



**NOTICE OF PUBLIC MEETING
AND POSSIBLE EXECUTIVE SESSION OF THE
STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION**

Location: Citizens Clean Elections Commission
1616 West Adams, Suite 110
Phoenix, Arizona 85007

Date: Thursday, July 20, 2017

Time: 9:30 a. m.

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the Commissioners of the Citizens Clean Elections Commission and the general public that the Citizens Clean Elections Commission will hold a regular meeting, which is open to the public on July 20, 2017. This meeting will be held at 9:30 a.m., at the Citizens Clean Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona 85007. The meeting may be available for live streaming online at www.livestream.com/cleanelections. Members of the Citizens Clean Elections Commission will attend either in person or by telephone, video, or internet conferencing.

The Commission may vote to go into executive session, which will not be open to the public, for the purpose of obtaining legal advice on any item listed on the agenda, pursuant to A.R.S. § 38-431.03 (A)(3). The Commission reserves the right at its discretion to address the agenda matters in an order different than outlined below.

The agenda for the meeting is as follows:

- I. Call to Order.
- II. Discussion and Possible Action on Commission Minutes for June 22, 2017 meeting.
- III. Discussion and Possible Action on Executive Director's Report.
- IV. Discussion and Possible Action on the 5 Year Review Report submitted to Governor's Regulatory Review Council and Related Matters, including Counsel Matters of the Regulatory Review Council.

The Commission may choose to go into executive session on Item IV for discussion or consultation with its attorneys to consider its position and instruct its attorneys regarding the public body's position regarding contracts, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. A.R.S. § 38-431.03(A)(4).

V. Discussion and Possible Action on Rule Amendment Proposals:

A. Approved for Public Comment on Feb. 23

1. A.A.C. R2-20-702(B):
 - a) Option A – Ban on expenditures to political parties with clean elections funding.
 - b) Option B – Limit on expenditures to political parties of clean elections funding to voter information and political event fees.
 - c) Option C – Restriction of expenditures to political parties for campaign expenditures and additional documentation requirements.
2. A.A.C. R2-20-703.01 – Regulation of payments to Campaign Consultants by Participating candidates.

The Commission may vote to go into executive session for the purpose of obtaining legal advice on Item V of the agenda, pursuant to A.R.S. § 38-431.03 (A)(3).

VI. Discussion and possible action on Clean Elections Surcharge and related issues with the Arizona Administrative Office of the Courts

The Commission may choose to go into executive session on Item VI for discussion or consultation with its attorneys to consider its position and instruct its attorneys regarding the public body's position regarding contracts, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. A.R.S. § 38-431.03(A)(4).

VII. Public Comment

This is the time for consideration of comments and suggestions from the public. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date or responding to criticism

VIII. Adjournment.

This agenda is subject to change up to 24 hours prior to the meeting. A copy of the agenda background material provided to the Commission (with the exception of material relating to possible executive sessions) is available for public inspection at the Commission's office, 1616 West Adams, Suite 110, Phoenix, Arizona 85007.

Dated this 18th day of July, 2017.

Citizens Clean Elections Commission
Thomas M. Collins, Executive Director

Any person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Commission at (602) 364-3477. Requests should be made as early as possible to allow time to arrange accommodations.

THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

June 22, 2017

9:33 a.m.

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1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN
2 ELECTIONS COMMISSION convened at 9:33 a.m. on June 22,
3 2017, at the State of Arizona, Clean Elections
4 Commission, 1616 West Adams, Conference Room, Phoenix,
5 Arizona, in the presence of the following Board members:
6 Mr. Damien Meyer, Acting Chairperson
7 Mr. Mark S. Kimble
8 Ms. Amy B. Chan
9 Mr. Galen D. Paton

6 OTHERS PRESENT:

7 Thomas M. Collins, Executive Director
8 Paula Thomas, Executive Officer
9 Sara Larsen, Financial Affairs Officer
10 Gina Roberts, Voter Education Manager
11 Mike Becker, Policy Director
12 Alec Shaffer, Web Content Manager
13 Amy Jicha, Legal Admin and VE Intern
14 Joseph Kanefield, Ballard Spahr
15 Mary O'Grady, Osborn Maledon (telephonic)
16 Kara Karlson, Assistant Attorney General
17 Dana Walton, ADLCC
18 Rhonda Barnes, House of Representatives
19 Christina Borrego, Riestler
20 Valerie Giramberk, AZRA/LD23
21 Elizabeth Brantley, AZRA/LD23 PC
22 Patricia Anderson, AZRA/LD23
23 Jeffrey Ong, AZ Senate Research
24 Aimee Rigler, AZ Free Enterprise Club
25 Alison Marciniak, AZ Advocacy Network
Representative Vince Leach
Tim Horn, LD23 & AZRA
Jim O'Connor, President, AZ Republican Assembly
Tom Sinyard, AZRA/LD23 PC
Nancy Ordowski, AZRA/LD23
Scott Mussi, President, AZ Free Enterprise Club
Constantin Querard, Self
Barry McCain, Self
Representative Isela Blanc
Representative Athena Salman
Dana Walton, AZ Democratic Party
Joel Edman, AZ Advocacy Network
Rivko Knox, LWV/AZ

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09:34:16-09:35:20

1 ACTING CHAIRPERSON MEYER: All right. We
2 have a motion and a second to approve the Commission
3 minutes from May 18th, 2017, and June 12th, 2017.
4 All in favor say aye.
5 (Chorus of ayes.)
6 ACTING CHAIRPERSON MEYER: Opposed?
7 (No response.)
8 ACTING CHAIRPERSON MEYER: All right.
9 There being no opposition, the minutes are approved.
10 On to Item Number III, which is discussion
11 and possible action on the executive director's report.
12 Tom?
13 MR. COLLINS: Yes, commissioner --
14 Mr. Chairman, commissioners. I'll be brief. I know we
15 have a number of people here to talk about some of the
16 rules and we're going to try to move through some of
17 the preparatory stuff as quickly as we can.
18 Just to note that -- I really wanted to say
19 really on a personal level and a professional level
20 today is Amy Jicha's last Commission meeting, as she'll
21 be leaving us in a few weeks to start law school at
22 Emoroy. You know, all of us think that her
23 contributions to the Voter Education Program has been
24 invaluable. She has been responsible for translating
25 our entire website to Spanish and she has been

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09:33:16-09:34:15

1 P R O C E E D I N G
2
3 ACTING CHAIRPERSON MEYER: Good morning.
4 We're going to call the order the Citizens Clean
5 Elections Commission. It's June 22nd, 9:30 a.m. I'll
6 be acting as chairman today in Chairman Titla's
7 absence.
8 Let's go ahead and call the roll -- call to
9 order. Excuse me.
10 Tom, the first item of business is
11 discussion and possible action on Commission minutes
12 for May 18, 2017, and June 12, 2017.
13 MR. COLLINS: Mr. Chairman, we just ask
14 that you -- that if someone would move to approve the
15 minutes and -- unless you have edits or changes that
16 you have seen in the minutes that you want to amend.
17 ACTING CHAIRPERSON MEYER: Anyone have any
18 changes or additions to the minutes?
19 (No response.)
20 COMMISSIONER PATON: I would move that we
21 accept those minutes from those two dates.
22 ACTING CHAIRPERSON MEYER: We have a
23 motion.
24 Is there a second?
25 COMMISSIONER KIMBLE: Second.

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09:35:23-09:36:41

1 instrumental in the preparation for a roundtable on
2 July 13th.
3 And so we're really -- you know, we'll
4 be -- we're sad to see her go, but we're excited for
5 her future as she goes to law school despite all of our
6 arguments against it.
7 So thanks, Amy, for her service and we're
8 pleased with that.
9 With respect to the roundtable, we're
10 expecting around 100 folks there. We've got the
11 Secretary of State's Office, all the county recorders
12 and election directors. We have groups that work with
13 voters on a nonpartisan basis but that represent
14 different ideological stripes. We have -- the Arizona
15 Advocacy Network will have a representation there.
16 Arizona -- Arizona for Prosperity -- or I'm sorry --
17 Americans for Prosperity, we believe, has RSVPd.
18 So we're trying to cover the gamut, and
19 that will be focused on voter education and how to
20 reach voters and how candidates can -- or not
21 candidates -- how election officials and other groups
22 who are working with voters can better be informed.
23 The last two things I really need to get
24 through, we are working on some additional rule changes
25 regarding candidate transactions and reimbursement to

<p>09:36:46-09:38:01 Page 6</p> <p>1 the Clean Elections funds -- fund. These are 2 transactions that are designed to make the process more 3 cost efficient. We'll present these at a meeting this 4 summer or early fall. 5 Just to give you an example of what we're 6 looking at, there are circumstances in which the 7 candidate's funds that need to be returned are returned 8 by check on the candidate account rather than, for 9 example, a cashier's check. Those may come back 10 insufficient funds, and there's a point at which the 11 amount of money that's involved is so little that 12 there's really a question of whether or not the value 13 to the fund is actually to let it go because the cost 14 of recovering that -- that dollar is greater than the 15 cost and the dollars to the funds. 16 So we're working on the nuances of that -- 17 those kinds of things because we want to make the 18 system as efficient and, therefore, consistent with the 19 Commission's obligations to the fund. 20 The last thing I want to note is there is 21 an article by Rebecca Sanders that's in your materials 22 about changes Maricopa County is considering with 23 respect to all mail voting. I highlight that for -- 24 for two specific reasons. One, you know, as you know, 25 the Commission works closely with the county and the</p>	<p>09:39:41-09:40:46 Page 8</p> <p>1 to the County Recorder's. So I just want to make sure 2 everyone understands where we are on that process. 3 Unless you have questions, that concludes 4 the executive director's report. 5 ACTING CHAIRPERSON MEYER: So, Mr. Collins, 6 as far as the article, then, "Soon you could cast your 7 ballot anywhere in Maricopa County," our role at this 8 point is just to -- as educational -- 9 MR. COLLINS: Right. 10 ACTING CHAIRPERSON MEYER: -- essentially, 11 in letting people know this could be coming? 12 MR. COLLINS: Mr. Chairman, yes. That's 13 exactly correct. We feel like we have an obligation to 14 make sure that our information reflects what voters are 15 actually going to see, but as far as getting on board 16 with a particular approach to voting, that is not 17 something that we would do lightly. We would have to 18 make a determination on whether or not it's our role to 19 do that in the first place and, in the second place, 20 have a very -- and have a detailed policy proposal 21 that's actually being followed that we would -- that we 22 would either endorse or not endorse. 23 ACTING CHAIRPERSON MEYER: Thank you. 24 Anyone else have any questions on the 25 executive director's report?</p>
<p>09:38:07-09:39:37 Page 7</p> <p>1 Secretary of State's Office on voter education. We 2 have the ongoing project on See the Money with the 3 Secretary. We're working with the counties on, you 4 know, looking at 2017 and how we build in correct and 5 effective messaging to voters about how they cast their 6 ballot, especially if -- in Maricopa County, which is 7 the largest county, is going to proceed with this in 8 2018. 9 Now, I want to be clear on the record with 10 the Commission, just as I was in our meeting with the 11 County Recorder's, that the Commission has not taken a 12 position on the plan, such as it is, that Mr. Fontes is 13 going about implementing. And I have said to the 14 County Recorder's that the Commission won't endorse a 15 process in its own capacity unless or until there is a, 16 you know, formal either policy or bill or some kind of 17 thing for us to actually look at to vote on. 18 So we have an obligation to make sure the 19 voters are receiving accurate information and that 20 information is ultimately -- the source of that is -- 21 is going to be the County Recorder's, but that's quite 22 a bit different from whether or not the Commission, in 23 fact, you know, endorses a particular approach to this. 24 And we have not done that. I have not done that in my 25 capacity as executive director and have made that clear</p>	<p>09:40:48-09:41:58 Page 9</p> <p>1 (No response.) 2 ACTING CHAIRPERSON MEYER: Okay. Let's 3 move forward to Item Number IV on the agenda, 4 discussion and possible action on 2017 proposed meeting 5 dates. 6 MR. COLLINS: Yes. Mr. Chairman, 7 commissioners, we believe that these meeting dates work 8 for your calendars. The only exec asterisk here is we 9 are hoping that we do not have to have a July meeting 10 and we do have the roundtable on July 13. So, you 11 know, my goal is to cancel the July meeting, but in 12 the -- you know, but we'll give you notice about that 13 as soon as we can. We've reserved the date just in 14 case. 15 The rest of these dates take us through the 16 end of the year. The goal being to -- well, that's the 17 goal. Unless you-all have objections to these dates, 18 I'd ask you to move to -- I'd ask someone to move to 19 approve the dates as outlined in Item IV of your 20 materials. 21 COMMISSIONER KIMBLE: Mr. Chairman? 22 ACTING CHAIRPERSON MEYER: Commissioner 23 Kimble. 24 COMMISSIONER KIMBLE: I would move that we 25 approve the dates set for meetings July through</p>

<p>09:42:03-09:42:47 Page 10</p> <p>1 December. 2 ACTING CHAIRPERSON MEYER: Okay. Is there 3 a second? 4 COMMISSIONER CHAN: Second. 5 ACTING CHAIRPERSON MEYER: Thank you, 6 Commissioner Chan. 7 We have a motion to approve the Commission 8 meeting dates for the remainder of 2017 as set forth in 9 Item IV in our materials. 10 All in favor say aye. 11 (Chorus of ayes.) 12 ACTING CHAIRPERSON MEYER: Any opposed? 13 (No response.) 14 ACTING CHAIRPERSON MEYER: Okay. Motion 15 carries. 16 Item Number V on the agenda, discussion and 17 possible action on the 5-Year Review Report submitted 18 to the Governor's Regulatory Review Council and related 19 matters. 20 Mr. Collins? 21 MR. COLLINS: Yes, Mr. Chairman, just a 22 brief update. And Mary O'Grady is on the line in case 23 we need to get into any detailing of this. 24 We did, based on the authorization that you 25 provided at our June 12th meeting, submit a letter and</p>	<p>09:44:28-09:45:57 Page 12</p> <p>1 So as I -- you know, the -- so, you know, I 2 don't think we need to go into executive session for 3 this, but I'll just note that under the ethical rules, 4 provided that Mr. Ellman is screened, Mary and I 5 believe that, you know, they could proceed to represent 6 GRRC without -- without issue. We have asked for and 7 will get a copy of the screening memo. We have had 8 represented to us that there will be a screening. I 9 talked to Mr. Weinzweig yesterday. 10 So what I would suggest is we don't need a 11 motion on this, but I just wanted to tell you that my 12 plan is to simply communicate to the AG's office and 13 Mr. Weinzweig that, you know, we don't see a problem; 14 however, if the screening memo comes back and it's 15 insufficient, we would reserve the right to ask that 16 the screening memo be tightened up and that kind of 17 thing. That's really what we think. We don't think 18 there's any other issue there, I don't think. 19 Mary, if I'm missing something feel free to 20 chime in, but that's -- that's our plan of action, but 21 we don't think we need a motion on it. It's more to 22 advise you what I -- what I intend to do. Obviously, 23 based on what happened at the last meeting, the 24 Governor's Regulatory Review Council ought to have 25 outside counsel. There's no question about that. I</p>
<p>09:42:50-09:44:25 Page 11</p> <p>1 a -- and a revised 5-Year Report to the Governor's 2 Regulatory Review Council on -- on the 20th. 3 We haven't -- we've got acknowledgment that 4 that was received. I haven't checked their website so 5 I don't know if we're on the agenda for the next 6 meeting yet, but that laid out both our -- our issues 7 with the process thus far, our issues with the specific 8 process on the June 6th meeting and then -- and then 9 addressed to the -- you know, the specific -- although 10 we don't think the council made any determinations on 11 the return, we did identify and adjust/amend the report 12 resubmitted to deal with the specific statements of 13 specific council members and so noted. 14 That's been submitted. We have final 15 copies we can -- we can get you on a disc if you'd like 16 them. 17 The only other thing I want to note is so 18 at this point, the Governor's Regulatory Review Council 19 will need outside counsel. They have proposed outside 20 counsel which is the firm of Ellman & Weinzweig. 21 That -- the AG's office, I think, out of at least an 22 abundance of caution has advised us that that firm has 23 a partner, Rob Ellman, who was solicitor general who 24 was involved in advising the Commission on issues that 25 are related to this matter.</p>	<p>09:46:00-09:47:09 Page 13</p> <p>1 don't think anyone questions that. So I don't see any 2 reason to make that process any more cumbersome than 3 it -- than it ought to be and I don't think we're -- as 4 I say, I think that provided there's an appropriate 5 screening, I don't think that there's any reason for us 6 to be concerned beyond that. 7 Unless -- Mary, any other thoughts on that? 8 MS. O'GRADY: No. I have nothing to add. 9 I think you covered it. 10 MR. COLLINS: Okay. So that's the plan of 11 action. And I don't think there needs to be a motion, 12 but if you disagree or would like a motion, you're 13 welcome to make one. But that's -- that's what I 14 intend to do, get the screening memo, review it. If 15 it's insufficient, ask for additional protections, but 16 I don't think that's probably what will happen. I 17 suspect the screening memo will be sufficient and hope 18 the -- to give you some background, David Weinzweig 19 worked at Lewis and Roca and then he worked at the AG's 20 office. So he's very familiar with, you know, the 21 screening process and those kinds of things. 22 So I'm not -- I'm not super worried, but I 23 don't want you -- I mean, I'm not vouching for him. He 24 will be GRRC's counsel, but then, on the other hand, I 25 know, you know, he has experience dealing with these</p>

