article.

SEC. TENNANT: And where is the --

MS. CHARNOCK: I'm referring to subparagraph H, following along.

SEC. TENNANT: She's right here.

MS. CHARNOCK: That's the catchall.

SEC. TENNANT: 3-12 from the beginning and then -- all other requirements -- when you -- I'm not the lawyer here, so I don't want to explain code to everybody and what's in code.

MR. CARDI: This is Vince Cardi. The question I think Gary and I are asking is why does the candidate need a hardship extension, and if it is to do some acts or go to acts required by the Code under 3-12-10-5 before you can be certified. It appears that they say, well, we didn't get something done and here's why and we need a hardship extension for it. Now, is that something that has to be done, something that's covered by 3-12-10 subsection 5 or B-5, and if it is, then they haven't satisfied B-5 yet and we need to -- since they need to satisfy B-5 and they're given an extension to do it, we can't really certify them until they've done it, and evidently they have six days or whatever it is to accomplish it, and that's why I don't understand what's going on.

SEC. TENNANT: I think that you've encompassed it, Professor.

MR. LEACH: It may be possible that the Commission would decide that they cannot certify at this time. There's still time to take it up later.

SEC. TENNANT: Do we need to have a motion for that?

MR. LEACH: Yes. It's an agenda item.

SEC. TENNANT: Since it's in --

MR. LEACH: I think we have to dispose of it.

SEC. TENNANT: So if we choose to hold off and we do have a -- we have a meeting scheduled already at ten o'clock, right, on Monday?

MR. LEACH: We do, but we don't have to have a wrap-up meeting until Wednesday.

SEC. TENNANT: Exactly. That's for them. For them.

MR. CARDI: Okay. What is actually needed to comply? They can't comply today because they need this extension, correct? What exactly is that?

SEC. TENNANT: Well, we've already granted that.

MR. CARDI: We granted the extension?

SEC. TENNANT: Correct.

MR. CARDI: Okay. We have not -- it has not been found that they've actually met those requirements for which they need the extension, and so we need to wait until they've accomplished whatever they need an extension for before we can certify. Is this accurate?

MR. LEACH: I don't -- I mean the article hasn't been fully complied with, so I don't think you

can certify that it has been at this present time.

SEC. TENNANT: So they have the exploratory --

MR. CARDI: Okay. So --

MR. COLLIAS: That's all we wanted to know.

SEC. TENNANT: Yeah.

MR. CARDI: Yeah. Okay. So do we need to set a meeting for next Wednesday?

SEC. TENNANT: Well, we have one scheduled, remember, on Monday at 10:00.

MR. CARDI: And if they satisfy it by Monday, then we can address it then, is that the idea?

SEC. TENNANT: That's my idea. I don't know what anybody else is thinking.

MR. CARDI: I move we --

SEC. TENNANT: The Benjamin campaign, because you have until -- well, no, we have until -- you've already asked for the certification.

MS. CHARNOCK: Right. But since it has to be paper, we've got what, ninety minutes today and two hours on Monday to get it filed before ten o'clock, right?

SEC. TENNANT: Yes.

MS. CHARNOCK: Okay. I can't speak that that -- I don't think it can be done this -- I know it can't

be done this afternoon. The treasurer doesn't live in Charleston, so I can't make the representation that it will be here Monday.

SEC. TENNANT: And that's fair. I mean that's -- and while we have the meeting for Monday, we can always extend it, if it's the will of the Commission.

MR. COLLIAS: Do we still --

MR. CARDI: This is Vince Cardi. I move that we delay consideration of the request for certification until the extension information is gathered and submitted within the six days and then we consider it then or earlier if they've got it submitted. Something like that.

SEC. TENNANT: Do I have a second to that?

MR. COLLIAS: I second the motion.

SEC. TENNANT: It's been moved and seconded.

All in favor say aye.

MR. COLLIAS: Aye.

MR. CARDI: Aye.

SEC. TENNANT: Aye. Motion carries. Now we will move on to -- anything else?

MS. CHARNOCK: Before we --

SEC. TENNANT: Yes, ma'am.

MS. CHARNOCK: Do we have to submit a new

application to certify?

MR. LEACH: No.

SEC. TENNANT: Great question.

MS. CHARNOCK: That was a delay of the request?

SEC. TENNANT: Yes, because that was -- so this is already, your certification request is already in place.

MS. CHARNOCK: Thank you.

SEC. TENNANT: Okay.

MR. GATES: Is this meeting that's going to be on Monday, is it going to be a public meeting, too?

MR. LEACH: Originally it was intended to be closed, but we can reconsider.

SEC. TENNANT: Because there is in the Code and statute that allows for the meetings not to be noticed publicly or be held -- where did it go -- I just saw it -- yeah, it's not subject to public notice and open meeting requirements. But here we are live and on the webcast.

MR. REIDY: And Monday's will be public?

SEC. TENNANT: If we have it Monday, yes.

MR. COLLIAS: What's the purpose of the meeting on Monday, then, in light of our meeting today?

SEC. TENNANT: Well, that would be the extension -- not the extension -- the consideration of the certification request from the Benjamin campaign, the motion that was just made.

MR. COLLIAS: Well, but I thought we all just agreed that they might not have it by then.

SEC. TENNANT: Correct. So it's not really a meeting Monday, even though it's already been noticed, it doesn't need to be noticed and we don't know for sure if it's going to be Monday.

MR. COLLIAS: Well, we're going to need to know sometime soon, because this is Friday afternoon. Monday is going to be upon us.

SEC. TENNANT: That is correct.

MR. CARDI: Could we just -- is there any reason not to schedule it on Wednesday so we don't have to -- so we know when we're going to meet again, or is there a reason to actually have it as early as possible?

MR. LEACH: There is no reason for us.

MR. COLLIAS: Or Tuesday.

SEC. TENNANT: Yeah, Tuesday or Wednesday is fine for us also.

MR. COLLIAS: Okay.

SEC. TENNANT: I think it might be -- the

campaign -- I believe that what we're doing right now as a Commission is giving deference to the campaign right now, because, you know, it does make it --

MR. COLLIAS: Well, I mean they're entitled to a reasonable amount of time to, you know, to make these disclosures and this report, I mean.

MS. CHARNOCK: The State Election Commission is doing us a favor. If you would like to not even consider doing this on Monday and let's move to Tuesday or Wednesday, we'll, whatever you want us to do, that's fine.

SEC. TENNANT: Wednesday is -- I mean are you guys good with Wednesday? I don't have my -- hang on a minute. Does Wednesday work for you two, gentlemen?

MR. COLLIAS: Well, what time are you thinking about?

SEC. TENNANT: Ten o'clock.

MR. CARDI: Fine with me.

MR. COLLIAS: Well, what is going to be on the agenda on Wednesday?

SEC. TENNANT: On Wednesday is going to be this motion that we just voted on to review the request, the certification request of the Brent Benjamin campaign.

MR. COLLIAS: And that's going to be it as things stand now at least?

SEC. TENNANT: You just jinxed us, Gary. I would think that that would be the only thing.

MR. COLLIAS: I'm trying to figure out if this is going to go all day long and it's going to affect things I'm trying to do later in the day or not.

SEC. TENNANT: Oh, I think that's a great concern. I don't anticipate it going all day long, because all that I anticipate is all that we're missing right now from the previous conversation is this report that's going to be filed, then it meets the requirement of Section 5 and then we vote on it's here, then it's certified if you've met all five requirements. That's how quickly and simply I see it and anticipate it. But we're in day three of SEC meetings. Anything can happen.

MR. COLLIAS: Yeah, I understand that. Okay. My next question is, then, that means we will cancel the meeting for Monday and we just have a 10:00 AM on Wednesday; is that right?

SEC. TENNANT: Yeah. I'm looking at the meeting being cancelled on Monday at 10:00 AM also.

MR. COLLIAS: And there's no other matters

pending right now for us to decide other than this one matter that's scheduled for Wednesday?

SEC. TENNANT: For Wednesday, that's right, but we still have another issue that we are addressing in this meeting today.

MR. COLLIAS: Okay.

SEC. TENNANT: All right.

MR. COLLIAS: Okay. Let's go ahead and go to it, then.

SEC. TENNANT: Yes. That's what I say, too. Benjamin campaign, do you have anything else?

MS. CHARNOCK: No.

SEC. TENNANT: You don't want to stay?

MS. CHARNOCK: I was offering my seat to --

SEC. TENNANT: Are you sure you don't want to stay?

MS. CHARNOCK: I'm going to listen.

SEC. TENNANT: You're going to listen from there.

MS. CHARNOCK: I was offering Mr. Maroney my seat.

SEC. TENNANT: Okay. That's fair. Actually, we are going to move around a little, because we do have representatives now from the Bill Wooton campaign, of

which we have a certification.

MR. LEACH: Ready?

SEC. TENNANT: Yes. And when these gentlemen speak, they'll -- gentlemen, I'll just let you know who's joined us now from the Wooton campaign is Pat Maroney, Lyle Sattes, and Brian Messer. But first, Tim is going to begin, because Bill Wooton has sent a request for certification.

MR. LEACH: Okay. This started out the same as the last one. We have a request and a sworn statement from the candidate, Bill Wooton, saying that he's complied with the article and that he's eligible for the public financing. This letter is dated February 3, 2016, and my personal stamp on my copy says February 3, 2016, received.

So the staff background work. Again there are five items for the State Election Commission to determine. One, the candidate has signed and filed the declaration of intent. That was done so on December 28, 2015. Has the candidate obtained a minimum number of five hundred and ten percent from each congressional district and the minimum amount of thirty-five thousand dollars. After verification and random sampling and there were no challenges involved, or there were no

ballots thrown out -- ballots, listen to me --

MS. SUMMITT: Receipts.

MR. LEACH: Receipts. Thank you. Thrown out. We ended up with a total of seven hundred and fifty-four total contributions, removing duplicates, removing ones with no names, things of that nature. I think the campaign disputes that number, but we haven't had a chance to reconcile the differences, but if they are disputing it, it would be a bigger number, and the seven hundred fifty-four clearly passes the five hundred bar. 22.4 percent from district one, which is the smallest district distribution, it's more than ten percent.

Total credited contributions after the review of the receipts by the Secretary of State's office, is forty-six thousand nine hundred and fifty-two dollars, which is more than the thirty-five thousand required as the minimum. Can also verify that the candidate has complied with the contribution restrictions in that. None are greater than one hundred dollars, none are -- no more than one is from any same person. All that we accepted or credited were from West Virginia voters, and none were collected before the filing declaration of intent in December, on December 28. None were collected

on or after January 30, 2016. All were receipted with necessary information and statements.

The candidate is eligible under Section 3-5-9, which is the filing of the certificate of announcement by January 30th and the payment of a filing fee, filing a sworn statement of eligibility to hold the office.

We're at point five. I have a letter from the Walker campaign. I believe you've seen this letter, because it came up in a question of whether or not it constituted a sufficient notice of contesting or challenging any contributions. Let me get that letter and make sure I have it. Actually, I have two letters. I have one letter dated February 2nd addressed to Secretary Tennant, and a third -- or second addressed to Secretary Tennant, February 3rd.

The one that has the objection to the qualification of the -- complying with all of the article, which is the fifth thing we have to decide, is in the February 3rd letter, which I've provided to you, the last, next to the last paragraph, which states finally as noted above.

The candidate has not complied with the provisions of 1-46-CSR-5.6.1, which provides that, quote, no later than two business days after the close

of the qualifying period a candidate who desires to apply for public financing funds shall file an application for certification with the Secretary, close quote. No such application or condition was filed until on or before Tuesday, February 2nd. Accordingly, the candidate has not met the requirements to be a certified candidate.

So that's the objection raised by the Walker campaign to certifying, I think I'm summarizing this fairly, to certifying the Wooton campaign because they missed the deadline of two business days after the close of the period, which we discussed over and over this week. The period closed on January 30th, which was a Saturday. The first business day was February 1st, second business day was February 2nd. That's all I have to report.

SEC. TENNANT: Any questions from Commissioners?

MR. COLLIAS: Yeah, I have a question. This is Gary Collias. Tim, isn't this the same issue that we had talked about where the regulations provided a time limit but the statute didn't, and we were basically giving people the benefit of the doubt and liberally interpreting the regulation because it conflicted with

the statute?

MR. LEACH: Yes. It's the same argument I made in regard to the Walker campaign being denied the right to file challenges because they missed the two-day deadline, but there is no two-day deadline for the filing of challenges or for the filing of the request for certification in the statute. They were added by regulation and further restricted the rights of the individuals.

MR. COLLIAS: Right. So I mean if we're going to be consistent, let's just say we're being consistent with our earlier decision, then we would have to let the Wooton campaign file this one day late.

SEC. TENNANT: Correct.

MR. COLLIAS: Okay. I understand.

SEC. TENNANT: So do I have a motion?

MR. COLLIAS: Vince might have a question or somebody might want to --

SEC. TENNANT: Well, yeah, I mean is there any discussion or question or -- with what Tim presented?

MR. COLLIAS: Well, this is Gary again. I just don't think it's fair for us to throw out a certification, you know, of Wooton when we gave the Walker campaign, you know, we let them file something a

day late and we kind of basically ignored the regulation

--

SEC. TENNANT: Exactly.

MR. COLLIAS: -- because they exceeded the -- what was required by the statute. I don't think it would be fair to do that.

SEC. TENNANT: I see that, too, and I agree with that, too. I don't know if we need a motion for that. Professor, what are you thinking?

MR. CARDI: Well, I mean either we can make a motion and then hear anybody who wants to address it, or we can hear people address it now or we can hear a motion if no one wants to address it and we can vote.

If you want to get a motion on the floor, then it can be discussed and addressed by anyone who wants to address it in this open meeting, then I'll move that we find that the February 3rd request for certification was timely filed on the basis that was just explained.

MR. COLLIAS: I second that motion, but I think the motion should go forward and say, and therefore the Wooton campaign should be certified.

MR. CARDI: I accept that, yes.

SEC. TENNANT: Okay. So it's been moved and seconded, but I have a hand. The Walker campaign would

like to address the Commission.

MR. REIDY: I have a statement --

MR. CARDI: If we've got a motion, why don't we get a second and then we can hear everybody.

SEC. TENNANT: We do. Gary seconded that.

MR. CARDI: Oh, okay. Okay.

SEC. TENNANT: Sorry. So we have a motion, moved and -- yeah, it's moved and seconded.

MR. REIDY: I have a statement from Mrs. Walker on the disbursement of funds. I don't know if now would be the appropriate time to read that.

MR. NICHOLS: Yeah, definitely.

MR. REIDY: Okay. Well, I'll go ahead and read it, then.

SEC. TENNANT: We don't know how we're voting yet, though, if we're going to disburse funds.

MR. REIDY: Well, then --

SEC. TENNANT: Any comment from you all?

MR. MARONEY: Yes. Excuse me. This is Pat Maroney.

SEC. TENNANT: I almost said the Benjamin -- From the Wooton campaign. Sorry.

MR. MARONEY: Yes. That the motion should be affirmed. Chapter 3, Article 12, Section 10

specifically states that the candidate shall apply through the permission for public campaign financing and file a sworn statement. There is no two-day restriction within the statute. The two-day restriction is found within the rule of the -- within the rule and the case law is very specific in West Virginia that the rule cannot deny or expand or contract what the statute says, only if it is liberally interpreted to make sure that a person can comply with the statute.

SEC. TENNANT: I understand.

MR. MARONEY: And in fact in this instance, if I could ask Mr. Leach, what time was it actually received on the 3rd?

MR. LEACH: I hesitate to give an exact answer without looking at my email clock. It was sometime in that morning.

SEC. TENNANT: Yeah, because his stamp's only

MR. MARONEY: So it could have been filed electronically up to 11:59 on the 2nd, so at best it's ten hours late, so to speak.

SEC. TENNANT: Right. Well, we have a motion -- are you all ready to vote on the motion?

MR. GATES: I'm just going to -- this is

Kent Gates for the Walker campaign. It's gain, you know, not following the regulations and you don't think ten hours is a big deal, but you're asking for five hundred and twenty-five thousand dollars of taxpayer money that the state has budgeted to waive that ten hours. I just want to be on the record.

SEC. TENNANT: I appreciate that, but we have a difference between -- but we also have public financing in place in the state of West Virginia for a reason, and this is law of the State of West Virginia. So to counter in such manner, you know, we're here, the SEC, administering that. I have a motion on the floor. All in favor say aye.

MR. CARDI: This is Vince Cardi. The Commission's attorney, Gary, his opinion the other day on this issue, does that opinion still apply? Can you talk to that?

MR. LEACH: You mean when I was discussing something similar to what Mr. Maroney has just itemized about statutes controlling over regulations and regulation should not restrict or --

MR. CARDI: Yes.

MR. LEACH: -- or expand rights that are not granted by the statute. Yes, I am still of that

opinion.

SEC. TENNANT: Did you hear that, Professor?

MR. CARDI: I'm sorry, no. Repeat that.

MR. COLLIAS: He said it was still his
opinion, Vince.

SEC. TENNANT: Yeah, it's still the same, same
that it was --

MR. CARDI: Okay. Thank you.

SEC. TENNANT: So it's been moved and
seconded. All in favor say aye.

MR. COLLIAS: Aye.

MR. CARDI: Aye.

SEC. TENNANT: Aye. Motion carries. Mr.

Wooton has been certified.

MR. REIDY: Would now be the appropriate
time for --

MR. LEACH: Other business.

SEC. TENNANT: Other business before the
Commission.

MR. REIDY: This is from Mrs. Walker, and
I'm going to read it but cannot comment on it further.

SEC. TENNANT: Well, that's not fair. That's
kind of like a blanket challenge --

MR. COLLIAS: Now we get to find out what

Mrs. Walker really thinks, though.

MR. REIDY: On behalf of Beth Walker, we provide the SEC with notice that she is contemplating an appeal of the decision made today and meeting conducted with only four hours notice to her. She requests that no funds be disbursed before Tuesday, February 9th, to allow her to evaluate the grounds of an appeal.

MR. LEACH: Members of the Commission, the statute clearly provides that once you have certified the candidate for eligibility, the State Election Commission and the Secretary of State and the State Auditor have to deliver a check within two business days.

SEC. TENNANT: So --

MR. COLLIAS: So that's seven. I mean that's

--

SEC. TENNANT: That's the 9th. And what --

SEC. TENNANT: Do we get that letter now to mark it officially received?

MR. REIDY: I do have one more thing. Is it possible to get copies of Mr. Leach's summaries from today?

MR. LEACH: No. Those are personal notes.

SEC. TENNANT: I'm not sure. Yeah.

MR. REIDY: Okay.

SEC. TENNANT: Are you going to mark -- yeah, he's going to mark it in. I need to hear what was just said in the letter.

MR. REIDY: Before, I was just curious if we could get copies of his report saying this is how many contributions, this is the percentage.

MR. LEACH: Oh, sure.

SEC. TENNANT: Yes. So --

MR. GATES: He didn't read all of them. It we could get an accurate count --

SEC. TENNANT: So, Tim, what you're saying is that we will continue to process, we will process, we will do the due process from what is required of the State Election Commission. While she has made this request, that doesn't stop up from doing our duty.

MR. REIDY: Of course. Of Course.

MR. LEACH: This what you want? Those are the numbers I provided.

MR. REIDY: Okay.

MR. LEACH: I can make copies.

MR. MARONEY: Yeah, if you could make copies, that would be good.

MR. LEACH: Any other business?

SEC. TENNANT: I don't think we have any other business. Any other business from the Commissioners?

No, no, I need the original.

MR. CARDI: None here.

MR. COLLIAS: No.

SEC. TENNANT: I need the original.

MR. LEACH: I would just make the suggestion, in spite of my reading the Code to you, does the Commission wish to consider making some kind of a voluntary stay themselves?

SEC. TENNANT: So she did not sign this, then?

MR. REIDY: No, ma'am. It was just a statement that I read.

SEC. TENNANT: Is this from her?

MR. COLLIAS: Well, I --

SEC. TENNANT: Hang on a second. Is this from -- this is not from her, is it?

MR. REIDY: No, I said that --

SEC. TENNANT: Okay.

MR. REIDY: -- on behalf of Beth Walker.

SEC. TENNANT: Okay. Because that's not how she's been signing this at all.

MR. GATES: The statement says it's a statement from Beth Walker. It doesn't say it's her

written statement.

SEC. TENNANT: Right.

MR. MARONEY: Just so the record's clear, is the handwriting on this statement Mrs. Walker's?

MR. REIDY: Well, I can't answer that. I don't know that that's --

MR. MARONEY: Well, I think it's important to know as to whether this is her statement or whether somebody else has taken down on the phone and who it was taken from.

SEC. TENNANT: Right. This could be anybody saying this.

MR. GATES: As he said --

MR. REIDY: Well, it says on behalf of Beth Walker.

SEC. TENNANT: It doesn't say who's the person. Who is on behalf?

MR. REIDY: I, Joe Reidy.

SEC. TENNANT: Oh.

MR. REIDY: Who said the statement.

SEC. TENNANT: Okay. So we have to put --

MR. MARONEY: So this is your request? This is your request?

MR. COLLIAS: Well, Joe Reidy is a

representative of her campaign, so I don't see what the significance is.

SEC. TENNANT: Well, no, this is just for -- they've been asking for a lot of documentation and, as you see, we got this filed in, and so when we scan this and send this to you, Gary, it's not a statement from Beth Walker as she's been signing it Elizabeth D. Walker for every correspondence that she's had with the Secretary of State's office. So that's what -- it surprised me. I thought this was coming from her, but it's not from her.

MR. COLLIAS: Well, it's --

SEC. TENNANT: It's on behalf of. You're right, but it's not signed by Joe Reidy, but it's been -- it's in the records.

MR. COLLIAS: Well, I don't think that makes a bit of difference.

SEC. TENNANT: No, it doesn't, but I'm just -- you don't think it makes it official? Is that what he said?

MR. COLLIAS: No. Look. If Joe Reidy is the representative of her campaign at the meeting and he makes the request, he doesn't have to have a piece of paper that was actually signed by her.

SEC. TENNANT: Okay. And it's not signed by him either, but I still am submitting this to the record.

MR. COLLIAS: Well, that's fine. You can make it part of the record, but --

SEC. TENNANT: Yeah. That's what I meant.

MR. COLLIAS: Natalie, next time I need a -- I'm going to call you as a witness.

SEC. TENNANT: Next time you need a what?

MR. COLLIAS: A handwriting expert. You seem to be an expert on signatures.

SEC. TENNANT: Well, I mean, I could just -- I mean she doesn't have a signature on here. There is no signature. So that made it pretty easy for me.

MR. COLLIAS: That's fine. Make it part of the record. I think that the request is made by her representative and that's all we need to know.

SEC. TENNANT: I agree. Anymore business to come before the Commission?

MR. COLLIAS: Well, I want to make sure. Are we then set to meet again at 10:00 Am on next Wednesday?

SEC. TENNANT: Yes.

MR. COLLIAS: Okay.

SEC. TENNANT: In the meantime as Tim said,

the State Election Commission, along with the State Auditor and the Treasurer, will be moving forward with our statutory duty.

MR. GATES: I have another question actually. The request asked you to wait till February 9th, which is the deadline for the Auditor to send the check, so why can't you just agree to wait till that date?

SEC. TENNANT: Because that's not our statutory duty. We have to fulfill our duty.

MR. COLLIAS: Well --

MR. GATES: It said within two days.

MR. COLLIAS: He's asking that we wait --

SEC. TENNANT: So you're saying --

MR. COLLIAS: -- until February 9. What's wrong with that?

MR. GATES: So it's going to take two days to process it?

MR. LEACH: I don't know, sir. I do not know.

MR. COLLIAS: Well, this is Gary Collias. Stop. I have a question.

SEC. TENNANT: Okay.

MR. COLLIAS: Is there any reason that we

shouldn't agree to wait till the end of business day on September 9 -- I'm sorry, on February 9, which is two business days, which meets the requirement of the statute, before we turn the money over?

SEC. TENNANT: What was the question?

MR. MARONEY: Yes. We can put in for an electronic transfer. This is Pat Maroney. It says within two days it will be electronically transferred.

MR. COLLIAS: All right. So Tuesday would meet that requirement, right, Pat?

MR. MARONEY: No. That's -- no, Mr. Collias, that's not quite correct. That would meet the requirement for the Auditor to do it. This certification is to go in immediately and then the Auditor has two days to make the transfer, within two days. We could do it electronically on Monday morning. We could go by the Auditor's office and ask that it be electronically transferred on Monday morning.

MR. COLLIAS: Well, what do you think, Tim?

MR. MARONEY: It's not at the will of the Commission now to withhold the funds. The duty of the Commission is to report it to the Auditor that Mr. Wooton has been certified, and that should be done immediately. Then it's up to the Auditor to make the

transfer and it could be done immediately by electronic transfer at the opening of business on Monday morning, and that's what we request.

MR. COLLIAS: Well, Tim, what's your opinion about that?

MR. LEACH: I don't know how the Auditor works well enough to say. I just know the burden is on you guys to make sure it's done within two days. If you waited till 4:59 PM on Tuesday and you couldn't cut a check on Tuesday at five o'clock PM, then you would be in violation of the law. I do not know how to advise you about how much time you've got to play with. I mean I understand your position, but I just don't know how to guarantee delivery by 5:00 PM Tuesday.

MR. COLLIAS: Well, in any event, we can't really guarantee that, can we?

SEC. TENNANT: We have another comment from Lyle -- well, say your name, sir.

MR. SATTES: There's a remedy in this whole provision that if subsequently the certification is revoked, then the candidate has to repay the money.

SEC. TENNANT: Right.

MR. SATTES: So that's the established remedy, not preventing them from getting funds at the

time. So there is an established remedy, but it is not to delay the funding.

SEC. TENNANT: Anymore business?

MR. COLLIAS: Well, I'm okay with it either way. I mean I'll be shocked if you actually have that money on Monday, but if you can do it, then more power to you.

SEC. TENNANT: Okay. Do I have a motion to adjourn? We will, the Commission will report it immediately to the chief financial officer in the Secretary of State's office and continue with the process. And we have a meeting on Wednesday at 10:00 AM for the certification request of Brent Benjamin. Do I have a motion to adjourn?

MR. COLLIAS: I move that we adjourn.

MR. CARDI: I second.

SEC. TENNANT: All in favor say aye.

MR. COLLIAS: Aye.

MR. CARDI: Aye.

SEC. TENNANT: Aye. Thank you.

(WHEREUPON, the hearing was
adjourned at 3:59 PM.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF PUTNAM, To-wit:

I, Penny L. Kerns, Certified Court Reporter,
do hereby certify that the foregoing is a correct
verbatim record of the proceedings had and testimony
taken at the time and place set forth herein.

I certify that the attached transcript meets
the requirements set forth within Article 27, Chapter 47
of the West Virginia Code.

Given under my hand this 13th day of
February, 2016.

Penny L. Kerns, CCR
Notary Public

My commission expires May 13, 2018.

VERIFICATION and SAMPLING RESULTS

WOOTEN

2/5/15

TIM LEACH

CONTRIBUTIONS APPROVED:	754	
1 ST DISTRICT:	169	22.4%
2 ND DISTRICT	299	39.7%
3 RD DISTRICT	286	37.9%
VR RECORD FAIL:	5	(\$-411.00)

On behalf of Beth Walker, we provide the SEC with notice that she is contemplating an appeal of the decision made today, in a meeting conducted with only 4 hours notice to her. She requests that no funds be disbursed before Tuesday, February 9 to allow her to evaluate the grounds for appeal.

RECEIVED

2016 FEB -5 PM 3:47

SECRETARY OF STATE
STATE OF WEST VIRGINIA



Natalie E. Tennant
Secretary of State
State of West Virginia

Office of the Secretary of State
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

Telephone: (304) 558-6000
Toll Free: 1-866-SOS-VOTE
Fax: (304) 558-0900
www.wvsos.com

February 8, 2016

To Whom It May Concern:

On February 5, 2015, the State Election Commission met and took action to certify that William Robert Wooton, a candidate for Justice of the West Virginia Supreme Court of Appeals has met the requirements as set forth in WV Code §3-12-9 to receive public funds from the West Virginia Public Campaign Financing Fund.

Under WV Code §3-12-11, the State Election Commission will issue a check in the amount of \$475,000.00 to be payable to WOOTON for JUSTICE at the following address:

WOOTON for JUSTICE
Charles S. Smith, Treasurer
3510 McCorkle Ave SE
Charleston, WV 25304-1420

If you need further information, please contact Layna Valentine Brown, Elections Director in the West Virginia Secretary of State's Office at 304-588-6000, or by email at lbrown@wvsos.com

Sincerely,

A handwritten signature in cursive script that reads "Natalie E. Tennant".

Natalie E. Tennant
West Virginia Secretary of State

State of West Virginia Campaign Financial Statement (Long Form) in Relation to the 2016 Election Year

Candidate or Committee Name William R. Bill Wooton		Candidate or Committee's Treasurer Charles S Smith	
Political Party (for candidates) Non Partisan		Treasurer's Mailing Address (Street, Route, or P.O. Box) 3510 MacCorkle Ave SE	
Office Sought (for Candidates) Justice of the Supreme Court of Appeals	District/Division State	City, State, Zip Code Charleston, WV 25304	Daytime Phone # 304-545-3676
Election Cycle Reporting Period:		Check if Applicable:	
Qualifying Report for Dec 1, 2015 to Dec 31, 2015			
Non-Election Cycle Reporting Period:			
<input type="checkbox"/> Annual Report 2016 Calendar Year Due last Saturday in March or within 6 days thereafter		<input type="checkbox"/> Amended Report You must also check box of appropriate reporting period <input type="checkbox"/> Final Report Zero balance required. PAC must also file Form F-6 Dissolution	

REPORT TOTALS

Fill in totals at the completion of the report.