<p>09:47:12-09:48:40 Page 14</p> <p>1 kinds of intergovernmental conflicts. 2 COMMISSIONER KIMBLE: Mr. Chairman? 3 ACTING CHAIRPERSON MEYER: Go ahead, 4 Commissioner Kimble. 5 COMMISSIONER KIMBLE: Mr. Collins, do we 6 know whether the council has notified the Secretary of 7 State's Office that they believe these rules should be 8 removed? 9 MR. COLLINS: Yes. In fact, the -- a 10 couple of days after the last meeting, so I think 11 June 8th, the council filed a report -- or a notice 12 that purported to -- excuse me -- declare or state that 13 R2-20-109 and R2-20-111 were -- I don't know if the 14 word they used was repealed or eliminated or something 15 like that. We filed a notice the same day stating the 16 opposite. The latest we know from the Secretary's 17 office is that the Secretary planned to publish both 18 notices and, you know, at that point, you know, we're 19 sort of -- we'll see what the next steps are. 20 I'm hopeful, given that the council ordered 21 us to return the 5-Year Report to them and we've done 22 that, that we will be back in front of the council and 23 the council will come to the conclusion or realize that 24 there are a number of substantive and procedural 25 problems with the way that they have gone about this,</p>	<p>09:50:07-09:51:15 Page 16</p> <p>1 that, you know, particular bridge. 2 My hope is that they'll -- and we -- you 3 know, we can talk to them about this directly. That's 4 something that I have to think through with Mary, but 5 my hope is that because of the resubmission of the 6 5-Year Report and the related procedural problems with 7 the assertions that GRRC is making, that -- that the 8 Secretary's office will defer -- will wait to see how 9 that plays out because I think that there are 10 significant problems, putting aside again or reserving, 11 as I say, all the constitutional and jurisdictional 12 claims that we have reserved, with just the very 13 process by which the Governor's Regulatory Review 14 Council has gone about this. 15 And I'm hoping the Secretary, in an 16 abundance of caution, will wait to see how that plays 17 out. You know, as you know, we have a pretty good -- 18 we've done a pretty good job of working through many of 19 our issues with the Secretary's office so I'm hopeful 20 we can continue to do that. 21 COMMISSIONER KIMBLE: Okay. Thank you, 22 Mr. Chairman. 23 MR. COLLINS: And, Mr. Chairman, I don't 24 know if anyone is here -- there's a lot of people here 25 who are obviously here for public comment. I don't</p>
<p>09:48:44-09:50:06 Page 15</p> <p>1 in addition to the fact that we continue to believe 2 that they don't have jurisdiction over us in the first 3 place and their jurisdictional assertions violate the 4 Voter Protection Act. 5 So the layers of difficulty with, if you 6 will, defending what -- the way that the Governor's 7 Regulatory Review Council has newly asserted its 8 superpower over Clean Elections are myriad and we've 9 made a record, I think, on all of those issues and will 10 continue to keep you updated as this progresses. 11 COMMISSIONER KIMBLE: Okay. But 12 notwithstanding our differences with GRRC, as far as 13 you know now, the Secretary of State does not plan to 14 take any action to strike the rules? 15 MR. COLLINS: Let me -- let me put it this 16 way. I have not checked the Secretary of State's 17 website today. I printed the rules for purposes of the 18 5-Year Report off the Secretary of State's website on 19 June 20th and the rules were there. 20 COMMISSIONER KIMBLE: So you haven't had 21 any communication with them one way or the other about 22 their intentions? 23 MR. COLLINS: Right, other than the public 24 statement that they plan to run both notices. I don't 25 know how they'll resolve that issue and when we get to</p>	<p>09:51:17-09:52:06 Page 17</p> <p>1 know if anyone is here for public comment on the GRRC 2 issue. 3 If you are, let me -- let us know, please, 4 because, otherwise, we might move on -- we'd like to 5 move on to the issue, I think, most of the people are 6 here for. 7 So -- okay. So that concludes my thoughts 8 on this -- on this issue unless you-all have any other 9 questions. 10 ACTING CHAIRPERSON MEYER: Any other 11 questions? 12 (No response.) 13 ACTING CHAIRPERSON MEYER: So we can move 14 forward to Item Number VI, then, Tom? 15 MR. COLLINS: Yes. I would recommend that. 16 ACTING CHAIRPERSON MEYER: And that is 17 discussion and possible action on rule amendment 18 proposals. 19 Tom, I'm going to turn it over to you to 20 sort of explain the procedure we're going to go through 21 today. 22 MR. COLLINS: Sure. Absolutely. So, 23 Commissioners, we have a number of folks here who are 24 inclined to give public comment on these -- on these 25 rule proposals. Just to frame this for purposes of --</p>

<p>09:52:12-09:54:00 Page 18</p> <p>1 of your action, there are three different issues that 2 we have presented before you today under this item. 3 The first is to make a final determination as to how to 4 amend R2-20-702(B), and we've articulated three 5 specific rules on that which we've described in your 6 materials as Option A, Option B and Option C. And I 7 think you should have some proposed motion language 8 that has a blank for the option. 9 When it comes to voting on this, there is 10 not a set rule. You -- you know, there's no real rule 11 on how we adopt the rules other than that they be adopted at 12 an open meeting. The -- there are a couple of 13 different ways we could do that after the public 14 comment. You know, one would be a motion as I've 15 proposed the motion which is to move for one of the 16 options. Another way to do it would be for potentially 17 each Commissioner to say I vote for -- you know, to 18 vote for each -- the rule that they particularly like. 19 My personal view is the most efficient way 20 would be a motion on an option. I think the one issue 21 we run into is -- is not really an issue. These rules 22 are designed to be mutually exclusive, and so with that 23 in mind, you know, what we've done in the past is the 24 rule that moots the other rules, I think, is majority 25 terminates the rule process. That -- you don't have to</p>	<p>09:55:36-09:56:47 Page 20</p> <p>1 purposes of opening the docket to do that down the 2 road. 3 So what I would suggest is that -- you 4 know, the issue becomes folks are going to want to talk 5 about one or another of these or they may want to talk 6 about them together. And my inclination and not 7 necessarily direction but for efficiency purposes, it 8 may be easier for folks to talk about what they prefer 9 on 702(B) and what they prefer on 702.01 [sic] as 10 their -- as comments. And then if they have -- and 11 then if they want to do -- if we need to do a round on 12 the public -- on opening the other docket public 13 comment, we could do that, if that -- if that makes 14 sense to everyone. 15 So if I was making public comment, for 16 example, I would say I like 702 Option X for this 17 reason and I don't like Option 702.01 [sic] for this 18 reason and that would allow discussion of both, I 19 think, pretty efficiently. I don't know how many 20 people we have who are actually intending to comment. 21 So, obviously, we'd like to be able to move through 22 this with some alacrity without being too, you know, 23 onerous. 24 So that's kind of how I see it. I don't 25 know if anyone -- if any -- if that makes sense to the</p>
<p>09:54:04-09:55:32 Page 19</p> <p>1 do it that way. You could break each one up and vote 2 on each one of them and then have A voted up, B voted 3 down, C voted down, theoretically, or whatever, but I 4 would propose that we do it that way because I think 5 it's the most orderly way to do it. 6 We could try to do a rank choice kind of 7 process, but I'm not sure that I'm sophisticated enough 8 to do that. So -- 9 ACTING CHAIRPERSON MEYER: Could we do a 10 motion that adopts one and rejects the other two? 11 MR. COLLINS: Yes. That would be 12 appropriate if you so choose. 13 The other thing I'll say is then we have -- 14 then we have the new language which is at page -- it 15 starts at page 6 of your materials which is the new 16 rule on campaign consultants. That's R2-2703.01. 17 That's a separate item, but that's -- that's easy 18 because we don't have options. We just have the one 19 rule. 20 And then -- and then, finally, we're asking 21 you to open public comment on expanding -- as you know, 22 last year we expanded our random -- our random audits 23 to do audits on all statewide candidates. We would 24 like to expand that to all candidates, legislative and 25 statewide. And that's just -- but that is just for</p>	<p>09:56:49-09:57:28 Page 21</p> <p>1 Commission, that's how I would do it. 2 Kara, I don't know if you have any -- if 3 that makes sense. 4 MS. KARLSON: That makes sense. 5 MR. COLLINS: Okay. Constantin, do you 6 think that makes sense? 7 MR. QUERARD: I'm a little unclear. So 8 we're going to debate Option A, B, C together and then 9 the consultant rule separately? 10 MR. COLLINS: Well, I think for public 11 comment purposes, it will be helpful to get your A, B, 12 C view and your consultant view in one thing and then 13 the Commission can ask you questions about both. That 14 way we don't have to call you back up and down. 15 MR. QUERARD: Thank you. 16 COMMISSIONER CHAN: I appreciate the fact 17 that Constantin gets an input on that. That's very 18 nice. 19 MR. QUERARD: I was kind of doing this, 20 Commissioner Chan. 21 COMMISSIONER CHAN: Oh. Got you. Okay. 22 MR. QUERARD: Yeah. I mean -- you know. 23 COMMISSIONER CHAN: Yeah. 24 ACTING CHAIRPERSON MEYER: So should we 25 open it up for public comment now?</p>

<p>09:57:29-09:58:40 Page 22</p> <p>1 MR. COLLINS: I think that's right. Yes. 2 ACTING CHAIRPERSON MEYER: Okay. 3 MR. COLLINS: And we don't have an order or 4 anything. So if you--all have -- if among those of 5 you -- I mean, we have Representative Leach here. 6 Obviously, we would defer to you, I think, 7 just as a matter of course, to go first if you're 8 interested. 9 MS. THOMAS: Please announce your name for 10 the record. 11 REPRESENTATIVE LEACH: I will do that. 12 Vince Leach. For the record, Vince Leach, 62927 East 13 Harmony Drive, Tucson. Also a member of -- a proud 14 member representing of the body of the House of 15 Representatives representing LD11, Oro Valley, Marana 16 and points north all the way to the City of Maricopa. 17 Mr. Chairman, board members and -- and 18 Mr. Director, thank you for bringing this forward. 19 By way of background, your director and I 20 had several discussions earlier in the year. I think 21 my record on Clean Elections and my record on -- as far 22 as being a Clean Elections candidate or being a 23 traditional candidate is fully documented either 24 through Facebook or many other -- many other -- and I'm 25 pleased to go into that. I think in the interest of</p>	<p>10:00:20-10:01:44 Page 24</p> <p>1 death to protect it. In fact, if we ever had a fight, 2 Al and I, it was over the fact that I was running 3 traditional. 4 Be that as it may, as you know, there's 5 been several points of legislation over the last 6 several years to do several things to Clean Elections, 7 not the least of which was at least two bills this last 8 session, one of which were mine that was -- would do -- 9 would make some changes. My bill that I came forward 10 with was basically to remove this portion that we are 11 discussing today with the first rule change. And I'm 12 going to talk only about the first rule change. I'm 13 going to let CQ and others talk on the -- on the 14 consultant rule change. 15 And I think, you know, the Commission today 16 has -- has the ability to be right. You can do and 17 leave the situation just as it is and let candidates 18 funnel money through political parties. I think the 19 optics for the program of Clean Elections and the name 20 of Clean Elections bears some tarnishment if that is 21 allowed to happen. 22 I think you are putting at risk a major 23 political party, and that would be the Republican 24 party, but one that's -- one that I think needs to be 25 talked about and I think I would -- I would ask that</p>
<p>09:58:42-10:00:15 Page 23</p> <p>1 time, that's probably not in your best interest, but 2 let me say that I found it encouraging that when I 3 picked up the phone with your director, that he was 4 willing to take on the task, willing to talk with me. 5 We met. And I think as a result, if I played a small, 6 small portion of where we are today, I want to publicly 7 thank him for stepping up and bringing these -- these 8 options to us. 9 I have been a -- I'm in the third time 10 being a candidate. I am a traditional candidate 11 because my life is in a different position than many 12 other candidates that come and use the tool of Clean 13 Elections, and I understand that. I fully understand 14 it. We've had many great candidates come to the 15 legislature that use this tool, use the tool in an 16 effective way to do Clean Electioneering, if you will 17 say Clean Electioneering, but used for electioneering 18 processes. 19 And that has been successful for a long, 20 long time. There have been members in LD26 before when 21 that was still a district in southern Arizona that ran 22 clean. In fact, my senator, Senator Al Melvin, 23 probably carried the flag in southern Arizona as a 24 Clean Election candidate probably better than -- than 25 maybe some of the board members and will fight to its</p>	<p>10:01:46-10:03:19 Page 25</p> <p>1 the commissioners think about this is that there are a 2 number of disaffected voters out there on -- in both 3 parties that have migrated to the Independent party. 4 And so you are setting up -- you are 5 potentially setting up a position where you've got 6 maybe a majority of the Republicans and certainly a lot 7 of the Independents that are frustrated as they see 8 public money going to political parties, be it the 9 party that I'm a member of, other political parties, 10 and maybe the Independents see no avenue for them to 11 avail themselves of that. 12 As I said, the optics of it in the 13 marketplace are bad. I used it as a campaign tool 14 against my opponent. My opponent, for whatever reason, 15 elected not to do many mailers. My opponent elected 16 not to put up any signs. It was funded through maximum 17 of Clean Elections money. That served me well and I 18 will continue to use that if that is the wish of this 19 Commission going forward to let candidates do that. 20 That candidate happened to run a post on 21 Facebook that she was going to run a commingled 22 election process with a U.S. senator and with a 23 congressman that was running for CD1. I think that's 24 wrong. In fact, I think the commingling of state money 25 and federal money runs into problems.</p>

<p>10:03:21-10:04:41 Page 26</p> <p>1 The other thing that I would say is that 2 I've heard that the parties will -- can do this and the 3 parties can do that. We have free markets. So there 4 have been years and years and years and years of 5 candidates that have run under the Clean Elections 6 Commission very successfully and using consultants, 7 using print shops from all over the state. So, you 8 know, I think it's a false nomer that we need this 9 money going to political parties because we need their 10 printing and we need this and we need that. 11 A free market, I think, would be best in 12 this particular -- particular case. I think that 13 without taking some action -- and even some of the 14 recommendations that you are making in your proposal I 15 think is going to put undue stress and maybe have to 16 add additional FTEs just to do the bookkeeping, 17 particularly -- I think it's Item C -- just to sort it 18 out. What is -- and what is adding profit? What is 19 adding markup? What is that? I'm not sure that that's 20 the goal. I'm not sure that's in the purview. I'm not 21 sure that it's in the capabilities of the Commission. 22 The other thing and the last thing I will 23 leave you with is that if this process is allowed to go 24 forward, you will see a growth, a tremendous growth of 25 this -- now that this loophole has been opened up and</p>	<p>10:05:57-10:07:06 Page 28</p> <p>1 our -- the Clean Elections Commission's money. 2 REPRESENTATIVE LEACH: Sure. 3 COMMISSIONER CHAN: And their point to us 4 was that as first-time runners -- some of them -- 5 running for office, that the ability to get the voter 6 file from their party made a big difference to them. 7 And I don't know -- I mean, I'm sure printing has 8 something to do with it. I don't know that the parties 9 were engaging in printing or not. My recollection was 10 mainly that the testimony was about the ability of them 11 to get -- get something that the political party has 12 become kind of a -- a business, you know, for 13 candidates, especially those who are just starting out. 14 And I wondered if you had anything that you 15 could say about that because to me I want to make sure 16 that if people do run clean they're at least on the 17 same footing as traditional candidates in that regard, 18 that -- that we're not creating artificial barriers for 19 them, but I mean, we don't want, you know, somebody to 20 game the system and inappropriately use the money 21 either. And I felt at the time that this rule does 22 address those issues that are of concern to you, but 23 let me let you speak to that. 24 REPRESENTATIVE LEACH: Thank you. Thank 25 you, Mr. Chairman, Ms. Chan, good to see you again. My</p>
<p>10:04:45-10:05:49 Page 27</p> <p>1 has been exposed to items that by your definition are 2 legal -- and that is voter -- getting out the voters, 3 sending money to the party to enhance voter 4 registration, having town halls, doing all that -- I'm 5 not sure that's where you want to go. I would argue 6 that's not where you want to go. I would argue again, 7 as I said at the beginning of my comments, you can be 8 right or you can do right. 9 In this particular case, I think you want 10 to do right and my -- my personal opinion is that you 11 would vote in A for -- I should say yes rather than A 12 because this would be confusing. I would ask you to 13 vote for Item B. 14 I would stand for any questions if you have 15 any. 16 COMMISSIONER CHAN: Mr. Chairman? 17 ACTING CHAIRPERSON MEYER: Yes, 18 Commissioner Chan. 19 COMMISSIONER CHAN: Mr. Chairman, 20 Representative Leach, thank you for being here. I know 21 that you had a bill this year, obviously, as you 22 mentioned, that you worked on to address this issue. 23 And hearing your concerns, you know, 24 concerns me as well. We did have testimony at our last 25 meeting from several elected officials who ran with</p>	<p>10:07:10-10:08:24 Page 29</p> <p>1 career started in your office at another department and 2 it served me well. I didn't -- my signatures went 3 through. You know, knowing the rules, playing by the 4 rules. 5 All candidates, whether you run traditional 6 or when you run clean, start from the same starting 7 point, okay? You either start gathering your 5s and 8 your signatures to access Clean Election money or, if 9 you run traditional, you start knocking on doors and 10 say I'm a candidate; I hope that I can gain your 11 support and can you give me 5, 10, \$15? So all the 12 candidates start from square one, and they all start at 13 the same point drinking from a firehose. 14 And so candidates that put thought into how 15 they're going to run their candidacy have to prepare, 16 and that's one of the things that they have to prepare 17 for. They have to prepare for how they're going to get 18 their signatures. They're going to have to prepare for 19 how they're going to raise their money, how they get 20 their money, whether or not they're going to go clean, 21 what mailing lists are they going to work for. And 22 there's any number of lists. Now, 30 years ago there 23 was limited mailing lists. Now, unfortunately -- 24 unfortunately, it looks like it's out on the cloud for 25 everybody to look at.</p>

<p>10:08:26-10:09:42 Page 30</p> <p>1 And so the voting lists are readily 2 available from many, many sources. And if you're 3 going to go -- this is my belief. If you're going to 4 go into this world of politics and issue in 5 policymaking, it is only one of the things that you're 6 going to have to learn early on to use all your 7 sources. That's what we do in the legislature. We 8 have to figure out how is it do I get to the point 9 that's going to help me to get from A to B, and I think 10 that any candidate, whether you're a D, whether you're 11 an R, whether you're an I and whether you're running 12 clean or traditional, you start from that -- from that 13 point. 14 You raise your hand in the Valley -- and CQ 15 can probably tell -- tell me, but you raise your hand 16 and say I'm a candidate and I need help, how many 17 consultants do you think would run to them in a 18 heartbeat and be able to supply you everything from 19 mailing lists to -- to printing to whatever? 20 I will talk about another subject briefly 21 and that is independent expenditures. They seem to be 22 able to come up with mailing lists, pretty accurate 23 mail lists. They seem to be able to come up with -- 24 I'm able to come up with mailing lists that affects me 25 as to -- because we really have four elections. We</p>	<p>10:10:58-10:12:25 Page 32</p> <p>1 baffled by that statement that it's too hard to find a 2 printer, to find the -- and B lets you go to the 3 parties and get the mailing lists. They've done that 4 for many, many years. I find no problem with that. So 5 there's your mailing list. So the other aspects of 6 running a campaign, I'm baffled by that. 7 Could you speak to that? What would be too 8 hard for these people to do this? They're -- 9 they're -- it bothered me to see -- when we had a 10 complaint, seeing, I believe, 10 or 12 candidates just 11 writing checks to a party. And I feel like the party 12 could have too much influence and force them to do 13 things maybe they don't want to and you need to -- you 14 need to pay us this money or we're not going to support 15 you. That's kind of my -- my feeling. 16 And I've had campaign experience years ago, 17 and I know the parties can kind of knuckle down on 18 people that don't follow really what everybody else 19 wants them to do in the party, the hierarchy or 20 whatever. 21 So could you expand on that for me? 22 REPRESENTATIVE LEACH: Let me -- let me go 23 back to one of your first comments and saying it's too 24 hard. You know, I really, really like our founders. 25 They made the system extremely difficult, and I truly</p>
<p>10:09:44-10:10:53 Page 31</p> <p>1 have the early ballot election. We have the 2 go-to-the-polls election. Then we have early ballots 3 on the general and we have early and then we have 4 final. So we know -- we as candidates have the 5 availability -- at least my campaign has the 6 availability of knowing who voted, who didn't vote, so 7 do we use the phone or we use mailing. 8 I hope that wasn't too long and convoluted, 9 but we all start from the same point and a candidate -- 10 now, we all maybe start from a different personal 11 level, but when you -- when you sign on the dotted line 12 over down the road that you are a candidate, there's 13 got to be some prior thought, I would hope. I can't 14 guarantee that, but I would hope that some prior 15 thought was put into that. 16 COMMISSIONER CHAN: Thank you. 17 ACTING CHAIRPERSON MEYER: Commissioner 18 Paton. 19 COMMISSIONER PATON: Hello. Thank you, 20 Representative Leach, for coming to speak to us. I 21 appreciate other perspectives. 22 The last time -- the last meeting we had, 23 we had multiple representatives come and say that -- 24 I'm in favor of B myself, but they said that this is 25 too hard. You're making things too hard. And I'm</p>	<p>10:12:29-10:13:56 Page 33</p> <p>1 believe that they knew what they were doing. I really 2 do. I grumble most every day starting about January 3 13th until we sine die about the difficulty of getting 4 something across the finish line at the House and the 5 Senate. And then, you know, for a second the sweat 6 goes off your brow and then you realize you've got the 7 ninth floor to deal with. 8 Things are hard. They're designed to be 9 hard. They're designed to be hard, I think, from the 10 very beginning so that when you -- when you look at 11 becoming a candidate that you're just not showing up 12 and either getting -- getting -- getting money from a 13 traditional source or getting money through Clean 14 Elections from state money. You should have to do -- 15 if it's too hard -- I better hold that comment. I 16 don't -- I don't -- yeah, it's hard. It's a tough 17 business and you've got to be prepared. You've got to 18 do your homework going forward. 19 There are many sources, and I will go back 20 to prior to when this issue became an issue here at 21 Clean Elections, there were many good candidates, many 22 good electives on both sides of the aisle that have 23 utilized the system with -- with great degree of 24 success both -- on both sides of the aisle with good 25 people. So your system is working. What we've found</p>

<p>10:13:59-10:14:53 Page 34</p> <p>1 here or what somebody has found here is what I believe 2 is a loophole in the system that needs to be fixed. A 3 fix -- I think that B does that as well as any other. 4 Mr. Paton, I'm not -- I'm sure -- did I 5 answer your question? 6 COMMISSIONER PATON: Yes. 7 REPRESENTATIVE LEACH: Thank you. 8 ACTING CHAIRPERSON MEYER: Any other 9 questions from any commissioners? 10 Thank you, Representative Leach. 11 REPRESENTATIVE LEACH: Thank you. 12 ACTING CHAIRPERSON MEYER: We very much 13 appreciate you coming and speaking with us today. 14 THE WITNESS: Always available. I 15 appreciate it. Have a good meeting. 16 MR. HORN: Commissioners, good morning. 17 I'm not a candidate. I'm coming to you as a taxpayer 18 and a registered Republican here in Arizona. I'm also, 19 as many people attest, a Republican activist. 20 ACTING CHAIRPERSON MEYER: Excuse me, 21 sir -- 22 MR. HORN: My name is Tom Horn. I live in 23 North Scottsdale. 24 I am a Republican activist, PC captain, 25 first chair of LD23, first vice chair of LD23, state</p>	<p>10:16:11-10:17:15 Page 36</p> <p>1 So it seems to me the better thing would be 2 to consider turning that money back to Clean Elections 3 if it's going to be unused. It doesn't cost that much, 4 Tom Collins, executive director -- and I love that 5 name. We should go out and get a drink sometime, but 6 it seems like you'd be happy to get some checks coming 7 in that would be more substantial than a buck or two of 8 this money that's not used. 9 Now, here's the thing. If you guys don't 10 fix that hole, as a Republican activist I have to tell 11 you you're going to be flooded with a lot of new 12 Republican people coming out to do a similar thing that 13 our opposition party has been handily doing in recent 14 times. And that's not what any of us in Arizona really 15 want, is it? So hopefully you'll consider all these 16 things in your cleaning up of these -- of these options 17 and trying to clean up what money goes to political 18 parties and especially the leftover money that's not 19 spent by the candidates running under Clean Elections. 20 Thanks for listening to me. I appreciate 21 you being here. 22 COMMISSIONER CHAN: Mr. Chairman -- oh. 23 MR. HORN: Any questions? 24 COMMISSIONER KIMBLE: Mr. Chairman? 25 ACTING CHAIRPERSON MEYER:</p>
<p>10:14:59-10:16:09 Page 35</p> <p>1 committee man, alternate delegate to the national 2 convention. So I am a Republican, and I agree with the 3 statements by Representative Leach. Option B is great. 4 It sounds like a good thing. It gets more control over 5 that. It should help us all. 6 I love Clean Elections. I think it's a 7 great thing. It's a very distinct thing. I moved to 8 Arizona about 14 years ago and was thrilled with this 9 whole idea of Clean Elections and what's happened. 10 Thank you--all for working at it, but there are some 11 problems, right? I like Option B. I'm not sure it 12 really clears up the hole that I have in my mind and 13 that's this issue, of course, of money going back to 14 the parties or going to the parties at the end if 15 there's money let over. 16 And I only look at that sign up there which 17 says the whole idea of Clean Elections -- in big print, 18 it says, by diminishing the influence of special 19 interest money. Well, political parties are special 20 interest, the biggest special interest in this state. 21 So to have Clean Elections money just pouring to the 22 parties that's kind of a leftover and not really 23 getting anything for it, we're just going to give it 24 over to the parties later seems odd to me if that's our 25 major effort of Clean Elections.</p>	<p>10:17:16-10:18:25 Page 37</p> <p>1 Commissioner Kimble. 2 COMMISSIONER KIMBLE: I'm not sure what you 3 mean, sir, about leftover money. 4 Is there something in Option C that you 5 feel addresses leftover money? 6 MR. HORN: No. I like Option B. 7 COMMISSIONER KIMBLE: Okay. 8 MR. HORN: However, it's not as clear as I 9 would like to see it on money going to the political 10 parties. If it's leftover money, not expenditure money 11 but leftover money at the end of a campaign or someone 12 who drops out, where does that money go? And I've been 13 told that it's something that is going on to political 14 parties as opposed to coming back to you. 15 Is that not true? 16 COMMISSIONER KIMBLE: Well, just getting -- 17 just addressing Option C, there's one sentence that 18 says all expenditures must be for the services used by 19 the particular participating candidate, but I would 20 like to ask Mr. Collins. 21 Is there some way that leftover money would 22 be -- would be given to a political party? 23 MR. COLLINS: Mr. Chairman, Commissioner 24 Kimble, under the -- all the rules that we have and 25 under the statute under 16-953, if money is not used</p>