RECEIPTS OF FUNDS:	Totals for this Period
Contributions	\$20,100.00
Monetary Contributions from all Fund-Raising Events	+ \$0.00
Receipt of a Transfer of Excess Funds	+ \$0.00
Total Monetary Contributions:	= \$20,100.00
In-Kind Contributions	+ \$0.00
Total Contributions:	= \$20,100.00
Other Income	\$0.00
Loans Received	+ \$0.00
Total Other Income:	= \$0.00
OUTSTANDING LOANS & DEBTS:	
Unpaid Bills	\$0.00
Outstanding Loans	+ \$0.00
Total Debts:	= \$0.00
TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE	
(Add total contributions from all reports)	
\$20,100.00	

CASH BALANCE SUMMARY	
Beginning Balance (ending balance from previous report)	\$0.00
Total Monetary Contributions	+ \$20,100.00
Total Other Income	+ \$0.00
Subtotal:	a. = \$20,100.00
Total Expenditures Paid	\$40.95
Total Disbursements of Excess Funds	+ \$0.00
Repayment of Loans	+ \$0.00
Subtotal:	b. = \$40.95
Ending Balance: (Subtotal a. - Subtotal b.)	= \$20,059.05
<i>*Note: Report cannot be submitted with a negative balance.</i>	
TOTAL EXPENDITURES ELECTION YEAR-TO-DATE	
(Add total expenditures from all reports)	
\$40.95	

CONTRIBUTIONS \$250.00 OR LESS

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
Dec 22, 2015	Harry G Deitzler	\$200.00
Dec 22, 2015	C Michael Bee	\$200.00
Dec 22, 2015	R Edison Hill	\$200.00
Dec 22, 2015	James C Peterson	\$200.00
Dec 22, 2015	W Kent Carper	\$200.00
Dec 31, 2015	Richard L Gotlieb	\$100.00
	Subtotal of contributions of \$250.00 or less	\$1,100.00

CONTRIBUTIONS MORE THAN \$250.00

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
------	---	--------

Dec 15, 2015	<p>John D Wooton Jr Address: 410 East Washington Street Lewisburg, WV, 24901, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton Wooton & Davis PLLC Affiliation: (political committee only) - Mailing Address:</p>	\$900.00
Dec 15, 2015	<p>John D Wooton Address: 201 North Kanawha Street Beckley, WV, 25801, United States Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton Wooton & Davis PLLC Affiliation: (political committee only) - Mailing Address:</p>	\$900.00
Dec 15, 2015	<p>Andrew Ellis Address: 6633 Kanawha Ave SE Charleston, WV, 25304, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton, Wooton, Davis, Hussell & Ellis Affiliation: (political committee only) - Mailing Address:</p>	\$900.00
Dec 15, 2015	<p>Stephen New Address: 515 N. Highland Drive Beckley, WV, 25801, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Self Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 15, 2015	<p>Thomas W Jarrett Address: 1333 Lake Drive Daniels, WV, 25832, USA Contributor's Job: (individual contributor only) - Retired Where Contributor Works: (individual contributor only) - N/A Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 15, 2015	<p>William Tiano Address: 2155 Presidential Drive Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Tiano O'Dell Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00

Dec 15, 2015	<p>Amy New Address: 515 N Highland Drive Beckley, WV, 25801, USA Contributor's Job: (individual contributor only) - Housewife Where Contributor Works: (individual contributor only) - N/A Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Matthew Berthold Address: 208 Capitol Street Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Berthold Law Firm Affiliation: (political committee only) - Mailing Address:</p>	\$500.00
Dec 22, 2015	<p>Robert Berthold III Address: 208 Capitol Street Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Berthold Law Firm Affiliation: (political committee only) - Mailing Address:</p>	\$500.00
Dec 22, 2015	<p>Anthony Majestro Address: 405 Capitol Street, Suite P1200 Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Powell & Majestro Affiliation: (political committee only) - Mailing Address:</p>	\$500.00
Dec 22, 2015	<p>John F Hussell IV Address: 1617 Ridgeview Rd Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton, Wooton, Davis, Hussell & Ellis Affiliation: (political committee only) - Mailing Address:</p>	\$900.00
Dec 22, 2015	<p>Tara L Wooton Address: 201 N Kanawha St Beckley, WV, 25801, USA Contributor's Job: (individual contributor only) - Housewife Where Contributor Works: (individual contributor only) - N/A Affiliation: (political committee only) - Mailing Address:</p>	\$900.00

Dec 22, 2015	Harvey Peyton Address: PO Box 216 Nitro , WV, 25143, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Peyton Law Firm Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 22, 2015	John Curry Address: PO Box 2786 Charleston, WV, 25330, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Pauley Curry PLLC Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 22, 2015	Karla Rae Address: 208 Dutch Road Charleston, WV, 25302, USA Contributor's Job: (individual contributor only) - Videographer Where Contributor Works: (individual contributor only) - Self Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 22, 2015	Michael A Kelly Address: 1 Pavillion Drive Daniels, WV, 25832, USA Contributor's Job: (individual contributor only) - Physician Where Contributor Works: (individual contributor only) - Self Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 22, 2015	Robert Berthold Jr Address: 208 Capitol Street Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Berthold Law Firm Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 22, 2015	C Benjamin Salango Address: 43 Roanoke Trace Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Preston & Salango Affiliation: (political committee only) - Mailing Address:	\$1,000.00

Dec 22, 2015	Robert D Cline Jr Address: 4 Chatwood Road Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Farmer Cline & Campbell Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 22, 2015	Tony O'Dell Address: 8001 Southridge Way Hurricane, WV, 25526, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Tiano & O'Dell Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 22, 2015	Stephen B Farmer Address: 400 Linden Road Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Farmer Cline & Campbell Affiliation: (political committee only) - Mailing Address:	\$1,000.00
	Subtotal of all contributions of more than \$250.00	\$19,000.00
	Subtotal of all contributions of \$250 or less	\$1,100.00
	Total Contributions:	\$20,100.00

FUND-RAISING EVENTS

All monetary contributions received at a fundraiser must be reported in the Event Summary below. If contributor's name and amount are not listed, the contribution must be turned over to the West Virginia General Revenue Fund. The only exception to this rule may apply to political party executive committees. (WV Code 3-8-5a).

OTHER INCOME: INTEREST, REFUNDS, MISCELLANEOUS RECEIPTS

Date	Source of Income	Type of Receipt	Amount
Total Other Income:			\$0.00

IN-KIND CONTRIBUTIONS

Date	Name and Contributor Information	Description of Contribution	Value
Total In-Kind Contributions:			\$0.00

LOANS

West Virginia Code: §3-8-5f. Loans to candidates, organizations or persons for election purposes.

"Every candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may not receive any money or any other thing of value toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed."

The loan agreement must include all items asked for in the statute. (See above.) The loan agreement does not have to follow a certain format; generally, if all the required information is listed, any format is acceptable. Candidates or political committees that take out a loan for the campaign through a bank or other commercial lending institution must include a copy of the loan agreement executed with that bank or institution. Candidates should not take out loans which are partially for personal use and partially for the campaign. It is almost impossible to keep reporting straight in this case. Any money a candidate contributes to his or her campaign committee with the hope of repayment must be treated as a loan and reported in this section. When a candidate determines that no further repayment can be expected, the loan can be reported as repaid in this section by entering the amount left to repay in the repayments column and reporting the same amount as a contribution from the candidate on Page 2. **These loans must be executed in writing. Caution: Candidates may not carry outstanding loans from one campaign to the next. Each campaign is separate. Funds from a current campaign cannot be used to repay a loan from a previous campaign.**

HOW TO REPORT LOANS

1. Each loan for your campaign should be listed on a separate line. (Each time you loan money to the campaign or get a loan, it is considered to be a separate loan.) Include the following information on the form below.
 - a. loans(s) from prior reporting periods and the balance of each loan (Col. A.) If a payment was made on the loan, list that in Col. C. **Any loan that was repaid in previous reporting periods does not need to be listed.**
 - b. new loans, the amount (Col. B), any repayments (Col. C), and the balance (Col. D.)

2. Attach a copy of the loan agreement for each loan received during the reporting period.

LOANS (CONTINUED)

Bank Loans: List name & address or financial institution Candidate or Candidate's Spouse Loans: List name, residence and mailing address of person(s) making or cosigning loan	Column A Balance of previous loan at end of period	Column B Amount of new loan received during period		Column C Repayments during period		Column D Balance outstanding at end of period
	Amount	Date	Amount	Date	Amount	Amount
		Loans Received		Repayment of Loans		Outstanding Loans
		0		0		0

ITEMIZED EXPENDITURES

Date	Name of Person or Vendor And Address	Purpose	Amount
Dec 29, 2015	Deluxe Checks/United Bank 500 Virginia Street East Charleston, WV, 25301,	Checks for Bank Account	\$40.95
		Total Expenditures:	\$40.95

RECEIPT OF A TRANSFER OF EXCESS FUNDS

Date	Candidate Committee Name and Year	Amount
	Total Receipts of Transfer of Excess Funds:	\$0.00

DISBURSEMENT OF EXCESS FUNDS

Date	Name of candidate committee and election year disbursing excess funds	Purpose of Disbursement	Amount
		Total Disbursement of Excess Funds:	\$0.00

UNPAID BILLS

Date	Group or Firm Affiliation	Purpose	Amount
		Total Unpaid Bills:	\$0.00

Submitted: Jan 13, 2016 at 9:52:06 AM

State of West Virginia Campaign Financial Statement (Long Form) in Relation to the 2016 Election Year

Candidate or Committee Name William R. Bill Wooton		Candidate or Committee's Treasurer Charles S Smith	
Political Party (for candidates) Non Partisan		Treasurer's Mailing Address (Street, Route, or P.O. Box) 3510 MacCorkle Ave SE	
Office Sought (for Candidates) Justice of the Supreme Court of Appeals	District/Division State	City, State, Zip Code Charleston, WV 25304	Daytime Phone # 304-545-3676
Election Cycle Reporting Period:		Check if Applicable:	
Qualifying Report for Dec 1, 2015 to Dec 31, 2015			
Non-Election Cycle Reporting Period:			
<input type="checkbox"/> Annual Report 2016 Calendar Year Due last Saturday in March or within 6 days thereafter		<input checked="" type="checkbox"/> Amended Report You must also check box of appropriate reporting period <input type="checkbox"/> Final Report Zero balance required. PAC must also file Form F-6 Dissolution	

REPORT TOTALS

Fill in totals at the completion of the report.

RECEIPTS OF FUNDS:	Totals for this Period
Contributions	\$20,200.00
Monetary Contributions from all Fund-Raising Events	+ \$0.00
Receipt of a Transfer of Excess Funds	+ \$0.00
Total Monetary Contributions:	= \$20,200.00
In-Kind Contributions	+ \$0.00
Total Contributions:	= \$20,200.00
Other Income	\$0.00
Loans Received	+ \$0.00
Total Other Income:	= \$0.00
OUTSTANDING LOANS & DEBTS:	
Unpaid Bills	\$0.00
Outstanding Loans	+ \$0.00
Total Debts:	= \$0.00
TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE (Add total contributions from all reports)	
	\$20,200.00

CASH BALANCE SUMMARY	
Beginning Balance (ending balance from previous report)	\$0.00
Total Monetary Contributions	+ \$20,200.00
Total Other Income	+ \$0.00
Subtotal:	a. = \$20,200.00
Total Expenditures Paid	\$40.95
Total Disbursements of Excess Funds	+ \$0.00
Repayment of Loans	+ \$0.00
Subtotal:	b. = \$40.95
Ending Balance: (Subtotal a. - Subtotal b.)	= \$20,159.05
<i>*Note: Report cannot be submitted with a negative balance.</i>	
TOTAL EXPENDITURES ELECTION YEAR-TO-DATE (Add total expenditures from all reports)	
	\$40.95

CONTRIBUTIONS \$250.00 OR LESS

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
Dec 22, 2015	C Michael Bee	\$200.00
Dec 22, 2015	James C Peterson	\$200.00
Dec 22, 2015	Harry G Deitzler	\$200.00
Dec 22, 2015	R Edison Hill	\$200.00
Dec 22, 2015	W Kent Carper	\$200.00
Dec 23, 2015	James E. Hamrick	\$100.00
Dec 31, 2015	Richard L Gotlieb	\$100.00
	Subtotal of contributions of \$250.00 or less	\$1,200.00

CONTRIBUTIONS MORE THAN \$250.00

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
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Dec 15, 2015	<p>Andrew Ellis Address: 6633 Kanawha Ave SE Charleston, WV, 25304, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton, Wooton, Davis, Hussell & Ellis Affiliation: (political committee only) - Mailing Address:</p>	\$900.00
Dec 15, 2015	<p>John D Wooton Jr Address: 410 East Washington Street Lewisburg, WV, 24901, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton Wooton & Davis PLLC Affiliation: (political committee only) - Mailing Address:</p>	\$900.00
Dec 15, 2015	<p>John D Wooton Address: 201 North Kanawha Street Beckley, WV, 25801, United States Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton Wooton & Davis PLLC Affiliation: (political committee only) - Mailing Address:</p>	\$900.00
Dec 15, 2015	<p>William Tiano Address: 2155 Presidential Drive Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Tiano O'Dell Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 15, 2015	<p>Thomas W Jarrett Address: 1333 Lake Drive Daniels, WV, 25832, USA Contributor's Job: (individual contributor only) - Retired Where Contributor Works: (individual contributor only) - N/A Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 15, 2015	<p>Stephen New Address: 515 N. Highland Drive Beckley, WV, 25801, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Self Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00

Dec 15, 2015	<p>Amy New Address: 515 N Highland Drive Beckley, WV, 25801, USA Contributor's Job: (individual contributor only) - Housewife Where Contributor Works: (individual contributor only) - N/A Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Robert Berthold III Address: 208 Capitol Street Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Berthold Law Firm Affiliation: (political committee only) - Mailing Address:</p>	\$500.00
Dec 22, 2015	<p>Anthony Majestro Address: 405 Capitol Street, Suite P1200 Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Powell & Majestro Affiliation: (political committee only) - Mailing Address:</p>	\$500.00
Dec 22, 2015	<p>Matthew Berthold Address: 208 Capitol Street Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Berthold Law Firm Affiliation: (political committee only) - Mailing Address:</p>	\$500.00
Dec 22, 2015	<p>John F Hussell IV Address: 1617 Ridgeview Rd Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton, Wooton, Davis, Hussell & Ellis Affiliation: (political committee only) - Mailing Address:</p>	\$900.00
Dec 22, 2015	<p>Tara L Wooton Address: 201 N Kanawha St Beckley, WV, 25801, USA Contributor's Job: (individual contributor only) - Housewife Where Contributor Works: (individual contributor only) - N/A Affiliation: (political committee only) - Mailing Address:</p>	\$900.00

Dec 22, 2015	<p>Tony O'Dell Address: 8001 Southridge Way Hurricane, WV, 25526, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Tiano & O'Dell Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Harvey Peyton Address: PO Box 216 Nitro, WV, 25143, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Peyton Law Firm Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>John Curry Address: PO Box 2786 Charleston, WV, 25330, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Pauley Curry PLLC Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Stephen B Farmer Address: 400 Linden Road Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Farmer Cline & Campbell Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Karla Rae Address: 208 Dutch Road Charleston, WV, 25302, USA Contributor's Job: (individual contributor only) - Videographer Where Contributor Works: (individual contributor only) - Self Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Michael A Kelly Address: 1 Pavillion Drive Daniels, WV, 25832, USA Contributor's Job: (individual contributor only) - Physician Where Contributor Works: (individual contributor only) - Self Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00

Dec 22, 2015	C Benjamin Salango Address: 43 Roanoke Trace Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Preston & Salango Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 22, 2015	Robert D Cline Jr Address: 4 Chatwood Road Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Farmer Cline & Campbell Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 22, 2015	Robert Berthold Jr Address: 208 Capitol Street Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Berthold Law Firm Affiliation: (political committee only) - Mailing Address:	\$1,000.00
	Subtotal of all contributions of more than \$250.00	\$19,000.00
	Subtotal of all contributions of \$250 or less	\$1,200.00
	Total Contributions:	\$20,200.00

FUND-RAISING EVENTS

All monetary contributions received at a fundraiser must be reported in the Event Summary below. If contributor's name and amount are not listed, the contribution must be turned over to the West Virginia General Revenue Fund. The only exception to this rule may apply to political party executive committees. (WV Code 3-8-5a).

OTHER INCOME: INTEREST, REFUNDS, MISCELLANEOUS RECEIPTS

Date	Source of Income	Type of Receipt	Amount
Total Other Income:			\$0.00

IN-KIND CONTRIBUTIONS

Date	Name and Contributor Information	Description of Contribution	Value
Total In-Kind Contributions:			\$0.00

LOANS

West Virginia Code: §3-8-5f. Loans to candidates, organizations or persons for election purposes.

"Every candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may not receive any money or any other thing of value toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed."

The loan agreement must include all items asked for in the statute. (See above.) The loan agreement does not have to follow a certain format; generally, if all the required information is listed, any format is acceptable.

Candidates or political committees that take out a loan for the campaign through a bank or other commercial lending institution must include a copy of the loan agreement executed with that bank or institution. Candidates should not take out loans which are partially for personal use and partially for the campaign. It is almost impossible to keep reporting straight in this case. Any money a candidate contributes to his or her campaign committee with the hope of repayment must be treated as a loan and reported in this section. When a candidate determines that no further repayment can be expected, the loan can be reported as repaid in this section by entering the amount left to repay in the repayments column and reporting the same amount as a contribution from the candidate on Page 2.

These loans must be executed in writing. Caution: Candidates may not carry outstanding loans from one campaign to the next. Each campaign is separate. Funds from a current campaign cannot be used to repay a loan from a previous campaign.

HOW TO REPORT LOANS

1. Each loan for your campaign should be listed on a separate line. (Each time you loan money to the campaign or get a loan, it is considered to be a separate loan.) Include the following information on the form below.
 - a. loans(s) from prior reporting periods and the balance of each loan (Col. A.) If a payment was made on the loan, list that in Col. C. **Any loan that was repaid in previous reporting periods does not need to be listed.**
 - b. new loans, the amount (Col. B), any repayments (Col. C), and the balance (Col. D.)

2. Attach a copy of the loan agreement for each loan received during the reporting period.

LOANS (CONTINUED)

Bank Loans: List name & address or financial institution Candidate or Candidate's Spouse Loans: List name, residence and mailing address of person(s) making or cosigning loan	Column A Balance of previous loan at end of period	Column B Amount of new loan received during period		Column C Repayments during period		Column D Balance outstanding at end of period
	Amount	Date	Amount	Date	Amount	Amount
		Loans Received		Repayment of Loans		Outstanding Loans
		0		0		0

ITEMIZED EXPENDITURES

Date	Name of Person or Vendor And Address	Purpose	Amount
Dec 29, 2015	Deluxe Checks/United Bank 500 Virginia Street East Charleston, WV, 25301,	Checks for Bank Account	\$40.95
Total Expenditures:			\$40.95

RECEIPT OF A TRANSFER OF EXCESS FUNDS

Date	Candidate Committee Name and Year	Amount
	Total Receipts of Transfer of Excess Funds:	\$0.00

DISBURSEMENT OF EXCESS FUNDS

Date	Name of candidate committee and election year disbursing excess funds	Purpose of Disbursement	Amount
		Total Disbursement of Excess Funds:	\$0.00

UNPAID BILLS

Date	Group or Firm Affiliation	Purpose	Amount
		Total Unpaid Bills:	\$0.00

Submitted: Feb 2, 2016 at 10:58:55 AM

State of West Virginia Campaign Financial Statement (Long Form) in Relation to the 2016 Election Year

Candidate or Committee Name William R. Bill Wooton		Candidate or Committee's Treasurer Charles S Smith	
Political Party (for candidates) Non Partisan		Treasurer's Mailing Address (Street, Route, or P.O. Box) 3510 MacCorkle Ave SE	
Office Sought (for Candidates) Justice of the Supreme Court of Appeals	District/Division State	City, State, Zip Code Charleston, WV 25304	Daytime Phone # 304-545-3676
Election Cycle Reporting Period:		Check if Applicable: <input checked="" type="checkbox"/> Amended Report You must also check box of appropriate reporting period <input type="checkbox"/> Final Report Zero balance required. PAC must also file Form F-6 Dissolution	
Qualifying Report for Dec 1, 2015 to Dec 31, 2015			
Non-Election Cycle Reporting Period:			
<input type="checkbox"/> Annual Report 2016 Calendar Year Due last Saturday in March or within 6 days thereafter			

REPORT TOTALS

Fill in totals at the completion of the report.

RECEIPTS OF FUNDS:	Totals for this Period
Contributions	\$20,100.00
Monetary Contributions from all Fund-Raising Events	+ \$0.00
Receipt of a Transfer of Excess Funds	+ \$0.00
Total Monetary Contributions:	= \$20,100.00
In-Kind Contributions	+ \$0.00
Total Contributions:	= \$20,100.00
Other Income	\$0.00
Loans Received	+ \$0.00
Total Other Income:	= \$0.00
OUTSTANDING LOANS & DEBTS:	
Unpaid Bills	\$0.00
Outstanding Loans	+ \$0.00
Total Debts:	= \$0.00
TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE	
(Add total contributions from all reports)	
\$20,100.00	

CASH BALANCE SUMMARY	
Beginning Balance (ending balance from previous report)	\$0.00
Total Monetary Contributions	+ \$20,100.00
Total Other Income	+ \$0.00
Subtotal:	a. = \$20,100.00
Total Expenditures Paid	\$40.95
Total Disbursements of Excess Funds	+ \$0.00
Repayment of Loans	+ \$0.00
Subtotal:	b. = \$40.95
Ending Balance: (Subtotal a. - Subtotal b.)	= \$20,059.05
<i>*Note: Report cannot be submitted with a negative balance.</i>	
TOTAL EXPENDITURES ELECTION YEAR-TO-DATE (Add total expenditures from all reports)	
\$40.95	

CONTRIBUTIONS \$250.00 OR LESS

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
Dec 22, 2015	James C Peterson	\$200.00
Dec 22, 2015	C Michael Bee	\$200.00
Dec 22, 2015	Harry G Deitzler	\$200.00
Dec 22, 2015	W Kent Carper	\$200.00
Dec 22, 2015	R Edison Hill	\$200.00
Dec 31, 2015	Richard L Gotlieb	\$100.00
	Subtotal of contributions of \$250.00 or less	\$1,100.00

CONTRIBUTIONS MORE THAN \$250.00

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
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Dec 15, 2015	John D Wooton Address: 201 North Kanawha Street Beckley, WV, 25801, United States Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton Wooton & Davis PLLC Affiliation: (political committee only) - Mailing Address:	\$900.00
Dec 15, 2015	John D Wooton Jr Address: 410 East Washington Street Lewisburg, WV, 24901, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton Wooton & Davis PLLC Affiliation: (political committee only) - Mailing Address:	\$900.00
Dec 15, 2015	Andrew Ellis Address: 6633 Kanawha Ave SE Charleston, WV, 25304, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton, Wooton, Davis, Hussell & Ellis Affiliation: (political committee only) - Mailing Address:	\$900.00
Dec 15, 2015	Amy New Address: 515 N Highland Drive Beckley, WV, 25801, USA Contributor's Job: (individual contributor only) - Housewife Where Contributor Works: (individual contributor only) - N/A Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 15, 2015	Stephen New Address: 515 N. Highland Drive Beckley, WV, 25801, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Self Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 15, 2015	Thomas W Jarrett Address: 1333 Lake Drive Daniels, WV, 25832, USA Contributor's Job: (individual contributor only) - Retired Where Contributor Works: (individual contributor only) - N/A Affiliation: (political committee only) - Mailing Address:	\$1,000.00

Dec 15, 2015	<p>William Tiano Address: 2155 Presidential Drive Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Tiano O'Dell Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Matthew Berthold Address: 208 Capitol Street Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Berthold Law Firm Affiliation: (political committee only) - Mailing Address:</p>	\$500.00
Dec 22, 2015	<p>Robert Berthold III Address: 208 Capitol Street Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Berthold Law Firm Affiliation: (political committee only) - Mailing Address:</p>	\$500.00
Dec 22, 2015	<p>Anthony Majestro Address: 405 Capitol Street, Suite P1200 Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Powell & Majestro Affiliation: (political committee only) - Mailing Address:</p>	\$500.00
Dec 22, 2015	<p>Tara L Wooton Address: 201 N Kanawha St Beckley, WV, 25801, USA Contributor's Job: (individual contributor only) - Housewife Where Contributor Works: (individual contributor only) - N/A Affiliation: (political committee only) - Mailing Address:</p>	\$900.00
Dec 22, 2015	<p>John F Hussell IV Address: 1617 Ridgeview Rd Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Wooton, Wooton, Davis, Hussell & Ellis Affiliation: (political committee only) - Mailing Address:</p>	\$900.00

Dec 22, 2015	<p>John Curry Address: PO Box 2786 Charleston, WV, 25330, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Pauley Curry PLLC Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Robert Berthold Jr Address: 208 Capitol Street Charleston, WV, 25301, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Berthold Law Firm Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Robert D Cline Jr Address: 4 Chatwood Road Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Farmer Cline & Campbell Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Stephen B Farmer Address: 400 Linden Road Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Farmer Cline & Campbell Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Michael A Kelly Address: 1 Pavillion Drive Daniels, WV, 25832, USA Contributor's Job: (individual contributor only) - Physician Where Contributor Works: (individual contributor only) - Self Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00
Dec 22, 2015	<p>Karla Rae Address: 208 Dutch Road Charleston, WV, 25302, USA Contributor's Job: (individual contributor only) - Videographer Where Contributor Works: (individual contributor only) - Self Affiliation: (political committee only) - Mailing Address:</p>	\$1,000.00

Dec 22, 2015	Tony O'Dell Address: 8001 Southridge Way Hurricane, WV, 25526, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Tiano & O'Dell Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 22, 2015	C Benjamin Salango Address: 43 Roanoke Trace Charleston, WV, 25314, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Preston & Salango Affiliation: (political committee only) - Mailing Address:	\$1,000.00
Dec 22, 2015	Harvey Peyton Address: PO Box 216 Nitro , WV, 25143, USA Contributor's Job: (individual contributor only) - Lawyer Where Contributor Works: (individual contributor only) - Peyton Law Firm Affiliation: (political committee only) - Mailing Address:	\$1,000.00
	Subtotal of all contributions of more than \$250.00	\$19,000.00
	Subtotal of all contributions of \$250 or less	\$1,100.00
	Total Contributions:	\$20,100.00

FUND-RAISING EVENTS

All monetary contributions received at a fundraiser must be reported in the Event Summary below.

If contributor's name and amount are not listed, the contribution must be turned over to the West Virginia General Revenue Fund. The only exception to this rule may apply to political party executive committees. (WV Code 3-8-5a).

OTHER INCOME: INTEREST, REFUNDS, MISCELLANEOUS RECEIPTS

Date	Source of Income	Type of Receipt	Amount
Total Other Income:			\$0.00

IN-KIND CONTRIBUTIONS

Date	Name and Contributor Information	Description of Contribution	Value
Total In-Kind Contributions:			\$0.00

LOANS

West Virginia Code: §3-8-5f. Loans to candidates, organizations or persons for election purposes.

"Every candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may not receive any money or any other thing of value toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed."

The loan agreement must include all items asked for in the statute. (See above.) The loan agreement does not have to follow a certain format; generally, if all the required information is listed, any format is acceptable. Candidates or political committees that take out a loan for the campaign through a bank or other commercial lending institution must include a copy of the loan agreement executed with that bank or institution. Candidates should not take out loans which are partially for personal use and partially for the campaign. It is almost impossible to keep reporting straight in this case. Any money a candidate contributes to his or her campaign committee with the hope of repayment must be treated as a loan and reported in this section. When a candidate determines that no further repayment can be expected, the loan can be reported as repaid in this section by entering the amount left to repay in the repayments column and reporting the same amount as a contribution from the candidate on Page 2. **These loans must be executed in writing. Caution: Candidates may not carry outstanding loans from one campaign to the next. Each campaign is separate. Funds from a current campaign cannot be used to repay a loan from a previous campaign.**

HOW TO REPORT LOANS

1. Each loan for your campaign should be listed on a separate line. (Each time you loan money to the campaign or get a loan, it is considered to be a separate loan.) Include the following information on the form below.
 - a. loans(s) from prior reporting periods and the balance of each loan (Col. A.) If a payment was made on the loan, list that in Col. C. **Any loan that was repaid in previous reporting periods does not need to be listed.**
 - b. new loans, the amount (Col. B), any repayments (Col. C), and the balance (Col. D.)

2. Attach a copy of the loan agreement for each loan received during the reporting period.

LOANS (CONTINUED)

Bank Loans: List name & address or financial institution Candidate or Candidate's Spouse Loans: List name, residence and mailing address of person(s) making or cosigning loan	Column A Balance of previous loan at end of period	Column B Amount of new loan received during period		Column C Repayments during period		Column D Balance outstanding at end of period
	Amount	Date	Amount	Date	Amount	Amount
		Loans Received		Repayment of Loans		Outstanding Loans
		0		0		0

ITEMIZED EXPENDITURES

Date	Name of Person or Vendor And Address	Purpose	Amount
Dec 29, 2015	Deluxe Checks/United Bank 500 Virginia Street East Charleston, WV, 25301,	Checks for Bank Account	\$40.95
Total Expenditures:			\$40.95

RECEIPT OF A TRANSFER OF EXCESS FUNDS

Date	Candidate Committee Name and Year	Amount
	Total Receipts of Transfer of Excess Funds:	\$0.00

DISBURSEMENT OF EXCESS FUNDS

Date	Name of candidate committee and election year disbursing excess funds	Purpose of Disbursement	Amount
		Total Disbursement of Excess Funds:	\$0.00

UNPAID BILLS

Date	Group or Firm Affiliation	Purpose	Amount
		Total Unpaid Bills:	\$0.00

Submitted: Feb 2, 2016 at 11:13:56 AM

State of West Virginia Campaign Financial Statement (Long Form) in Relation to the 2016 Election Year

Candidate or Committee Name William R. Bill Wooton		Candidate or Committee's Treasurer Charles S Smith	
Political Party (for candidates) Non Partisan		Treasurer's Mailing Address (Street, Route, or P.O. Box) 3510 MacCorkle Ave SE	
Office Sought (for Candidates) Justice of the Supreme Court of Appeals	District/Division State	City, State, Zip Code Charleston, WV 25304	Daytime Phone # 304-545-3676
Election Cycle Reporting Period:		Check if Applicable:	
Qualifying Report for Jan 1, 2016 to Jan 31, 2016			
Non-Election Cycle Reporting Period:			
<input type="checkbox"/> Annual Report 2016 Calendar Year Due last Saturday in March or within 6 days thereafter		<input type="checkbox"/> Amended Report You must also check box of appropriate reporting period <input type="checkbox"/> Final Report Zero balance required. PAC must also file Form F-6 Dissolution	

REPORT TOTALS

Fill in totals at the completion of the report.