<p>10:18:30-10:20:07 Page 38</p> <p>1 for a direct campaign expenditure, it is -- it is -- 2 the candidate must return it to the fund. So I think 3 that the issue that we're kind of talking around has 4 more to do with reporting than it has to do with 5 returning. 6 And what I mean by that -- and Sara can 7 clarify this if I'm incorrect, but oftentimes you'll 8 see a report of dollars having been spent that comes at 9 the end, but that doesn't necessarily tell you that 10 the -- that the -- it doesn't necessarily mean that it 11 was dumped into the party at the end. It is a question 12 of whether or not -- for example, if you have cash on 13 hand you probably -- you should -- you could make an 14 expenditure to whomever, provided it was for reasonable 15 value and for direct -- direct campaign contributions 16 or direct campaign expenditures. 17 The reporting issues, especially in the 18 case that we dealt with back in last fall, are 19 different from the substantive issue of whether or not 20 funds were funneled. And there's a little bit of a 21 disconnect there. I'll give you one specific example. 22 There was a candidate -- and it may have been even in 23 Representative Leach's district. I don't know -- who 24 had a \$12,000 expenditure and didn't have -- had a very 25 loosey-goosey line item on that.</p>	<p>10:21:29-10:22:38 Page 40</p> <p>1 MR. COLLINS: People have strong views on, 2 that might affect the down ballot races, you know. It 3 is rational to run somebody there even if they end up 4 losing significantly to the legislative candidate 5 because if you don't have anybody there and that 6 candidate is unpopular in that district, then you've 7 made a bad decision politically. 8 So it's hard -- we don't want to be in a 9 position of evaluating pre-election decisions based on 10 post-election results. That's not our job to do that, 11 but that's -- that's hard to avoid if you actually work 12 in politics as opposed to what we're -- what we're 13 doing, if that makes sense. 14 MR. HORN: It does, but to many of us, to 15 see the hole -- and I'll use optics, as Representative 16 Leach said -- the optics are bad and it's got to be 17 clear. We need to know what's going on. So if one 18 side is going to get away with that, then the other 19 side is certainly going to try. And I think being a 20 Clean Elections person and a taxpayer in Arizona, we 21 need to have no party or no one taking advantage of 22 this system. It's a beautiful system. Let's keep it 23 that way, and I hope Option B can be made tight enough 24 to control that optic at least. 25 Thank you.</p>
<p>10:20:11-10:21:28 Page 39</p> <p>1 We had -- had Staff and Sara and Amy had 2 caught that and asked -- asked that candidate to 3 correct that, you know, prior to or at the same time as 4 the complaint. And that was really a reporting 5 accuracy issue more than a -- sort of a, you know, this 6 sort of argument that dollars were being funneled for 7 other purposes. 8 Another example that is -- you know, when 9 you look at these candidates and some of the arguments 10 that we've heard -- I just want to expand on this point 11 a little bit is was it rational for the -- for the 12 opposition party in a particular district to spend 13 money in a race. And one of the things that's become 14 clear to me as we look at the election data that comes 15 out is in some legislative races the legislative 16 candidates significantly outperform the federal 17 candidate. 18 So, you know, I'm not in a position to 19 judge this, but if the decision is to make -- if you 20 make the decision that you're going to commit to run, 21 as Mr. Leach points out, up front and the circumstances 22 you think are going to be there are a person who has 23 potentially very divisive -- I'd like a better word, 24 but you know what I mean. 25 MR. HORN: Yeah.</p>	<p>10:22:39-10:24:01 Page 41</p> <p>1 ACTING CHAIRPERSON MEYER: Thank you, 2 Mr. Horn. 3 Any further public comment? 4 Sir, please state your name. 5 MR. O'CONNOR: Thank you. 6 Good morning, commissioners. My name is 7 Jim O'Connor. I was a recent candidate for chairman of 8 the AZGOP. Having lost that position on January 28th, 9 I was elected last month as the president of the 10 Arizona Republican Assembly, a very hard right 11 conservative Republican operation, oftentimes very 12 critical of the Republican party, but today I come to 13 speak on the issue and I stand behind Vince Leach and 14 Tim Horn who spoke earlier with their comments. 15 We the people are very interested in 16 keeping Clean Elections clean. That really sounds 17 good, feels good. It felt great in the shower this 18 morning being cleaned up to start my day. So with an 19 emphasis on this, there is the appearance of abuse, and 20 I know you're, I guess, constrained to vote on any one 21 of three options. A friend of mine reported Option A 22 as draconian. If that has anything to do with dragons, 23 maybe every once in a while it's good to bring out a 24 dragon if it can keep us clean. I don't know that. 25 I'm not the analyst in the room and I have not done</p>

<p>10:24:05-10:25:17 Page 42</p> <p>1 research on Options A, B or C. I'll leave that up to 2 the wisdom of others and your very competent Tom 3 Collins over there. 4 So I just want to be on record on behalf of 5 the people that I represent in an elected capacity, as 6 well as other Republicans, let's keep this thing really 7 clean. My -- there was general information out in the 8 state marketplace of ideas that a candidate could file 9 to run clean, get the appropriate funding from the 10 state and basically fake expenditures, or if they 11 had -- let's say if they got 20,000 from the Commission 12 and spent 10 legitimately and then withdrew from the 13 race, that that candidate had the option to give the 14 money to his or her political party and/or a particular 15 charity of their choosing. 16 If you could correct that for me right -- 17 well, if you could clean that up for me right now, I'd 18 appreciate that. 19 ACTING CHAIRPERSON MEYER: Commissioner 20 Chan. 21 COMMISSIONER CHAN: Mr. Chairman and 22 Mr. O'Connor, thank you for that opportunity because 23 that's actually for traditional candidates when they 24 want to dispose of excess money from their campaign 25 funds. For Clean Election candidates, they are</p>	<p>10:26:15-10:27:35 Page 44</p> <p>1 like-minded. You want to elect your own people because 2 you agree with those policies. I don't view that as a 3 special interest. 4 I don't think of the parties as -- when I 5 say -- when you say "special interest," it really has a 6 nefarious connotation. I don't view the parties that 7 way and I don't know if my commissioners want to differ 8 with that, but in my mind -- and, you know, I think 9 Representative Leach may be disappointed with how I -- 10 how I view these different options and I'd like to 11 continue the conversation just a little bit, but 12 Option C protects and fixes the problem that occurred 13 in Mr. Leach's race and really kind of requires the 14 documentation or the clarity so that we don't have 15 people just writing \$10,000 checks to their party, you 16 know, and that was definitely a problem, right? 17 And so to me Option C fixes that. I would 18 love to hear why -- why there's a preference of 19 Option B because to me it hampers our clean 20 candidates versus the traditional. And, obviously, 21 Mr. Leach made the point people make their mind up how 22 they're going to run, and for me as a commissioner I 23 want our candidates to be able to run without having 24 one arm behind their back as far as their decision 25 making. I think the documentation required in Option C</p>
<p>10:25:19-10:26:12 Page 43</p> <p>1 required to return any unused money to the Commission's 2 fund. 3 MR. O'CONNOR: Excellent. Thank you. 4 COMMISSIONER CHAN: Yeah. So I appreciate 5 it, and I always love to have a dialogue because it 6 really gives an opportunity. There are so many, you 7 know, myths out there or misunderstandings, and I think 8 it may be because we have traditional candidates and 9 that's the way they dispose of their monies versus 10 the -- the Clean Election candidates. 11 MR. O'CONNOR: I thank you very much for 12 that. 13 COMMISSIONER CHAN: Thank you. 14 MR. O'CONNOR: Any other questions of me? 15 COMMISSIONER CHAN: Mr. Chairman? 16 ACTING CHAIRPERSON MEYER: Go ahead, 17 Commissioner Chan. 18 COMMISSIONER CHAN: Actually, it's kind of 19 more of a comment. So, Mr. O'Connor, you can -- you 20 can stay up there or maybe other people have questions 21 for you, but I'm actually very surprised to hear today 22 what some of you have to say about the parties because 23 I don't view the parties as special interest. I mean, 24 I know they have their own special interest. There's 25 freedom of association, you know, you're with</p>	<p>10:27:38-10:29:00 Page 45</p> <p>1 does that, but anyway. So, again, perhaps that's more 2 of a comment, but please feel free to respond. 3 MR. O'CONNOR: Thank you, Ms. Chan, I 4 appreciate that interaction. That's very, very helpful 5 all around I think even to those listening to us. 6 I want to say I have never heard of a 7 political party that lacked an insatiable desire for 8 more cash and contributions. So they're in the -- 9 that's all they do. That's why they exist. To that 10 end, political parties and just groups like all of us 11 in this room getting together holding up a flag like 12 that one we all salute. We're in -- we're in this 13 together as citizens of the United States and citizens 14 of the state of Arizona. After that we are not in the 15 printing business. We are not in the flag business. 16 We're not in the sign business. 17 As a Republican I like to leave that work 18 to political consultants and to the private sector. If 19 a political party jumps in and a candidate comes to me 20 as a party chairman and says I want signs, all I'm 21 going to do is go to the low bidder, get my signs, mark 22 them up like any businessperson and then sell it to 23 that candidate. So that's -- I'm a broker in a way. 24 I'm not needed as an R, a D, an I or -- there is 25 another party -- Libertarian. Sorry. I forgot that.</p>

<p>10:29:02-10:30:07 Page 46</p> <p>1 So -- 2 COMMISSIONER CHAN: And Green. 3 MR. O'CONNOR: Sorry about that one. Yeah. 4 Okay. So, again, it's in the way. 5 Relating to your state -- statement that 6 it's -- a special interest has an implication of 7 something nefarious, I don't -- in my experience I 8 don't take it that way. If somebody is representing 9 the teachers union, the teachers union needs 10 representation. They all do the same thing. They need 11 a voice. So they get somebody to watch the special 12 interest, to weigh in on what's in it for them, what 13 they're missing, what they need. 14 Same thing with the copper mines. They're 15 a special interest, but there's nothing evil about 16 that. If you're in the business of pulling -- mining 17 copper, you need somebody to come in the legislature or 18 a commission like this to speak on their behalf. So 19 it's not necessarily a bad thing. 20 COMMISSIONER CHAN: Okay. Thank you. 21 MR. O'CONNOR: Thank you all very much. 22 ACTING CHAIRPERSON MEYER: Thank you, 23 Mr. O'Connor. 24 Just going on what Commissioner Chan had 25 said about further dialogue, do any commissioners want</p>	<p>10:31:40-10:33:13 Page 48</p> <p>1 nonsensical. 2 It kind of reminds me my mom grew up during 3 the Depression and she would give us a task and she 4 would say I want you to do this and that's too hard. 5 And she -- she would say -- she grew up in the 6 Depression, like I said, in a rural area and she would 7 say, no, it's too hard to chop cotton from dusk to 8 dawn -- dawn to dusk. That's too hard. 9 And so when you're telling me it's too hard 10 to find these people and you want to lead this state 11 and you want to just write a check to a party -- and we 12 had a complaint where they're writing checks for \$6,000 13 and then the same thing. Another party person -- I 14 mean, another person wrote a check for \$12,000 for the 15 same label. I just -- that's my beef with that, and I 16 think C, they can get voter lists from the party. The 17 parties have done that for many years. They can get 18 voter lists. They can regroup their volunteers. They 19 can pay people if they want. 20 It takes planning. You shouldn't do this 21 as a whim. This isn't like in high school English 22 where I'm thinking of a -- I need to write an essay, to 23 find an essay topic, you know, in two weeks or a month 24 or something like that. It takes planning. You want 25 to be a state representative or a Corporation</p>
<p>10:30:09-10:31:36 Page 47</p> <p>1 to care to add why they support a specific option? 2 I know Commissioner Paton, you indicated a 3 preference for Option B. 4 Do you want to share why? 5 COMMISSIONER PATON: Yeah. Well, at our 6 last meeting we -- I spoke extensively about I just -- 7 I just feel like parties exert a lot of influence on 8 candidates and I've experienced it. Why are you 9 running against -- not personally, I didn't run, but 10 why are you running against incumbents and, you know, 11 why don't you wait your turn and this kind of thing. 12 And I just feel like the optics, as we 13 talked -- as Representative Leach talked about, when 14 this gets into the newspapers that Clean Elections is 15 allowing people to -- to write checks to parties, this 16 is -- this is going to tarnish Clean Elections, in my 17 mind, that -- like they're calling it optics. That's 18 really what the situation is. 19 So the main thing is people are saying it's 20 too hard. I just don't understand the too hard. You 21 want to represent the state and be a leader in the 22 state and you can't find a printer. You can't find 23 somebody to help you knock on doors. You can't do 24 this. You can't do this without the party -- writing a 25 check to the party to have them do it? I find that</p>	<p>10:33:16-10:34:34 Page 49</p> <p>1 Commissioner person or the governor or whatever, you 2 have to plan this out. That is part of the hoops you 3 have to go to to prove that you're a hardened person, 4 that you can fulfill your duties, that you have been 5 challenged. 6 And that was my beef with the other -- with 7 the reducing the amount of \$5 contributions. You 8 should go door to door. You have to be challenged by 9 the voters. You have to -- it seems to me people want 10 to do this the easy way and this shouldn't be easy. It 11 should be difficult because you are representing 12 hundreds of thousands of people. Why should people 13 support you if you're unwilling to go see them, if 14 you're unwilling to do the hard things that it takes to 15 be a good leader? 16 You don't want -- you know, I taught 17 school. I've heard all kinds of excuses for 28 years. 18 I coached for many years. It took me two and a half 19 years to win a game in softball when I first started on 20 the -- at the reservation and I ended up winning six 21 conference championships. It was hard, but we had to 22 work. We had to do whatever we needed to do. And so, 23 anyway, that's my -- my beef. 24 ACTING CHAIRPERSON MEYER: Any other 25 Commissioners want to weigh in or should we go on with</p>

<p>10:34:36-10:35:27 Page 50</p> <p>1 more public comment? 2 COMMISSIONER KIMBLE: Mr. Chairman, I'd 3 rather hear more public comment. I don't have a firm 4 feeling about them now. 5 MR. COLLINS: Mr. Chairman, if I may, I 6 wanted to -- I wanted to just real quick, I have -- as 7 far as testifying, I have -- right now I have Mr. Mussi 8 from Free Enterprise would like to speak. Mr. Querard 9 would like to speak. I don't know if there's anyone 10 else. I'm trying to keep kind of a list so we know how 11 many more folks want to -- one more there. I don't 12 know. And, then, is anybody -- I just want to make 13 sure we have everybody who wants to speak. 14 Okay. So we have -- so why don't we start 15 with the gentleman to Mr. Querard's left and then, 16 ma'am, you and then Scott and then Querard. 17 Does that -- Mr. Querard, does that work 18 for everybody? 19 MR. SINYARD: I'm up? 20 MR. COLLINS: Yeah. Does that work for 21 everybody? 22 MR. SINYARD: It works for me. 23 MR. COLLINS: Scott? 24 MR. SINYARD: Good morning. My name is Tom 25 Sinyard. I'm a special interest guy. When I was 25</p>	<p>10:36:57-10:38:03 Page 52</p> <p>1 MR. SINYARD: Sorry. 2 ACTING CHAIRPERSON MEYER: Can you stay at 3 the podium, please? I think Commissioner Paton has a 4 question for you. 5 COMMISSIONER PATON: So since I'm 6 interested in B, why -- why are you -- why do you think 7 that B would not -- so that they couldn't buy voter 8 lists from their party? 9 MR. SINYARD: I think despite how you write 10 the rules, unless you have some vigorous enforcement, 11 it will just by nature slide into misuse of the funds. 12 COMMISSIONER PATON: So you're suspicious? 13 MR. SINYARD: I'm suspicious. 14 COMMISSIONER PATON: Okay. 15 MR. SINYARD: And I think most citizens 16 here are suspicious. And "optics" is not one of my 17 favorite words, but the optics are terrible. 18 Any other questions? 19 ACTING CHAIRPERSON MEYER: No. Thank you. 20 Thank you, sir, for your comments. 21 MR. SINYARD: Okay. 22 ACTING CHAIRPERSON MEYER: Any additional 23 comment? 24 I think you were next -- hold on one 25 second.</p>
<p>10:35:35-10:36:57 Page 51</p> <p>1 years old and getting out of the military, I voted for 2 Goldwater, and I've been a Republican ever since. And 3 I'm sorry to disagree with you, but it's strictly 4 special interest. And if I had my way, frankly -- I 5 was listening today -- I'm not sure we should give 6 candidates anything, but if we do, I agree with what's 7 been said here that if we do, we need to pay real 8 attention to what you put up here: Diminishing the 9 influence of special interest money and improving and 10 maintaining -- I might add -- maintaining the integrity 11 of the state government. 12 So my choice when I first came in here was 13 probably B and -- but if you're going to do B or you're 14 going to do C, it seems to me you're going to have to 15 hire some accountants and lawyers to make sure that you 16 do the right thing. So my choice is A. And if you 17 want to comment on consultants, I have enough 18 experience to know the value of those guys. You need 19 some way to control how the money is spent, but I would 20 vote for A. 21 Thank you for your time. 22 COMMISSIONER PATON: Can I ask him a 23 question? 24 ACTING CHAIRPERSON MEYER: Yes. 25 Mr. Sinyard?</p>	<p>10:38:03-10:39:44 Page 53</p> <p>1 Sir, we're going to let her go. 2 MR. MUSSI: Okay. No, ladies first. 3 MS. ORDOWSKI: That's fine. 4 ACTING CHAIRPERSON MEYER: No, go ahead. 5 MS. ORDOWSKI: My name is Nancy Ordowski -- 6 excuse me. My name is Nancy Ordowski. I'm from 7 Fountain Hills, and I'm the chairman for LD23. I 8 ran -- I wasn't going to speak at all and Commissioner 9 Paton's comments brought to mind some things. 10 I ran for town council in Fountain Hills 11 and it was hard work. I had to find my own list. I 12 had to find my own donations. I had to get out to 13 everything that was going on in that town and I didn't 14 win. It brought me to other things. It made me 15 stronger, and as chairman of LD23 I've had to fight 16 lots of issues with the Arizona GOP office. And if you 17 don't learn to take principle and honesty and integrity 18 to these fights, then we don't have -- we aren't going 19 to be able to save the republic that we have that was 20 created by these wonderful founders. 21 So I don't think hard is a reason not -- to 22 make exceptions, and I agree -- I don't know that any 23 one of those three options are the best without lots of 24 supervision. I have lots of concerns about how things 25 are handled and the integrity with which all of the</p>