RECEIPTS OF FUNDS:	Totals for this Period
Contributions	\$50,505.99
Monetary Contributions from all Fund-Raising Events	+ \$0.00
Receipt of a Transfer of Excess Funds	+ \$0.00
Total Monetary Contributions:	= \$50,505.99
In-Kind Contributions	+ \$0.00
Total Contributions:	= \$50,505.99
Other Income	\$0.00
Loans Received	+ \$0.00
Total Other Income:	= \$0.00
OUTSTANDING LOANS & DEBTS:	
Unpaid Bills	\$0.00
Outstanding Loans	+ \$0.00
Total Debts:	= \$0.00
TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE	
(Add total contributions from all reports)	
\$70,605.99	

CASH BALANCE SUMMARY	
Beginning Balance (ending balance from previous report)	\$20,059.05
Total Monetary Contributions	+ \$50,505.99
Total Other Income	+ \$0.00
Subtotal:	a. = \$70,565.04
Total Expenditures Paid	\$2,020.00
Total Disbursements of Excess Funds	+ \$0.00
Repayment of Loans	+ \$0.00
Subtotal:	b. = \$2,020.00
Ending Balance: (Subtotal a. - Subtotal b.)	= \$68,545.04
<i>*Note: Report cannot be submitted with a negative balance.</i>	
TOTAL EXPENDITURES ELECTION YEAR-TO-DATE (Add total expenditures from all reports)	
\$2,060.95	

CONTRIBUTIONS \$250.00 OR LESS

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
Jan 1, 2016	Michelle Wooton	\$100.00
Jan 4, 2016	Janice Abner	\$50.00
Jan 4, 2016	Leonard Abner	\$50.00
Jan 4, 2016	William R Wooton	\$100.00
Jan 4, 2016	Jeff D. Lilly	\$100.00
Jan 4, 2016	G Nicholas Casey Jr	\$100.00
Jan 4, 2016	Richie Robb	\$100.00
Jan 4, 2016	Mary Casey	\$100.00
Jan 4, 2016	Shirleibeth Wooton	\$100.00
Jan 6, 2016	Nancy Lutz	\$1.00
Jan 6, 2016	Robin Hairston	\$5.00
Jan 6, 2016	David M Manthos	\$5.00
Jan 6, 2016	Cheryl S Lawrence	\$10.00

Jan 6, 2016	Howard S Leigh Koonce	\$20.00
Jan 6, 2016	Nance L Briscoe	\$20.00
Jan 6, 2016	Mitch Cooper Bibb II	\$20.00
Jan 6, 2016	John Maxey	\$25.00
Jan 6, 2016	Rod Snyder	\$25.00
Jan 6, 2016	Al Martine	\$50.00
Jan 6, 2016	Stephen Skinner	\$50.00
Jan 6, 2016	Kimberly Bryant	\$100.00
Jan 6, 2016	John D. Wooton	\$100.00
Jan 6, 2016	Dave Bryant	\$100.00
Jan 6, 2016	Tony G. Bazzie	\$100.00
Jan 6, 2016	Olivia Cooper Bibb	\$100.00
Jan 6, 2016	Herbert S Snyder	\$100.00
Jan 6, 2016	Paul K. Ellison	\$100.00
Jan 7, 2016	Ryan Neal	\$10.00
Jan 7, 2016	Troy Stiffler	\$10.00
Jan 7, 2016	Stacy Underwood	\$40.00
Jan 7, 2016	Charles F. Lucas	\$50.00
Jan 7, 2016	Paul Underwood	\$50.00
Jan 7, 2016	William Frame	\$100.00
Jan 7, 2016	Elaona Pack	\$100.00
Jan 8, 2016	Jenna Roop	\$20.00
Jan 8, 2016	Robin Roop	\$25.00
Jan 8, 2016	Jack G. Roop	\$25.00
Jan 8, 2016	Robert Sayre	\$50.00
Jan 8, 2016	David Higgins	\$100.00
Jan 9, 2016	Franklin D. Young	\$10.00
Jan 9, 2016	Lucille Cox	\$20.00
Jan 9, 2016	Bill Burke	\$25.00
Jan 9, 2016	Marge Burke	\$25.00
Jan 9, 2016	Nelson Staples	\$25.00
Jan 9, 2016	Susan Staples	\$25.00
Jan 9, 2016	Jack Roop	\$30.00
Jan 9, 2016	Rosa Karen Adkins	\$50.00
Jan 9, 2016	Shelia E. Campbell-Patton	\$50.00
Jan 9, 2016	Charlotte W. Myers	\$50.00
Jan 9, 2016	William P. Patton Jr.	\$50.00
Jan 9, 2016	Paul Myers	\$50.00
Jan 9, 2016	Donnie Adkins	\$50.00
Jan 9, 2016	Bredga Neal	\$99.99
Jan 9, 2016	Glenn R Neal	\$100.00
Jan 10, 2016	Cindy Woolridge	\$20.00
Jan 10, 2016	Patricia George	\$25.00
Jan 10, 2016	Jaime Cantley	\$50.00
Jan 10, 2016	Rachel Amtower	\$50.00

Jan 10, 2016	James Cantley	\$50.00
Jan 10, 2016	John W. Stroud Jr.	\$50.00
Jan 10, 2016	Linda J. Stroud	\$50.00
Jan 10, 2016	William Bradbury Amtower	\$50.00
Jan 10, 2016	Ronnie L. Adkins	\$100.00
Jan 10, 2016	Brenda Adkins	\$100.00
Jan 10, 2016	Tara L Wooton	\$100.00
Jan 10, 2016	Michael R. Wooldridge	\$100.00
Jan 10, 2016	David Allen Darnell	\$100.00
Jan 10, 2016	Elizabeth Darnell	\$100.00
Jan 10, 2016	Webster J Arceneaux III	\$100.00
Jan 10, 2016	Fredric L. Wooton	\$100.00
Jan 11, 2016	Judy K Huffman	\$1.00
Jan 11, 2016	Becky Jarrett	\$1.00
Jan 11, 2016	Lisa Roat	\$1.00
Jan 11, 2016	Randi Bragg	\$1.00
Jan 11, 2016	Jean L Jarvis	\$1.00
Jan 11, 2016	Jenny Jones	\$1.00
Jan 11, 2016	Cindy L Withrow	\$2.00
Jan 11, 2016	Wilbur C Yahnke	\$20.00
Jan 11, 2016	Ryan Snuffer	\$20.00
Jan 11, 2016	James Barber	\$50.00
Jan 11, 2016	Drema Evans	\$100.00
Jan 11, 2016	Claude R. Hill	\$100.00
Jan 11, 2016	Patricia Hamilton	\$100.00
Jan 11, 2016	Robert M Williams	\$100.00
Jan 11, 2016	Stacy Layne	\$100.00
Jan 11, 2016	Marie Clay	\$100.00
Jan 11, 2016	Dennis E. Bays	\$100.00
Jan 11, 2016	Judy Bays	\$100.00
Jan 11, 2016	Judy Harrah	\$100.00
Jan 11, 2016	Dean Layne	\$100.00
Jan 12, 2016	Seth DeStefano	\$1.00
Jan 12, 2016	Suzanne Pauley	\$1.00
Jan 12, 2016	Mark S. White	\$5.00
Jan 12, 2016	Pamela White	\$5.00
Jan 12, 2016	Jamie Hall	\$10.00
Jan 12, 2016	Chet Horton	\$11.00
Jan 12, 2016	Nicholas Diehl	\$25.00
Jan 12, 2016	Elizabeth Layne Diehl	\$25.00
Jan 12, 2016	Patrick K Maroney	\$100.00
Jan 12, 2016	Donna Maroney	\$100.00
Jan 12, 2016	Debra L. Wooton	\$100.00
Jan 12, 2016	Sean McGinley	\$100.00
Jan 12, 2016	Lonnie Simmons	\$100.00

Jan 12, 2016	Robert M Bastress III	\$100.00
Jan 12, 2016	Kristen K Loken	\$100.00
Jan 13, 2016	David S Russo	\$10.00
Jan 13, 2016	Craig Beeson	\$10.00
Jan 13, 2016	Joseph S Beeson	\$10.00
Jan 13, 2016	Dwana Keffer	\$10.00
Jan 13, 2016	Ivin B Lee	\$10.00
Jan 13, 2016	Frances Snuffer	\$20.00
Jan 13, 2016	Cynthia Cunningham	\$20.00
Jan 13, 2016	Kellie L. Snuffer	\$20.00
Jan 13, 2016	Davis Randall Snuffer	\$50.00
Jan 13, 2016	Thomas W Rodd	\$50.00
Jan 13, 2016	Russell Wooton	\$100.00
Jan 13, 2016	Nancy K. Vaughan	\$100.00
Jan 13, 2016	Karen Coria	\$100.00
Jan 13, 2016	James F. Vaughan Jr	\$100.00
Jan 14, 2016	Dixie Susman	\$11.00
Jan 14, 2016	LuAnn Searls	\$20.00
Jan 14, 2016	Tonya Thomas	\$20.00
Jan 14, 2016	Jennifer Holzapfel	\$20.00
Jan 14, 2016	Samuel A Hickman	\$50.00
Jan 14, 2016	Monica A Duran	\$50.00
Jan 14, 2016	Jonathan Mani	\$100.00
Jan 14, 2016	Edwin H. Pancake	\$100.00
Jan 14, 2016	L Lee Jones	\$100.00
Jan 14, 2016	Steven F. White	\$100.00
Jan 14, 2016	Geraldine S Roberts	\$100.00
Jan 14, 2016	Suzanne Pancake	\$100.00
Jan 14, 2016	Jennifer C Weaver	\$100.00
Jan 14, 2016	Donald Carter	\$100.00
Jan 14, 2016	Timothy Bailey	\$100.00
Jan 15, 2016	Sheila Morgan	\$1.00
Jan 15, 2016	Shannon Dickey	\$1.00
Jan 15, 2016	Piya Lamyathong	\$1.00
Jan 15, 2016	Clinton Morgan	\$1.00
Jan 15, 2016	Deborah Wills	\$1.00
Jan 15, 2016	Mitchell Hensley	\$1.00
Jan 15, 2016	Crystal M Adkins	\$1.00
Jan 15, 2016	Samuel P Rahall	\$2.00
Jan 15, 2016	Robert D Jarrell	\$5.00
Jan 15, 2016	Sharon Bowles	\$5.00
Jan 15, 2016	Christina Caputo	\$10.00
Jan 15, 2016	Flora Frances	\$10.00
Jan 15, 2016	Linda B Hendrickson	\$10.00
Jan 15, 2016	Keith Brotherton	\$10.00

Jan 15, 2016	Dorthea Turley	\$10.00
Jan 15, 2016	Gloria J Maddox	\$10.00
Jan 15, 2016	Ashley Summers	\$20.00
Jan 15, 2016	George Blare	\$20.00
Jan 15, 2016	Rita Ray	\$20.00
Jan 15, 2016	Jessica Caputo	\$20.00
Jan 15, 2016	Ira Rodd	\$20.00
Jan 15, 2016	Betty Totten	\$25.00
Jan 15, 2016	Judy Rodd	\$50.00
Jan 15, 2016	Steven Ryan White	\$100.00
Jan 15, 2016	Hilary Regan	\$100.00
Jan 15, 2016	Ryan Stafford	\$100.00
Jan 15, 2016	Timothy R Miley	\$100.00
Jan 15, 2016	Judy Robinson	\$100.00
Jan 16, 2016	Gary Peanut Collis	\$1.00
Jan 16, 2016	Joseph Jenkins	\$5.00
Jan 16, 2016	Paul Epstein	\$10.00
Jan 16, 2016	Mark Dorsey	\$10.00
Jan 16, 2016	Kenneth Collinson	\$13.00
Jan 16, 2016	Sarah Summers	\$20.00
Jan 16, 2016	Mike Manypenny	\$100.00
Jan 17, 2016	Donald L Spencer	\$1.00
Jan 17, 2016	Joseph B Hample	\$1.00
Jan 17, 2016	Barry Lee Wendell	\$1.00
Jan 17, 2016	Andrew Szanto	\$1.00
Jan 17, 2016	Katelyn E. Weaver	\$5.00
Jan 17, 2016	Molly C. Weaver	\$5.00
Jan 17, 2016	Jolin Stenger	\$5.00
Jan 17, 2016	Rachel L Fetty	\$5.00
Jan 17, 2016	Evan Hansen	\$20.00
Jan 17, 2016	Bill Weiss	\$20.00
Jan 17, 2016	James Morgan Leach	\$20.00
Jan 17, 2016	Trish Davenport	\$21.00
Jan 18, 2016	Peggy Reynolds	\$5.00
Jan 18, 2016	Stephen Ruble	\$5.00
Jan 18, 2016	Joseph M Reynolds	\$5.00
Jan 18, 2016	Doug Evans	\$25.00
Jan 18, 2016	Mary F Roop	\$30.00
Jan 18, 2016	Jennifer Davis	\$50.00
Jan 18, 2016	Edward E Wooton	\$100.00
Jan 19, 2016	Mary Anne Maul	\$1.00
Jan 19, 2016	Elizabeth Cruikshank	\$5.00
Jan 19, 2016	Karan Ireland	\$5.00
Jan 19, 2016	Charles Wyrstok	\$10.00
Jan 19, 2016	Gary L DeLuke	\$10.00

Jan 19, 2016	John Shaffer	\$10.00
Jan 19, 2016	Michael A. Pushkin	\$20.00
Jan 19, 2016	Gary Zuckett	\$20.00
Jan 19, 2016	Mary Cianfrocca	\$20.00
Jan 19, 2016	Judith A Staubly	\$20.00
Jan 19, 2016	Karl T. Staubly	\$20.00
Jan 19, 2016	Robert P. Krause	\$25.00
Jan 19, 2016	Charles D Rittenhouse	\$25.00
Jan 19, 2016	Ted Kanner	\$36.00
Jan 19, 2016	Craig Robinson	\$50.00
Jan 19, 2016	Terry Messinger	\$50.00
Jan 19, 2016	Sandra Lee Wolf	\$50.00
Jan 19, 2016	Julie A Archer	\$50.00
Jan 19, 2016	John B Christensen	\$50.00
Jan 19, 2016	Elizabeth Bradford	\$50.00
Jan 19, 2016	Francine Snyder	\$50.00
Jan 19, 2016	David McMahon	\$50.00
Jan 19, 2016	Joseph I. Golden	\$100.00
Jan 19, 2016	Margaret Burkhardt	\$100.00
Jan 19, 2016	Robert S. Baker	\$100.00
Jan 19, 2016	Ann R Stonch	\$100.00
Jan 19, 2016	Ruth Baker	\$100.00
Jan 19, 2016	Beckie Drumheler	\$100.00
Jan 19, 2016	Carolyn Elmore Neely	\$100.00
Jan 19, 2016	Richard Neely	\$100.00
Jan 20, 2016	John Fordyce	\$2.00
Jan 20, 2016	Sharon Thomas	\$2.00
Jan 20, 2016	Arnold S. Mason III	\$5.00
Jan 20, 2016	Joyce Andrueiz	\$5.00
Jan 20, 2016	Rita McCrobie	\$5.00
Jan 20, 2016	Alisa Mullins	\$5.00
Jan 20, 2016	Robert A. Weaver	\$5.00
Jan 20, 2016	Andrew C. Weaver	\$5.00
Jan 20, 2016	Mary J Roop	\$10.00
Jan 20, 2016	Donald Clark	\$15.00
Jan 20, 2016	Lynford C Lovell	\$20.00
Jan 20, 2016	Dakota Austin Pauley	\$20.00
Jan 20, 2016	Terri Bower	\$20.00
Jan 20, 2016	Kimberly Javins	\$20.00
Jan 20, 2016	Dana Summers	\$25.00
Jan 20, 2016	Brian Douglas Bowman	\$25.00
Jan 20, 2016	Betty Klingensmith	\$25.00
Jan 20, 2016	Walter Klingensmith	\$25.00
Jan 20, 2016	Steven T Perdue	\$30.00
Jan 20, 2016	Kathleen Massinople	\$50.00

Jan 20, 2016	Harriet Jones	\$50.00
Jan 20, 2016	MAargaret Marie Newcomb-Lewis	\$50.00
Jan 20, 2016	Lee Dalton File	\$50.00
Jan 20, 2016	J Thomas Greene Jr	\$50.00
Jan 20, 2016	M. C. Massinople	\$50.00
Jan 20, 2016	Wilmont Jones	\$50.00
Jan 20, 2016	Margaret Biafore	\$50.00
Jan 20, 2016	Rosemary Sauisky	\$50.00
Jan 20, 2016	Cheryl Hartley	\$50.00
Jan 20, 2016	Gary Hartley	\$50.00
Jan 20, 2016	Concetta Conia	\$75.00
Jan 20, 2016	Scott S Blass	\$100.00
Jan 20, 2016	Geoffrey C Brown	\$100.00
Jan 20, 2016	Tony L. Clackler II	\$100.00
Jan 20, 2016	John E Gompers	\$100.00
Jan 20, 2016	J. Robert Weaver	\$100.00
Jan 20, 2016	Charles Prince	\$100.00
Jan 20, 2016	Scott S Segal	\$100.00
Jan 20, 2016	Damon Ellis	\$100.00
Jan 20, 2016	E William Havit	\$100.00
Jan 20, 2016	Wesley W Matheney	\$100.00
Jan 20, 2016	Ramona Rist	\$100.00
Jan 20, 2016	Shannon J Hrko	\$100.00
Jan 20, 2016	Beth Brown	\$100.00
Jan 20, 2016	P Nathan Bowles	\$100.00
Jan 20, 2016	Barbara S Daniel	\$100.00
Jan 20, 2016	Catherine W. Eller	\$100.00
Jan 20, 2016	Harley O Wagner	\$100.00
Jan 20, 2016	Matthew Berthold	\$100.00
Jan 20, 2016	TC McCarthey Jr	\$100.00
Jan 20, 2016	Belinda Biafore	\$100.00
Jan 20, 2016	Samuel A Hrko	\$100.00
Jan 20, 2016	Shannon Wooton	\$100.00
Jan 20, 2016	Martha Rucker	\$100.00
Jan 20, 2016	Charles Edward Amos II	\$100.00
Jan 20, 2016	Ned B. Eller	\$100.00
Jan 20, 2016	Kathy Blass	\$100.00
Jan 20, 2016	C. Richard Daniel	\$100.00
Jan 20, 2016	John F. Rist III	\$100.00
Jan 21, 2016	Glen M Jackson	\$5.00
Jan 21, 2016	Alan M Brooks	\$5.00
Jan 21, 2016	Michael S. Jenkins	\$5.00
Jan 21, 2016	Catherine E Livengood	\$5.00
Jan 21, 2016	Colin M McCardle	\$5.00
Jan 21, 2016	Doug Scalurno	\$5.00

Jan 21, 2016	Brianna W McCardle	\$5.00
Jan 21, 2016	Amanda Richmond	\$5.00
Jan 21, 2016	Crystal Goad	\$5.00
Jan 21, 2016	James R. Carte	\$5.00
Jan 21, 2016	Deborah Hale	\$5.00
Jan 21, 2016	Stanley P Gaston	\$5.00
Jan 21, 2016	Laurel Ann Moore	\$6.00
Jan 21, 2016	Milbern Ross Dowdy	\$10.00
Jan 21, 2016	Christopher Garrett	\$10.00
Jan 21, 2016	Linda Frame	\$10.00
Jan 21, 2016	George Kiser	\$10.00
Jan 21, 2016	Jason Fridley	\$10.00
Jan 21, 2016	Chad A Oleksa	\$10.00
Jan 21, 2016	Allen Nelson	\$10.00
Jan 21, 2016	Oliver Stewart	\$10.00
Jan 21, 2016	Dale Murray	\$10.00
Jan 21, 2016	Stephen Ruble	\$10.00
Jan 21, 2016	Matt Roop	\$10.00
Jan 21, 2016	David Bland	\$15.00
Jan 21, 2016	Jodi Cunningham	\$15.00
Jan 21, 2016	Eran Molz	\$20.00
Jan 21, 2016	Thomas Conner	\$20.00
Jan 21, 2016	George C Cullers	\$20.00
Jan 21, 2016	William N. Huffman	\$20.00
Jan 21, 2016	Thomas C Combs	\$20.00
Jan 21, 2016	Jesse R Stacy	\$20.00
Jan 21, 2016	Emmett Pepper	\$20.00
Jan 21, 2016	Bryan Raber	\$20.00
Jan 21, 2016	Jeremy Jeffers	\$20.00
Jan 21, 2016	Joe Trentini	\$20.00
Jan 21, 2016	Daniel S. Hatfield	\$20.00
Jan 21, 2016	Gregory McFarland	\$20.00
Jan 21, 2016	James B Jackson	\$20.00
Jan 21, 2016	Rick Glaspell	\$20.00
Jan 21, 2016	Gary E Hudson	\$20.00
Jan 21, 2016	Gary V Singer	\$20.00
Jan 21, 2016	Shane Dillon	\$20.00
Jan 21, 2016	John Dean	\$20.00
Jan 21, 2016	JAMES B Stoneking	\$20.00
Jan 21, 2016	Chris Fordyce	\$25.00
Jan 21, 2016	Jane Bowles	\$25.00
Jan 21, 2016	Sandra L. Fisher	\$25.00
Jan 21, 2016	William E Boso	\$25.00
Jan 21, 2016	Junior Breiding	\$30.00
Jan 21, 2016	Michael S Brewer	\$40.00

Jan 21, 2016	Marcus W Estlack	\$40.00
Jan 21, 2016	Joseph Tweedlie	\$40.00
Jan 21, 2016	Katherine Giltinan	\$40.00
Jan 21, 2016	Bill Dean	\$50.00
Jan 21, 2016	Robin T Bowley	\$50.00
Jan 21, 2016	Chad Jarrett	\$50.00
Jan 21, 2016	Gregory L Ayers	\$50.00
Jan 21, 2016	Shawn Pennington	\$50.00
Jan 21, 2016	Michelle Jarrett	\$50.00
Jan 21, 2016	Jeremy M McGraw	\$50.00
Jan 21, 2016	Jeff Mullins	\$50.00
Jan 21, 2016	Rosanna Long	\$50.00
Jan 21, 2016	Chris Kincaid	\$50.00
Jan 21, 2016	Stacy Bordas	\$100.00
Jan 21, 2016	Lance E Rollo	\$100.00
Jan 21, 2016	Bren Pomponio	\$100.00
Jan 21, 2016	Joseph Capuder	\$100.00
Jan 21, 2016	Jackie Berthold	\$100.00
Jan 21, 2016	David J Straface	\$100.00
Jan 21, 2016	Bonnie Brown	\$100.00
Jan 21, 2016	Shawn Romano	\$100.00
Jan 21, 2016	Robert V Berthold III	\$100.00
Jan 21, 2016	James G Bordas III	\$100.00
Jan 21, 2016	David Bailey	\$100.00
Jan 21, 2016	Alex Shook	\$100.00
Jan 21, 2016	Tom Smith	\$100.00
Jan 21, 2016	Judy A Frame	\$100.00
Jan 21, 2016	Thomas Maroney	\$100.00
Jan 21, 2016	Mary Katherine Capuder	\$100.00
Jan 21, 2016	Bernard E Layne III	\$100.00
Jan 21, 2016	John R Angotti	\$100.00
Jan 21, 2016	Kate Forman	\$100.00
Jan 21, 2016	Betty Riffe	\$100.00
Jan 21, 2016	Alicia Shook	\$100.00
Jan 21, 2016	Michael Simms	\$100.00
Jan 21, 2016	Richard Wooton	\$100.00
Jan 21, 2016	Gregory B Isaacs	\$100.00
Jan 21, 2016	Lee F Feinberg	\$100.00
Jan 21, 2016	Samuel B Petsonk	\$100.00
Jan 21, 2016	Christopher J Regan	\$100.00
Jan 21, 2016	Twila S Metheney	\$100.00
Jan 21, 2016	Linda Bordas	\$100.00
Jan 21, 2016	Anita Maroney	\$100.00
Jan 22, 2016	William Pennington	\$5.00
Jan 22, 2016	Terrence Turley	\$5.00

Jan 22, 2016	David A Polinski	\$5.00
Jan 22, 2016	Terrence Turley	\$5.00
Jan 22, 2016	Joe Altizer	\$25.00
Jan 22, 2016	Bradley C Winans	\$30.00
Jan 22, 2016	Vincent Trivelli	\$40.00
Jan 22, 2016	Harold E Bailey Jr	\$50.00
Jan 22, 2016	Anne Barth	\$100.00
Jan 22, 2016	Renate Pore	\$100.00
Jan 22, 2016	Jacques R Williams	\$100.00
Jan 22, 2016	David Pence	\$100.00
Jan 22, 2016	Steven H. White	\$100.00
Jan 22, 2016	J Bryan Edwards	\$100.00
Jan 22, 2016	Debra L. Hamilton	\$100.00
Jan 22, 2016	Timothy P Lupardus	\$100.00
Jan 22, 2016	John H. Johnson Jr.	\$100.00
Jan 22, 2016	David G Thompson	\$100.00
Jan 22, 2016	J. Nicholas Barth	\$100.00
Jan 22, 2016	Robin W Stultz	\$100.00
Jan 22, 2016	Paul R. Sheridan	\$100.00
Jan 23, 2016	Angela Fedele	\$20.00
Jan 23, 2016	Janet Williams	\$50.00
Jan 23, 2016	Mary H. Meadows	\$100.00
Jan 23, 2016	Charles R DiSalvo	\$100.00
Jan 23, 2016	James E. Hamrick	\$100.00
Jan 24, 2016	David A Dinardi	\$10.00
Jan 24, 2016	Victoria R Dinardi	\$10.00
Jan 24, 2016	Jane H Dinardi	\$10.00
Jan 24, 2016	Rose Edington	\$50.00
Jan 24, 2016	Robert L Stultz	\$100.00
Jan 24, 2016	James M. Brown	\$100.00
Jan 24, 2016	Brenda B Caperton	\$100.00
Jan 24, 2016	Allan N Karlin	\$100.00
Jan 24, 2016	Mildred C Karlin	\$100.00
Jan 24, 2016	Austin Caperton	\$100.00
Jan 24, 2016	Larry LaCorte	\$100.00
Jan 25, 2016	Deborah L Hill	\$1.00
Jan 25, 2016	Carla Gentry	\$1.00
Jan 25, 2016	Jason C Nott	\$1.00
Jan 25, 2016	Carolyn E Atkinson	\$1.00
Jan 25, 2016	W B Sorrein	\$1.00
Jan 25, 2016	Katherine Robinson	\$1.00
Jan 25, 2016	John Langley	\$1.00
Jan 25, 2016	Mark J Grigoraci	\$1.00
Jan 25, 2016	Mathew Kevin Thomas	\$1.00
Jan 25, 2016	Chelsea E Richmond	\$1.00

Jan 25, 2016	Jesse Johnson	\$1.00
Jan 25, 2016	Tammy L Walker	\$1.00
Jan 25, 2016	Elizabeth T Schindzielorz	\$1.00
Jan 25, 2016	Cherise Starcher	\$5.00
Jan 25, 2016	John D Myers	\$5.00
Jan 25, 2016	Rick Moyt	\$5.00
Jan 25, 2016	Barbara S Myers	\$5.00
Jan 25, 2016	Sandy Watson	\$10.00
Jan 25, 2016	Thomas Rex Watson	\$10.00
Jan 25, 2016	Ralph E Mullins	\$10.00
Jan 25, 2016	Mike Caputo	\$20.00
Jan 25, 2016	Don C Perdue	\$20.00
Jan 25, 2016	Constance G Lewis	\$24.00
Jan 25, 2016	Michelle Baranaskas	\$24.00
Jan 25, 2016	C Stacy Ruckle	\$25.00
Jan 25, 2016	Susan C Harpold	\$25.00
Jan 25, 2016	Chris Ellis	\$25.00
Jan 25, 2016	Susan S Landis	\$40.00
Jan 25, 2016	Joseph White	\$50.00
Jan 25, 2016	Benjamin Frederick Hill	\$50.00
Jan 25, 2016	Jeffrey A Miller	\$50.00
Jan 25, 2016	George F Fordham Jr	\$50.00
Jan 25, 2016	Anthony J Sparacino	\$100.00
Jan 25, 2016	Dawn E Warfield	\$100.00
Jan 25, 2016	Deborah Garton	\$100.00
Jan 25, 2016	Joe Brouse	\$100.00
Jan 25, 2016	C E Byron Jr	\$100.00
Jan 25, 2016	L Victor Starcher II	\$100.00
Jan 25, 2016	Robert Eagle Jr	\$100.00
Jan 25, 2016	J E Songer II	\$100.00
Jan 25, 2016	Catherine H. White	\$100.00
Jan 25, 2016	Rebecca W Starcher	\$100.00
Jan 25, 2016	Isaac Foreman	\$100.00
Jan 25, 2016	Ray Ratliff	\$100.00
Jan 25, 2016	Mollianne Hamilton	\$100.00
Jan 25, 2016	Emmett S Pugh III	\$100.00
Jan 25, 2016	Susan R Miley	\$100.00
Jan 25, 2016	Robert N File	\$100.00
Jan 25, 2016	Mary P Ratliff	\$100.00
Jan 25, 2016	Roy Shrewsbury II	\$100.00
Jan 26, 2016	Danny Wells	\$2.00
Jan 26, 2016	Lee Redfern	\$5.00
Jan 26, 2016	Larry Dotson	\$5.00
Jan 26, 2016	Laura Sizemore	\$5.00
Jan 26, 2016	Nancy Perry	\$5.00

Jan 26, 2016	Shaun M Goldman	\$5.00
Jan 26, 2016	Valerie R Terry	\$10.00
Jan 26, 2016	Tony E Whitlow	\$10.00
Jan 26, 2016	John Pringle	\$10.00
Jan 26, 2016	Robin L. Manns	\$10.00
Jan 26, 2016	Ernest R. Manns	\$10.00
Jan 26, 2016	Rebecca B Whitlow	\$10.00
Jan 26, 2016	Charlotte S Lilly	\$11.00
Jan 26, 2016	Jack D Lilly	\$11.00
Jan 26, 2016	Grant S Lilly	\$11.00
Jan 26, 2016	Jan L Roop	\$20.00
Jan 26, 2016	James D Prater	\$20.00
Jan 26, 2016	Bettie R Cook	\$20.00
Jan 26, 2016	Natalee Paige Hatfield	\$20.00
Jan 26, 2016	Terri Giles	\$20.00
Jan 26, 2016	Karen D Mays	\$20.00
Jan 26, 2016	Carl W. Roop	\$20.00
Jan 26, 2016	Agnes Fleming	\$20.00
Jan 26, 2016	Betty P Giles	\$20.00
Jan 26, 2016	Amy Varney	\$20.00
Jan 26, 2016	Sonya C. Ross	\$20.00
Jan 26, 2016	James H Prater	\$20.00
Jan 26, 2016	Beth Reed	\$20.00
Jan 26, 2016	Peggy Prater	\$20.00
Jan 26, 2016	Roger D. Ross	\$20.00
Jan 26, 2016	John Randolph Boothe III	\$25.00
Jan 26, 2016	Kathy L Thompson	\$25.00
Jan 26, 2016	John B Campbell	\$25.00
Jan 26, 2016	Joe Nagy	\$25.00
Jan 26, 2016	Phillip A Schenk	\$25.00
Jan 26, 2016	Bryan Buckhamon	\$30.00
Jan 26, 2016	Kimberly Stanley	\$30.00
Jan 26, 2016	Dale Stafford	\$50.00
Jan 26, 2016	Jeff Mollohan	\$50.00
Jan 26, 2016	Bradley R Oldaker	\$50.00
Jan 26, 2016	Lewis W Boothe	\$50.00
Jan 26, 2016	Ron J Kidd	\$50.00
Jan 26, 2016	Perry Bryant	\$50.00
Jan 26, 2016	April Dawn Boothe	\$50.00
Jan 26, 2016	Rodney A Skeens	\$50.00
Jan 26, 2016	Paul R. Hutchinson	\$50.00
Jan 26, 2016	Benny G Jones	\$100.00
Jan 26, 2016	Michelle C Stevens	\$100.00
Jan 26, 2016	Gary O Tillis	\$100.00
Jan 26, 2016	Joni Zavolta	\$100.00

Jan 26, 2016	Robert L. Johns	\$100.00
Jan 26, 2016	W Craig Harvey	\$100.00
Jan 26, 2016	Harry M Hatfield	\$100.00
Jan 26, 2016	James Warren Stevens	\$100.00
Jan 26, 2016	Scott Long	\$100.00
Jan 26, 2016	Ellen Elaine Anderson	\$100.00
Jan 26, 2016	Michael K Wallace	\$100.00
Jan 26, 2016	Robert M Bastress Jr	\$100.00
Jan 26, 2016	Jennifer M Ude	\$100.00
Jan 26, 2016	Charles Dunbar	\$100.00
Jan 26, 2016	Patricia R. Johns	\$100.00
Jan 26, 2016	Erica Dawn Black	\$100.00
Jan 26, 2016	F. Lyle Sattes	\$100.00
Jan 26, 2016	Thomas L. Wooton	\$100.00
Jan 26, 2016	H Truman Chafin	\$100.00
Jan 26, 2016	Robert P Fitzsimmons	\$100.00
Jan 26, 2016	Donald M Kresen	\$100.00
Jan 26, 2016	Kevin S Kaufman	\$100.00
Jan 26, 2016	A David Abrams Jr	\$100.00
Jan 26, 2016	Helen Stevens	\$100.00
Jan 26, 2016	Stephen L. Thompson	\$100.00
Jan 26, 2016	Daniel Lee Boone	\$100.00
Jan 26, 2016	Herschel H Rose	\$100.00
Jan 26, 2016	Julie L Gunnoe	\$100.00
Jan 26, 2016	David McDorman II	\$100.00
Jan 26, 2016	Robert A. Campbell	\$100.00
Jan 26, 2016	Wanda M Kaufman	\$100.00
Jan 26, 2016	Pamela L. Campbell	\$100.00
Jan 26, 2016	Elizabeth Elmore	\$100.00
Jan 26, 2016	Reginald D Henry	\$100.00
Jan 26, 2016	William H File III	\$100.00
Jan 26, 2016	Gary Harlow	\$100.00
Jan 26, 2016	James Michael Jarvis	\$100.00
Jan 26, 2016	Robert R Rappold	\$100.00
Jan 26, 2016	Matthew M Hatfield	\$100.00
Jan 26, 2016	Letitia Neese Chafin	\$100.00
Jan 26, 2016	Joseph T. Johns	\$100.00
Jan 26, 2016	JONathan E Turak	\$100.00
Jan 26, 2016	Doris Jean Stevens	\$100.00
Jan 26, 2016	Beverly JO Harris	\$100.00
Jan 26, 2016	Jane S Turner	\$100.00
Jan 26, 2016	Barbara W Rose	\$100.00
Jan 26, 2016	Davetta Sue Bogges	\$100.00
Jan 26, 2016	Joshua E Petite	\$100.00
Jan 26, 2016	Sherri Rasmussen	\$100.00

Jan 26, 2016	Clayton Fitzsimmons	\$100.00
Jan 26, 2016	Courtney Cooper	\$100.00
Jan 26, 2016	Carl L Harris	\$100.00
Jan 26, 2016	Mark E Troy	\$100.00
Jan 26, 2016	Rosemarie C. Corley	\$100.00
Jan 26, 2016	William Schwartz	\$100.00
Jan 26, 2016	Christopher M Turak	\$100.00
Jan 26, 2016	Rocco K Massey	\$100.00
Jan 26, 2016	Langhorne L Abrams	\$100.00
Jan 26, 2016	James C Peterson	\$100.00
Jan 26, 2016	William J Stevens II	\$100.00
Jan 26, 2016	James G Anderson III	\$100.00
Jan 26, 2016	Josh Stowers	\$100.00
Jan 26, 2016	Stacy Wade Bennett	\$100.00
Jan 26, 2016	Douglas Hayes	\$100.00
Jan 26, 2016	Kathryn R. Bayless	\$100.00
Jan 26, 2016	Charles Joseph Stevens	\$100.00
Jan 26, 2016	Dana J Samples	\$100.00
Jan 26, 2016	John Leo Bridi	\$100.00
Jan 26, 2016	Brent E Wear	\$100.00
Jan 26, 2016	Richard Lee Coronett III	\$100.00
Jan 26, 2016	Christina Brumley	\$100.00
Jan 26, 2016	Thomas Henry Neal	\$100.00
Jan 26, 2016	Diana Chipley	\$100.00
Jan 26, 2016	Stuart Thornton Cooper	\$100.00
Jan 26, 2016	Robert J Fitzsimmons	\$100.00
Jan 26, 2016	Wendel B. Turner	\$100.00
Jan 26, 2016	Mark Hamilton	\$100.00
Jan 26, 2016	Clint Wooton	\$100.00
Jan 26, 2016	Jeremy Lee Fairchild	\$100.00
Jan 26, 2016	Elizabeth D. Sattes	\$100.00
Jan 26, 2016	Julian Chipley	\$100.00
Jan 26, 2016	Allison Marie Church	\$100.00
Jan 26, 2016	Theresa L Houck	\$100.00
Jan 26, 2016	Charles S Houck	\$100.00
Jan 27, 2016	Briana Wilson	\$1.00
Jan 27, 2016	Richard Withers	\$2.00
Jan 27, 2016	Dean Williams	\$5.00
Jan 27, 2016	Martha Maddy	\$10.00
Jan 27, 2016	Charles W. Dyer	\$10.00
Jan 27, 2016	Wilma Anderson	\$10.00
Jan 27, 2016	Natalie Dyer	\$10.00
Jan 27, 2016	Leonard W Anderson	\$10.00
Jan 27, 2016	Phyllis Parker	\$20.00
Jan 27, 2016	Jennifer Susman	\$20.00

Jan 27, 2016	Wilma Lilly-Rodes	\$25.00
Jan 27, 2016	Greg Frank Lacek	\$45.00
Jan 27, 2016	Adam K Snider	\$50.00
Jan 27, 2016	Donna D Williams	\$50.00
Jan 27, 2016	Sonya Buckner	\$50.00
Jan 27, 2016	Mary Gainer	\$50.00
Jan 27, 2016	Phillip Smith	\$50.00
Jan 27, 2016	Eric Buckner	\$50.00
Jan 27, 2016	Wayne Stonestreet	\$50.00
Jan 27, 2016	William Hartman	\$100.00
Jan 27, 2016	Shawnda Yeager	\$100.00
Jan 27, 2016	Rudolph R. Poindexter	\$100.00
Jan 27, 2016	Larry Tucker	\$100.00
Jan 27, 2016	Raymond J Morton	\$100.00
Jan 27, 2016	Barbara A Scott	\$100.00
Jan 27, 2016	Dino S Colombo	\$100.00
Jan 27, 2016	Jennifer Meadows	\$100.00
Jan 27, 2016	Melissa Luce	\$100.00
Jan 27, 2016	Tim DiPiero	\$100.00
Jan 27, 2016	Lynn B Pollard	\$100.00
Jan 27, 2016	Joseph E Nassif	\$100.00
Jan 27, 2016	David A Kirkpatrick	\$100.00
Jan 27, 2016	Jeff Eldridge	\$100.00
Jan 27, 2016	Timothy R Conaway	\$100.00
Jan 27, 2016	Thomas E McIntire	\$100.00
Jan 27, 2016	Robert Dunlap	\$100.00
Jan 27, 2016	John J Polak	\$100.00
Jan 27, 2016	Gregory A Gellner	\$100.00
Jan 27, 2016	Thisbe M Cooper	\$100.00
Jan 27, 2016	Justin Waiter	\$100.00
Jan 27, 2016	Erin Snyder	\$100.00
Jan 27, 2016	Beatrice M Beitz	\$100.00
Jan 27, 2016	Jim Reed	\$100.00
Jan 27, 2016	James Humphreys	\$100.00
Jan 27, 2016	Billie Coleman	\$100.00
Jan 27, 2016	Lloyd G. Jackson II	\$100.00
Jan 27, 2016	Paul Harris	\$100.00
Jan 27, 2016	Paul O Clay Jr	\$100.00
Jan 27, 2016	Lana McPherson	\$100.00
Jan 27, 2016	Ben Conaway	\$100.00
Jan 27, 2016	Kevin B Burgess	\$100.00
Jan 27, 2016	William E Watson	\$100.00
Jan 27, 2016	Julie Adams	\$100.00
Jan 27, 2016	J Mingo Winters	\$100.00
Jan 27, 2016	Mark A Atkinson	\$100.00

Jan 27, 2016	Joshua I Barrett	\$100.00
Jan 27, 2016	Victoria Antion Nelson	\$100.00
Jan 27, 2016	Kristy Salango	\$100.00
Jan 27, 2016	Julia Garrett	\$100.00
Jan 27, 2016	John J Mize	\$100.00
Jan 27, 2016	David W Pollard	\$100.00
Jan 27, 2016	John D Little	\$100.00
Jan 27, 2016	Linda Blevins	\$100.00
Jan 27, 2016	Steven G Keadle	\$100.00
Jan 27, 2016	R Woodrow Duba	\$100.00
Jan 27, 2016	Margaret Ebbert	\$100.00
Jan 27, 2016	Danny L Smith	\$100.00
Jan 27, 2016	John W Cooper	\$100.00
Jan 27, 2016	Danny R. Snuffer Jr.	\$100.00
Jan 27, 2016	Brett Preston	\$100.00
Jan 27, 2016	Minta D Lothes-Kosanic	\$100.00
Jan 27, 2016	Richard Dotson II	\$100.00
Jan 27, 2016	Deborah S Burgess	\$100.00
Jan 27, 2016	Kathy A Brown	\$100.00
Jan 27, 2016	Linda K Smith	\$100.00
Jan 27, 2016	Adam McPherson	\$100.00
Jan 27, 2016	Regina Majestro	\$100.00
Jan 27, 2016	Cheri Callaghan	\$100.00
Jan 27, 2016	David Grubb	\$100.00
Jan 27, 2016	George Freeman	\$100.00
Jan 27, 2016	Patrick Salango	\$100.00
Jan 27, 2016	Erika Bailey	\$100.00
Jan 27, 2016	Pete Torrico II	\$100.00
Jan 27, 2016	Trina A. Jackson	\$100.00
Jan 27, 2016	Janet D Preston	\$100.00
Jan 27, 2016	Cassandra Wells	\$100.00
Jan 27, 2016	Regina Tucker	\$100.00
Jan 27, 2016	Donald E Crookshanks	\$100.00
Jan 27, 2016	Barbara D. Yeager	\$100.00
Jan 27, 2016	David M Goldenberg	\$100.00
Jan 27, 2016	Michael Callaghan	\$100.00
Jan 27, 2016	Brian E Pamelle	\$100.00
Jan 27, 2016	Kate Grubb	\$100.00
Jan 27, 2016	Susan Samples	\$100.00
Jan 27, 2016	Jonathan Marshall	\$100.00
Jan 27, 2016	Nancy Supler	\$100.00
Jan 27, 2016	Betty D Crookshanks	\$100.00
Jan 27, 2016	Marie Prezioso	\$100.00
Jan 27, 2016	Diane Dixon	\$100.00
Jan 27, 2016	Steven R Broadwater Jr	\$100.00

Jan 27, 2016	Germaine Weis	\$100.00
Jan 27, 2016	Matt Smith	\$100.00
Jan 27, 2016	Michael J Del Giudice	\$100.00
Jan 27, 2016	Adam Marshall	\$100.00
Jan 27, 2016	Tera Salango	\$100.00
Jan 27, 2016	Stacy L Nowicki-Eldridge	\$100.00
Jan 28, 2016	Allen E Barry	\$1.00
Jan 28, 2016	Gail Michelson	\$1.00
Jan 28, 2016	Heather Foster Kittredge	\$1.00
Jan 28, 2016	Laura Davidson	\$4.00
Jan 28, 2016	Holly Cloonan	\$5.00
Jan 28, 2016	Emily Hilliard	\$5.00
Jan 28, 2016	Matthew Mangini	\$5.00
Jan 28, 2016	Elizabeth Brunello	\$20.00
Jan 28, 2016	Holly Burgess	\$20.00
Jan 28, 2016	Karen E Grant	\$20.00
Jan 28, 2016	Alyse Schrecongost	\$20.00
Jan 28, 2016	Joyce Gibson	\$20.00
Jan 28, 2016	Tracy L Gould	\$20.00
Jan 28, 2016	Cleo Mathews	\$20.00
Jan 28, 2016	Judy Hunter	\$25.00
Jan 28, 2016	Andrea K Hays	\$25.00
Jan 28, 2016	Susan A Settle	\$25.00
Jan 28, 2016	Jon Hunter	\$25.00
Jan 28, 2016	Ann T Dacey	\$50.00
Jan 28, 2016	Thomas Schoolcraft	\$50.00
Jan 28, 2016	Darlene Schoolcraft	\$50.00
Jan 28, 2016	Anders Lennerhag	\$50.00
Jan 28, 2016	Roman W Prezioso Jr	\$50.00
Jan 28, 2016	Jessica Tice	\$50.00
Jan 28, 2016	Christopher M. Davis	\$50.00
Jan 28, 2016	Michelle Drake	\$50.00
Jan 28, 2016	Brian Messer	\$50.00
Jan 28, 2016	Nancy Abrams	\$50.00
Jan 28, 2016	David Karr Jr	\$50.00
Jan 28, 2016	Stanley Einzig	\$50.00
Jan 28, 2016	Harold L. Erskine	\$70.00
Jan 28, 2016	Jordin Wilcher	\$100.00
Jan 28, 2016	Melvin R Kessler	\$100.00
Jan 28, 2016	Gene W. Bailey II	\$100.00
Jan 28, 2016	Patricia I Christy	\$100.00
Jan 28, 2016	William Calvin Mack	\$100.00
Jan 28, 2016	Mark Colantonio	\$100.00
Jan 28, 2016	Barbara Fleischauer	\$100.00
Jan 28, 2016	Bader Gigenbach	\$100.00

Jan 28, 2016	Kristina T Whiteaker	\$100.00
Jan 28, 2016	Benjamin Bailey	\$100.00
Jan 28, 2016	Michael A. Olivio	\$100.00
Jan 28, 2016	Paul M Stroebel	\$100.00
Jan 28, 2016	Michael Payne	\$100.00
Jan 28, 2016	Gregory B. Chirtas	\$100.00
Jan 28, 2016	Shayla R Goldenberg	\$100.00
Jan 28, 2016	William Clarke Forbes	\$100.00
Jan 28, 2016	Douglas R Miley	\$100.00
Jan 28, 2016	Jeffrey Hall	\$100.00
Jan 28, 2016	Jalinda L. Perdue	\$100.00
Jan 28, 2016	Michael I. Spiker	\$100.00
Jan 28, 2016	Emmalee Ashworth	\$100.00
Jan 28, 2016	Margaret Ann Bays	\$100.00
Jan 28, 2016	William L Turner II	\$100.00
Jan 28, 2016	Heidi L Miley	\$100.00
Jan 28, 2016	Julie Williams	\$100.00
Jan 28, 2016	Emilee Payne	\$100.00
Jan 28, 2016	Samuel D Media	\$100.00
Jan 28, 2016	Carl Frankovitch	\$100.00
Jan 28, 2016	Benjamin D Adams	\$100.00
Jan 28, 2016	Michael J Lynch	\$100.00
Jan 28, 2016	William Druckman	\$100.00
Jan 28, 2016	T Keith Gould	\$100.00
Jan 28, 2016	Michael Zavolta	\$100.00
Jan 28, 2016	Karen L Farmer	\$100.00
Jan 28, 2016	Jane Allen	\$100.00
Jan 28, 2016	Gloria A Saunders	\$100.00
Jan 28, 2016	Ronald Zavolta	\$100.00
Jan 28, 2016	John T Williams	\$100.00
Jan 28, 2016	William Jesse Forbes	\$100.00
Jan 28, 2016	Rita Pauley	\$100.00
Jan 28, 2016	David Hendrickson	\$100.00
Jan 28, 2016	Ellen Lilly File	\$100.00
Jan 28, 2016	Daniel C Cooper	\$100.00
Jan 28, 2016	John J Saunders	\$100.00
Jan 28, 2016	Jeffrey Harvey	\$100.00
Jan 28, 2016	Steph Meyer	\$100.00
Jan 28, 2016	Laurie L. Fisher	\$100.00
Jan 28, 2016	Martin Shaffer	\$100.00
Jan 28, 2016	Aleisa J. Moyer	\$100.00
Jan 28, 2016	C Christopher Hood	\$100.00
Jan 28, 2016	Sandra S. Stroebel	\$100.00
Jan 28, 2016	Rodney Smith	\$100.00
Jan 29, 2016	Julie Neibur	\$1.00

Jan 29, 2016	Cody Neibur	\$1.00
Jan 29, 2016	Stephen McElroy	\$20.00
Jan 29, 2016	Jeanne L Chandler	\$20.00
Jan 29, 2016	Heather Galloway	\$25.00
Jan 29, 2016	David C Pethtel	\$40.00
Jan 29, 2016	Sean W Cook	\$50.00
Jan 29, 2016	David K. Cole	\$50.00
Jan 29, 2016	Luke Farley	\$50.00
Jan 29, 2016	Richard K Hall	\$50.00
Jan 29, 2016	G. Kenneth Robertson	\$100.00
Jan 29, 2016	Jordan M Laird	\$100.00
Jan 29, 2016	Sylvia Lyn Robertson	\$100.00
Jan 29, 2016	D Jason McGrew	\$100.00
Jan 29, 2016	Nannie K Kirk	\$100.00
Jan 29, 2016	Jean Grapes	\$100.00
Jan 29, 2016	Lauren Jarvis Shah	\$100.00
Jan 29, 2016	Erica Lord	\$100.00
Jan 29, 2016	Larry Ford	\$100.00
Jan 29, 2016	Michele Ruser	\$100.00
Jan 29, 2016	Tim Manchin	\$100.00
Jan 29, 2016	Stuart P Warren	\$100.00
Jan 29, 2016	Walt Auvil	\$100.00
Jan 29, 2016	Mark A. Hunt	\$100.00
Jan 29, 2016	Bill Pepper	\$100.00
Jan 29, 2016	Guy R Bucci	\$100.00
Jan 29, 2016	Jennifer D. Roush	\$100.00
Jan 29, 2016	R Chad Duffield	\$100.00
Jan 29, 2016	D Adrian Hoosier II	\$100.00
Jan 29, 2016	Frank Venezia	\$100.00
Jan 29, 2016	Jerry P Kirk	\$100.00
	Subtotal of contributions of \$250.00 or less	\$50,505.99

CONTRIBUTIONS MORE THAN \$250.00

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
	Subtotal of all contributions of more than \$250.00	\$0.00
	Subtotal of all contributions of \$250 or less	\$50,505.99
	Total Contributions:	\$50,505.99

FUND-RAISING EVENTS

All monetary contributions received at a fundraiser must be reported in the Event Summary below.
If contributor's name and amount are not listed, the contribution must be turned over to the West Virginia General Revenue Fund. The only exception to this rule may apply to political party executive committees. (WV Code 3-8-5a).

OTHER INCOME: INTEREST, REFUNDS, MISCELLANEOUS RECEIPTS

Date	Source of Income	Type of Receipt	Amount
Total Other Income:			\$0.00

IN-KIND CONTRIBUTIONS

Date	Name and Contributor Information	Description of Contribution	Value
Total In-Kind Contributions:			\$0.00

LOANS

West Virginia Code: §3-8-5f. Loans to candidates, organizations or persons for election purposes.

"Every candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may not receive any money or any other thing of value toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed."

The loan agreement must include all items asked for in the statute. (See above.) The loan agreement does not have to follow a certain format; generally, if all the required information is listed, any format is acceptable. Candidates or political committees that take out a loan for the campaign through a bank or other commercial lending institution must include a copy of the loan agreement executed with that bank or institution. Candidates should not take out loans which are partially for personal use and partially for the campaign. It is almost impossible to keep reporting straight in this case. Any money a candidate contributes to his or her campaign committee with the hope of repayment must be treated as a loan and reported in this section. When a candidate determines that no further repayment can be expected, the loan can be reported as repaid in this section by entering the amount left to repay in the repayments column and reporting the same amount as a contribution from the candidate on Page 2. **These loans must be executed in writing. Caution: Candidates may not carry outstanding loans from one campaign to the next. Each campaign is separate. Funds from a current campaign cannot be used to repay a loan from a previous campaign.**

HOW TO REPORT LOANS

1. Each loan for your campaign should be listed on a separate line. (Each time you loan money to the campaign or get a loan, it is considered to be a separate loan.) Include the following information on the form below.
 - a. loans(s) from prior reporting periods and the balance of each loan (Col. A.) If a payment was made on the loan, list that in Col. C. **Any loan that was repaid in previous reporting periods does not need to be listed.**
 - b. new loans, the amount (Col. B), any repayments (Col. C), and the balance (Col. D.)

2. Attach a copy of the loan agreement for each loan received during the reporting period.

LOANS (CONTINUED)

Bank Loans: List name & address or financial institution Candidate or Candidate's Spouse Loans: List name, residence and mailing address of person(s) making or cosigning loan	Column A Balance of previous loan at end of period	Column B Amount of new loan received during period		Column C Repayments during period		Column D Balance outstanding at end of period
	Amount	Date	Amount	Date	Amount	Amount
		Loans Received		Repayment of Loans		Outstanding Loans
		0		0		0

ITEMIZED EXPENDITURES

Date	Name of Person or Vendor And Address	Purpose	Amount
Jan 8, 2016	WV Secretary of State 1900 Kanawha Blvd, SE Bldg 1, Suite 157-K Charleston, WV, 25305,	Filing Fee	\$1,360.00
Jan 21, 2016	Smith, Cochran & Hicks, PLLC 3510 MacCorkle Ave, SE Charleston, WV, 25304,	Accounting	\$660.00
Total Expenditures:			\$2,020.00

RECEIPT OF A TRANSFER OF EXCESS FUNDS

Date	Candidate Committee Name and Year	Amount
	Total Receipts of Transfer of Excess Funds:	\$0.00

DISBURSEMENT OF EXCESS FUNDS

Date	Name of candidate committee and election year disbursing excess funds	Purpose of Disbursement	Amount
		Total Disbursement of Excess Funds:	\$0.00

UNPAID BILLS

Date	Group or Firm Affiliation	Purpose	Amount
		Total Unpaid Bills:	\$0.00

17

16-AA-13
Kung
FILED
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IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2016 FEB -9 PM 3:05

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

ELIZABETH D. WALKER, candidate for)
the Supreme Court of Appeals of West)
Virginia,)

Petitioner,)

v.)

No.)

NATALIE E. TENNANT, *ex-officio*,)
GARY A. COLLIAS, and VINCENT P.)
CARDI, members of the West Virginia)
State Election Commission; GLEN B.)
GAINER, III, West Virginia State)
Auditor; JOHN D. PERDUE, West)
Virginia State Treasurer; and WILLIAM)
R. WOOTON, candidate for the Supreme)
Court of Appeals of West Virginia,)

Respondents.)

**PETITION OF ELIZABETH D. WALKER FOR
JUDICIAL REVIEW OF THE FEBRUARY 5, 2016 DECISION
OF THE WEST VIRGINIA STATE ELECTION COMMISSION
CERTIFYING WILLIAM R. WOOTON PURSUANT TO W.VA. CODE §3-12-10**

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Petitioner, Elizabeth D. Walker ("Walker"), a candidate for the Supreme Court of Appeals of West Virginia (the "Supreme Court"), by and through her undersigned counsel, K&L Gates LLP, hereby petitions the Court, pursuant to W. Va. Code § 29A-5 *et seq.* and Rule 2 of the West Virginia Rules of Procedure for Administrative Appeals, for review of the February 5, 2016 final administrative determination of the West Virginia State Election Commission ("SEC") certifying William R. Wooton ("Wooton") pursuant to W. Va. Code § 3-12-10. In support thereof, Walker avers as follows:

I. KIND OF PROCEEDING AND NATURE OF RULING

1. Walker appeals the SEC's February 5, 2016 decision certifying Wooton pursuant to W. Va. Code § 3-12-10, thereby making him eligible to receive public campaign financing from the Supreme Court of Appeals Public Campaign Financing Fund (the "Fund"), notwithstanding Wooton's plain failure to meet the SEC's own clear and unambiguous deadline for filing an Application for Certification.
2. As discussed more fully herein, West Virginia Code of State Rule ("CSR") 146-5-6.1¹ expressly provides that, "no later than two business days after the close of the qualifying period, a candidate who desires to apply for public financing funds shall file an Application For Certification with the Secretary." *See* W.Va. CSR 146-6-6.1.
3. The relevant qualifying period ended on January 30, 2016, and, as such, Wooton was required to file his Application for Certification on or before February 2, 2016. He did not and, instead, filed his Application of Certification after the strict February 2, 2016 deadline.

¹ The SEC promulgated legislative rules to administer the West Virginia Supreme Court of Appeals Public Financing Program, which have been authorized by the Legislature and codified at W. Va. CSR § 146-5-1 *et seq.* To be certified under Section 3-12-10, a candidate must comply both with the provisions of Article 12 as well as the SEC's legislative rules.

4. Notwithstanding Wooton's blatant and admitted failure to meet the SEC's own deadline (a necessary prerequisite to receiving public campaign funding), the SEC nevertheless certified Wooton, inexplicably choosing not to enforce its own rule (and, instead, wholly ignoring it).

5. The SEC's decision disregards well-established West Virginia Supreme Court precedent holding that campaign-related deadlines must be strictly enforced and according legislative rules — such as that at issue here — the effect of law. The SEC's decision also directly violates the constitutional and procedural rights of Walker and other Supreme Court candidates.

6. For these reasons, this Court should reverse the SEC's erroneous ruling, order the SEC to enforce and comply with its own rule and find that Wooton is not eligible to receive public campaign financing from the Fund on account of his failure to timely file his Application for Certification.

II. CONCISE STATEMENT OF FACTS

A. West Virginia's Public Campaign Financing Pilot Program

7. In 2010, the West Virginia Legislature enacted the West Virginia Supreme Court of Appeals Public Financing Program (the "Program"), pursuant to which candidates running for Justice of the Supreme Court may receive and utilize public monies to finance their campaigns.

8. The Program and its requirements are codified in Chapter 3, Article 12 of the West Virginia Code, and the Legislature has also enacted legislative rules to administer it.

9. Relevant to this Petition, to receive public campaign financing under the Program, W. Va. Code § 3-12-10(a) provides:

To be certified, a participating candidate shall apply to the State Election Commission for public financing from the fund and file a

sworn statement that he or she has complied and will comply with all requirements of this article throughout the applicable campaign.

10. W. Va. CSR §§ 146-5-6.1 and 6.2, in turn, provide:

6.1. After collecting sufficient numbers and amounts of qualifying contributions, and no later than two business days after the close of the qualifying period, a candidate who desires to apply for public financing funds shall file an Application For Certification with the Secretary.

6.2. The Application For Certification must contain a sworn statement by the candidate that he or she has complied with, and will continue to comply with, all provisions of article 12 and that the candidate is eligible to hold the office of Justice of the West Virginia Supreme Court of Appeals.

(emphasis added).

11. Pursuant to W. Va. Code §3-12-11(a), “[t]he [Commission], acting in concert with the State Auditor’s office and the State Treasurer’s office, shall have a check issued within two business days after the date on which the candidate is certified, to make payments from the fund for nonpartisan judicial election campaign period available to a certified candidate.” See W. Va. Code §3-12-11(a).

12. In a contested nonpartisan judicial election, such as the one at issue here, “a certified candidate shall receive \$525,000 in campaign financing from the fund, minus the certified candidate’s qualifying contributions.” *Id.*

B. The Election and the SEC’s Certification of Wooton

13. Among others, Walker and Wooton are candidates for a single seat on the Supreme Court.

14. The election is scheduled for May 10, 2016 and the “qualifying period” for the election ended on Saturday, January 30, 2016.

15. Accordingly, Wooton was required to file his Application for Certification two business days following the close of the qualifying period, or by February 2, 2016.

16. Wooton failed to timely submit his Application for Certification. *See* Exhibit A.

17. Nonetheless, during a public hearing late in the afternoon of Friday, February 5, 2016, the SEC certified Wooton pursuant to W. Va. Code §3-12-10(b), thereby entitling Wooton to receive public campaign financing from the Fund.²

18. After certifying Wooton, the SEC also moved to notify the Auditor immediately, allowing Wooton to receive public financing as soon as February 8, 2016.

19. Through this Petition, Walker appeals the SEC's certification of Wooton pursuant to W. Va. Code § 3-12-10(i), and seeks a stay of any disbursement, or alternatively expenditure, of any funds provided to Wooton from the Fund.³

III. ASSIGNMENTS OF ERROR

20. The SEC erred in determining that Wooton timely filed his Application for Certification, as required by W. Va. CSR § 146-5-6.1.

21. The SEC erred in certifying Wooton pursuant to W. Va. Code §3-12-10(b), because he failed to meet all of the requirements of Article 12, specifically the timely filing of his Application for Certification.

² As of the time of this filing, a transcript is not yet available. Petitioner will supplement the record with designations upon receipt.

³ Respondents Gainer, Perdue and Wooton are named in this Petition by virtue of their roles in the disbursement and expenditure of the Program funds. Because of the short time frame at issue, Petitioner will be uncertain at the time of filing whether the disbursement has been completed.

IV. POINTS OF AUTHORITIES AND DISCUSSION OF LAW⁴

A. Standard of Review

22. The SEC's decision constitutes a "final administrative determination." *See* W.

Va. Code § 3-12-10(i).⁵

23. The Court applies the following standard of review to appeals of final administrative determinations by an agency or commission:

The circuit court shall reverse, vacate or modify the order or decision of the agency if the substantial rights of the petitioner or petitioners have been prejudiced because the administrative findings, inferences, conclusions, decisions or order are:

- (1) In violation of constitutional or statutory provisions; or
- (2) In excess of the statutory authority or jurisdiction of the agency; or
- (3) Made upon unlawful procedures; or
- (4) Affected by other error of law; or
- (5) Clearly wrong in view of the reliable, probative and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Shepherdstown Volunteer Fire Dep't v. State ex rel. State of W. Virginia Human Rights Comm'n,
309 S.E.2d 342, 351 (1983) (citing W. Va. Code § 29A-5-4(g)).