<p>10:39:48-10:40:48 Page 54</p> <p>1 work is done. So we really have to be very, very 2 careful and very -- and careful with our monies. 3 And just on another side, I attended the 4 County Recorder's meeting last night, and they were 5 asked by somebody there how some of this new funding is 6 going to be paid for. And people were told that the 7 Clean Elections Committee is going to be paying for 8 some of the things that the County Recorder is doing. 9 Maybe you don't know that. Maybe you do know it, but I 10 thought I'd advise you that that was a public statement 11 last night at the meeting. 12 MR. COLLINS: Mr. Chairman, if I could just 13 address that real quickly. 14 ACTING CHAIRPERSON MEYER: Ms Ordowski, 15 please stay at the podium. 16 Go ahead. 17 MR. COLLINS: Yes. We have, in fact, 18 worked with the County Recorder's on education around 19 that issue. So we are -- we do have a plan to make 20 expenditures related to explaining to voters how they 21 ought vote. As I've said in my earlier comments, 22 that's -- 23 ACTING CHAIRPERSON MEYER: The procedures 24 of how they cast their votes. 25 MR. COLLINS: The procedures. I'm sorry.</p>	<p>10:41:53-10:42:59 Page 56</p> <p>1 MR. COLLINS: No, I appreciate it. 2 MS. ORDOWSKI: Excuse me, but besides that, 3 it wasn't the fact that you were going to be helping 4 with the education of the process. People were asking 5 how you were -- how they, since County Recorder Fontes 6 has said that he wanted to reduce expenses and things 7 like that, how they were going to pay for these workers 8 that are going to be working at the ballot locations. 9 And they were told -- we were left with the opinion 10 that the monies were going to be coming from an 11 addition from Clean Elections. So I'm just sharing 12 that with you. 13 MR. COLLINS: Well, that's -- sure. I 14 appreciate that. That is -- 15 MS. ORDOWSKI: But I don't want to get off 16 the importance of the -- 17 MR. COLLINS: No, I understand. 18 MS. ORDOWSKI: -- what we're here for. 19 Both of these things all are important, and I just 20 wanted to make sure that as a citizen of Arizona and as 21 a taxpayer that I'm concerned about all of these 22 issues. And I encourage people to work for what 23 they're going to get and not just expect that it's 24 going to be handed to them. 25 Any comments?</p>
<p>10:40:48-10:41:53 Page 55</p> <p>1 MS. ORDOWSKI: I understood. 2 MR. COLLINS: The procedures of how they 3 ought to vote which we think is our obligation. I have 4 made it clear to the County Recorder's and to the 5 Commission here that that's our obligation, but it 6 doesn't mean that we are endorsing the County 7 Recorder's actions. 8 And we really would need -- and I said this 9 to them at a separate meeting, that we would really 10 need a proposal that actually outlines what the -- you 11 know, what the basis for the decisions are and how they 12 plan to go at implementing them on a long-term basis 13 and what the legal justifications are that -- before I 14 could bring that to the Commission for purposes of, A, 15 determining whether or not it's the Commission's 16 business to have an opinion about that and, B, to 17 express an opinion about that. 18 So the Commission does have an obligation 19 as the voter education -- part of our voter education 20 mandate to, you know, participate in educating folks. 21 There is a distinction between education and 22 endorsement. I know that may not be clear on the 23 surface of things, but it's very important. That's why 24 I brought it up in my comments to the Commission and -- 25 MS. ORDOWSKI: That's why I brought --</p>	<p>10:43:00-10:44:12 Page 57</p> <p>1 ACTING CHAIRPERSON MEYER: Commissioner 2 Chan. 3 COMMISSIONER CHAN: Mr. Chairman and 4 Mrs. Ordowski -- hi. 5 MS. ORDOWSKI: Hi. 6 COMMISSIONER CHAN: And it's really not 7 just you that has said this about the work that it 8 takes to -- that goes into an election. You know, I -- 9 I just want to chime in that I don't think that our 10 candidates are trying to avoid any work because they're 11 still having to go collect \$5 qualifying contributions. 12 They're still having to collect seed money to, you 13 know, even get a start for their campaigns. I think 14 all that our candidates want to do is have a level 15 playing field with the traditional candidates who can 16 obtain maybe a voter list that doesn't cost an arm and 17 a leg because I think the recorders charge more than 18 the parties do to these folks. 19 MS. ORDOWSKI: I've been able to get lists 20 without paying anything. So there are -- there are 21 ways to get voter lists and voter lists are public 22 information. So I just -- I don't think -- I think 23 this is an excuse. Excuse me. I'm sorry, but I think 24 it's an excuse. 25 COMMISSIONER CHAN: An excuse to transfer</p>

<p>10:44:12-10:45:05 Page 58</p> <p>1 money to parties? 2 MS. ORDOWSKI: To transfer money to the 3 parties. 4 COMMISSIONER CHAN: Okay. All right. 5 Well, thank you very much. 6 ACTING CHAIRPERSON MEYER: Thank you. 7 Mr. Collins? 8 MR. COLLINS: Yes. Mr. Chairman, I know we 9 have Mr. Mussi who I think would be good to go next. 10 I need to make a public announcement. We 11 have been notified the water has gone out in the 12 building and we are -- so if you need to use the 13 restroom, the closest building is. 14 COMMISSIONER CHAN: DOA? 15 MR. COLLINS: Probably DOA, but they've got 16 DOA pretty well locked down these days, or maybe next 17 door at the -- I don't know what's next door, actually. 18 Yes? 19 MS. THOMAS: Tom, I don't know how many 20 buildings are affected. You've got the city of Phoenix 21 right here. It's a major water break. 22 MR. COLLINS: Okay. 23 MS. THOMAS: So I don't know -- 24 MR. COLLINS: All right. All right. 25 ACTING CHAIRPERSON MEYER: So all public</p>	<p>10:46:17-10:47:20 Page 60</p> <p>1 special interest and one organization an advocacy group 2 or when they -- when two people are advocating for 3 something at the legislature, one is an activist but 4 the other one is a special interest lobbyist. 5 COMMISSIONER CHAN: So I was right to say 6 it was a nefarious connotation. 7 MR. MUSSI: Yeah, it's always -- I mean, it 8 is, but I mean, you know, it's just always -- it's 9 always how it's just spun, but the reality is, you 10 know, any organization in my belief is a special 11 interest group which isn't a bad thing. I think that, 12 you know, if people want to get together, organize, 13 exercise their first amendment rights and their right 14 to free speech, they have a right to do that. 15 Our organization, in looking at this issue 16 and examining it, you know, we did a lot of research 17 over the fall and found that this was pretty much a 18 widespread abuse where money was getting funneled to 19 the -- to one -- to the Democrat party and we kind of 20 watched as it played out. Our belief is that Option A 21 is probably the only responsible option and appropriate 22 action in dealing with this issue. And I'll get into 23 that. And the reason is that there's no good public 24 policy reason for the -- to allow for the practice. 25 The parties themselves as an interest group</p>
<p>10:45:06-10:46:14 Page 59</p> <p>1 comment will be limited to two minutes. 2 MR. COLLINS: So Mr. -- Mr. Chairman, I 3 know that there are a couple other folks who want to 4 talk. I would like to get to Mr. Mussi and Mr. Querard 5 and then maybe we can move on to anybody else who needs 6 to talk because I think Mr. Mussi and Mr. Querard 7 have -- have some specific points that they want to 8 make and have been involved on this issue, as has 9 Representative Leach, and so I really would like to 10 make sure that we get them in before -- before too 11 long. So that's my preference as far as order, if 12 that's okay with Mr. Mussi and Mr. Querard. 13 So you're -- 14 MR. MUSSI: Thank you, commissioners. My 15 name is Scot Mussi. I'm president of the Arizona Free 16 Enterprise Club, probably often labeled as one of those 17 evil special interest groups which often is in the eye 18 of the beholder. My definition is it's basically any 19 organization that has -- has a cause or a belief or 20 engagement where people are organizing, it would fall 21 under the definition of special interest group. You 22 might like them. You might hate them, but they're a 23 special interest group. 24 I always find it entertaining when 25 reporters would write stories and call one organization</p>	<p>10:47:22-10:48:20 Page 61</p> <p>1 are the only interest group that can profit off of this 2 arrangement. You know, I know with Clean Elections, I 3 think people like to say when Clean Elections came 4 around, it was, you know, people knocking on doors and 5 getting 5s, which does happen. 6 And that occurs and that's part of the 7 system, but make no mistake, you know, labor unions, 8 trade associations, other organizations, we don't 9 participate in this but assist with candidates in 10 collecting their \$5 qualifying contributions. They go 11 out to their members, make sure they collect them, help 12 them in the system to get qualified for their money. 13 Prior to Clean Elections, they would 14 probably write them a PAC check or solicit their 15 members to write them direct contributions. Now 16 they're just assisting them in going and collecting 17 their 5s and doing that. Totally lawful. Totally 18 allowed, but they're not -- they're not doing it 19 because they're altruistic. They're doing it because 20 they support and believe in that candidate. They want 21 to help them get elected to that specific office. 22 The difference here is the state parties. 23 They have the infrastructure, just like a lot of these 24 groups -- in fact, more so. They have the best 25 infrastructure in the state to engage in this practice,</p>

<p>10:48:21-10:49:20 Page 62</p> <p>1 but then simultaneously can act as a vendor to get the 2 money back. No private associations can go and do that 3 and then turn around and say, well, we're going to be 4 your vendor. And if they do it, they do it even at 5 their own peril and will probably get into a lot of 6 trouble in engaging in such an activity. The party is 7 the only one, and so there's no reason to allow for 8 this practice to continue. 9 And some of the specific examples that are 10 brought up, you know, well, the party is providing all 11 these things. Well, one example is, you know, charging 12 for political events. In my experience, usually 13 candidates or elected officials never pay to go to 14 political events related to parties. They don't -- 15 they rarely do, if ever. That's just been my 16 experience watching it. When it comes to -- when it 17 comes to voter information, the reality is most voter 18 information you can get for free. 19 I don't engage with a lot of candidates on 20 a direct level running campaigns anymore, but back 21 there when I did, I volunteered to help people out with 22 campaigns, a lot of times shoestring campaigns. We got 23 voter lists for free. We didn't pay anything. We 24 could go to the party who would provide it for free or 25 we'd work with the county or others and try to make</p>	<p>10:50:24-10:51:27 Page 64</p> <p>1 flexibility to raise money, do things, have events and 2 generate war chests that private organizations cannot 3 do. And if they're not using that money to assist the 4 candidates -- and the only reason the party exists is 5 to get the people under that banner to win, then why do 6 they exist? There's no reason that any of this money 7 should be going to political parties. 8 In conclusion I'll just say, you know, this 9 doesn't address the abusive spread. I mean, the road 10 map is there. There's several districts that are 11 rather uncompetitive, difficult to win, and so they're 12 long-shot campaigns. Why not use your infrastructure 13 that you have in place, help that candidate out collect 14 their 5s, which you can do, and help channel them to 15 that candidate, get them qualified. And then if you 16 opt -- opt for B or C, charge them five grand for a 17 voter list they probably could have got for basically 18 nothing or free. 19 And how are you going to measure that? I 20 mean, how do you value a voter list from the party? I 21 can just say it's five grand. Why not? I'll just do 22 that for all the candidates. It will be a standard 23 rate. We'll assist you to get your money, get your 24 20 -- a little over 20,000 bucks. We'll charge you 25 five grand. How are you going to prove that that's the</p>
<p>10:49:22-10:50:21 Page 63</p> <p>1 sure that we can get the lists that were needed to help 2 them with their candidate. 3 I ran as a PC once. I'm retired. So I'll 4 never be a PC again, but the voter list that I used was 5 from the party to go around and know who the -- you 6 know, registered voters were in my neighborhood so I 7 can become a registered PC. All this information can 8 be acquired but at no cost. Lots of -- or you can 9 hire, you know, a hired gun -- one sitting right behind 10 me -- that you can use and they all have a lot of lists 11 and they don't charge a lot of times for these lists 12 because they have the lists themselves and they'll use 13 them and that's part of the process. 14 And on a logistical support, well, frankly, 15 if you're a political party and you don't exist by the 16 very nature to provide logistical support, then you 17 should just disband because that's the only reason 18 you're really there really is to provide lists and 19 logistical support and do those things. If you're not 20 doing that, then you have no reason to exist to help 21 these candidates out. 22 Under state law and federal law the 23 political parties have engineered the system where they 24 are exempt from most of the campaign finance laws that 25 everybody else is handcuffed to. They have far more</p>	<p>10:51:30-10:52:19 Page 65</p> <p>1 appropriate amount charged for that list when the 2 reality is you hired a consultant? You -- you know, 3 normally you go work with the party. You work with the 4 county. You work with other people. You have friends. 5 You can get those lists for practically nothing or free 6 which in many instances I was able to get them for 7 free. 8 So with that, I believe Option A is the 9 only appropriate option. 10 COMMISSIONER KIMBLE: Mr. Chairman? 11 ACTING CHAIRPERSON MEYER: Commissioner 12 Kimble. 13 COMMISSIONER KIMBLE: Mr. Mussi, a couple 14 of questions. First of all, you said there's been 15 widespread abuse. 16 Can you detail some instances of this 17 abuse, in what races and how there was abuse? 18 MR. MUSSI: Well, we did an analysis and 19 looked through all the campaign finance reports in the 20 pre general back in the fall and found instances where 21 in an aggregate over \$80,000 had been channeled to the 22 Democrat party. The Republican party, I couldn't find 23 any instances of any direct funds going to the 24 Republican party. It was all on the Democrat side. 25 Post general, a follow-up look, it was over \$100,000.</p>