⁴ Petitioner's discussion of the applicable law in the Petition for Review is not intended to be exhaustive. Petitioner intends to address more fully the legal issues in a brief to be filed pursuant to Rules 5 or 6 of the West Virginia Rules of Procedure for Administrative Appeals.

⁵ Similarly, Petitioner has not been provided a written copy of the SEC's decision but will supplement the record upon receipt.

B. The SEC Erred In Certifying Wooton and Its Decision Must be Reversed

1. **Campaign-Related Deadlines Must be Strictly Enforced**

24. First, the SEC's decision to certify Wooton was erroneous and must be reversed because, under West Virginia Supreme Court precedent, campaign-related deadlines must be strictly enforced. *See, e.g., Brady v. Hechler*, 346 S.E.2d 546, 547-48 (1986) (granting mandamus relief directing the secretary of state to strike a candidate from the ballot whose certificate of candidacy for nomination was one day late and explaining that, "[i]t is generally and almost universally held that statutory provisions in election statutes, requiring that a certificate or application of nomination be filed with a specified officer within a stipulated period of time, are mandatory.").

25. Strict adherence to deadlines related to political campaigning activity is paramount because, "[o]therwise, the actions of the Secretary of State in that regard would be subject to constant allegations of arbitrariness or favoritism." *Brady*, 346 S.E.2d at 550.

26. Here, Rule 5-6.1 unambiguously mandated that Wooton's Application for Certification had to be filed by February 2, 2016, a deadline which must be strictly enforced as a matter of law.

27. Because Wooton missed the deadline, the SEC's decision certifying him must be reversed.

2. **Rule 5-6.1 Is Entitled To The Force And Effect Of Law And Must Be Enforced As Written**

28. Second, and similarly, the SEC's certification of Wooton was erroneous because legislative rules, such as Rule 5-6.1, have the force and effect of law and must be enforced as written. *See, e.g., Swiger v. UGI/AmeriGas, Inc.*, 613 S.E.2d 904, 910 (2005) ("A regulation that is proposed by an agency and approved by the Legislature is a 'legislative rule' as defined by the

State Administrative Procedures Act, W. Va. Code, 29A-1-2(d) [1982], and *such a legislative rule has the force and effect of law.*") (emphasis added) (quoting *Smith v. West Virginia Human Rights Comm'n*, 602 S.E.2d 445 (2004)). Rather, "a properly promulgated legislative rule [] can be ignored only if the agency has exceeded its constitutional or statutory authority or is arbitrary or capricious. W. Va. Code, 29A-4-2 (1982)." *Id.* at 910-11. (quoting *Appalachian Power Co. v. State Tax Dep't.*, 466 S.E.2d 424, 430 (1995)).

29. On May 1, 2014, the State Legislature adopted the most recent version of Series 5 of Title 146, containing the SEC's rules governing the implementation of the Pilot Program, and those rules became effective as of that date.

30. These rules, and, specifically, W. Va. CSR § 146-5-6.1, requiring Wooton to submit his sworn Application for Certification on or before February 2, 2016, are entitled to the full force and effect of law and must be enforced accordingly. Because Wooton missed the deadline, the SEC'S certification of Wooton must be reversed for this reason as well.

3. The SEC's Decision Violates Walker's Constitutional Rights

31. Finally, the SEC's certification of Wooton was erroneous because it directly violates Walker's constitutional rights to free speech and substantive due process under the First and Fourteenth Amendments of the United States Constitution. *See* U.S. Const. amend. I, amend. XIV, § 1; *United States v. Salerno*, 481 U.S. 739, 746 (1987) (explaining that substantive due process protects a citizen from arbitrary government action which infringes upon her fundamental rights) (citing *Rochin v. California*, 342 U.S. 165, 172 (1952) and *Palko v. Connecticut*, 302 U.S. 319, 325-326 (1937)); *First Nat. Bank of Boston v. Bellotti*, 435 U.S. 765, 779 (1978) (explaining that substantive due process applies to the fundamental right to free

speech); *State ex rel. Loughry v. Tennant*, 732 S.E.2d 507 (2012) (explaining that campaign expenditures in judicial elections warrant constitutional protections as a form of free speech).⁶

32. Indeed, the First Amendment's "fullest and most urgent application [is] to speech uttered during a campaign for political office." *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 339 (2010) (internal citations omitted).

33. Here, contrary to its own rule, the SEC erroneously certified Wooton, thereby improperly injecting at least \$500,000 of public monies into the Supreme Court race. As a result of the SEC's unlawful act, Walker (and other candidates) will be compelled to raise and spend more private contributions to exercise her own political free speech, simply to compete against "speech" in the form of improperly authorized, taxpayer-subsidized campaigning.

34. This direct infringement of Walker's constitutional rights must be reversed.

V. RELIEF REQUESTED

35. For the foregoing reasons, Walker respectfully requests that the Court enter an order:

- (a) declaring that Wooton failed to meet the SEC's requirements to be a "certified candidate" pursuant to W. Va. Code § 3-12-10(b) and, therefore, is not entitled to receive public campaign financing pursuant to W. Va. Code § 3-12, *et seq.*;
- (b) staying distribution of public campaign financing to Wooton by the SEC, Gainer and/or Perdue;⁷

⁶ The SEC, as a "creature" of the state of West Virginia, is a state actor within the meaning of the Fourteenth Amendment and is held to that Amendment's standards. *See* U.S. Const. amend. XIV, § 1; *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 637 (1943). The First Amendment right to freedom of speech also extends to the states. *Gitlow v. New York*, 268 U.S. 652, 666 (1925).

⁷ Walker has contemporaneously filed an Application for Stay pending disposition of this appeal concurrently herewith.

- (c) to the extent that such financing has already been distributed, staying the use of such financing by Wooton;⁸
- (d) awarding Petitioner her attorneys fees and costs; and
- (e) granting such other and further relief as may be required.

VI. COPY OF DECISION

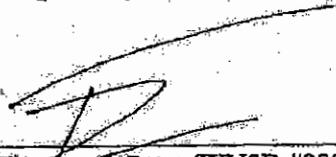
36. The SEC certified Wooton by voice vote on February 5, 2016. To Petitioner's knowledge, the SEC has not reduced that decision to writing. Petitioner will supplement the record with a confirmatory writing once one is available. Further, Petitioner has ordered a transcript of the hearing and will file said transcript with citations to the appropriate portions upon receipt.

⁸

Id.

Dated: February 9, 2016

Respectfully submitted,



Thomas C. Ryan (WVSB #9883)
K&L Gates LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
Tel: (412) 355-6500
Fax: (412) 355-6501
thomas.ryan@klgates.com

Attorney for Petitioner

EXHIBIT A

1004 Dogwood Lane
Beckley, WV 25801
3 February 2016

West Virginia State Election Commission
c/o The Honorable Natalie E. Tennant
Secretary of State
State Capitol
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305

Dear Sirs:

Please accept this as my sworn statement that I have complied and will comply with all requirements of Article 12, Section 3, throughout the 2016 campaign for Justice of the Supreme Court of Appeals.

On or about December 28, 2015, I signed and filed a Declaration of Intent to receive public campaign financing, as required by West Virginia Code Section 3-12-7;

I have obtained and exceeded the required number and amount of qualifying contributions as required by West Virginia Code 3-12-9;

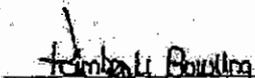
I have complied with the contribution restrictions of Chapter 3, Article 12, of the West Virginia Code.

I am eligible, in accordance with Chapter 3, Article 5, Section 9, of the West Virginia Code, to appear on the nonpartisan judicial election ballot in 2016; and

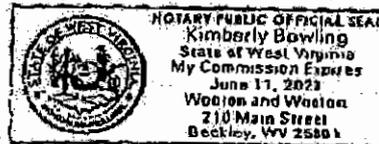
I have met all other requirements of Article 12 of Chapter 3 of the West Virginia Code.


William R. Wooten

Taken, subscribed and sworn to by me this 3rd day of February, 2016.


Notary Public

My commission expires: June 11, 2023



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED

2016 FEB -9 PM 3:05
CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

ELIZABETH D. WALKER, candidate for)
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NATALIE E. TENNANT, *ex-officio*,)
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Auditor; JOHN D. PERDUE, West)
Virginia State Treasurer; and WILLIAM)
R. WOOTON, candidate for the Supreme)
Court of Appeals of West Virginia,)

Respondents.)

APPLICATION FOR STAY

Petitioner, Elizabeth D. Walker ("Walker"), a candidate for the Supreme Court of Appeals of West Virginia (the "Supreme Court"), by and through her undersigned counsel, K&L Gates LLP, hereby petitions the Court, pursuant to Rule 3 of the West Virginia Rules of Procedure for Administrative Appeals, for a stay of the enforcement of the February 5, 2016 decision of the West Virginia State Election Commission ("SEC") certifying William Wooton pursuant to W. Va. Code §3-12-10, including, but not limited to, preventing the distribution of any public campaign financing pursuant to W. Va. Code §3-12-10 and, to the extent already distributed, preventing the expenditure of such funds by Wooton. In support thereof, Walker avers as follows:

GROUND FOR THE UNDERLYING APPEAL

1. On February 9, 2016, Walker filed her Petition for Judicial Review (the "Petition") petitioning the Court, pursuant to W. Va. Code § 29A-5 *et seq.* and Rule 2 of the West Virginia Rules of Procedure for Administrative Appeals, for review of the SEC's February 5, 2016 decision certifying William Wooton pursuant to W. Va. Code §3-12-10. As set forth in Walker's Petition, the SEC's decision was erroneous and must be reversed because Wooton failed to meet the February 2, 2016 filing deadline for his "Application for Certification" and, therefore, is not entitled to public campaign financing pursuant to W. Va. Code §3-12, *et seq.*

REASONS FOR THE REQUESTED STAY

2. On February 5, 2016, the SEC certified Wooton pursuant to W. Va. Code §3-12-10(b), thereby entitling him to receive public campaign financing.

3. As a result, under W. Va. Code §3-12-11(a), Wooton will receive such financing on or about February 8, 2016, two business days after the date on which each was certified.

4. The SEC's decision was erroneous because Wooton failed to satisfy the mandatory deadline for filing his Application for Certification set forth in W. Va. CSR §§ 146-5-6.1, which deadline was February 2, 2016, and, therefore, should not have been certified under Section 3-12-10.

5. In addition to judicial review of the SEC's erroneous decision for the reasons set forth in the Petition, Walker seeks a stay to prevent (i) the SEC, Gainer and/or Perdue from distributing any public campaign financing to Wooton; and (ii) Wooton from utilizing and/or spending for any purpose such monies, to the extent that those monies have already been distributed.

6. Distribution of public campaign funds by the SEC, Gainer and/or Perdue, and/or the receipt and use of such funds by Wooton, if not stayed pending the Court's review of the SEC's decision, will irreparably harm Walker by affording Wooton an unfair economic advantage in the campaign for Supreme Court Justice, providing him resources to which he is not statutorily entitled and impairing Walker's own ability to compete and campaign for the position.

7. By contrast, Respondent Wooton will not suffer any appreciable injury if the SEC's (or his, with regard to funds already distributed) conduct is prevented. Rather, a stay will merely preserve the rights of the parties as they existed before Respondents' conduct.

8. Finally, the relief requested by Walker will further the public interest by: (i) ensuring that judicial elections are fair; (ii) ensuring the public trust in the integrity of the electoral process; and (iii) ensuring that public campaign financing is distributed in accordance with West Virginia statute and, specifically, only to those candidates that have meet the requirements set forth by the West Virginia Legislature.

WHEREFORE, based on the foregoing, Walker respectfully requests that this Honorable Court GRANT the Application for Stay and enter an order staying: (i) the SEC, Gainer and/or Perdue from distributing any public campaign financing to Wooton; and (ii) Wooton from utilizing and/or spending for any purpose such monies, to the extent that they have already been distributed.

Dated: February 9, 2016

Respectfully submitted,



Thomas C. Ryan (WVSB #9883)
K&L Gates LLP
K&L Gates Center
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Pittsburgh, PA 15222
Tel: (412) 355-6500
Fax: (412) 355-6501

Attorneys for Petitioner

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED

2016 FEB -9 PM 3:05

CATHY S. BATSCH, CLERK
KANAWHA COUNTY CIRCUIT COURT

ELIZABETH D. WALKER, candidate for)
the Supreme Court of Appeals of West)
Virginia,)

Petitioner,)

v.)

No.)

NATALIE E. TENNANT, *ex-officio*,)
GARY A. COLLIAS, and VINCENT P.)
CARDI, members of the West Virginia)
State Election Commission; GLEN B.)
GAINER, III, West Virginia State)
Auditor; JOHN D. PERDUE, West)
Virginia State Treasurer; and WILLIAM)
R. WOOTON, candidate for the Supreme)
Court of Appeals of West Virginia,)

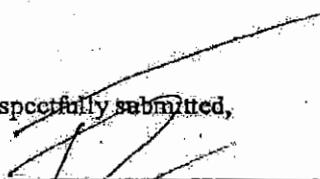
Respondents.)

MOTION FOR BRIEFING SCHEDULE AND ORAL ARGUMENT

Pursuant to Rule 6 of the West Virginia Rules of Procedure for Administrative Appeals, Petitioner, Elizabeth D. Walker ("Walker") respectfully requests that, in light of the time-sensitive nature of the issues set forth in the Petition for Review, the Court set an expedited briefing schedule and time and date for oral argument on the Petition for Review and the accompanying Application for Stay.

Dated: February 4, 2016

Respectfully submitted,


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Attorneys for Petitioner

FILED

Certificate of Service

2016 FEB -9 PM 3: 05

Pursuant to W. Va. Rules 5(f) and (g) of Procedure for Administrative Appeals, I, Thomas C. Ryan, certify that I caused to be served by registered mail, return receipt requested, a copy of the attached Administrative Appeals Docketing Statement, Petition for Judicial Review, Application for Motion to Stay, and Motion for Briefing Schedule and Oral Argument and upon the following Respondents, on February 7, 2016:

*The Honorable Natalie E. Tennant
Secretary of State for the State of West Virginia
Ex-Officio Member of the West Virginia State
Election Commission
1900 Kanawha Blvd. East
Bldg. 1, Suite 157-K
Charleston, WV 25305-0770*

*Gary A. Collias, Esq.
Chairman,
West Virginia State Election Commission
Collias Law Office
122 Capitol Street
Suite 300
Charleston, WV 25301*

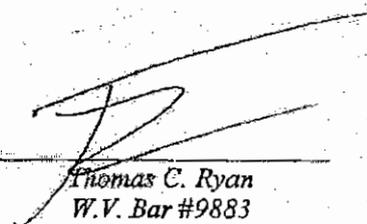
*The Honorable Glen B. Gainer III
Auditor for the State of West Virginia
1900 Kanawha Boulevard East,
Building 1, Room W-100
Charleston, WV 25305*

*Vincent P. Cardi, Esq.
Member
West Virginia State Election Commission
WVU College of Law
101 Law School Drive
Morgantown, WV 26506*

*The Honorable John D. Perdue
Treasurer for the State of West Virginia
1900 Kanawha Boulevard
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*William R. Wooton, Esq.
201 N Kanawha Street
Beckley, WV 25801*

*Patrick J. Morrissey
Attorney General for the State of West Virginia
1900 Kanawha Boulevard
Bldg. 1, Room E-26
Charleston, WV 25305*


Thomas C. Ryan
W.V. Bar #9883

FILED

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ELIZABETH D. WALKER,

Petitioner,

2016 MAR -3 PM 3:03

CATHY S. GATSDEN, CLERK
KANAWHA COUNTY CIRCUIT COURT

v.

Civil Action No. 16-AA-13 (Judge King)

**NATALIE E. TENANT, GARY A. COLLIAS,
and VINCENT P. CARDI, Members of the
West Virginia State Election Commission;
GLEN B. GAINER, III, West Virginia State
Auditor; JOHN D. PERDUE, West Virginia
State Treasurer; and WILLIAM R. WOOTON,**

Respondents.

**MEMORANDUM OF RESPONDENT WOOTON IN SUPPORT
OF THE DECISION OF THE STATE ELECTION COMMISSION**

I. UNDER THE APPLICABLE STANDARD OF REVIEW, THE PETITION MUST BE DISMISSED.

This case is before the Court on an administrative appeal under West Virginia Code § 29A-5-4 and Rule 2 of the West Virginia Rules of Procedure for Administrative Appeals.

In such an appeal, the Circuit Court may reverse, vacate, or modify the agency's decision only if:

[T]he substantial rights of the petitioner or petitioners have been prejudiced because the administrative findings, inferences, conclusions, decisions or order are: (1) In violation of constitutional or statutory provisions; or (2) In excess of the statutory authority or jurisdiction of the agency; or (3) Made upon unlawful procedures; or (4) Affected by other error of law; or (5) Clearly wrong in view of the reliable, probative and substantial evidence on the whole record; or (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Syl. Pt. 2, *Shepherdstown Volunteer Fire Dept. v. State ex rel. State of West Virginia Human Rights Commission*, 172 W. Va. 627, 309 S.E.2d 342 (1983).

In this case, the review need not proceed beyond the prerequisite that "substantial rights of the petitioner . . . have been prejudiced." The decision of the State Election Commission ("SEC" or "Commission") to certify respondent Wooton for public funding of his campaign for a seat on the West Virginia Supreme Court of Appeals does not impair any legally cognizable "right" of the petitioner. Ms. Walker remains as free to pursue her own candidacy for the Court as if certification

had been denied. The certification creates no obstacle and imposes no impediment on petitioner to educate the public about her campaign. To be sure, the certification in no way infringes on Ms. Walker's free speech rights. The First Amendment states that "Congress shall make no law . . . abridging the freedom of speech, or of the press[.]" The Amendment has been construed to prohibit, through the Fourteenth Amendment, all levels and manner of government from "abridging" the freedom of speech. "Abridge" means to "diminish, curtail, . . . deprive, cut off." RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE 6 (unabridged 2nd ed. 1987). The Commission's actions have in no way diminished or curtailed petitioner's opportunity to promote her candidacy. When government sponsors speech or engages in its own speech, it does not "abridge" the speech of anyone. *E.g.*, *Pleasant Grove City, Utah v. Sumnum*, 555 U.S. 460 (2009); *National Endowment for the Arts v. Finley*, 524 U.S. 569, 598 (1998) (Scalia, J., concurring); *Men and Women Against Discrimination v. The Family Services Protection Board*, 229 W. Va. 55, 725 S.E.2d 756 (2011).

That the certification of Mr. Wooton for funding might lessen Ms. Walker's prospects for winning the election is simply not a legally cognizable injury. There is a right to run for office, *e.g.*, *State ex rel. Billings v. City of Point Pleasant*, 194 W. Va. 301, 460 S.E.2d 436 (1995), but there is no right to run without opposition. That denying Mr. Wooton public funding would in fact lessen petitioner's prospects is also completely speculative. Denial would force him to raise private funds to support his candidacy, and those contributions could certainly match (or exceed) the level of the public grant. And even if that did not occur, it could still be possible for the candidate to get his message out at a volume that would enable him to make up for whatever shortfalls in finances he experiences. Meanwhile, the salutary purposes that the Legislature had in providing for public financing of judicial election campaigns would be thwarted. *See Part II, infra.*

II. THE WEST VIRGINIA JUDICIAL CAMPAIGN FINANCE ACT, WEST VIRGINIA CODE §§ 3-12-1, *et seq.*, IS A REFORM LAW THAT CALLS FOR A LIBERAL CONSTRUCTION.

After finding that fund raising and spending in State Supreme Court elections has been steadily escalating and causing systemic problems, the West Virginia Legislature enacted the Judicial

Campaign Finance Act, W. Va. Code §§ 3-12-1, *et seq.*, to “ensure fairness of democratic elections in this state, protect the Constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections, protect the impartiality and integrity of the judiciary, and strengthen public confidence in the judiciary[.]” W. Va. Code § 3-12-2(10). These are critically important and lofty goals. Such reform efforts call for a liberal construction of the Act to accomplish the intended purposes. *E.g., Repass v. Workers’ Compensation Division*, 212 W. Va. 86, 92, 569 S.E.2d 162, 168 (2002); *Plummer v. Workers’ Compensation Division*, 209 W. Va. 710, 551 S.E.2d 46 (2001); Transcript (“Tr.”) ____.

III. THE STATE ELECTION COMMISSION HAD DISCRETION TO ACCEPT RESPONDENT WOOTON’S APPLICATION AND TO CERTIFY HIM FOR PUBLIC FINANCING, AND IT APPROPRIATELY EXERCISED THAT DISCRETION.

While W. Va. C.S.R. § 146-5-6.1 does state that “a candidate who desires to apply for public funding shall file an Application For Certification with the Secretary” after collecting qualifying signatures and contributions and “no later than two business days after the close of the qualifying period,” nowhere in the Code or the regulations is there any provision that states that the failure to meet that deadline requires disqualification from public funding. What the Code does say is that “[a] candidate’s certification and receipt of public campaign financing *may* be revoked by the State Election Commission, if the candidate violates this article,” W. Va. Code § 3-12-10(h) (emphasis added), clearly communicating that the Commission has discretion with regards to enforcement of the Act’s provisions.

The Commission had compelling reasons for accepting Mr. Wooton’s application and certifying him for public funding. They included:

- The statute does not impose a deadline for filing the application. Section 3-12-10 merely states that “to be certified, a participating candidate shall apply to the [SEC].” The two business days requirement was added by the Commission in the rules as an administrative guide and imposes no obligation on the Commission to reject applications that are filed after the two days.

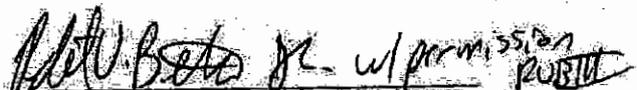
- The application is a *pro forma* step in the process; it comes after the candidate has filed his candidacy papers, his periodical reporting forms, and his supporting signatures and qualifying contributions. The form merely asks for the public funding and states that the candidate has complied with the requirements of the Act.
- The late filing caused no harm, and no other consequences resulted from it. Nor were there any public interests implicated. Unlike with candidacy filing deadlines, where notice to the public of a candidacy is important, no such concerns applied to filing the application.
- Denying public funding for a tardy filing of an application would impose a penalty far out of proportion to the lapse and would, at the same time, defeat the important reform goals of the statute. Nowhere does the Act authorize such a Draconian measure, and the Commission would exercise poor judgment to read one into the Act.
- The Commission decision to accept Wooton's application allowed the SEC to provide equal treatment to the candidates. By the time that the Commission made the decision on Wooton, it had already extended the deadline for Justice Benjamin's campaign committee to file his exploratory reports and accepted 365 objections from the petitioner that were filed a day late. Tr. of 2/3/16 at 287, 303; Tr. of 2/4/16 at 12-20; Tr. of 2/5/16 at 33-43. Having treated the deadlines in those cases as subject to waiver, the Commission could not equitably treat Mr. Wooton's application differently, at least not without a very good reason. Tr. of 2/5/16
- Respondent Wooton was, in any event, in substantial compliance. The deadline, extremely short to begin with, was February 2nd, and Wooton filed his application the first thing the next morning, just hours past the deadline. Tr. of 2/5/16 at 57. The West Virginia Supreme Court has permitted "substantial compliance" with deadlines and other requirements to be sufficient compliance where the equities justify it. *E.g.*,

State ex rel. Cooper v. Caperton, 196 W. Va. 208, 470 S.E.2d 162 (1996); *State ex rel. Smith v. Kelly*, 149 W. Va. 381, 141 S.E.2d 142 (1965).

CONCLUSION

The State Election Commission had the discretion to accept the morning after application of respondent Wooton and to certify his candidacy for public funding. The Commission's exercise of that discretion in doing so was not only reasonable but was compelled by the equities.

William R. Wooton,
By counsel


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(304) 346-9629 telephone
patrickmaroney@aol.com

Counsel for Respondent Wooton

CERTIFICATE OF SERVICE

FILED

I, Robert V. Berthold, Jr. have on this the 3rd day of March, 2016, served the foregoing **2016 MAR -3 PM 3:03**
Memorandum of Respondent Wooton in Support of the Decision of the State Election Commission,
by placing a true copy, postage prepaid, in the United States mail and electronic mail to her counsel,
as follows:

Thomas C. Ryan
K & L Gates, LLP
K & L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
thomas.ryan@klgates.com

and on Respondents by United States mail to:

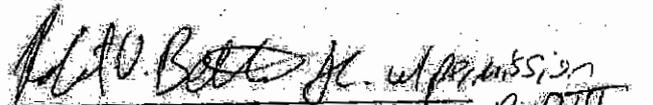
Richard L. Gottlieb, Esquire
Spencer D. Elliott, Esquire
Lewis Glasser Casey & Rollins, PLLC
300 Summers Street, Suite 700
Post Office Box 1746
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Counsel for SEC Members, Natalie E. Tennant, Gary A. Collias, and Vincent P. Cardi

Glen B. Gainer, III
West Virginia State Auditor
State Capitol
Charleston, WV 25305

John D. Perdue
West Virginia State Treasurer
State Capitol
Charleston, WV 25305

and to the West Virginia Attorney General by Unites States mail:

Patrick Morrissey, Esquire
West Virginia Attorney General
State Capitol Complex
1900 Kanawha Boulevard, East
Building 1, Room E-26
Charleston, WV 25305


Robert V. Berthold, Jr. *w/permission*
RUBILL

ROBERT M. BASTRESS, JR.
ATTORNEY AT LAW
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MORGANTOWN, W. VA. 26507
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FAX: (304) 293-6891
rmbastress@gmail.com

February 11, 2016

VIA HAND DELIVERY

Hon. Cathy Gatson, Clerk
Kanawha County Circuit Court
Kanawha County Judicial Annex
111 Court Street
Charleston, WV 25301

Re: *Walker v. Tennant*,
Civil Action No. 16-AA-13 (King, J.)

Dear Ms. Gatson:

Please file in the above-captioned case the accompanying Motion to Certify Question, a proposed Order Certifying Question, and a Memorandum in Opposition to Petitioner's Application for a Stay. We have provided Judge King with courtesy copies of each.

Thank you for your attention to this matter.

Sincerely yours,



Robert M. Bastress, Jr.

Enclosures

cc(w/encl.): Hon. Charles E. King, Judge (*via hand delivery*)
Thomas C. Ryan, Esquire (*via U.S. first class mail and email*)
Natalie E. Tennant, Secretary of State (*via U.S. first class mail*)
Gary A. Collias, Esquire (*via U.S. first class mail*)
Vincent P. Cardi, Esquire (*via U.S. first class mail*)
Glen B. Gainer (*via U.S. first class mail*)
John D. Perdue (*via U.S. first class mail*)
Patrick Morrissey, Esquire (*via U.S. first class mail*)
Robert V. Berthold, Jr., Esquire (*via email*)
Thomas Patrick Maroney, Esquire (*via email*)

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED
Copy

ELIZABETH D. WALKER,

2016 FEB 12 PM 1:02

Petitioner,

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

v.

Civil Action No. 16-AA-13 (Judge King)

NATALIE E. TENANT, GARY A. COLLIAS,
and VINCENT P. CARDI, Members of the
West Virginia State Election Commission;
GLEN B. GAINER, III, West Virginia State
Auditor; JOHN D. PERDUE, West Virginia
State Treasurer; and WILLIAM R. WOOTON,

Respondents.

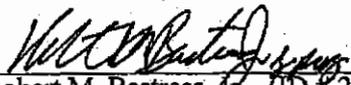
**MOTION BY RESPONDENT WILLIAM R. WOOTON TO CERTIFY
QUESTION TO THE WEST VIRGINIA SUPREME COURT OF APPEALS**

By counsel and pursuant to West Virginia Code § 58-5-2 and Rule 17 of the West Virginia Rules of Appellate Procedure, Respondent William R. Wooton moves that this Court certify the following question to the West Virginia Supreme Court of Appeals:

Whether the West Virginia State Election Commission's certification of Respondent Wooton for public financing of his candidacy for the West Virginia Supreme Court under West Virginia Code §§ 3-12-1, *et seq.*, was valid.

As grounds for his motion, respondent asserts that the issue presented by the petition in this case is extremely time-sensitive and important to the process currently underway to elect a Supreme Court Justice. Delay in resolving the issue would seriously threaten respondent's opportunity to mount an effective campaign, and because of the issue's importance it will undoubtedly be presented for final decision to the West Virginia Supreme Court regardless of this Court's resolution.

William R. Wooton,
By Counsel


Robert M. Bastress, Jr. (ID # 263)
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rmbastress@gmail.com

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Counsel for Respondent Wooton

CERTIFICATE OF SERVICE

I, Robert M. Bastress, Jr., have on this the 12th day of February served the foregoing *Motion by Respondent William R. Wooton to Certify Question to the West Virginia Supreme Court of Appeals*, by placing a true copy, postage prepaid, in the United States mail, on the Petitioner, Elizabeth D. Walker, by mailing the same to her counsel, as follows:

Thomas C. Ryan
K & L Gates, LLP
K & L Gates Center
210 Sixth Avenue
Pittsburgh, Pa. 15222

and on respondents by mailing it to

Natalie E. Tennant
West Virginia Secretary of State
State Capitol Complex
1900 Kanawha Boulevard, East
Building 1, Suite 157-K
Charleston, WV 25305-0770

Gary A. Collias, Esquire
Post Office Box 70007
Charleston, WV 25301

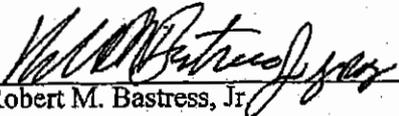
Vincent P. Cardi, Esquire
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John D. Perdue
West Virginia State Treasurer
State Capitol Complex
1900 Kanawha Boulevard, East
Building #1, Room E-145
Charleston, WV 25305

and to the West Virginia Attorney General

Patrick Morrissey, Esquire
West Virginia Attorney General
State Capitol Complex
1900 Kanawha Boulevard, East
Building 1, Room E-26
Charleston, WV 25305


Robert M. Bastress, Jr.

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ELIZABETH D. WALKER,

Petitioner,

v.

Civil Action No. 16-AA-13 (Judge King)

FILED
2016 FEB 12 PM 1:03
CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

NATALIE E. TENANT, GARY A. COLLIAS,
and VINCENT P. CARDI, Members of the
West Virginia State Election Commission;
GLEN B. GAINER, III, West Virginia State
Auditor; JOHN D. PERDUE, West Virginia
State Treasurer; and WILLIAM R. WOOTON,

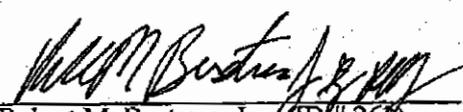
Respondents.

**RESPONDENT, WILLIAM R. WOOTON'S MEMORANDUM IN
OPPOSITION TO PETITIONER'S APPLICATION FOR A STAY**

By counsel, respondent William R. Wooton states as follows:

The petitioner has requested a stay seeking "to prevent . . . [respondent] Wooton from utilizing and/or spending for any purpose [public campaign finance] monies, to the extent that those monies have already been distributed." Petitioner's Application for a Stay, ¶ 5. Any stay issued by this Court, however, can only affect the implementation of an administrative or judicial order; it cannot direct the conduct of a private party. The State has already distributed the public campaign finance funds to respondent Wooton. If petitioner wants a court order preventing respondent from spending that grant, then the petitioner must seek a preliminary injunction and follow the procedures of Rule 65 of the West Virginia Rules of Civil Procedure, including its subsection (c), which requires the "giving of security by the applicant[.]" The petitioner has not filed such a motion and has not given security. Therefore, the application for a stay as sought against respondent Wooton must be denied.

William R. Wooton,
By counsel


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608 Virginia St., East, Floor 2
Charleston, W. Va. 25301
(304) 346-9629
patrickmaroney@aol.com

Counsel for Respondent Wooton

CERTIFICATE OF SERVICE

I, Robert M. Bastress, Jr., have on this the 12th day of February served the foregoing *Motion by Respondent William R. Wooton's Memorandum in Opposition to Petitioner's Application for a Stay*, by placing a true copy, postage prepaid, in the United States mail, on the Petitioner, Elizabeth D. Walker, by mailing the same to her counsel, as follows:

Thomas C. Ryan
K & L Gates, LLP
K & L Gates Center
210 Sixth Avenue
Pittsburgh, Pa. 15222

and on respondents by mailing it to

Natalie E. Tennant
West Virginia Secretary of State
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Post Office Box 70007
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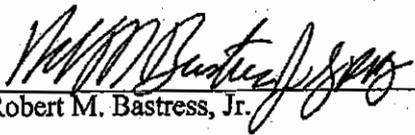
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and to the West Virginia Attorney General

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1900 Kanawha Boulevard, East
Building 1, Room E-26
Charleston, WV 25305


Robert M. Bastress, Jr.

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ELIZABETH D. WALKER,

Petitioner,

v.

Civil Action No. 16-AA-13 (Judge King)

NATALIE E. TENANT, GARY A. COLLIAS,
and VINCENT P. CARDI, Members of the
West Virginia State Election Commission;
GLEN B. GAINER, III, West Virginia State
Auditor; JOHN D. PERDUE, West Virginia
State Treasurer; and WILLIAM R. WOOTON,

Respondents.

**ORDER CERTIFYING QUESTION TO THE
WEST VIRGINIA SUPREME COURT OF APPEALS**

This Court certifies the following question to the West Virginia Supreme Court of Appeals:

Whether the West Virginia State Election Commission's certification of Respondent Wooton for public financing of his candidacy for the West Virginia Supreme Court under West Virginia Code §§ 3-12-1, *et seq.*, was valid.

The Court answers that question as follows:

The West Virginia State Election Commission's certification of Respondent Wooton for public financing of his candidacy for the West Virginia Supreme Court under West Virginia Code §§ 3-12-1, *et seq.*, was entirely consistent with the statute and was valid.

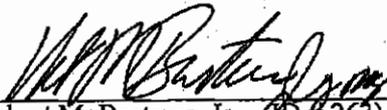
To the extent that the Commission's order certifying respondent Wooton for public campaign finance money has not been implemented, the Commission's rulings in this matter are stayed pending resolution of the certified question. The parties are directed to prepare a joint appendix of the record sufficient to permit review of the certified questions.

The Clerk is directed to forward Certified copies of this Order to all counsel and parties of record.

Enter this _____ day of _____, 2016.

CHARLES E. KING, JUDGE

This proposed Order was submitted by counsel for Respondent:


Robert M. Bastress, Jr. (ID # 263)
Post Office Box 1295
Morgantown, W. Va. 26507-1295
(304) 319-0860
rmbastress@gmail.com

Robert V. Berthold, Jr. (ID # 326)
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rvb@bertholdlaw.com

Thomas Patrick Maroney (ID # 2326)
608 Virginia Street, East, Floor 2
Charleston, W. Va. 25301
(304) 346-9629
patrickmaroney@aol.com

Counsel for Respondent Wooton

CERTIFICATE OF SERVICE

I, Robert M. Bastress, Jr., have on this the 12th day of February served the foregoing *Order Certifying Question to the West Virginia Supreme Court of Appeals*, by placing a true copy, postage prepaid, in the United States mail, on the Petitioner, Elizabeth D. Walker, by mailing the same to her counsel, as follows:

Thomas C. Ryan
K & L Gates, LLP
K & L Gates Center
210 Sixth Avenue
Pittsburgh, Pa. 15222

and on respondents by mailing it to

Natalie E. Tennant
West Virginia Secretary of State
State Capitol Complex
1900 Kanawha Boulevard, East
Building 1, Suite 157-K
Charleston, WV 25305-0770

Gary A. Collias, Esquire
Post Office Box 70007
Charleston, WV 25301

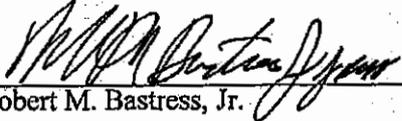
Vincent P. Cardi, Esquire
Post Office Box 6130
Morgantown, WV 26506

Glen B. Gainer, III
West Virginia State Auditor
State Capitol Complex
1900 Kanawha Boulevard, East
Building 1, Room W-100,
Charleston, WV 25305

John D. Perdue
West Virginia State Treasurer
State Capitol Complex
1900 Kanawha Boulevard, East
Building #1, Room E-145
Charleston, WV 25305

and to the West Virginia Attorney General

Patrick Morrissey, Esquire
West Virginia Attorney General
State Capitol Complex
1900 Kanawha Boulevard, East
Building 1, Room E-26
Charleston, WV 25305


Robert M. Bastress, Jr.

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ELIZABETH D. WALKER, candidate for
the Supreme Court of Appeals of West
Virginia,

Petitioner,

v.

NATALIE E. TENNANT, *ex-officio*,
GARY A. COLLIAS, and VINCENT P.
CARDI, members of the West Virginia
State Election Commission; GLEN B.
GAINER, III, West Virginia State
Auditor; JOHN D. PERDUE, West
Virginia State Treasurer; and WILLIAM
R. WOOTON, candidate for the Supreme
Court of Appeals of West Virginia,

Respondents.

No. 16-AA-13 (Judge King)

**RESPONSE OF PETITIONER ELIZABETH D. WALKER TO
RESPONDENT WILLIAM R. WOOTON'S MOTION TO CERTIFY
QUESTION TO THE WEST VIRGINIA SUPREME COURT OF APPEALS**

Petitioner, Elizabeth D. Walker ("Walker"), a candidate for the Supreme Court of Appeals of West Virginia, by and through her undersigned counsel, K&L Gates LLP, responds to the Motion of Respondent, William R. Wooton ("Wooton") to Certify Question to the West Virginia Supreme Court of Appeals.

Walker joins in Wooton's request that this Court should certify the question of law pursuant to Rule 17 of the West Virginia Rules of Appellate Procedure raised in Walker's *Petition for Judicial Review of the February 5, 2016 Decision of the West Virginia State Election Commission Certifying William R. Wooton Pursuant to W. Va. Code § 3-12-10*. The question, as presented by Respondent Wooton, however, does not comport with W. Va. Code § 58-5-2 and Rule 17 as the question is framed in what essentially amounts to a direct appeal, beyond the bounds of a question that can be certified under W. Va. Code § 58-5-2 and Rule 17.

Accordingly, for the reasons succinctly set forth in the Petition, Walker submits that the following question should be certified to the Supreme Court for its consideration because it is more appropriately tailored to frame a question of law as required by the applicable statute and appellate rule:

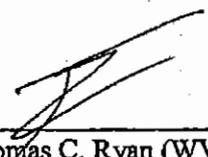
Whether Wooton's failure to file his sworn "Application for Certification" within two business days after the close of the "qualifying period," as expressly required the W. Va. Code of State Rule 146-5-6.1, disqualifies him from receiving funding from the West Virginia Supreme Court of Appeals Public Campaign Financing Program, codified at West Virginia Code § 3-12-1 *et seq.*?

A proposed order of certification is attached hereto.

If the Court is inclined to consider certifying Respondent Wooton's proposed question, Petitioner Walker respectfully submits that the question be answered in the negative, for the reasons set forth more fully in the Petition. Petitioner Walker has included a proposed alternative order should the Court be inclined to frame the question for the Supreme Court as presented by Respondent.

Dated: February 19, 2016

Respectfully submitted,



Thomas C. Ryan (WVSB #9883)
K&L Gates LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
Tel: (412) 355-6500
Fax: (412) 355-6501
thomas.ryan@klgates.com

Attorney for Petitioner

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ELIZABETH D. WALKER, candidate for)
the Supreme Court of Appeals of West)
Virginia,)

Petitioner,)

v.)

No. 16-AA-13 (Judge King)

NATALIE E. TENNANT, *ex-officio*,)
GARY A. COLLIAS, and VINCENT P.)
CARDI, members of the West Virginia)
State Election Commission; GLEN B.)
GAINER, III, West Virginia State)
Auditor; JOHN D. PERDUE, West)
Virginia State Treasurer; and WILLIAM)
R. WOOTON, candidate for the Supreme)
Court of Appeals of West Virginia,)

Respondents.)

**[PROPOSED] ORDER CERTIFYING QUESTION TO THE
WEST VIRGINIA SUPREME COURT OF APPEALS**

This Court certifies the following question to the West Virginia Supreme Court of Appeals:

Whether Wooton's failure to file his sworn "Application for Certification" within two business days after the close of the "qualifying period," as expressly required the West Virginia Code of State Rule 146-5-6.1, disqualifies him from receiving funding from the West Virginia Supreme Court of Appeals Public Campaign Financing Program, codified at West Virginia Code § 3-12-1 *et seq.*?

The Court answers that question as follows:

Yes. West Virginia Code of State Rule 146-5-6.1, promulgated by the West Virginia State Election Commission and authorized by the West Virginia Legislature, requiring Mr. Wooton to file his Application for Certification within two business days of the end of the "qualifying period" is entitled to the full force and effect of law and, therefore, Mr. Wooton's failure to comply with the filing deadline disqualifies him from receiving funding from the West Virginia Supreme Court of Appeals Public Campaign Financing Program, codified at West Virginia Code § 3-12-1 *et seq.*

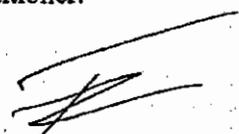
The Commission's rulings in this matter, together with Mr. Wooton's utilization and/or spending of any public campaign financing that he has received pursuant to Article 12 of the West Virginia Code are hereby stayed pending resolution of the certified question. The parties are directed to prepare a joint appendix of the record sufficient to permit review of the certified question.

The Clerk is directed to forward certified copies of this Order to all counsel and parties of record.

Entered this _____ day of February, 2016.

CHARLES E. KING, JUDGE

This proposed Order was submitted by counsel for Petitioner:



Thomas C. Ryan (WVSB #9883)
K&L Gates LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
Tel: (412) 355-6500
Fax: (412) 355-6501
thomas.ryan@klgates.com

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ELIZABETH D. WALKER, candidate for)
the Supreme Court of Appeals of West)
Virginia,)
Petitioner,)

v.)

No. 16-AA-13 (Judge King)

NATALIE E. TENNANT, *ex-officio*,)
GARY A. COLLIAS, and VINCENT P.)
CARDI, members of the West Virginia)
State Election Commission; GLEN B.)
GAINER, III, West Virginia State)
Auditor; JOHN D. PERDUE, West)
Virginia State Treasurer; and WILLIAM)
R. WOOTON, candidate for the Supreme)
Court of Appeals of West Virginia,)
Respondents.)

**[ALTERNATIVE PROPOSED] ORDER CERTIFYING QUESTION TO THE
WEST VIRGINIA SUPREME COURT OF APPEALS**

This Court certifies the following question to the West Virginia Supreme Court of

Appeals:

Whether the West Virginia State Election Commission's certification of Respondent Wooton for public financing of his candidacy for the West Virginia Supreme Court under West Virginia Code §§ 3-12-1 *et seq.*, was valid.

The Court answers that question as follows:

No. The West Virginia State Election Commission's certification of Respondent Wooton for public financing of his candidacy for the West Virginia Supreme Court under West Virginia Code §§ 3-12-1 *et seq.*, was in violation of the statute and the applicable regulations promulgated thereunder, at West Virginia Code of State Rules 146-5-1 *et seq.*

The Commission's rulings in this matter, together with Mr. Wooton's utilization and/or spending of any public campaign financing that he has received pursuant to Article 12 of the West Virginia Code are hereby stayed pending resolution of the certified question. The parties

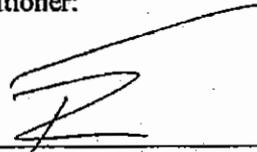
are directed to prepare a joint appendix of the record sufficient to permit review of the certified question.

The Clerk is directed to forward certified copies of this Order to all counsel and parties of record.

Entered this _____ day of February, 2016.

CHARLES E. KING, JUDGE

This proposed Order was submitted by counsel for Petitioner:



Thomas C. Ryan (WVSB #9883)
K&L Gates LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
Tel: (412) 355-6500
Fax: (412) 355-6501
thomas.ryan@klgates.com

Certificate of Service

I, Thomas C. Ryan, certify that I caused to be served by first class mail a true and correct copy of the *Response of Petitioner Elizabeth D. Walker to Respondent William R. Wooton's Motion to Certify Question to the West Virginia Supreme Court of Appeals, [Proposed] Order Certifying Question to the West Virginia Supreme Court of Appeals; and [Alternative Proposed] Order Certifying Question to the West Virginia Supreme Court of Appeals* on February 9, 2016:

*Robert M. Bastress, Jr.
Post Office Box 1295
Morgantown, WV 26507-1295*

*Robert V. Berthold, Jr.
Berthold Law Firm PLLC
Post Office Box 3508
Charleston, WV 25335*

*Thomas Patrick Maroney, Esq.
608 Virginia Street, East, Floor 2
Charleston, WV 25301*

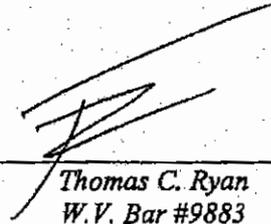
Counsel for Respondent William R. Wooton, Esq.

*Jonathan T. Osborne, Esq.
Assistant Attorney General
1900 Kanawha Boulevard
Bldg. 1, Room E-26
Charleston, WV 25305*

Counsel for Respondent The Honorable Natalie E. Tennant, Vincent P. Cardi, Esq. and Gary A. Collias, Esq.

*The Honorable Glen B. Gainer III
Auditor for the State of West Virginia
1900 Kanawha Boulevard East,
Building 1, Room W-100
Charleston, WV 25305*

*The Honorable John D. Perdue
Treasurer for the State of West Virginia
1900 Kanawha Boulevard
Capitol Complex Building #1
Room E-145
Charleston, West Virginia 25305*



*Thomas C. Ryan
W.V. Bar #9883*

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ELIZABETH D. WALKER, candidate for)
the Supreme Court of Appeals of West)
Virginia,)

Petitioner,)

v.)

No. 16-AA-13 (Judge King)

NATALIE E. TENNANT, *ex-officio*,)
GARY A. COLLIAS, and VINCENT P.)
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State Election Commission; GLEN B.)
GAINER, III, West Virginia State)
Auditor; JOHN D. PERDUE, West)
Virginia State Treasurer; and WILLIAM)
R. WOOTON, candidate for the Supreme)
Court of Appeals of West Virginia,)

Respondents.)

**AMENDED RESPONSE OF PETITIONER ELIZABETH D. WALKER TO
RESPONDENT WILLIAM R. WOOTON'S MOTION TO CERTIFY
QUESTION TO THE WEST VIRGINIA SUPREME COURT OF APPEALS**

At the request of Respondent William R. Wooton ("Wooton"), Petitioner, Elizabeth D. Walker ("Walker") submits the following amended proposed certified question deleting "as expressly required [by] the," and inserting "see," but the legal question otherwise remains the same:

Whether Wooton's failure to file his sworn "Application for Certification" within two business days after the close of the "qualifying period," see W. Va. Code of State Rule 146-5-6.1, disqualifies him from receiving funding from the West Virginia Supreme Court of Appeals Public Campaign Financing Program, codified at West Virginia Code § 3-12-1 *et seq.*?

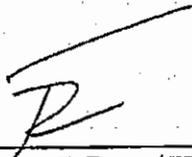
An amended proposed order of certification is attached hereto.

If the Court is inclined to consider also, or alternatively, certifying Respondent Wooton's proposed question, Petitioner Walker respectfully submits that the question be answered in the

negative, for the reasons set forth more fully in the Petition. Petition Walker previously filed a proposed alternative order should the Court be inclined to frame the question for the Supreme Court as presented by Respondent.

Dated: February 23, 2016

Respectfully submitted,



Thomas C. Ryan (WVSB #9883)
K&L Gates LLP
K&L Gates Center
210 Sixth Avenue
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Tel: (412) 355-6500
Fax: (412) 355-6501
thomas.ryan@klgates.com

Attorney for Petitioner

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ELIZABETH D. WALKER, candidate for)
the Supreme Court of Appeals of West)
Virginia,)

Petitioner,)

v.)

No. 16-AA-13 (Judge King)

NATALIE E. TENNANT, *ex-officio*,)
GARY A. COLLIAS, and VINCENT P.)

CARDI, members of the West Virginia)
State Election Commission; GLEN B.)

GAINER, III, West Virginia State)
Auditor; JOHN D. PERDUE, West)

Virginia State Treasurer; and WILLIAM)
R. WOOTON, candidate for the Supreme)

Court of Appeals of West Virginia,)

Respondents.)

**[AMENDED PROPOSED] ORDER CERTIFYING QUESTION TO THE
WEST VIRGINIA SUPREME COURT OF APPEALS**

This Court certifies the following question to the West Virginia Supreme Court of

Appeals:

Whether Wooton's failure to file his sworn "Application for Certification" within two business days after the close of the "qualifying period," see West Virginia Code of State Rule 146-5-6.1, disqualifies him from receiving funding from the West Virginia Supreme Court of Appeals Public Campaign Financing Program, codified at West Virginia Code § 3-12-1 *et seq.*?

The Court answers that question as follows:

Yes. West Virginia Code of State Rule 146-5-6.1, promulgated by the West Virginia State Election Commission and authorized by the West Virginia Legislature, requiring Mr. Wooton to file his Application for Certification within two business days of the end of the "qualifying period" is entitled to the full force and effect of law and, therefore, Mr. Wooton's failure to comply with the filing deadline disqualifies him from receiving funding from the West Virginia Supreme Court of Appeals Public Campaign Financing Program, codified at West Virginia Code § 3-12-1 *et seq.*

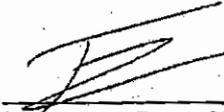
The Commission's rulings in this matter, together with Mr. Wooton's utilization and/or spending of any public campaign financing that he has received pursuant to Article 12 of the West Virginia Code are hereby stayed pending resolution of the certified question. The parties are directed to prepare a joint appendix of the record sufficient to permit review of the certified question.

The Clerk is directed to forward certified copies of this Order to all counsel and parties of record.

Entered this _____ day of February, 2016.

CHARLES E. KING, JUDGE

This proposed Order was submitted by counsel for Petitioner:



Thomas C. Ryan (WVSB #9883)
K&L Gates LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
Tel: (412) 355-6500
Fax: (412) 355-6501
thomas.ryan@klgates.com

Certificate of Service

I, Thomas C. Ryan, certify that I caused to be served by first class mail a true and correct copy of the *Amended Response of Petitioner Elizabeth D. Walker to Respondent William R. Wooton's Motion to Certify Question to the West Virginia Supreme Court of Appeals and [Amended Proposed] Order Certifying Question to the West Virginia Supreme Court of Appeals*; on February 23, 2016:

Robert M. Bastress, Jr.
Post Office Box 1295
Morgantown, WV 26507-1295

Robert V. Berthold, Jr.
Berthold Law Firm PLLC
Post Office Box 3508
Charleston, WV 25335

Thomas Patrick Maroney, Esq.
608 Virginia Street, East, Floor 2
Charleston, WV 25301

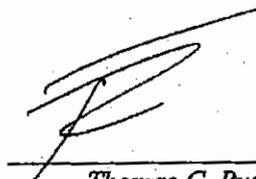
Counsel for Respondent William R. Wooton, Esq.

Jonathan T. Osborne, Esq.
Assistant Attorney General
1900 Kanawha Boulevard
Bldg. 1, Room E-26
Charleston, WV 25305

Counsel for Respondent The Honorable Natalie E. Tennant, Vincent P. Cardi, Esq. and Gary A. Collias, Esq.

The Honorable Glen B. Gainer III
Auditor for the State of West Virginia
1900 Kanawha Boulevard East,
Building 1, Room W-100
Charleston, WV 25305

The Honorable John D. Perdue
Treasurer for the State of West Virginia
1900 Kanawha Boulevard
Capitol Complex Building #1
Room E-145
Charleston, West Virginia 25305



Thomas C. Ryan
W.V. Bar #9883

K&L GATES

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March 3, 2016

Thomas Ryan
thomas.ryan@klgates.com

T 412-355-8335
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VIA CERTIFIED MAIL

Robert M. Bastress, Jr.
Post Office Box 1295
Morgantown, WV 26507-1295

Jonathan T. Osborne, Esq.
Assistant Attorney General
1900 Kanawha Boulevard
Bldg. 1, Room E-26
Charleston, WV 25305

Robert V. Berthold, Jr.
Berthold Law Firm PLLC
Post Office Box 3508
Charleston, WV 25335

Counsel for Respondents The Honorable Natalie E. Tennant, Vincent P. Cardi, Esq. and Gary A. Collias, Esq.

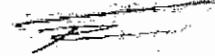
Counsel for Respondent William R. Wooton, Esq.

Re: **Walker v. Tennant, Civil Action No. 16-AA-13 (Judge King)**

Dear Counsel:

Enclosed please find the *Brief of Petitioner Elizabeth D. Walker Relating to Certified Question*, together with a Certificate of Service, which were filed today in the above-referenced matter.

Very truly yours,


Thomas C. Ryan

TCR/teh
Enclosures

klgates.com

0619

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ELIZABETH D. WALKER, candidate for)
the Supreme Court of Appeals of West)
Virginia,)

Petitioner,)

v.)

No. 16-AA-13 (Judge King)

NATALIE E. TENNANT, *ex-officio*,)
GARY A. COLLIAS, and VINCENT P.)
CARDI, members of the West Virginia)
State Election Commission; GLEN B.)
GAINER, III, West Virginia State)
Auditor; JOHN D. PERDUE, West)
Virginia State Treasurer; and WILLIAM)
R. WOOTON, candidate for the Supreme)
Court of Appeals of West Virginia,)

Respondents.)

BRIEF OF PETITIONER ELIZABETH D. WALKER
RELATING TO CERTIFIED QUESTION

Petitioner Elizabeth D. Walker ("Walker"), by and through her undersigned counsel,
submits this Brief Relating to the following Certified Question:

Whether the West Virginia State Election Commission's
certification of Respondent Wooton for public financing of his
candidacy for the West Virginia Supreme Court under West
Virginia Code §§ 3-12-1, *et seq.*, was valid.

For the reasons set forth herein, Walker respectfully submits that this question be answered in the
negative.

I. PRELIMINARY STATEMENT

At the heart of the Certified Question is a simple and straightforward issue: whether
statutes and legislative rules must be enforced as written. It is undisputed that a candidate
seeking to receive public campaign financing under the West Virginia Supreme Court of Appeals
Public Financing Program (the "Program") must file an Application for Certification with the

Secretary of State and must do so "no later than two business days after the close of the qualifying period[.]" It is further undisputed that the Respondent in this case, William R. Wooton failed to file his Application for Certification by the statutorily-mandated deadline, rendering him ineligible to be certified and receive public campaign financing under the Program. The West Virginia State Election Commission (the "SEC") ignored these statutory mandates and nevertheless certified Wooton. As a result, the SEC's certification of Wooton was invalid.

II. FACTUAL AND PROCEDURAL BACKGROUND

Among others, Walker and Wooton are candidates for a single seat on the Supreme Court, the election for which is scheduled for May 10, 2016. The "qualifying period" for the election (as that term is defined in W. Va. Code § 3-12-3(14)) ended on Saturday, January 30, 2016, and Wooton filed his Application for Certification on February 3, 2016, three business days following the close of the qualifying period. *See Exhibit "A."*

During a public hearing on Friday, February 5, 2016, the SEC certified Wooton pursuant to W. Va. Code §3-12-10(b), thereby entitling Wooton to receive public campaign financing under the Program. On information and belief, Wooton received those monies on or about February 8, 2016. On February 9, 2016, Walker filed her *Petition for Judicial Review of the February 5, 2016 Decision of the West Virginia State Election Commission Certifying William R. Wooton Pursuant to W. Va. Code § 3-12-10* and accompanying *Application for Stay*.

On February 11, 2016, Wooton filed his *Motion to Certify Question to the West Virginia Court of Appeals and Memorandum in Opposition to Petitioner's Application for a Stay*. This Court accepted the certified question proposed by Wooton and subsequently requested briefing from the parties.

III. ARGUMENT

A. The SEC's Certification of Wooton Was Invalid

A court's review of a statutory provision is guided by the basic rules of statutory construction. *See Martin v. Hamblet*, 230 W. Va. 183, 187, 737 S.E.2d 80, 84 (2012). Specifically, "[a] statutory provision which is clear and unambiguous and plainly expresses the legislative intent will not be interpreted by the courts but will be given full force and effect." *See id.* (citations omitted). "In other words, where the language of a statutory provision is plain, its terms should be applied as written and not construed." *Id.* (citations and internal quotations omitted); *State v. General Daniel Morgan Post No. 548, V.F.W.*, 144 W. Va. 137, 107 S.E.2d 353 (1959) ("When a statute is clear and unambiguous and the legislative intent is plain, the statute should not be interpreted by the courts, and in such case it is the duty of the courts not to construe but to apply the statute.").

The Court must accord the same treatment to legislative rules, which have the force and effect of law and, therefore, must be enforced as written. *See, e.g., Swiger v. UGI/AmeriGas, Inc.*, 216 W. Va. 756, 763, 613 S.E.2d 904, 911 (2005) ("[A] regulation that is proposed by an agency and approved by the Legislature is a 'legislative rule' as defined by the State Administrative Procedures Act, W. Va. Code, 29A-1-2(d) [1982], and such a legislative rule has the force and effect of law.") (quoting *Smith v. West Virginia Human Rights Comm'n*, 216 W. Va. 2, 602 S.E.2d 445 (2004)).

Relevant to the Certified Question are W. Va. Code § 3-12-10 and W. Va. CSR 146-5-6.1. In particular, to receive public campaign financing under the Program, a candidate must ultimately be certified by the SEC pursuant to W. Va. Code § 3-12-10. To be certified, W. Va. Code § 3-12-10 clearly and unambiguously requires that,

a participating candidate shall apply to the State Election Commission for public campaign funding from the fund and file a sworn statement that he or she has complied with all requirements of this article throughout the applicable campaign.

See W. Va. Code § 3-12-10. W. Va. CSR 146-5-6.1, in turn, clearly and unambiguously requires the candidate to file the sworn statement -- known as an Application for Certification -- "no later than two business days after the close of the qualifying period[.]" *See* W. Va. CSR 146-5-6.1 ("After collecting sufficient numbers and amounts of qualifying contributions, and no later than two business days after the close of the qualifying period, a candidate who desires to apply for public financing funds shall file an Application For Certification with the Secretary.").

The "qualifying period" with respect to this election ended on Saturday, January 30, 2016. *See* W. Va. Code § 3-12-3(14) ("For candidates seeking to be placed on the nonpartisan judicial election ballot, the qualifying period begins on September 1 preceding the election year and ends on the last Saturday in January of the election year."). As a result, to be certified, Wooton was required to file his Application for Certification by February 2, 2016, two business days after the close of the qualifying period. It is undisputed -- and clear from the Application itself -- that Wooton filed his Application for Certification on February 3, 2016, *one day after the statutorily-mandated deadline.*

Applying W. Va. Code § 3-12-10 and W. Va. CSR 146-5-6.1 as written, the SEC's certification of Wooton was not valid because he failed to meet the clear and unambiguous requirements set forth in those provisions.

Enforcement of the deadline set forth in W. Va. CSR 146-5-6.1 is not only consistent with -- and mandated by -- the plain and unambiguous language of the rule itself, but also West Virginia Supreme Court precedent which requires that the Court strictly enforce campaign-related deadlines. *See, e.g., Brady v. Hechler*, 176 W. Va. 570, 571-72, 346 S.E.2d 546, 547-48

(1986) (granting mandamus relief directing the Secretary of State to strike a candidate from the ballot whose certificate of candidacy for nomination was one day late and explaining that, “[i]t is generally and almost universally held that statutory provisions in election statutes, requiring that a certificate or application of nomination be filed with a specified officer within a stipulated period of time, are mandatory.”); Styl. Pt. 3, *State ex rel. Baker v. Bailey*, 152 W. Va. 400, 163 S.E.2d 873 (1968) (“[w]here a statute provides for a thing to be done in a particular manner or by a prescribed person or tribunal it is implied that it shall not be done otherwise or by a different person or tribunal.”); *State ex rel. Vernet v. Wells*, 87 W.Va. 275 (1920) (striking candidates from local non-partisan ballots who had not filed certificates of nominations in time). Strict adherence to deadlines related to political campaigning activity is paramount because, “[o]therwise, the actions of the Secretary of State in that regard would be subject to constant allegations of arbitrariness or favoritism.” *Brady*, 176 W. Va. at 574, 346 S.E.2d at 550.

Thus, for this reason as well, the SEC’s certification of Wooton -- a candidate who admittedly and patently did not meet the deadline set forth in W. Va. CSR 146-5-6.1 was invalid.

IV. CONCLUSION

For the foregoing reasons, Walker respectfully requests that the Court answer the Certified Question in the negative.

Dated: March 3, 2016

Respectfully submitted,



Thomas C. Ryan (WVSB #9883)
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K&L Gates Center
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Pittsburgh, PA 15222
Tel: (412) 355-6500
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Attorney for Petitioner

Certificate of Service

I, Thomas C. Ryan, certify that I caused to be served by electronic mail and first class mail a copy of the *Brief of Petitioner Elizabeth D. Walker Relating to Certified Question* upon counsel for the following Respondents, on March 3, 2016:

Robert M. Bastress, Jr.
Post Office Box 1295
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Counsel for Respondent William R. Wooton, Esq.