<p>10:52:23-10:53:19 Page 66</p> <p>1 One specific candidate gave over -- gave 30,000 bucks 2 for -- to the state party. And so I've never seen -- 3 ACTING CHAIRPERSON MEYER: Excuse me. So 4 was that a traditional candidate or a clean candidate? 5 MR. MUSSI: Clean candidate. 6 ACTING CHAIRPERSON MEYER: Okay. Thank 7 you. 8 MR. MUSSI: Clean. And, again, I couldn't 9 find anything on the other side of the ledger, which if 10 I'm on the other side of the ledger and I'm the 11 Republican party, I'm going this is a great idea. 12 We've got to get into the business. And -- and they 13 will. I mean -- and if you allow them to charge for 14 voter lists and the logistical support, whatever that 15 is, which they shouldn't be charging for at all -- 16 that's -- I mean, frankly, that's what parties exist 17 for, they're going to keep doing it. And why not? 18 COMMISSIONER KIMBLE: Okay. My second 19 question, if all this information is available for 20 free, nothing in any of these options requires 21 candidates to buy it from a political party. If they 22 can get it from somewhere else for free, fine. I don't 23 understand what your objection is. This gives them the 24 option to get it from a political party, but if they 25 can get it from someone from free. We're not -- none</p>	<p>10:54:20-10:55:11 Page 68</p> <p>1 I mean, really, you're going out and you're 2 just helping them to gather some 5s and do some 3 logistical. You're getting some -- you're make sure 4 you're getting people on the ballot in noncompetitive 5 races. If we only have a 70 percent success rate, hey, 6 that's money in our pocket that we didn't have before. 7 COMMISSIONER KIMBLE: Okay. Thank you. 8 ACTING CHAIRPERSON MEYER: Mr. Mussi, and I 9 think -- I just want to make sure I'm understanding 10 you. I think this is what Commissioner Paton was 11 saying. 12 So are you saying that -- I think you're 13 saying Dems are doing this. So Dems are finding 14 candidates in noncompetitive races where they know that 15 candidate can't win. They get that person on the 16 ballot, get that person's Clean Elections money and 17 then try to funnel that money into the party. 18 Is that what you're saying is happening? 19 MR. MUSSI: I'm saying that the -- I'm 20 saying that there isn't -- there isn't a smoking gun 21 where you can say here's emails that demonstrate that 22 that occurred and that was the arrangement, but it 23 wouldn't be difficult to connect the dots on this 24 how -- what -- the numbers you see on there don't make 25 any sense.</p>
<p>10:53:21-10:54:18 Page 67</p> <p>1 of these options say you have to get it from political 2 parties and you have to pay their rate for it. 3 MR. MUSSI: Well, and to that point, my 4 response to that would be is that's how a lot of these 5 things will work because you're dealing with people 6 that aren't experienced. May be they are just a party 7 activist. They're involved with the party and the 8 party asks them, hey, if you run we'll help you with 9 your campaign and we'll do all those things. And so 10 when you get into the race, the party goes to them and 11 basically because they're the ones that assisted them 12 to help them run, they have an inside track to get 13 access to that money. 14 And from the -- from that person's 15 perspective -- I know that they can get the list for 16 free, but if the party is telling them the list costs 17 \$5,000, that's the only thing they know. And so 18 they're going to rely on that -- that source of 19 information, that guidance that they're getting from 20 the party. So what will end up happening is, sure, 21 maybe the party will run some candidates and they run 22 ten and eight choose to buy the list. The two do some 23 due diligence to find that they're getting ripped off 24 by the party, that's -- from the party's perspective, 25 that's worth the risk.</p>	<p>10:55:12-10:55:47 Page 69</p> <p>1 If I was -- for example, if I was running 2 an opponent campaign and I looked at this kind of stuff 3 and the person was traditional and they were paying 4 some of these rates that were being paid to the 5 Democrat party, I would be, like, whoever that 6 consultant is, they're being ripped off. They're 7 getting totally ripped off. They're getting hosed, 8 much to our benefit, but from the party's perspective, 9 unlike in those instances where a consultant is just 10 enriching themselves, this instance the political party 11 can take your money and channel it into competitive 12 districts. 13 ACTING CHAIRPERSON MEYER: To a different 14 district. 15 MR. MUSSI: In a different district. 16 ACTING CHAIRPERSON MEYER: Yeah. 17 MR. MUSSI: And do it that way and why not. 18 Again, you might not get all 100 percent, but if you 19 can get 70 percent, that's additional -- a little bit 20 into the war chest that you can use in those 21 competitive races. 22 ACTING CHAIRPERSON MEYER: I understand. 23 Thank you. 24 MR. MUSSI: Okay. 25 ACTING CHAIRPERSON MEYER: Anyone else have</p>

<p>10:55:49-10:57:12 Page 70</p> <p>1 any questions? Commissioners Chan? 2 MR. COLLINS: Can I -- 3 COMMISSIONER CHAN: Oh, not for Mr. Mussi. 4 MR. COLLINS: Mr. Chairman, I just wanted 5 to make -- to amplify one point that Mr. Mussi made 6 with respect to the parties that is relevant to this 7 discussion which is -- well, there's two points, 8 really. One, he's correct that under the bills that 9 passed in 20 -- was it '16 now? The parties have much 10 more flexibility in who they can raise money from and 11 that they can then use in coordinated campaigns with 12 candidates. They can't write direct checks from 13 corporate accounts to candidates, but they can run 14 coordinated campaigns with nominees. 15 And that's new and that's expanded, and our 16 rules, consistent with 1516, recognize that. So there 17 is, in fact, a mechanism, if you will, for parties -- 18 it kicks in under the law once you've made it to the 19 nominating process, but that does exist. That's a -- 20 that's a correct statement of the law as I understand 21 it as well. 22 The other point I wanted to summarize 23 quickly before, I guess, we'll move on to Mr. Querard, 24 I assume, is, you know, all of these rules are premised 25 on the idea that we're talking about clean funds. So</p>	<p>10:58:28-10:59:20 Page 72</p> <p>1 they're basically regulated monopolies in the political 2 sphere. The system is set up to create a two-party 3 system. For better or worse, that's what we have, and 4 both parties being interest groups have manufactured 5 laws over the decades to make sure and protect their 6 turf. And so I think it precedes anything that's 7 happened in the last two years. It goes back 60. 8 MR. COLLINS: Fair enough. Thank you. 9 COMMISSIONER CHAN: Mr. Chairman? 10 ACTING CHAIRPERSON MEYER: Yes, 11 Commissioner Chan. 12 COMMISSIONER CHAN: This isn't a question 13 for Mr. Mussi, but, you know, his comment about the 14 widespread abuse of money being funneled to the party, 15 I just would be interested in asking our staff to just 16 kind of take a look into that, if it's possible. 17 MR. COLLINS: Mr. Chairman, Commissioner, 18 Chan, we had a complaint filed by Mr. Querard that we 19 heard -- October, was it? And what we did in that 20 case, we -- 21 COMMISSIONER CHAN: Is this talking about 22 the 80 grand? 23 MR. COLLINS: Yes, yes. 24 COMMISSIONER CHAN: Oh, okay. I'm sorry. 25 MR. COLLINS: So just to sort of summarize</p>
<p>10:57:15-10:58:25 Page 71</p> <p>1 there is seed money that you could spend on all of 2 these rules just like any other candidate could and 3 that money remains available to you to spend however 4 you choose because if you don't qualify that money is 5 just contributions. 6 Finally, we do hope -- and I can -- after 7 we're done with the public comment I'd like to revisit 8 some of the nuances of C versus B, but I do want to 9 mention that the next item is the audit -- is the 10 expanding of the audits which I think is an important 11 context here because if the concern is that there are 12 funnelings and rip-offs and all these things that we 13 haven't been able to establish in the past, we are 14 doing what we can within the -- on the back end to 15 ensure that there's -- those things do get caught. 16 So that's some context, but I do want to 17 make clear that I think Mr. Mussi is absolutely correct 18 about the parties' broader abilities under -- under 19 state law now to raise money from different sources and 20 channel that money through to their nominees in certain 21 ways. 22 ACTING CHAIRPERSON MEYER: Mr. Mussi, go 23 ahead. 24 MR. MUSSI: Yeah, just one last comment on 25 that. I believe that even prior to that they've had --</p>	<p>10:59:22-11:01:01 Page 73</p> <p>1 what happened, Mr. Querard filed a complaint. 2 Mr. Mussi did some reporting about that complaint on 3 his -- through the Free Enterprise Club's 4 communications. We did a couple of different things to 5 focus on that particular issue. We -- those candidates 6 were subject to audit. We subjected their payments to 7 the democratic party to additional auditing of 8 transactions which was, frankly, if I may be a 9 little -- I mean, not to be too overly candid, it's 10 something that I don't think the executive directors 11 have done sua sponte before, but we did it. 12 We -- we received evidence that was 13 competent under Rule 702 and 703 related to those 14 expenditures that, you know, left us in a position 15 where we were unable to show that there was reason to 16 believe a violation may have occurred. And so on that 17 basis, the Commission voted ultimately to -- to not 18 move forward on that complaint. 19 Now, that having been said, I think as -- 20 as Representative Leach has pointed out, other folks 21 who have spoken have pointed out and Mr. Mussi has 22 mentioned -- you know, I'm not going to pretend like 23 our -- I mean, I have -- Mr. Mussi and I have -- I 24 mean, in full disclosure, Mr. Mussi and I have gone 25 back and forth for the press about how good our</p>

<p>11:01:02-11:02:13 Page 74</p> <p>1 investigation was versus whether or not it was good, 2 but that having been said, whether -- whether you think 3 that our work product was sufficient and whether or not 4 the Democrats provided sufficient evidence, regardless 5 of whether or not that is true, it doesn't eliminate 6 the issue which I think folks are talking about which 7 is the perception issue and the fact that if you're 8 having a Clean Elections system, you do -- as much as 9 you might not like the word "optics," it's not wrong to 10 say that they're optics. 11 Now, when we're done with the public 12 comment, I will have a few more things to say about 13 Option C that go to that optics issue, but I don't 14 think anyone is going to sit here -- and I certainly 15 can't deny that based upon, you know, Mr. -- or 16 Representative Leach's proposals, Mr. Querard's 17 complaint and Mr. Mussi's reporting, if you will, that 18 there's not a perception issue that, you know, we have 19 on our plate. That just exists. That's just the 20 reality. 21 COMMISSIONER CHAN: And, Mr. Chairman, Tom, 22 is it accurate -- or I don't know if you know this off 23 the top of your head -- that there were no such 24 payments to the Republican party by clean candidates? 25 MR. COLLINS: Well, we certainly --</p>	<p>11:03:38-11:04:27 Page 76</p> <p>1 Republican Clean Elections candidates who did have 2 expenditures to the Republican party, to legislative 3 district parties for the Republicans. So they may have 4 been for events or things like that, but there were 5 payments to the Republican party. 6 COMMISSIONER CHAN: Okay. Thank you. 7 Thank you. And I'm sorry. I will let that go. I 8 apologize if I took us off on a tangent. 9 ACTING CHAIRPERSON MEYER: That's all 10 right. We're good at that. 11 Let's go next to Mr. Querard. 12 MR. COLLINS: Yeah. That would be more 13 sufficient. 14 ACTING CHAIRPERSON MEYER: Did I say that 15 correctly? 16 MR. QUERARD: That is -- that is very good. 17 Thank you. 18 First, forgive the casual appearance. I'm 19 sort of tripled booked and one of the things I've got 20 to do is outside. So I'm sure everyone here is -- 21 COMMISSIONER CHAN: To go to the bathroom? 22 MR. QUERARD: -- three-piece suit worthy no 23 matter what the temperature is. 24 One of Mr. Mussi's concerns had to do about 25 candidates getting ripped off by the party, but what we</p>
<p>11:02:15-11:03:35 Page 75</p> <p>1 Mr. Chairman, Commissioner Chan, we certainly didn't 2 get a complaint on that. We got some complaints 3 against Republican leaning independent expenditure 4 groups for reporting. Those issues were all resolved 5 by either conciliation or, in one case, a dismissal by 6 me based upon that group's filing reports. And, in 7 effect, they were in the process of winding down. 8 And it was -- you know, we had -- so the 9 complaints we got against sort of what I would call 10 Republican leaning as well as one of the leadership 11 PACs, the Republican party -- maybe two of them -- and 12 then one leadership PAC that belongs to Governor Brewer 13 that was winding down, those were all resolved by 14 conciliation and/or my own dismissal based on my 15 assessment of the -- of their compliance, but not 16 complaints along the lines of that which Mr. Querard 17 filed against the candidates who were running clean as 18 Democrats. 19 COMMISSIONER CHAN: Okay. And maybe -- 20 maybe Sara has something to add. And I'm sorry. Maybe 21 that's not even productive. I was just curious and I 22 know we have a lot more to do. 23 MS. LARSEN: Good morning, Chairman. To 24 answer Ms. Chan's question, we've reviewed the campaign 25 finance reports and we did note that there were</p>	<p>11:04:30-11:05:31 Page 77</p> <p>1 dealt with with the 2016 complaint was actually part -- 2 was actually candidates who are very willingly going 3 along with things. No one was -- no one was ripped off 4 or duped. They knew darn good and well what they were 5 paying for and defended it in writing. Interestingly 6 enough, only Clean Election candidates who, frankly, 7 weren't spending their own money were the ones willing 8 to pay those prices for the products offered. 9 So while it's possible that some folks can 10 get ripped off, I think the real more danger is just 11 people who willing go along with this to serve a party. 12 You won't -- I don't have any friends who would pull 13 this off so that they and I could, you know, pocket an 14 extra ten grand and split it afterwards. 15 I don't have any friends who would risk 16 jail time for that or do me some favor, but if you -- 17 if you're a believer in some cause and you think you're 18 helping your party and you're going to stop Hillary or 19 you're going to stop Trump or whatever, I'm never 20 surprised at just how hard people are willing to work 21 to do that. And if that means you're told, hey, 22 there's this thing; you could be a candidate and it's 23 great for the party and all that stuff, we could see a 24 lot more of what we saw in 2016. 25 I'm not aware of any outside vendors who</p>

<p>11:05:34-11:06:41 Page 78</p> <p>1 give the data away for free. It's the parties 2 generally that do that. Parties give data away for 3 free all the time. Every precinct committeeman has 4 access to the data for their precinct. Every 5 legislative district chairman has access to the 6 district for their legislative district. Every county 7 chairman gets data for their full county so they can do 8 their jobs. 9 So the state party routinely gives data 10 away for free, but some parties will choose on occasion 11 to charge for it as a way of generating revenue. 12 Again, sort of to cover costs, recover costs, pay for 13 their day-to-day services. There really wasn't -- you 14 know, when we saw this last time was a lot of training 15 and stuff that went on and resulted in the tens of 16 thousands of dollars. 17 Option A can work for everybody, okay? The 18 parties, again, routinely give their data away; 19 however, in fairness to the Democrats, when Obama first 20 got elected, the Democrat party centralized a lot of 21 their data, refined it. Everybody was using the same 22 database by and large. So everybody was massaging the 23 same data and on the Democrat side, I know that there 24 is one particular data house the Democrats use that has 25 better quality data than a lot of stuff. And a lot of</p>	<p>11:07:55-11:08:54 Page 80</p> <p>1 data, you can count on it to be at fair market value. 2 That's what we charge for data and they can show that 3 everyone is paying the same for the same quantities of 4 data, similar size districts, similar sorts of lists, 5 that sort of thing. Once you move beyond that, it's 6 easy enough to set up a price list with exorbitant 7 prices that only the sacrificial lambs happen to be 8 customers of, okay? 9 The legit candidates that are running to 10 win are using private vendors, paying much better 11 prices, but it's easy for the party to charge a very 12 consistent, albeit insane, rate for things if the only 13 people paying it are the ones who don't really care. 14 ACTING CHAIRPERSON MEYER: Give us an 15 example of how that could happen. 16 MR. QUERARD: If I tell you -- instead of 17 paying two and a half cents for a phone call, we're all 18 going to pay six cents for a phone call because that's 19 my party's cost. How do you know? Well, I got a guy 20 and I pay him 50 grand a year and all he does is phone 21 calls. How do you know? Because I told you and you 22 have to take my word for it like we did with a lot of 23 stuff that was filed. You don't have the man's time 24 sheets. You don't sit there. You don't know that he's 25 not just doing phones. He's doing data. He runs --</p>
<p>11:06:44-11:07:53 Page 79</p> <p>1 the Democratic candidates want access to that and they 2 don't give that away. 3 So it could be that while Option A can work 4 for everybody, Option B may be more fair because 5 Democrats want access to a particular set of data that 6 they can't get for free. Again, I think the party 7 actually pays for access to that because when they have 8 their PCs out knocking on doors for free, they're 9 massaging that same data set, but I know there's a 10 price list for it. We saw it last time. I'm happy to 11 assume that the Democrats can't get that for free. 12 And so if Option B would have to be an 13 option out of fairness to Democrats, that's fine. The 14 problem is the protection you get in Option B because 15 there's a price list and everybody pays the same, it 16 doesn't exist once you move to Option C and you expand 17 it beyond data. If you have a price list for data, 18 then your fake candidates and your real candidates are 19 all buying data off that same price list. You're not 20 going to gouge the sacrificial lambs and simultaneously 21 gouge the candidates that are trying to run to win 22 because they're going to be unwilling to be gouged, 23 okay? 24 So your -- a price list for data where 25 everybody participates and everybody is buying that</p>	<p>11:08:57-11:10:11 Page 81</p> <p>1 you know, I may pay the guy 50,000 a year, but he's got 2 ten responsibilities, one tiny one of which is 3 operating the auto dialer, but you don't know that. 4 If I say he's my auto dialer guy and, 5 therefore, I work 50,000 of the party cost into the 6 cost of my auto dialers and everybody is going to pay 7 six cents instead of two and a half like they ought to? 8 Now you know. That's just the cost. There's no 9 markup. That's my cost. 10 One of the problems with Option C is that 11 you don't just say cost. You say "value" and, of 12 course, value is an entirely different thing from cost. 13 Value is subjective. Training has almost no cost. 14 Pizza, doughnuts, a room rental, those are my costs. 15 You bring me in to run the training, am I \$50 an hour? 16 Am I \$5,000 an hour? It's up to me. Now that becomes 17 your cost, but was that really the value of the 18 training? 19 So, unfortunately, value is really easy to 20 play games with. Cost, it's pretty easy to pad an 21 invoice to include some markup in an invoice. Vendors 22 can pad invoices, but again, if you're figuring out the 23 value, that's very -- very difficult for you guys to 24 please. If I hire three or four people to run this 25 program, as far you know, all of those costs become a</p>