Jonathan T. Osborne, Esq.
Assistant Attorney General
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Charleston, WV 25305

Counsel for Respondents The Honorable Natalie E. Tennant, Vincent P. Cardl, Esq. and Gary A. Collias, Esq.



Thomas C. Ryan
W.V. Bar #9883

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

ELIZABETH D. WALKER,

Petitioner,

v.

Civil Action No. 16-AA-13 (Judge King)

FILED
2016 MAR -3 PM 2:03
CATHY S. CAISS
KANAWHA COUNTY CIRCUIT COURT

NATALIE E. TENANT, GARY A. COLLIAS,
and VINCENT P. CARDI, Members of the
West Virginia State Election Commission;
GLEN B. GAINER, III, West Virginia State
Auditor; JOHN D. PERDUE, West Virginia
State Treasurer; and WILLIAM R. WOOTON,

Respondents.

**MEMORANDUM OF RESPONDENT WOOTON IN SUPPORT
OF THE DECISION OF THE STATE ELECTION COMMISSION**

- I. UNDER THE APPLICABLE STANDARD OF REVIEW, THE PETITION MUST BE DISMISSED.

This case is before the Court on an administrative appeal under West Virginia Code § 29A-5-4 and Rule 2 of the West Virginia Rules of Procedure for Administrative Appeals.

In such an appeal, the Circuit Court may reverse, vacate, or modify the agency's decision only if:

[T]he substantial rights of the petitioner or petitioners have been prejudiced because the administrative findings, inferences, conclusions, decisions or order are: (1) In violation of constitutional or statutory provisions; or (2) In excess of the statutory authority or jurisdiction of the agency; or (3) Made upon unlawful procedures; or (4) Affected by other error of law; or (5) Clearly wrong in view of the reliable, probative and substantial evidence on the whole record; or (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Syl. Pt. 2, *Shepherdstown Volunteer Fire Dept. v. State ex rel. State of West Virginia Human Rights Commission*, 172 W. Va. 627, 309 S.E.2d 342 (1983).

In this case, the review need not proceed beyond the prerequisite that "substantial rights of the petitioner . . . have been prejudiced." The decision of the State Election Commission ("SEC" or "Commission") to certify respondent Wooton for public funding of his campaign for a seat on the West Virginia Supreme Court of Appeals does not impair any legally cognizable "right" of the petitioner. Ms. Walker remains as free to pursue her own candidacy for the Court as if certification

had been denied. The certification creates no obstacle and imposes no impediment on petitioner to educate the public about her campaign. To be sure, the certification in no way infringes on Ms. Walker's free speech rights. The First Amendment states that "Congress shall make no law . . . abridging the freedom of speech, or of the press[.]" The Amendment has been construed to prohibit, through the Fourteenth Amendment, all levels and manner of government from "abridging" the freedom of speech. "Abridge" means to "diminish, curtail, . . . deprive, cut off." RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE 6 (unabridged 2nd ed. 1987). The Commission's actions have in no way diminished or curtailed petitioner's opportunity to promote her candidacy. When government sponsors speech or engages in its own speech, it does not "abridge" the speech of anyone. *E.g.*, *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460 (2009); *National Endowment for the Arts v. Finley*, 524 U.S. 569, 598 (1998) (Scalia, J., concurring); *Men and Women Against Discrimination v. The Family Services Protection Board*, 229 W. Va. 55, 725 S.E.2d 756 (2011).

That the certification of Mr. Wooton for funding might lessen Ms. Walker's prospects for winning the election is simply not a legally cognizable injury. There is a right to run for office, *e.g.*, *State ex rel. Billings v. City of Point Pleasant*, 194 W. Va. 301, 460 S.E.2d 436 (1995), but there is no right to run without opposition. That denying Mr. Wooton public funding would in fact lessen petitioner's prospects is also completely speculative. Denial would force him to raise private funds to support his candidacy, and those contributions could certainly match (or exceed) the level of the public grant. And even if that did not occur, it could still be possible for the candidate to get his message out at a volume that would enable him to make up for whatever shortfalls in finances he experiences. Meanwhile, the salutary purposes that the Legislature had in providing for public financing of judicial election campaigns would be thwarted. *See Part II, infra.*

II. THE WEST VIRGINIA JUDICIAL CAMPAIGN FINANCE ACT, WEST VIRGINIA CODE §§ 3-12-1, *et seq.*, IS A REFORM LAW THAT CALLS FOR A LIBERAL CONSTRUCTION.

After finding that fund raising and spending in State Supreme Court elections has been steadily escalating and causing systemic problems, the West Virginia Legislature enacted the Judicial

Campaign Finance Act, W. Va. Code §§ 3-12-1, *et seq.*, to “ensure fairness of democratic elections in this state, protect the Constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections, protect the impartiality and integrity of the judiciary, and strengthen public confidence in the judiciary[.]” W. Va. Code § 3-12-2(10). These are critically important and lofty goals. Such reform efforts call for a liberal construction of the Act to accomplish the intended purposes. *E.g.*, *Repass v. Workers' Compensation Division*, 212 W. Va. 86, 92, 569 S.E.2d 162, 168 (2002); *Plummer v. Workers' Compensation Division*, 209 W. Va. 710, 551 S.E.2d 46 (2001); Transcript (“Tr.”) ____.

III. THE STATE ELECTION COMMISSION HAD DISCRETION TO ACCEPT RESPONDENT WOOTON'S APPLICATION AND TO CERTIFY HIM FOR PUBLIC FINANCING, AND IT APPROPRIATELY EXERCISED THAT DISCRETION.

While W. Va. C.S.R. § 146-5-6.1 does state that “a candidate who desires to apply for public funding shall file an Application For Certification with the Secretary” after collecting qualifying signatures and contributions and “no later than two business days after the close of the qualifying period,” nowhere in the Code or the regulations is there any provision that states that the failure to meet that deadline requires disqualification from public funding. What the Code does say is that “[a] candidate’s certification and receipt of public campaign financing *may* be revoked by the State Election Commission, if the candidate violates this article,” W. Va. Code § 3-12-10(h) (emphasis added), clearly communicating that the Commission has discretion with regards to enforcement of the Act’s provisions.

The Commission had compelling reasons for accepting Mr. Wooton’s application and certifying him for public funding. They included:

- The statute does not impose a deadline for filing the application. Section 3-12-10 merely states that “to be certified, a participating candidate shall apply to the [SEC].” The two business days requirement was added by the Commission in the rules as an administrative guide and imposes no obligation on the Commission to reject applications that are filed after the two days.

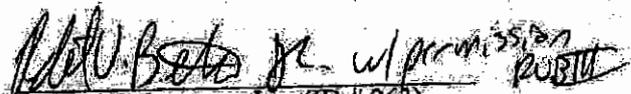
- The application is a *pro forma* step in the process; it comes after the candidate has filed his candidacy papers, his periodical reporting forms, and his supporting signatures and qualifying contributions. The form merely asks for the public funding and states that the candidate has complied with the requirements of the Act.
- The late filing caused no harm, and no other consequences resulted from it. Nor were there any public interests implicated. Unlike with candidacy filing deadlines, where notice to the public of a candidacy is important, no such concerns applied to filing the application.
- Denying public funding for a tardy filing of an application would impose a penalty far out of proportion to the lapse and would, at the same time, defeat the important reform goals of the statute. Nowhere does the Act authorize such a Draconian measure, and the Commission would exercise poor judgment to read one into the Act.
- The Commission decision to accept Wooton's application allowed the SEC to provide equal treatment to the candidates. By the time that the Commission made the decision on Wooton, it had already extended the deadline for Justice Benjamin's campaign committee to file his exploratory reports and accepted 365 objections from the petitioner that were filed a day late. Tr. of 2/3/16 at 287, 303; Tr. of 2/4/16 at 12-20; Tr. of 2/5/16 at 33-43. Having treated the deadlines in those cases as subject to waiver, the Commission could not equitably treat Mr. Wooton's application differently, at least not without a very good reason. Tr. of 2/5/16
- Respondent Wooton was, in any event, in substantial compliance. The deadline, extremely short to begin with, was February 2nd, and Wooton filed his application the first thing the next morning, just hours past the deadline. Tr. of 2/5/16 at 57. The West Virginia Supreme Court has permitted "substantial compliance" with deadlines and other requirements to be sufficient compliance where the equities justify it. *E.g.*,

State ex rel. Cooper v. Caperton, 196 W. Va. 208, 470 S.E.2d 162 (1996); *State ex rel. Smith v. Kelly*, 149 W. Va. 381, 141 S.E.2d 142 (1965).

CONCLUSION

The State Election Commission had the discretion to accept the morning after application of respondent Wooton and to certify his candidacy for public funding. The Commission's exercise of that discretion in doing so was not only reasonable but was compelled by the equities.

William R. Wooton,
By counsel


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Counsel for Respondent Wooton

CERTIFICATE OF SERVICE

FILED

I, Robert V. Berthold, Jr. have on this the 3rd day of March, 2016, served the foregoing *Memorandum of Respondent Wooton in Support of the Decision of the State Election Commission*, by placing a true copy, postage prepaid, in the United States mail and electronic mail to her counsel, as follows:

2016 MAR -3 PM 3:03
CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

Thomas C. Ryan
K & L Gates, LLP
K & L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
thomas.ryan@klgates.com

and on Respondents by United States mail to:

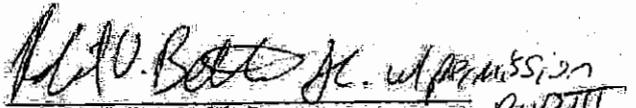
Richard L. Gottlieb, Esquire
Spencer D. Elliott, Esquire
Lewis Glasser Casey & Rollins, PLLC
300 Summers Street, Suite 700
Post Office Box 1746
Charleston, WV 25325
Counsel for SEC Members, Natalie E. Tennant, Gary A. Collias, and Vincent P. Card

Glen B. Gainer, III
West Virginia State Auditor
State Capitol
Charleston, WV 25305

John D. Perdue
West Virginia State Treasurer
State Capitol
Charleston, WV 25305

and to the West Virginia Attorney General by Unites States mail:

Patrick Morrissey, Esquire
West Virginia Attorney General
State Capitol Complex
1900 Kanawha Boulevard, East
Building 1, Room E-26
Charleston, WV 25305


Robert V. Berthold, Jr. *W. Attorney*
ROBERT

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED

ELIZABETH D. WALKER,

2016 MAR -7 PM 1:08

Petitioner,

CATHY S. PATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

Civil Action No. 16-AA-13

v.

NATALIE E. TENANT, GARY A. COLLIAS,
and VINCENT P. CARDI, Members of the
West Virginia State Election Commission;
GLEN B. GAINER, III, West Virginia State
Auditor; JOHN D. PERDUE, West Virginia
State Treasurer; and WILLIAM R. WOOTON,

Respondents.

**ORDER CERTIFYING QUESTION TO THE
WEST VIRGINIA SUPREME COURT OF APPEALS**

This Court CERTIFIES the following question to the West Virginia Supreme Court of Appeals:

Was the West Virginia State Election Commission's certification of Respondent Wooton for public financing of his candidacy for the West Virginia Supreme Court of Appeals under West Virginia Code §§ 3-12-1, *et seq.*, valid?

The Court answers the question as follows:

No. The West Virginia State Election Commission's certification of Respondent Wooton for public financing of his candidacy for the West Virginia Supreme Court of Appeals under West Virginia Code §§ 3-12-1, *et seq.*, was not valid.

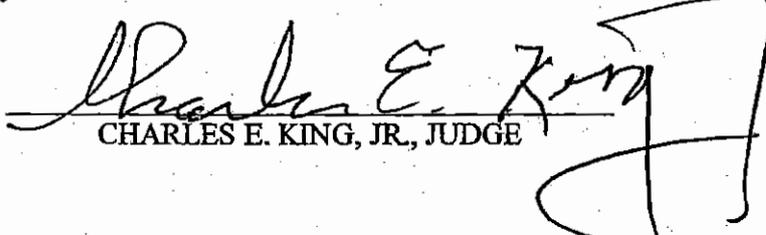
To the extent that the State Election Commission's order certifying Respondent Wooton for public campaign finance money has not been implemented, the State Election Commission's rulings in this matter are stayed pending resolution of the certified question. The parties are directed to prepare a joint appendix of the record sufficient to permit review of the certified question.

25

The Clerk is directed to forward certified copies of this Order to all parties or counsel of record.

The Court notes the objection and exception of the party or parties aggrieved by this Order.

Entered this 7th day of March, 2016.


CHARLES E. KING, JR., JUDGE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF THE CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 8
DAY OF March 2016.
CATHY S. GATSON, CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

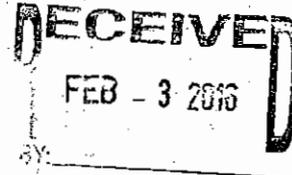
Date: 3-8-16
Certified copies sent to:
 court(s) of record
 parties
 other J. Morrison
(please indicate)
By: certified (if case available) R. Berthold Jr.
 S. Perdue
 hand delivery T. Ryan
 nondepartmental G. Garner III
 Other (describe) WSPA-R. Perry CLK
Deputy Circuit Clerk

4/16 Faxed to Atty's of Record per: judge (16)

Elizabeth D. Walker
24 Oak Ridge Drive
Morgantown, West Virginia 26508

February 3, 2016

The Honorable Natalie E. Tennant
State Capitol, Building 1, Suite 157-K
1900 Kanawha Blvd. East
Charleston, West Virginia 25305



Dear Secretary Tennant:

By this letter and the enclosed documents, I am providing additional documentation of challenges to the validity of certain qualifying contributions submitted by Brent D. Benjamin, candidate for Justice of the Supreme Court of West Virginia, pursuant to West Virginia Code §3-2-10(g). In addition, as explained below, the Candidate has not met the requirements to be a Certified Candidate pursuant to West Virginia Code §3-2-10 and 146 CSR 5-6.1.

The enclosed forms identify additional contributions that are subject to challenge. This cover letter summarizes the bases for the challenges.

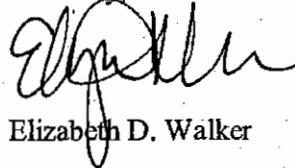
1. Electronic Contributions: West Virginia Code § 3-12-9 requires that each qualifying contribution submitted by a participating candidate be acknowledged by a written receipt that includes, among other things, the signature of the person who collected the contribution and the signature of the contributor. Receipts for a number of the contributions submitted by the Candidate that were made electronically do not include one or both required signatures. Neither the statute nor the legislative rule promulgated by the State Election Commission (146 CSR 5) permits electronic signatures.
2. Registered Voters: As noted in the enclosed forms, a number of contributors are not registered voters. In addition, a number of contributors are persons who may be registered voters, but whose name and address do not match those listed as registered voters.
3. Timeliness of Reporting: West Virginia Code § 3-12-7 requires that at the beginning of each month, a participating candidate shall report all contributions received during the prior month to the Secretary of State. As noted in the enclosed forms, a number of contributions were not reported in a timely manner, and thus are not valid qualifying contributions.
4. Illegible Receipts and Omission of Required Information: As noted in the enclosed forms, a number of the receipts submitted for contributions are illegible and/or do not include the information required by West Virginia Code § 3-12-9 (street address, zip code, telephone number, occupation and/or name of employer).

5. Improper Form: 146 CSR 5-5.4 requires that all contributions must be acknowledged by a receipt on forms provided by the SEC. As noted in the enclosed forms, a number of the receipts submitted for contributions are not on the required SEC form.

Finally, as noted above, the Candidate has not complied with the provisions of 146 CSR 5-6.1, which provides that "no later than two business days after the close of the qualifying period, a candidate who desires to apply for public financing funds shall file an Application For Certification with the Secretary." No such Application for Certification was filed by the Candidate on or before Tuesday, February 2, 2016. Accordingly, the Candidate has not met the requirements to be a Certified Candidate.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth D. Walker", written in a cursive style.

Elizabeth D. Walker

STATE OF WEST VIRGINIA
STATE ELECTION COMMISSION
PUBLIC CAMPAIGN FINANCE CHALLENGE

COMMISSION MEMBERS:

GARY A. COLLIAS, Chairman
SECRETARY OF STATE, NATALIE TENNANT
VINCE CARDI

February 10, 2016

10:05 AM

OFFICE OF THE SECRETARY OF STATE
1900 Kanawha Boulevard, East
Charleston, West Virginia

PENNY L. KERNS
Certified Court Reporter
and Notary Public

GARRETT REPORTING SERVICE

"PROFESSIONAL STENOMASK FOR THE RECORD"

POST OFFICE BOX 20200, CHARLESTON WEST VIRGINIA 25362 • (304) 346-0460 FAX (304) 757-7425

A P P E A R A N C E S

ON BEHALF OF THE BRENT BENJAMIN CAMPAIGN:

ANN B. CHARNOCK, ESQUIRE
MARYL SATTLER, ESQUIRE
Charnock & Charnock
523 Peoples Building
P.O. Box 207
Charleston, West Virginia 25321

ON BEHALF OF THE BETH WALKER CAMPAIGN:

JOE REIDY
KENT GATES
P.O. Box 18092
Morgantown, West Virginia 26507

ON BEHALF OF THE SECRETARY OF STATE:

TIMOTHY G. LEACH, ESQUIRE
ASHLEY SUMMITT, ESQUIRE
Office of the Secretary of State
Building 1, Suite 157-K
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

MAUREEN LEWIS

I N D E X

	<u>Page</u>
Meeting opened by Mr. Collias.	4

<u>Exhibits</u>	<u>Marked</u>
Exhibit No. 1.	20
Exhibit No. 2.	38
Exhibit No. 3.	43

Reporter's certificate, 45

1 signed and filed, or the campaign signed and filed a
2 declaration of intent as required by Section 7? By the
3 way, I'll preface the rest of my remarks by saying we
4 got through the first four of these on Friday and hit a
5 stumbling block on number five.

6 So number one, has the candidate signed and
7 filed a declaration of intent? Yes. September 11,
8 2015. Number two, has the candidate obtained the
9 required the required number, which is five hundred
10 minimum, and amount, which is thirty-five thousand
11 dollars minimum, of qualifying contributions as required
12 by Section 9 of this article? Yes, the answer was
13 Friday and remains so today.

14 Number three, has the candidate complied with
15 the contribution restrictions of this article? As of
16 this moment, yes, that is correct, they have. Number
17 four, is the candidate eligible, as provided by Section
18 9, Article 5 of this chapter, which is Chapter 3, to
19 appear on the primary and general ballot? I explained
20 that Friday. That is a candidate must have filed, paid
21 the filing fee and filed a certificate of announcement
22 as a candidate during the filing period from January
23 13th this year till January 30th? And the answer is yes
24 for this campaign.

1 And then we got to number five. Has the
2 candidate met all other requirements of this article?
3 Well, as of Friday I was prepared to advise the SEC yes,
4 but then an issue came up and we were made aware that
5 there were some reports that had not been filed,
6 particularly reports of exploratory contributions. Not
7 qualifying contributions, but exploratory contributions.

8 The campaign at that point in time asked for
9 an exemption under the electronic filing from the State
10 Election Commission. The Commission discussed the
11 matter and then voted to grant the exemption and then
12 postponed consideration of question number five until
13 the meeting scheduled for today, which we're now
14 involved in. So the answer to number five is maybe.
15 And I don't mean to be flip about it.

16 To me as an attorney, I see an issue that
17 might be raised and the SEC ought to make a finding or a
18 determination about, and that is the reports have now
19 been filed and have been filed by today's meeting. The
20 question is, are the reports now timely under the
21 exemption granted to the statute.

22 The reports were due -- and the Commission
23 members will recall long, lengthy discussions and
24 arguments last week. The reports are due at the

1 beginning or the first of the month after the receipt is
2 received, but there's that 3-12-13 paragraph C, as in
3 cat, what I would call like safety net of paragraphs one
4 and two, one applying to exploratory contributions and
5 two applying to qualifying contributions, which allows
6 for the filing by the second business day after the
7 close of the exploratory -- or the qualifying period.
8 So for reference to us, that's February 2nd, of any
9 receipts not previously submitted.

10 And so it was, talking about exploratory
11 issues, the SEC determined that that catchall, safety
12 net, whatever you want to call it, applied and that the
13 receipts were timely. The --

14 MR. CARDI: Excuse me.

15 MR. LEACH: Yes.

16 MR. CARDI: This is Vince Cardi. Tim, do
17 you mean for qualifying contributions?

18 MR. LEACH: Yes. Paragraph C, paragraph --
19 sub-paragraph two of paragraph C talks about
20 exploratory. And we were dealing with that section,
21 sub-section on last week. But --

22 MR. CARDI: -- qualifying. C-1 is
23 exploratory.

24 MR. LEACH: C-1 is exploratory. C-2 is

1 what you dealt with last week because it was qualifying
2 we were talking about at that time.

3 MR. CARDI: Okay. That's what I wanted to
4 make clear.

5 MR. LEACH: But the language appears to be
6 identical to me, between one and two. One just
7 references exploratory and one references qualifying.
8 So I think under the arguments you adopted last week,
9 the same arguments would apply and prevail for this.

10 So the reports were due at the latest February
11 2. The campaign has presented to the State Election
12 Commission a request for an exemption from filing --
13 they could not file on February 2. They asked for an
14 exemption. An exemption was granted on Friday. The
15 question still in the air is whether or not that
16 exemption by being granted, also extended the time
17 period to file from February 2 until some reasonable
18 amount of time required by the SEC after the exemption
19 from electronic filing was granted.

20 And that's the issue that has to be decided in
21 order for the SEC to determine that number five, the
22 candidate has met all other requirements of this
23 article. That is the only issue or possible requirement
24 of the article which has not been met, and it depends on

1 the ruling of the SEC.

2 MR. COLLIAS: Can I ask a question, Tim?
3 Didn't we on Friday discuss that when Ann Charnock said
4 that she couldn't represent to us -- at that time we
5 were planning on having a meeting on Monday morning at
6 10:00, and Ann indicated that she couldn't promise that
7 they could have paper copies of these documents that
8 should have been filed electronically to us before 10:00
9 AM Monday. And in that context, didn't we all discuss
10 and agree, although there may not have been a motion,
11 that very well, that she would have before this meeting
12 today? I mean didn't we have that conversation?

13 MR. LEACH: That's my recollection of what
14 happened, yes, sir.

15 MR. COLLIAS: Okay. I'm sorry. Would you
16 like to speak?

17 MR. GATES: On the hardship exemption
18 itself, I was wondering if the Commission was willing to
19 provide a factual basis for the hardship exemption that
20 was granted to the Benjamin campaign to file their
21 reports as much as four months later from the time that
22 they were due filed?

23 MR. COLLIAS: Wasn't that explained at the
24 meeting, that the computer software didn't match up and

1 they couldn't?

2 MR. LEACH: I thought we explained that,
3 but I'll offer the explanation again. There's a -- our
4 online electronic filing program is designed for what I
5 call regular candidates, and you have certain campaign
6 finance reports, which are required to be filed
7 electronically by certain deadlines. And then the
8 report at the top shows there's three due before the
9 primary and three -- associated with the primary and
10 three with the general, and so you have a box to check.

11 Well, the problem is, when we set up the
12 exploratory period for public finance, that's not on any
13 of those boxes or anything. So we had to set up a
14 separate sign-in process to get to forms that we created
15 for exploratory and qualifying receipts and reports.
16 And the problem is the rollover of the money collected
17 before you became a declared candidate converts into an
18 exploratory, but once you become a declared candidate,
19 you're no longer able under the current setup of the
20 system to get into the exploratory in interim.

21 So that's the best I can explain it. And I
22 can confirm, I've checked with staff, that as of
23 February 2nd and as of February 5th, Friday, they were
24 unable to access that required entry portal or entry

1 form.

2 MR. COLLIAS: When was that due? Because he
3 indicated that was due three or four months ago. When
4 was --

5 MR. LEACH: Well, you have the -- some of
6 these receipts that we received Monday, some of these
7 exploratory contributions, I believe without looking at
8 them, I remember some going back to maybe April. The
9 law says that you have to file it at the beginning of
10 the month after receipt. So some reports may have been
11 due as early as May, so we're back to the 3-12-13(c)1
12 exception to the monthly report requirements.

13 MS. CHARNOCK: May I speak on behalf -- this
14 is Ann Charnock on behalf of the Benjamin campaign. But
15 in April the candidate was not seeking public financing.

16 MR. LEACH: Yes. We don't know when the
17 candidate started seeking public financing, because the
18 law does not require the candidate to tell anybody when
19 he's seeking public financing. All it requires him to
20 do is notice when he's going to seek -- file a
21 declaration. Once he files the required declaration,
22 which this candidate did on September 11, then it
23 becomes electronically impossible to back up those pre-
24 September 11 contributions and put them into the system

1 electronically.

2 MR. GATES: So could I repeat the second
3 part of my question, which was the exemption was
4 granted, and the report is now four months late,
5 correct?

6 MR. LEACH: Under one interpretation of the
7 statute, the one adopted by the SEC last week, the
8 report is four days late, because February 2nd becomes
9 the deadline, the catchall, safety net for the reports
10 that were required but not previously submitted.

11 MR. GATES: Not the first required date for
12 the Benjamin campaign to have filed.

13 MR. COLLIAS: Well, I think --

14 MR. LEACH: The first one was due October
15 1st.

16 MR. COLLIAS: I think what he's saying is the
17 reports could have been filed much earlier, as you
18 indicated, but because of the provisions of 3-12-13 sub-
19 section C-2, which indicates -- it says --

20 MR. LEACH: Excuse me. C-1 for
21 exploratory.

22 MR. COLLIAS: Yeah. Okay. C-1 and C-2, it
23 talks about any receipts not previously submitted. I
24 think what Tim is saying is, is that indicates or

1 suggests that when you file by the final filing date,
2 which is February 2nd, you are allowed to catch up on
3 anything that you hadn't previously filed. And if
4 that's the right interpretation, then those reports that
5 could have been filed months earlier are still not late
6 as long as they're filed by February 2nd. It depends on
7 the interpretation of the statute. I mean your point's
8 well taken and I consider it a legitimate point and a
9 legitimate argument, but so is the other.

10 MR. GATES: So then my next question is
11 when did -- this is Kent Gates again with the Walker
12 campaign. When did the Commission first learn of the
13 Benjamin campaign's inability to file electronically?

14 MR. LEACH: I was informed Wednesday last
15 week.

16 MR. GATES: And then --

17 MS. CHARNOCK: May I respond to that?

18 MR. LEACH: If you have --

19 MR. COLLIAS: Sure.

20 MS. CHARNOCK: We have emails from employees
21 at the Secretary of State's office dated October 1st,
22 acknowledging.

23 MR. LEACH: All I can speak is what I have
24 knowledge of, which I presented to the SEC.

1 MR. COLLIAS: If you have a document you'd
2 like to make part of the record, we can have it attached
3 as an exhibit to the transcript today. We can do that
4 later. It doesn't have to be done at this moment.

5 MR. GATES: This is Kent Gates again.

6 MS. CHARNOCK: The answer to the question, the
7 response is the Benjamin campaign was in contact with
8 the Secretary of State's office on October 2nd is an
9 email I have acknowledging that it wasn't functional,
10 trying to submit electronically.

11 MR. LEACH: Because by October 2nd you were
12 already a qualifying candidate and no longer -- it was
13 no longer accessible to you.

14 MS. CHARNOCK: I'm just telling you we
15 couldn't -- in response to the fact that it's four
16 months late, no, it's -- we didn't have any way to file
17 it. It didn't start out as an exploratory candidate. I
18 mean the statute is clearly not written for what the
19 facts are, and that's a candidate who started out with
20 no intention of seeking public financing.

21 MR. LEACH: Had the right, had to set up a
22 pre-candidacy committee --

23 MS. CHARNOCK: And did that.

24 MR. LEACH: Had the right to collect

1 contributions of an unlimited amount without receipts.

2 MS. CHARNOCK: And did that.

3 MR. LEACH: And did that. And then on
4 September the 11th those monies became exploratory, and
5 the statute requires no filing by the candidate but
6 merely says it applies to a participating candidate.
7 The definition of a participating candidate is someone
8 who intends. So we don't have any formal statement of
9 intent until September 11.

10 MS. CHARNOCK: If it's inside the candidate's
11 own brain that I intend to do that, he's the only -- or
12 she's the only one that knows it, and it's an extremely,
13 painfully obscure statute, is how I would categorize it.

14 MR. COLLIAS: Go ahead. You had something
15 further to say.

16 MR. GATES: Could we, I'll just state that
17 again on the record, could we get copies of whatever's
18 entered today as well as the emails?

19 MR. LEACH: Certainly.

20 MR. GATES: And then --

21 MR. LEACH: Are you going to introduce
22 that?

23 MS. CHARNOCK: I mean if you want me to. I
24 would assume that I just --

1 MR. LEACH: All right. We can recess and I
2 can go look for the emails.

3 MS. CHARNOCK: Here's --

4 MR. LEACH: I mean if there's confidential
5 information --

6 MS. CHARNOCK: That's what I'm trying to --

7 MR. LEACH: Yeah, I understand.

8 MR. COLLIAS: Do you want to do that? Do you
9 think -- I mean if you want that in and you want to just
10 offer the emails and we'll let Tim go see if he can find
11 them and print them out. Do you have the dates you can
12 provide to him?

13 MR. LEACH: If you don't want to put the
14 details of the email in, if you'll just give me the name
15 of the person and the date, I can go and confirm that we
16 received a discussion of this issue and were made aware
17 of the issue.

18 MR. GATES: This is Kent Gates with the
19 Walker campaign. She's obviously brought this into the
20 discussion. I think it is evidence here, and we should
21 have access to it to see it for whatever interest
22 further.

23 MR. COLLIAS: We talked about an email that
24 was sent by you to Tim Leach.

1 MS. CHARNOCK: These are emails between Mr.
2 Shull, who you all met last week, and there's an
3 MKinder? Kinder. There's a Lisa Blake. Just some
4 emails going back and forth as to the reporting
5 requirement.

6 MR. COLLIAS: Are those people with the
7 Secretary of State's office?

8 MR. LEACH: Yes, in our elections division.

9 MR. COLLIAS: Well, I mean it seems to me
10 that when you email something to the Secretary of
11 State's office that you're not -- I don't know why --

12 MR. GATES: This is Kent Gates from the
13 Walker campaign. We can FOIA it but it's going to take
14 longer. She's the one that brought it up as evidence in
15 this hearing. I think we should have the right to see
16 it as part of the discussion.

17 (WHEREUPON, a discussion was
18 held off the record.)

19 MR. COLLIAS: Are you suggesting that some of
20 the information might be confidential in spite of the
21 fact she emailed the information to the Secretary of
22 State's office?

23 MR. LEACH: Government correspondence is
24 subject to FOIAs, of course, but there are exceptions to

1 certain information. I don't know what's in there. So
2 if we got a FOIA request, do it the hard way.