<p>11:10:15-11:11:09 Page 82</p> <p>1 part of the cost of the program, but you have no way of 2 verifying that those people are doing just that. 3 You have to take my word for it, but I'm 4 the one running the scheme. I'm the one person you 5 shouldn't be taking the word of because I'm the one 6 you're investigating and I'm the only person whose 7 opinion -- I'm basically the only person you can go to 8 for verification that I'm doing it right because I'm 9 going to say, yeah, this is my auto dialer guy and 10 that's why it's six cents a minute. And you really 11 have no way of pleasing that. 12 That's one of the problems, you know. Even 13 at the end of the investigations -- I forget, but a 14 couple of the commissioners were pointing out that even 15 at the end of things, you're sitting there saying we're 16 frustrated because we still don't actually know what 17 this money was spent for. We don't know what the Clean 18 Elections money actually bought. You'll have that same 19 problem here. 20 I'll give you mail at cost. Well, I can 21 have a printing invoice and I can pad that maybe. The 22 mail house, not really. Postage is what postage is. 23 You get that receipt from the post office. That's the 24 date, the number of pieces. That's what it was. You 25 can count on that. That's probably the only reliable</p>	<p>11:12:19-11:13:30 Page 84</p> <p>1 every Clean Elections candidate who's ever gotten 2 elected in the state did so without whatever advantage 3 this program in 2016 was supposed to lend. 4 And the performance of the candidates who 5 did this program in 2016 was abysmal because, no 6 surprise, instead of actually putting measures in front 7 of voters, they spent it all in training, okay? If you 8 drop half your money into training, well, it's no 9 surprise you get crushed in your race. So I don't 10 think it places anybody at a disadvantage. We elected 11 Clean Elections candidates all the time without this. 12 So, also, we're pointing out that the 13 serious candidates who were running and winning in a 14 lot of cases did so without this program, okay? They 15 didn't need Option C. In fact, most serious candidates 16 showed no apparent interest in Option C whatsoever. 17 So I guess there's still a lot of the 18 concerns that we mentioned before which is I don't 19 think you want to create financial incentives for the 20 parties to run candidates. I don't know of any party 21 that has so little to do that they actually want to 22 take on more work at cost in such a way that it 23 generates no actual revenue. There's so much to do to 24 win elections at the party level. And I've been a 25 district chairman. I've been on the county executive</p>
<p>11:11:10-11:12:16 Page 83</p> <p>1 documentation in the cost of a mailing you can 2 document, but design, well, am I 10, \$20 an hour? Am I 3 \$150 an hour? Did that piece take me ten hours? Did 4 that piece take me 100 hours? You have no way of 5 knowing. You could never verify that. 6 So my design costs for a piece could be 7 \$100. It could \$1,500 for a piece. Both are fair. 8 Both are market value. Both are valued paid. Both 9 have no markup whatsoever. Both are completely 10 unverifiable, but obviously there's a huge difference 11 and we don't ever get to know. I know that if you're a 12 customer spending your own money with a private vendor 13 and somebody hands you a bill for 1,500 for design, 14 you're going to have a problem with that, but if you're 15 spending money as freely as they did in 2016, you're 16 good. You're happy to sign an affidavit saying I'm 17 satisfied with the product I got, and that's the 18 problem with Option C. 19 There were some concerns that passing 20 Option C will place Clean Elections candidates at a 21 disadvantage. I think I probably elected more Clean 22 Elections candidates in the state than anybody. Never 23 had to use these things. There's no -- there's no 24 requirement that it's -- in fact, prior to 2016, what 25 we saw had never been seen before which means that</p>	<p>11:13:32-11:14:27 Page 85</p> <p>1 committee. I've been on the state executive committee. 2 So I can speak from an internal standpoint on the 3 parties as well. 4 We don't need more to do when you're in the 5 party trying to run victory programs. You're certainly 6 not looking to run races in addition to everything else 7 you're doing. You're saying here's a list of 8 consultants. These guys can help you go win your race 9 because there's just so much to do. The only reason 10 you would take this on really is for the sake of 11 generating revenue which is what we're trying to say 12 you're not supposed to do. 13 You don't want to create financial 14 incentives for parties to coerce candidates into using 15 their products. That obviously tilts the playing field 16 and creates -- creates bad things. I'm just afraid 17 this is going to work the process in a really bad way 18 and, like we talked about before, you guys pass 19 whatever rules you pass, but if you go Option C you 20 need to be prepared to see a lot of this in both 21 parties because the parties learn from each other, 22 okay? 23 And if you're a county party and you don't 24 have a whole lot of money but you realize you're in for 25 a couple hundred thousand bucks, you can find some</p>

<p>11:14:29-11:15:30 Page 86</p> <p>1 sacrificial lambs in some districts and it gets legit. 2 It is sanctioned. It is in the rules. It's okay. You 3 know, you're going to see a lot more of it and that -- 4 that really violates the spirit of Clean Elections. 5 So that's -- those are my comments on A, B 6 and C. I think I'm the only consultant in here. So no 7 surprise I'm the only fellow with a comment on the 8 consultant rule. So I will -- I will shift to that. 9 This is a rule that appears to be designed 10 to treat a problem that doesn't exist. In fact, it 11 treats a problem that has never been the subject of any 12 Clean Elections complaint for as long as I've been 13 involved, which is going back quite a ways. And I've 14 been the subject of enough complaints that this is one 15 they haven't even filed against me. So this is really 16 a problem that simply does not exist. 17 It does add more hassle to the process. It 18 gives candidates and consultants another reason to 19 think I don't know if running clean is worth the 20 hassle, frankly, which is bad because it discourages 21 participation which not only is contradictory to the 22 mission statement but kind of defeats the whole purpose 23 of what we're doing. It contains language that largely 24 says the things that are already legal are legal. You 25 can hire somebody. Okay. We know that. You can pay</p>	<p>11:16:37-11:17:33 Page 88</p> <p>1 my printers in advance. My printers don't give me 2 invoices in advance. I don't know my fixed costs until 3 the job is done. I don't know my actual cost until a 4 job is done. 5 Then I mark it up and I present you an 6 invoice, but I know that it's not going to exceed 7 \$8,000. I know you have at least \$8,000 so we're 8 legal. I know the postage in my head because the list 9 is about however many thousands of pieces and it's 10 going to run me just under 20 cents per piece, so I can 11 ballpark that and then I can get you an invoice that 12 has the exact amounts. You pay me and we're good. No 13 more. I can no longer tell you that. If I tell you 14 that and you send me the money, we're in violation. 15 I have to stop what I'm doing. I have to 16 write down a written estimate to give you a written 17 estimate because of a bureaucracy that is ever growing 18 in Clean Elections that wants to make this process more 19 difficult on us says, oh, no, you can't tell them. 20 You've got to write it down. I mean, if they pay you a 21 check based on what you said instead of what was 22 written down, you are now in violation. What problem 23 are we solving? This has never been the subject of a 24 complaint anyway. So, again, it's almost rules for 25 rules' sake.</p>
<p>11:15:33-11:16:34 Page 87</p> <p>1 somebody for the work they do. Okay. We know that. 2 Obviously, you have to keep invoices and 3 receipts because we know that. Clean Elections 4 requires that. It's in the books. It's in the rules. 5 It's in the training that we get, but now we've added 6 some specific requirements that it's not enough to know 7 the amount. You have to get the invoice before you 8 write the check. You can't get the invoice the day 9 after you write the check. If you write -- get the 10 invoice after you pay the amount, then it's not 11 considered a direct campaign expense anymore. 12 Suddenly it's a violation. It's no longer 13 a legitimate expense because the timing was off. The 14 amount is fine. If I tell you I need \$5,000 because 15 we've got to deposit it in the postage account to get 16 your mailing out and when that's done, obviously we get 17 the actual amounts and we -- you get a final invoice 18 for the amounts due. 19 You know, the way the process works is 20 you're not allowed to spend money you don't have. So 21 you say I want to send out a mailer. I say it's going 22 to be about \$8,000. Do you have \$8,000? Yeah, I've 23 got \$10,000. Great. Okay. We can do -- about 4,000 24 of that has got to go in the postage account to make 25 sure that the mail goes out on time because I don't pay</p>	<p>11:17:35-11:18:42 Page 89</p> <p>1 The Commission now wants copies of all -- 2 of all voter communications that are sent out that 3 are -- that are mailers or invitations but not TV, not 4 radio, not online, not signs, not phone calls, not 5 newspaper ads, not -- just mailers and invitations. If 6 you're doing a mailer, we want to get copied on the 7 mailers and if you don't send us a mailer, you're in 8 violation. 9 So if I do a mailer and I forget to put you 10 on the list, my candidate is in violation for breaking 11 Clean Elections rules because I forgot to put you on 12 the list. Why am I going through this hassle? Because 13 you want a copy of a mailer. For what purpose? I 14 don't know. Nobody has complained about anything. The 15 fact of the matter is that if someone files a 16 complaint, you're already entitled to ask them for 17 copies of all of these things and they have to provide 18 them to you to answer the complaint so you can 19 investigate and resolve the matter. 20 Collecting things because someday there 21 might be a complaint and we want it in advance doesn't 22 get you any information you couldn't get by just 23 waiting until you actually need it and saying give me 24 copies of your mailers. That's always available. So 25 now you're going to get a whole lot of stuff in the</p>

<p>11:18:44-11:19:51 Page 90</p> <p>1 office that you're going to keep for -- why again? And 2 if we forget to send you one, it's just another 3 opportunity for us to accidentally get in trouble, 4 accidentally get in trouble which is sort of the final 5 concern. 6 And that's -- and that's -- there's sort of 7 a trap door both in Option C of the first thing and in 8 the consultant rule. Every time there's a chance for a 9 violation, even inadvertent, a candidate, sometimes a 10 consultant finds itself at the mercy of the Commission 11 that may or may not be fair. You guys have been, I 12 think, pretty darn good. I haven't necessarily agreed 13 with every decision you've made, but I think you've 14 been thoughtful. I think you've been fair. I think 15 it's been thoughtful. I think it's been even. 16 You don't treat one party or one ideology 17 different from the others. It has not always been that 18 way, okay? It may not always been that way -- be that 19 way. And so if I'm in a situation where potentially, 20 I'm sorry, that invoice was sent out after you wrote 21 the check, not before, therefore, you're in violation 22 and potentially at risk for what? A repayment of the 23 amount? Have I overspent by more than 10 percent? Do 24 I lose my office? What risks am I taking? 25 So, again, now we're back to consultants</p>	<p>11:21:07-11:22:11 Page 92</p> <p>1 run clean or traditional. They rely on our opinions in 2 that regard. 3 If you make it to where the consultants 4 start to feel like it's not worth the consultant's 5 time, I don't want -- I don't want consultants steering 6 candidates away from clean because it's just not worth 7 the hassle for consultants, you know. I'm a Clean 8 Elections champion and I've taken a lot of grief for 9 that as a conservative. So I like the system to keep 10 working for everybody and we just keep baby stepping 11 away from that. 12 I stand for any questions. 13 ACTING CHAIRPERSON MEYER: Any questions 14 for Mr. Querard? 15 Commissioner Paton. 16 COMMISSIONER PATON: So you don't have any 17 problems, really, with B. 18 What would be a legitimate amount? I mean, 19 because, you know, I forgot this gentleman's name, but 20 he said that you could make a fantastic price for that, 21 for their voter list. He says you can get it for free. 22 In my experience, people got it from the party. They 23 charged them a little bit. I mean, this isn't very 24 much, is it? 25 MR. QUERARD: Again, A or B works. The</p>
<p>11:19:54-11:21:06 Page 91</p> <p>1 trying to advise their clients and saying I've got to 2 tell you it's not worth the risk, okay? You don't get 3 the matching funds anymore. There's a lot more 4 paperwork. There's a lot more reporting. You're 5 subject to this additional bureaucracy and, by the way, 6 now we've got to have all these steps and if we miss 7 one of these steps, I've got to tell you, even if it's 8 my mistake, you're on the hook for thousands of dollars 9 or potentially you've got to give it all back or 10 potentially you win and you get kicked out of office to 11 solve a problem that doesn't exist. 12 And so the potential punishment for 13 violating these, again, I don't think you guys would do 14 it, but you're writing the rules that the next 15 Commission is going to use and I don't know how they 16 would treat it. So that's sort of one of the -- one of 17 the dangers of what we're doing here. We're trying to 18 fix a very specific problem. 19 Option A or B does it. Option C leaves the 20 system open to really more of the same kind of abuse, 21 and Option D is, again, a rule in search of a problem 22 that doesn't exist but provides more -- more 23 disincentives for consultants and candidates to 24 participate. And I will tell you from a consultant 25 standpoint a lot of candidates will ask us should we</p>	<p>11:22:13-11:23:11 Page 93</p> <p>1 parties make data available for free to a lot of 2 people. They choose not to do so for candidates 3 sometimes. It depends. Some Republican party 4 chairman, part of their running is and I'll make sure 5 the candidates have free access to data, and then he 6 gets it for free. Other people use it as a way of 7 generating revenue. 8 I think the protection to data that does 9 exist for everything else is that particularly on the 10 Democrat side and even on very partisan Republican -- I 11 do want to be fair in this particular case -- I think a 12 lot of them want access to that one specific database, 13 the VAN or whatever it is. And there is a national 14 price list for VAN. There is a state price list for 15 VAN. Now, the state party may have a markup on that. 16 This may or may not prohibit that. I don't really 17 care. 18 The nice thing is that the legit candidates 19 and the sacrificial lambs are all paying this price. 20 So because of that it makes it almost impossible for 21 them to gouge their people. They can't gouge their 22 candidates that are in serious knockdown, drag-out, 23 must win, swing district races. Okay? There's not 24 going to gouge Sean Bowie in District 18 because 25 they've got to keep that seat, but it's on the price</p>