3 MR. GATES: Which is thirty days to get it
4 back.

5 MR. COLLIAS: Well --

6 MR. LEACH: Well, no. It's five days to
7 respond, but I don't want to go down that road. I
8 understand.

9 MR. GATES: They're the ones that brought
10 it up, not me.

11 MS. CHARNOCK: Well, in response to your
12 question or to your contention that these aren't timely
13 filed, and the question of when did we notify the
14 Secretary of State's office. Mr. Leach said he learned
15 last week. Our contention is the Secretary of State's
16 office was made aware in early October that this didn't
17 work. We were provided information on how to proceed.

18 MR. GATES: Which is what we're asking for
19 a copy of.

20 MS. CHARNOCK: I don't have any copies of
21 those. This is a series of emails between Darrell
22 Shull, Lisa Blake. There's some other names on that.
23 There is -- Missi Kinder. I mean I would offer these
24 only because it shows that on October 1st there was an

1 email exchange.

2 MR. COLLIAS: Okay. So you're willing to
3 offer that as an exhibit at the hearing today?

4 MS. CHARNOCK: Yes, if that is necessary.

5 MR. COLLIAS: Well, that's up to you, but if
6 you're going to do that, then I mean they're obviously
7 entitled to take a look at it.

8 MS. CHARNOCK: Absolutely, they are. I would
9 have preferred to -- and, well, that's fine. The
10 alternative is to ask Ms. Kinder and Ms. Blake to come
11 in and let me ask them a couple of questions.

12 MR. COLLIAS: Well, I don't think there's any
13 problem, from my point of view, any problem with
14 offering the copies of the emails you have in your hand,
15 but if you're not going to do that because you think
16 they contain some sort of confidential information, then
17 we have to proceed some other way.

18 MR. GATES; I still --

19 MR. COLLIAS: Hold on. I understand. We'll
20 have copies made. Make us three or four copies.

21 SEC. TENNANT: Gary, could I ask a question
22 real quick?

23 MR. COLLIAS: Yes.

24 SEC. TENNANT: This is Natalie Tennant. Can I

1 ask for a recess real quick?

2 MR. COLLIAS: Yes. How long? Five minutes,
3 ten minutes?

4 SEC. TENNANT: Yes. Could I have a recess of
5 five minutes, please? I move that we recess for five
6 minutes.

7 MR. COLLIAS: Okay. We'll recess for five
8 minutes. That's good. It will work out. Okay. From
9 right now. Okay.

10 (WHEREUPON, a brief recess
11 was taken.)

12 MR. COLLIAS: Let's start up again here.
13 I've received a copy of these emails, which will be
14 attached to the transcript of today's hearing as Exhibit
15 1.

16 (WHEREUPON, Exhibit No. 1 was marked
17 for identification and is attached
18 hereto.)

19 MR. COLLIAS: Okay. What further comments or
20 discussion do we have?

21 MS. CHARNOCK: The point of the emails was to
22 establish a timeframe of when the Benjamin campaign was
23 making inquiries about what to when and when to file,
24 and that was in response to the Walker campaign's

1 objection -- I don't know if objection -- contention
2 that anything that was filed within the last couple of
3 days is late. Is that summary accurate? I offer those
4 just to show when the conversations were taking place
5 several months ago.

6 MR. GATES: My next question is, I mean
7 that -- this is Kent Gates for the Walker campaign.
8 That brings out the point that the Benjamin campaign
9 should have known that the exploratory contributions
10 should have been filed in October, October 2nd when they
11 were notified by the Secretary of State's office and
12 there was a problem.

13 MS. CHARNOCK: And I'll refer you to an email
14 that said all -- and the question was in reference --
15 look at, Lisa did inform you correctly during the
16 qualifying period -- this is on page two towards the
17 bottom of the page. -- during the qualifying period,
18 which is September 2015 through January 2016, only the
19 monthly qualifying contributions and expenditures are
20 reported.

21 Next paragraph, all transactions that occurred
22 before that time period would be filed on the general
23 first report, which is due March 26th to April 1, 2016,
24 which is two months from now. I mean that's the whole

1 contention that when you don't start out seeking public
2 financing and you change midstream that the statute
3 doesn't contemplate. But our contention is we've filed
4 every report that is required to be file and we have
5 been asked to file. Those are in.

6 MR. GATES: And so -- this Kent Gates with
7 the Walker campaign. I want to go back just one second
8 and address that. I want to ask again when the
9 Elections Commission was first notified that there was a
10 hardship, that the Benjamin campaign was having a
11 problem filing these reports electronically.

12 MR. COLLIAS: Well, the Commission itself,
13 its members, couldn't possibly have been informed any
14 earlier than last Wednesday; is that right?

15 MR. LEACH: When the Benjamin campaign
16 requested the exemption.

17 MR. GATES: And specifically, Mr. Leach,
18 that's when you first became aware of it, correct?

19 MR. LEACH: As personally, yes, speaking
20 for myself.

21 MR. GATES: And I would just note that the
22 Exhibit 1 that was just entered into the record that has
23 email exchanges with the Benjamin campaign and the
24 Secretary of State's office includes Mr. Leach on the

1 emails and exchanges, so you would have known as of
2 October the 1st that there was an issue on the filing.

3 MR. LEACH: Well, I'm listed as a chain
4 recipient. I can't -- I have no recollection, but other
5 than that, I'm on this list.

6 MR. GATES: So you were aware October 1st
7 that there was an issue with the filing.

8 MR. COLLIAS: Well, I think he said he
9 wasn't, he doesn't recall being aware, but he obviously
10 had notice. I think this documents that he had notice
11 of it, but whether or not he actually subjectively was
12 aware of it is another matter. Am I answering for you?

13 MR. LEACH: That's how I would have tried
14 to answer it.

15 MR. GATES: And then my -- this is Kent
16 Gates with the Walker campaign again. If the Benjamin
17 campaign and the solicitor for the Elections Commission
18 both knew on October the 2nd that there was a problem
19 with the filing of the reports, then I don't think that
20 the hardship exemption that was voted on on Friday
21 actually applies in this case.

22 MR. COLLIAS: Well, we've already granted the
23 exemption.

24 MR. GATES: But I don't think it applies.

1 MR. COLLIAS: Oh, okay. I understand. You
2 disagree with the Commission's decision of last week,
3 but the question for us today is the timeliness issue,
4 is whether or not implicit in our ruling of last week
5 was an extension until today to file the necessary
6 documents in a non-electronic format. And my
7 understanding is that they have been filed, they meet
8 all the requirements. The only issue is whether or not
9 we're going to consider them timely. I mean does
10 everyone agree that that's the issue?

11 MR. GATES: And the timeliness is based on
12 the fact that both the solicitor for the Elections
13 Commission and the Benjamin campaign knew on October the
14 2nd that they were not going to be able to file them
15 electronically on February the 2nd at the point that
16 they were due and, therefore, they weren't timely.

17 MR. COLLIAS: Okay. I think the case turns,
18 though, on the language that at one of our previous
19 meetings Vince Cardi pointed out in 3-12-13 where it
20 talks about the reporting for both qualifying
21 contributions and exploratory contributions being due,
22 but also provides for the filing of any receipts not
23 previously submitted. I mean am I understanding that
24 right?

1 MR. LEACH: It's my understanding that
2 that's what the SEC determined last week when we were
3 dealing with the discussion on the timeliness of certain
4 exploratory receipts. Today we're dealing with the
5 timeliness of -- I'm sorry, I misspoke. Last week we
6 were discussing the timeliness of qualifying
7 contributions and receipts and reporting. Paragraph two
8 of that subsection. Today you're discussing
9 exploratory, your paragraph one of that subsection,
10 which is the same language. So the SEC has considered
11 arguments, ruled one way, and I suppose you could
12 consider further arguments and rule a different way
13 today.

14 MR. GATES: This is Kent Gates from the
15 Walker campaign. I mean part of the reason why there
16 should be reconsideration is the new evidence presented
17 to the Commission showing that the Benjamin campaign
18 knew on October the 1st or 2nd time period that there
19 was going to be a problem filing in a timely manner
20 chose not to address it until the crisis moment in
21 February and the solicitor for the Election Commission
22 knew also.

23 MR. COLLIAS: Yeah. Okay. But the argument
24 against that is that the language in 3-12-13 subsection

1 C is a saving clause that says that you can still file
2 those documents not filed, not previously filed. I mean
3 that's the argument against that. But, nevertheless, is
4 there any other discussion or -- well, go ahead.

5 SEC. TENNANT: Gary, if I could just say, in
6 addition, in addition, you know, the emails as everyone
7 has read indicate the qualifying, that we were talking
8 about, the email was talking about qualifying
9 contributions. But then you covered the point for
10 exploratory contributions with 3-12-13, so you're making
11 your point. There are two different distinctions here.
12 Yes, there was an email exchange from October, but it's
13 addressing qualifying, and yes, we're talking about
14 exploratory, but it's covered under 3-12-13, and so as
15 you point out, Gary, there are interpretations and that
16 is the interpretation that we took last week, was 3-12-
17 13.

18 MR. COLLIAS: Yeah. Just speaking for -- I'm
19 going to give you an opportunity to put any other
20 statement or argument on the record, but just speaking
21 for myself, I believe last week when we agreed to give
22 the exemption to the electronic filing, that obviously
23 we were extending by doing that, we intended and meant
24 to extend the time, because otherwise it would have been

1 absurd to let them file something not electronically and
2 give an exemption when they were already out of time to
3 file it at all would have been meaningless. It would
4 have been a vain act.

5 And then afterwards we had the discussion with
6 Ann Charnock about when she'd be able to get the paper
7 copies to us. So to me the extension of time was
8 implicit. But nevertheless, it wasn't explicitly
9 granted, so as I see it, the issue today is just whether
10 or not we're going to explicitly extend the time so that
11 the filings that we received this week are deemed
12 timely. Now, what other statement or argument do you
13 want to make?

14 MR. GATES: This is Kent Gates for the
15 Walker campaign. I just want to repeat that there is
16 new evidence before the Commission that probably would
17 have changed that vote on Friday. And then, you know,
18 furthermore doesn't the hardship exemption only apply to
19 the form of filing electronic or hard copy but does not
20 provide any relief for the timing of the filing?

21 MR. COLLIAS: I think that that's right, but
22 what I'm saying --

23 MR. GATES: The timing is still February
24 2nd.

1 MR. COLLIAS: Until and unless we extend it
2 and deem the documents filed timely.

3 MR. GATES: But the hardship, the hardship
4 is for the form of filing that the Benjamin would have
5 had to make, whether it be electronic or hard copy and
6 not on the actual timing of it. It was still due
7 February 2nd. They could have filed a hard copy on
8 February 2nd.

9 MR. COLLIAS: Well --

10 MS. CHARNOCK: We couldn't have filed a hard
11 copy on February 2nd, because we didn't have an
12 exemption to. All the reportings under this act have to
13 be filed electronically. That's the issue.

14 MR. GATES: This is Kent Gates with the
15 Walker campaign. They did --

16 MS. CHARNOCK: And --

17 MR. GATES: -- have in this email exchange,
18 they did go ahead proactively when they were having
19 trouble in October and file their first qualifying
20 report be it email, hard copy because they couldn't file
21 it electronically, so they could have done the same
22 thing with the February 2nd deadline.

23 MR. COLLIAS: Okay. Natalie, yes?

24 SEC. TENNANT: Well, my only thing is there's

1 really no new evidence, because that's what we have said
2 was the difference between qualifying and exploratory,
3 and as I said again under 3-12-13, that with the
4 extension and Ann Charnock makes the point that -- and I
5 guess maybe perhaps they should have filed on the 2nd
6 but they filed on the 3rd asking, mentioning the
7 extension. And so, you know, it's the rule and we see
8 what the Chair is saying about what the SEC is able to
9 decide on.

10 MR. COLLIAS: Well, I think it might be new
11 evidence. I just don't know that it changes anything.
12 It doesn't change my view.

13 SEC. TENNANT: That's a point, too. I mean I
14 see your point in that, too, Gary.

15 SEC. TENNANT: I mean it's something new that
16 we didn't have. It just doesn't change my analysis of
17 the situation. Is there anything else that you want to
18 say?

19 SEC. TENNANT: No.

20 MR. GATES: Well, I would just make the
21 point that the application for certification is
22 inaccurate from the Benjamin campaign because the
23 reports were not filed in a timely manner and he had in
24 fact not completed all the requirements of the article.

1 MR. COLLIAS: All right. And I think that he
2 hadn't completed all the requirements of the article in
3 a timely manner. I agree with that as a statement of
4 fact, and that presents us with the question today of
5 whether or not to extend the time and deem them filed
6 timely. Basically, give an exemption to the timeliness
7 of the filing based on all the history that we've talked
8 about endlessly. Do I have a motion on whether or not
9 to deem the filings by the Benjamin campaign as having
10 been made in a timely manner?

11 MR. CARDI: I'll so move. Vince Cardi.

12 MR. COLLIAS: Do I have a second?

13 SEC. TENNANT: Well, the way you said it, in a
14 timely manner or they're extending it, the SEC is
15 extending it?

16 MR. COLLIAS: Yes. Extending it so that as
17 they were actually filed, they will be deemed to have
18 been filed in a timely manner. We will deem them
19 timely.

20 SEC. TENNANT: Okay. I understand what you're
21 saying now.

22 MR. COLLIAS: Do you second that motion?

23 MR. CARDI: Did you second it, Natalie?

24 SEC. TENNANT: Yeah. He made the motion, I'll

1 second it.

2 MR. COLLIAS: Okay. Is there any further
3 discussion?

4 MR. CARDI: This is Vince Cardi. I just
5 want to say we granted an exemption from electronic
6 filing last Friday because of some glitch in the
7 Secretary of State's software ability to accept the
8 reports electronically. We granted it on Friday. It
9 seemed only fair to us on Friday to give further
10 reasonable time to submit the filings in paper form. We
11 determined at our meeting to act on the certification
12 should be held on Wednesday, February 10th, to handle
13 any other issues that came up. So we set today,
14 February 10th as a deadline to filing the paper records.
15 They've been filed, so I think they've been filed
16 timely, and so I think we should go ahead and vote on
17 this and then we'll vote on the certification.

18 MR. COLLIAS: Is there any further
19 discussion? Go ahead. The Walker campaign wants to say
20 something else.

21 MR. GATES: I still don't have a thorough
22 explanation on the one question that I asked, and I'd
23 just like that on for the record. Doesn't the hardship
24 exemption only apply to the form of filing, whether it

1 be paper or electronic, and not to the relief of timing
2 itself like on Friday?

3 MR. COLLIAS: If you're talking about the
4 exemption of last week, yes.

5 MR. GATES: So it does not go to the
6 timing?

7 MR. COLLIAS: Right. That's what we're
8 dealing with today. Does everybody agree with that?

9 MR. CARDI: Well --

10 SEC. TENNANT: Yes.

11 MR. CARDI: -- last Friday we said since
12 we're granting the exemption, we will give them until
13 next Wednesday to file the paper form. So in a way we
14 made that decision to move the deadline of the forms
15 until Wednesday, today. So --

16 MR. COLLIAS: I agree with that.

17 MR. CARDI: I'm not taking the position
18 that granting the exemption did not address the question
19 of the time limitation. I think it implicitly did.

20 MR. COLLIAS: I agree that it did implicitly
21 do that, but nevertheless, we didn't formally make that
22 motion, which I think is what the Walker campaign is
23 pointing out and asking. But nevertheless, is there
24 anything --

1 MR. CARDI: And that's the motion we have
2 before us now.

3 MR. COLLIAS: Yeah. The motion is now
4 whether or not to now at this moment formally to deem
5 them as having been filed in a timely manner. So is
6 there any further discussion? All in favor vote aye.

7 MR. CARDI: Aye.

8 SEC. TENNANT: Aye.

9 MR. COLLIAS: Aye. The vote's unanimous.
10 Now, that brings us to the next question, whether or not
11 to certify the Benjamin campaign. Tim, is there any
12 other discussion on that or --

13 MR. LEACH: No. That's the only -- as I
14 said in the preliminary remarks, that's the only issue
15 left up in the air. All of the other requirements of
16 the five sections have been met or five findings of the
17 SEC have been met.

18 MR. COLLIAS: Well, given our rulings thus
19 far, assuming for the sake of argument them to be
20 correct, is there any reason now not to certify the
21 Benjamin campaign that you can think of?

22 MR. LEACH: Not that I'm aware of.

23 MR. COLLIAS: Okay. Now I'll ask the Walker
24 campaign. I know you disagree with some of the

1 decisions we've made up to this point, but given those
2 decisions, can you think of any other reason that the
3 Benjamin campaign shouldn't be certified?

4 MR. GATES: I actually have one request.
5 This morning the Walker -- this is Kent Gates with the
6 Walker campaign. This morning the Walker campaign sent
7 to Ashley Summitt at the Secretary of State's office a
8 letter from Thomas Ryan, our attorney, and I would like
9 that to be printed out at this time and presented as
10 part of the record of these proceedings.

11 MS. SUMMITT: It was an email?

12 MR. GATES: Yes. Uh-huh.

13 MR. COLLIAS: Yeah, that's fine. Can you get
14 that?

15 SEC. TENNANT: Can you read it? Can you read
16 it?

17 MR. COLLIAS: Yeah. Well, we don't have a
18 copy of it yet. We'll have to get a copy and we'll look
19 at it.

20 (WHEREUPON, a discussion was
21 held off the record.)

22 MR. COLLIAS: Okay, Vince, we got this
23 letter. The letter appears to be about six pages long,
24 so what we're going to do is, we're going to send you

1 and Natalie a copy of it.

2 MR. CARDI: Okay.

3 (WHEREUPON, a discussion was
4 held off the record.)

5 MR. COLLIAS: Vince, do you have that letter?

6 MR. CARDI: Yes.

7 MR. COLLIAS: Okay. Vince and Natalie, are
8 you all reading the letter?

9 SEC. TENNANT: Yes.

10 MR. CARDI: Yes.

11 MR. COLLIAS: When each of you is done,
12 please let me know.

13 MR. CARDI: I'm done.

14 SEC. TENNANT: No.

15 MR. COLLIAS: All right. Both of you done?

16 MR. CARDI: Yes.

17 SEC. TENNANT: I'm almost finished.

18 MR. COLLIAS: Okay.

19 (WHEREUPON, a discussion was
20 held off the record.)

21 SEC. TENNANT: Okay, I'm finished. I guess my
22 first question, though, is this was not presented at the
23 beginning of the meeting?

24 MR. COLLIAS: Well, it does show on the cc at

1 the end, he copied in Timothy Leach and Ashley Summitt,
2 but let me ask --

3 MR. GATES: This is Kent Gates from the
4 Walker campaign. Mr. Ryan did email the members of the
5 Commission and Ann Charnock for the Benjamin campaign
6 this morning and she said she sent it to you as well.
7 So they should have been aware of -- you all were made
8 aware of the letter prior to the actual start of this
9 meeting.

10 MR. COLLIAS: Were you all aware of it?

11 MR. GATES: Mr. Ryan notified you. I don't
12 know whether -- I mean I can't speak to whether you got
13 them or not, but he did tell me he sent them.

14 MR. COLLIAS: You all need to speak out loud.
15 Did either of you get this before the meeting?

16 MS. SUMMITT: No.

17 MR. LEACH: I don't know if I got it,
18 because I have a stack of email I haven't opened.

19 MR. COLLIAS: But you didn't see it before
20 the meeting?

21 MS. SUMMITT: No.

22 MR. LEACH: No, I haven't seen it.

23 MR. COLLIAS: Okay.

24 MS. SUMMITT: I wouldn't have known it was

1 there except this --

2 MS. CHARNOCK: And as far as Ann Charnock
3 receiving it, I left my office at 8:40 this morning and
4 it wasn't there at that time.

5 MR. COLLIAS: Okay. And then it wasn't
6 presented to us until you heard it presented to us here
7 at the meeting, Natalie, so does that answer your
8 question?

9 SEC. TENNANT: Yes. Yeah, I mean even if he
10 emailed it to us, it could have been presented in the
11 many different discussions and questions that were
12 presented early on. I just thought it might have been
13 presented even before some of these discussions.

14 MR. COLLIAS: Well, I mean it seems to me
15 that it essentially makes the same argument that I think
16 was competently made by the representative of the Walker
17 campaign. Sometimes when you make a legal argument all
18 you can ask is that the judge or whoever understands
19 your argument, and I think that I understood your
20 argument. Would you like to have this made an exhibit
21 to the --

22 MR. GATES: Yes, absolutely.

23 MR. COLLIAS: Is there any objection to that?
24 Do you have any objection to that, Ann?

1 MS. CHARNOCK: No.

2 MR. COLLIAS: Okay. Well, then, we'll have
3 this letter from Mr. Ryan, dated February 10, 2016, to
4 The Honorable Natalie Tennant and to me and to Vince
5 Cardi made a Exhibit 2 to the hearing today.

6 (WHEREUPON, Exhibit No. 2 was marked
7 identification and is attached
8 hereto.)

9 MR. COLLIAS: With that said, I'm not sure
10 where we left off. Is there any other discussion about
11 the whole issue of certifying the Benjamin campaign? Go
12 ahead.

13 MR. GATES: This is Kent Gates with the
14 Walker campaign. I just want to revisit and put on the
15 record again it is our contention and I think accurately
16 there's no statutory authority for extending the time of
17 filing.

18 MR. COLLIAS: What's your response to that,
19 Mr. Leach?

20 MR. LEACH: We've already voted on it. I
21 mean I understand that's their position.

22 MR. COLLIAS: No, I understand, but I mean --
23 am I right that -- I mean -- well, let me just ask you.

24 MR. LEACH: Of course you're right, you

1 were voting with the majority.

2 MR. COLLIAS: Well, that's not what I meant.
3 What's your response to his argument that there's no
4 statutory authority for extending the time?

5 MR. LEACH: I think he made that argument
6 before you voted and he's making it again after you
7 voted.

8 MR. COLLIAS: Okay. Well, I think we
9 understand that and that's in the record, and so that's
10 preserved and I understand your point. And we've just
11 acted today to extend that time, and we have the
12 authority to do that, we believe, or if we don't have
13 the authority to do it, we've still done it. With that
14 said, do I have a motion to certify the Benjamin
15 campaign?

16 MR. LEACH: If I may interject, it's your
17 pleasure, Mr. Chairman, but it's a request before you.
18 We can't rule on a request. So as I explained last
19 week, parliamentary procedures may not be required and
20 you can just call the question and frame the question as
21 to vote yes or vote no and not have to go through the
22 motion.

23 MR. COLLIAS: Well, I'd prefer to --

24 MR. LEACH: It's your --

1 MR. COLLIAS: Yeah, I prefer just to use the
2 parliamentary procedure. Do I have a motion to certify
3 the Benjamin campaign?

4 MR. CARDI: This is Vince Cardi. I'll so
5 move. This is consistent with everything we've done in
6 the meetings over the last eight days.

7 MR. COLLIAS: Do I have a second?

8 SEC. TENNANT: Yeah, I'll second that so we
9 can vote.

10 MR. COLLIAS: Okay. All in favor vote aye.

11 MR. CARDI: Aye.

12 SEC. TENNANT: Aye.

13 MR. COLLIAS: Aye. The vote's unanimous, so
14 the Brent Benjamin campaign is certified, and we
15 understand all of your objections. I think they've been
16 ably made and they're preserved. Is there any other
17 matter we need to take up today? Go ahead. Please
18 speak.

19 MR. GATES: Kent Gates with the Walker
20 campaign again. On Friday the solution was reached by
21 the State Election Commission and the Secretary of State
22 reported at the February 5th meeting that the Benjamin
23 campaign had five hundred and twelve qualifying
24 contributions and it otherwise satisfied the criteria.

1 We are asking if you could provide by today or tomorrow
2 the list of qualifying contributions, specifically the
3 seventy-one that were rejected, by the Secretary of
4 State's office so we have those for our records.

5 MR. COLLIAS: Is that a problem providing
6 those?

7 MR. LEACH: We've got a lot of spreadsheets
8 and things --

9 MR. GATES: We'll take the whole list.

10 MR. LEACH: We'll comply.

11 MR. COLLIAS: Okay. By the end of the
12 business day tomorrow?

13 MR. LEACH: Yes. Today's what? Wednesday.
14 Yes.

15 MR. COLLIAS: Okay.

16 MR. GATES: Thank you.

17 MS. CHARNOCK: May I read a statement on
18 behalf of the Benjamin campaign?

19 MR. COLLIAS: Sure.

20 MS. CHARNOCK: This is Ann Charnock reading a
21 statement to the State Election Commission from Justice
22 Brent Benjamin, dated today.

23 "Today's meeting of this Commission was the
24 fourth in the past several days to focus on certifying

1 candidates for the Public Campaign Finance program. Two
2 days last week were dedicated to addressing 516
3 challenges to individual donors making small-dollar
4 contributions to my campaign committee.

5 "In creating the Public Campaign Finance
6 program, the legislature recognized that increasingly
7 expensive judicial elections funded by high-dollar
8 interests have created a concern among voters that such
9 interests have too much influence in our judicial
10 system. The Public Campaign Finance program not only
11 enhances public confidence in the fairness and
12 impartiality of our courts, it also ensures that the
13 West Virginian who is able to give just a single dollar
14 knows that his or her participation in the selection
15 process is just as important as the \$1,000 given by a
16 politically-connected insider, special interest or out-
17 of-state group.

18 "Here we have seen a direct challenge by one
19 opposing candidate to nine out of ten West Virginians
20 who simply wished to participate in this program and
21 show support for my campaign. In rejecting nearly every
22 such challenge, this Commission signaled to every West
23 Virginia voter that their voice matters.

24 "I wish to express my personal appreciation

1 for the professional and courteous treatment the
2 Commission, the Secretary, counsel, and staff have shown
3 my campaign team during this long process.

4 "By your labors you have shown West Virginians
5 that our system for determining eligibility for public
6 campaign financing is transparent, fact-based and
7 thorough. On behalf of myself, my campaign team, and
8 those for whom the Public Campaign Finance program was
9 created, thank you for the diligence you have applied to
10 this process."

11 Thank you very much, and I will hand this
12 document to the court reporter for her records.

13 MR. COLLIAS: We'll also make that an
14 exhibit, Exhibit 3.

15 (WHEREUPON, Exhibit No. 3 was marked
16 for identification and is attached
17 hereto.)

18 MR. COLLIAS: Yes, the Walker campaign.

19 MR. GATES: The Walker campaign would
20 request a copy of that letter.

21 MR. COLLIAS: Sure. Of course.

22 MR. GATES: Thank you.

23 MR. COLLIAS: Is there any other matter we
24 need to take up? In that case, do I have a motion that

1 we adjourn?

2 SEC. TENNANT: So moved.

3 MR. CARDI: So moved.

4 MR. COLLIAS: Okay. Well, since both moved,
5 I'll take one or the other of them as a second. All in
6 favor vote aye.

7 MR. CARDI: Aye.

8 SEC. TENNANT: Aye.

9 MR. COLLIAS: Aye. The vote's unanimous.

10 These proceedings are closed.

11

12 (WHEREUPON, the hearing was

13 adjourned at 11:43 AM.)

14

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF PUTNAM, To-wit:

I, Penny L. Kerns, Certified Court Reporter,
do hereby certify that the foregoing is a correct
verbatim record of the proceedings had at the time and
place set forth herein.

I certify that the attached transcript meets
the requirements set forth within Article 27, Chapter 47
of the West Virginia Code.

Given under my hand this 12th day of
February, 2016.

Penny L. Kerns, CCR
Notary Public

My commission expires May 13, 2018.

LINE	DATE	ACTION
1	02/09/16	# PETITION W/EXH & COS; F FEE: RCPT 537225; \$200.00; APPLICATION FOR STAY; MOT FOR BRIEFING SCHED & ORAL ARGUMENT; DOCKETING
2		# STATEMENT
3		# CASE INFO SHEET:
4	02/11/16	# NOT BY WILLIAM WOOTON TO CERTIFY QUESTION TO WVSCA W/COS
5	02/12/16	# WILLIAM WOOTON'S MEMO IN OPPOS TO APPLICATION FOR STAY
6	02/12/16	# W/ATTACH & COS
7		# VARIOUS RESPONDENT'S RESP TO APPLICATION FOR STAY W/COS
8	02/16/16	# RESP OF PETITIONER TO MOT TO CERTIFY QUESTION & PROPOSED O
9	02/19/16	# W/COS; FAX COV LET
10		# RECORD FROM STATE ELECTION COMMISSION & DESIGN OF RECORD W/COS
11	02/23/16	# ADDT'L SPACE FOR SCANNING LINE #11
12	02/23/16	# WILLIAM WOOTON'S AMD RESP TO MOT TO CERTIFY QUESTION TO WVSCA
13	02/23/16	# W/ATTACH & COS; FAX COV LET
14	02/23/16	# FAX FROM K&L GATES TO CLK PAGES 1 OF 21 (PETITIONER'S SUPP
15	02/26/16	# TO STATE ELECTION COMMISSION CERTIFICATION & DESIGN OF RECORD)
16	02/26/16	# FAX FROM K&L GATES TO CLK PAGES 1 OF 25 (PETITIONER'S SUPP
17		# TO STATE ELECTION COMMISSION CERTIFICATION & DESIGN OF RECORD)
18	02/26/16	# NOT OF APPEARANCE W/COS
19	03/01/16	# MEMO OF WILLIAM WOOTON IN SUPP OF DECISION OF STATE ELECTION
20	03/03/16	# COMMISSION W/COS
21	03/03/16	# BRIEF OF PETITIONER RELATING TO CERTIFIED QUESTION W/COS; FAX
22		# COV LET
23	03/03/16	# O: CERTIFYING QUESTION TO WVSCA/KIN
24		KL FAX CONF. TO G. GAINER III FOR O: FILED 3/7/16
25	03/07/16	KL FAX CONF. TO T. RYAN FOR O: FILED 3/7/16
26	03/07/16	KL FAX CONF. TO J. PERDUE FOR O: FILED 3/7/16
27	03/07/16	KL FAX CONF. TO R. BERTHOLD JR FOR O: FILED 3/7/16
28	03/07/16	KL FAX CONF. TO P. MORRISEY FOR O: FILED 3/7/16
29	03/07/16	KL FAX CONF. TO R. COTTLIER III T. RYAN, J. PERDUE, R. BERTHOLD JR
30	03/07/16	KL FAX CONF. TO G. GAINER III T. RYAN, J. PERDUE, R. BERTHOLD JR
31	03/08/16	KL FAX CONF. TO WVSCA/RORY PERRY(S3/7/16)
32	03/07/16	P. MORRISEY, R. COTTLIER: MLD TO WVSCA/RORY PERRY(S3/7/16)
33		

A TRUE COPY
 TESTED BY *[Signature]*
 CIRCUIT COURT, KANAWHA COUNTY, WV
 5-10-16