<p>11:23:13-11:24:23 Page 94</p> <p>1 list. And you can verify that for what you got, Sean 2 Bowie paid the same price as whoever has just thrown it 3 away against Steve Yarbrough for his Senate seat. 4 So Option B has that protection because -- 5 you know, the problem if you go to Option C is now 6 you're expanding it to a bunch of the products that no 7 serious candidate buys from the party. So the party 8 could have a price list except the prices are all 9 nonsense. And only the nonsense candidates pay 10 nonsense prices, but as nearly as you can tell, you 11 can't -- you can know that it's wrong, but you can't 12 prove that it's wrong, which means you're never going 13 to be able to take action against it. 14 But with Option B, all the candidates, 15 legit, not, serious, not, sacrificial lambs, not, 16 they're all buying from the same list, and you have the 17 ability to look at that and say, okay, they're all 18 paying the same price or clearly you have gouged these 19 people and we can -- we can document that. So A is 20 better than B, but B is pleasurable. You could -- that 21 was one of the challenges we had last time is what they 22 were doing -- it's almost I can see it, but I can't 23 prove it and so it's going to go. You can please B. 24 You will -- 25 COMMISSIONER PATON: So a legitimate price</p>	<p>11:25:18-11:25:54 Page 96</p> <p>1 comparison. 2 MR. QUERARD: There's no way to compare. 3 There's no -- you have no way of showing that it's 4 legitimate. 5 ACTING CHAIRPERSON MEYER: Right. 6 COMMISSIONER PATON: Just for my own 7 interest, though, are we talking thousands of dollars 8 for that? 9 MR. QUERARD: Potentially. It can be. For 10 a legislative candidate, it's probably more like 11 hundreds. It could be 1,200, 1,500 if it's got a lot 12 of good stuff on it. If you're a statewide candidate, 13 a congressional candidate, it could be -- it could be 14 thousands or potentially 10,000, 12,000, 50,000. 15 COMMISSIONER PATON: So Corporation 16 Commission or governor? 17 MR. QUERARD: It could be 10, 12, 15. 18 COMMISSIONER PATON: Okay. 19 MR. QUERARD: I think they paid -- the last 20 time I think it was 10 or 12 or something like that 21 that the Corporation Commission candidates paid the 22 Democrat party for theirs. 23 COMMISSIONER PATON: Okay. Thank you. 24 ACTING CHAIRPERSON MEYER: Do any other 25 commissioners have questions for Mr. Querard?</p>
<p>11:24:27-11:25:17 Page 95</p> <p>1 for that list is -- 2 MR. QUERARD: And I don't -- I don't know 3 because, again, a lot of the times on the Republican 4 side there's no charge. It depends on the quantity of 5 the data. It depends on the size of the list, if you 6 want 10,000 records or 100,000 records. Do you want 7 just the basic information? Do you want us to append 8 the 47 modifiers because you want to know if this 9 person identifies on all these various issues? You 10 want to know their magazine subscriptions. So it is an 11 a la carte thing depending on how much data you want 12 per person. 13 COMMISSIONER PATON: Okay. 14 MR. QUERARD: But it's on a price list and 15 you can compare the purchases. You can go to the party 16 and say, Sean Bowie already paid for everything. 17 COMMISSIONER PATON: Okay. Right. 18 MR. QUERARD: And you could see that the 19 pricing is consistent because serious candidates who 20 are watching every penny are customers just the same as 21 candidates who maybe don't care how the money is spent. 22 And you'll see that they've been charged the same 23 price. If it's something else where no serious 24 candidate shops there -- you know. 25 ACTING CHAIRPERSON MEYER: There's no</p>	<p>11:25:57-11:38:49 Page 97</p> <p>1 (No response.) 2 ACTING CHAIRPERSON MEYER: Thank you. 3 I'm going to check on our court reporter if 4 we need to give her a few minutes. She's been going 5 two hours straight so -- yes? 6 Okay. Let's take a five-minute break and 7 we'll reconvene. 8 MR. COLLINS: Okay. 9 ACTING CHAIRPERSON MEYER: Thank you. 10 (Whereupon, a recess was taken in the 11 proceedings.) 12 ACTING CHAIRPERSON MEYER: All right. 13 We're going to reconvene the meeting after a quick 14 five-minute break there. 15 Just for all those in attendance, we are 16 going to take a brief pause in the public comment. We 17 are going to come back to that, but we're going to -- 18 due to some time constraints here, we're going to move 19 ahead to Item Number VIII on the agenda which is a 20 discussion -- excuse me -- discussion and possible 21 action on enforcement matter MUR17-01, Jesus Rubalcava. 22 Mr. Collins? 23 MR. COLLINS: Yes. Mr. Chairman, 24 commissioners, you have read the memo on why we and I 25 believe that there's reason to believe a violation may</p>

<p>11:38:51-11:40:32 Page 98</p> <p>1 have occurred. We think that the audit and 2 Mr. Rubalcava's admissions respecting the audit and the 3 applicable statutes demonstrate that there's reason to 4 believe a violation may have occurred of numerous 5 significant statutes in 16-941(A), especially related 6 to contributions in -- that's page 2 -- and the primary 7 limit, the return of monies, the use of two bank 8 accounts and the general limit, among others. 9 So that's a high-level summary. If you -- 10 I assume you've all read the memo. We're -- just to 11 give context here -- and I think there's a matrix of 12 our decision-making process from here to there. What 13 we're asking for today is authorization to conduct an 14 investigation, and what that means is that, you know, 15 these preliminary determinations, we'll be able to go 16 out and pursue those. 17 I can say we have not heard from 18 Mr. Rubalcava. We have confirmation from Federal 19 Express that he received these items. He may not be in 20 the state at this time, but he is well aware. We sent 21 him notice both last week and this week and all the 22 items. So he's, I think, well on notice about this. 23 And so I see -- personally I see no reason to delay 24 moving ahead with this. If you have questions for me 25 or Sara respecting the memo, we're happy to go over</p>	<p>11:41:50-11:43:09 Page 100</p> <p>1 to enforce our subpoenas in court because we have the 2 authority to subpoena and there's an administrative -- 3 there's a law that allows us to pursue a court action, 4 if necessary, if there's no response. This may or may 5 not be ultimately necessary, but it seems to me that in 6 this particular case, we have an issue of -- I mean, I 7 think I can recognize just as -- we have an issue of 8 lack of responsiveness, and I don't want to -- it 9 doesn't make any sense to delay that authorization 10 until another meeting based upon where we stand. 11 I'm subject to correction by Ms. Karlson, 12 but that's my view. 13 COMMISSIONER KIMBLE: Mr. Chairman? 14 ACTING CHAIRPERSON MEYER: Go ahead, 15 Commissioner Kimble. 16 COMMISSIONER KIMBLE: I think the Staff's 17 work on this has been very comprehensive, clear, very 18 outstanding and very detailed. I move that the 19 Commission determine there is reason to believe that 20 violations may have occurred in MUR17-01, Jesus 21 Rubalcava. 22 COMMISSIONER CHAN: Second. 23 ACTING CHAIRPERSON MEYER: Okay. We have a 24 motion and a second. 25 All in favor say aye.</p>
<p>11:40:35-11:41:48 Page 99</p> <p>1 them or the process. 2 We're asking for two things today. We're 3 asking that the Commission determine that there is 4 reason to believe a violation may have occurred in 5 MUR17-01, Jesus Rubalcava, and are asking that the 6 Commission authorize me as executive director to be 7 able to issue subpoenas and take testimony under oath 8 in order to thoroughly investigate this matter further 9 as we move to the next stage in this process. 10 So that's where we are. That's the 11 high-level summary unless -- if you have any -- if you 12 have questions, I'm happy to answer them at this point. 13 ACTING CHAIRPERSON MEYER: Mr. Collins, who 14 does the examinations and the subpoenas? 15 MR. COLLINS: The subpoenas can be issued 16 in two ways under our rules. I can issue a subpoena -- 17 I can issue a subpoena as executive director. I can 18 also work with the Assistant Attorney General assigned 19 to the matter to issue -- to issue a subpoena. If a 20 subpoena is issued, there is a right on behalf of the 21 subpoenaed party to appeal that subpoena to you. And 22 then if they're unsatisfied with that, theoretically 23 they can challenge that subpoena in court. 24 Additionally, under Title 12, it's my view 25 that we have the authority -- I don't have the cite --</p>	<p>11:43:12-11:43:50 Page 101</p> <p>1 (Chorus of ayes.) 2 ACTING CHAIRPERSON MEYER: All opposed? 3 (No response.) 4 ACTING CHAIRPERSON MEYER: Okay. The 5 motion carries four-zero. 6 And, Tom, do we need another on the 7 subpoenas? 8 MR. COLLINS: We would recommend for 9 clarity that you -- that you expressly make that 10 authorization. 11 COMMISSIONER KIMBLE: Okay. Mr. Chairman, 12 I move we authorize the executive director and/or 13 counsel to issue subpoenas and take testimony under 14 oath in the investigation of MUR17-01, Jesus Rubalcava. 15 ACTING CHAIRPERSON MEYER: Is there a 16 second? 17 COMMISSIONER CHAN: I second that motion. 18 ACTING CHAIRPERSON MEYER: Commissioner 19 Chan seconds. 20 There's a motion and a second. 21 All in favor say aye. 22 (Chorus of ayes.) 23 ACTING CHAIRPERSON MEYER: Any opposition? 24 (No response.) 25 ACTING CHAIRPERSON MEYER: Hearing none,</p>

<p>11:43:51-11:44:49 Page 102</p> <p>1 motion carries four to zero. 2 Mr. Collins, anything further on Agenda 3 Item Number VIII? 4 MR. COLLINS: I don't have any. We 5 received some comment that I think you-all received via 6 email, and I think we're done with that issue. I don't 7 think there's anything else to add to it. 8 ACTING CHAIRPERSON MEYER: Okay. So now do 9 we want to jump back to Agenda Item Number VI and 10 continue the public comment? 11 MR. COLLINS: What I would recommend, 12 Mr. Chairman, if I may -- 13 ACTING CHAIRPERSON MEYER: Sure. 14 MR. COLLINS: -- is if we could open the 15 docket on the audit rule because that's a pretty simple 16 process. I don't -- that's another business item we 17 can get out of the way. 18 ACTING CHAIRPERSON MEYER: Is that Item b? 19 MR. COLLINS: That's item -- Item b. 20 ACTING CHAIRPERSON MEYER: VI-b? 21 MR. COLLINS: Item VI-b. I don't think 22 there's -- I would -- with your indulgence, I'd like to 23 just survey the room if anybody is going to want to 24 comment on the opening of public comment on the audit 25 of legislative candidates.</p>	<p>11:45:28-11:46:33 Page 104</p> <p>1 second? 2 COMMISSIONER PATON: Second. 3 COMMISSIONER KIMBLE: Second. 4 ACTING CHAIRPERSON MEYER: Okay. 5 Commissioner Paton seconds. 6 All in favor say aye. 7 (Chorus of ayes.) 8 ACTING CHAIRPERSON MEYER: Any opposition? 9 (No response.) 10 ACTING CHAIRPERSON MEYER: Zero. Okay. 11 The motion carries four to zero. 12 Okay. So back to public comment, and I 13 guess we should maybe let the -- let those in 14 attendance know what I propose that the Commission do 15 today is that we do not vote on these options. I've 16 heard some very meaningful commentary that I want to 17 give fair consideration to and I don't think I can do 18 that in the next 45 minutes. So I suggest that we take 19 the public comment from today, digest that and that we 20 consider this at the next meeting. 21 And as far as the issue of public comment, 22 I don't think we need any more public comment, but if 23 we're required to take any I think we should put a 24 limit of maybe two minutes per person on that. But 25 that's what I'm proposing. And so there will not be a</p>
<p>11:44:50-11:45:24 Page 103</p> <p>1 Anyone? Anyone? 2 (No response.) 3 MR. COLLINS: Okay. So no one seems to 4 want to. So I would suggest, then, that we do that 5 item and then move back to the public comment, if that 6 works for everyone. 7 ACTING CHAIRPERSON MEYER: Sure. So we're 8 looking for a motion -- 9 MR. COLLINS: It should be on page 1. 10 ACTING CHAIRPERSON MEYER: -- to open -- to 11 adopt, correct? We're looking for a motion -- 12 MR. COLLINS: No. This is to open. 13 ACTING CHAIRPERSON MEYER: Oh, excuse me. 14 A motion to open public comment on R2-20-402.01. 15 Correct? 16 MR. COLLINS: Correct. Yes. 17 ACTING CHAIRPERSON MEYER: Okay. Does 18 anyone want to make that motion? 19 COMMISSIONER CHAN: I'll make that motion. 20 ACTING CHAIRPERSON MEYER: Commissioner 21 Chan. 22 COMMISSIONER CHAN: Mr. Chairman, I move 23 that we open public comment on R2-20-402.01 related to 24 auditing legislative participating candidates. 25 ACTING CHAIRPERSON MEYER: Is there a</p>	<p>11:46:38-11:47:37 Page 105</p> <p>1 vote today. It is my recommendation. 2 And, Tom, I'd defer to you on your thoughts 3 on that. 4 MR. COLLINS: Mr. Chairman, just to talk 5 about this as far as logistically doing that, first, I 6 don't believe that we need a vote to have Staff 7 direction on that because that's an agenda item. So 8 unless one of the commissioners objects to that course 9 of action, that's what we'll do. 10 And, Kara, do you think that seems fair? 11 MS. KARLSON: I'll correct you when I need 12 to. 13 MR. COLLINS: Okay. Secondly, I think 14 that -- I think that given -- if we are now -- and we 15 are -- going to continue with public comment, we've had 16 a lot and we have a number of people who have arrived 17 to make further public comment, is those folks who made 18 the record and made a record last week, I do believe 19 that what we will do on the -- on the agenda next month 20 is say that public comment and the sign-in will be 21 limited to two minutes per person because I think we've 22 had a fulsome discussion here today and we don't want 23 to reinvent the wheel, but we do want to get everyone. 24 So this meeting will be for purposes of 25 saying everybody's piece and that will be the plan</p>

<p>11:47:40-11:48:57 Page 106</p> <p>1 going forward without any objection from the Commission 2 on the next agenda item, which also means probably 3 we're going to have to have a July meeting. Thank you. 4 ACTING CHAIRPERSON MEYER: We're here to 5 serve. 6 MR. COLLINS: But that would be -- I think 7 that's an acceptable plan to us as Staff and -- and as 8 long as we haven't made any procedural errors, which 9 apparently we haven't, then that's what we'll do. 10 So with that, as far as organizing public 11 comment here, I know that there are a number of folks 12 who have arrived who would like to comment. And I 13 don't know if there's anybody -- and I think Mr. McCain 14 has been waiting patiently. He's been here the whole 15 time. So I'd like to start with Mr. McCain and then we 16 have Ms. Blanc. We have Representative Salman and 17 maybe some other folks. Maybe Ms. Walton who would 18 want to testify so -- and then others who need to 19 testify, please make -- raise your hand as we go. 20 MR. McCAIN: Good morning, Commission and 21 chairman. My name is Barry McCain. I'm at 13750 South 22 Calumet, Arizona City. 23 I always listen before I talk and I'd like, 24 first thing, to say, thank you for what you've done. 25 As a candidate 30 -- 3 times -- the first time I broke</p>	<p>11:50:25-11:51:45 Page 108</p> <p>1 Tom, did you have someone to go next? 2 Thank you, Mr. McCain. Thank you. 3 MR. COLLINS: Yeah. I would -- I would, 4 just out of deference to Representative Salman and 5 Representative Blanc, whichever one of you prefers to 6 go first, you can choose between yourselves. 7 REPRESENTATIVE BLANC: Thank you so much 8 commissioners for your time. I am Representative 9 Blanc. There we go. Thank you. 10 I don't know where to start. I've heard a 11 lot of things said and so I just want to begin to tell 12 you about me. Many of you got to hear some of that 13 information last month, I think, or whenever it was, 14 but I want to point out some -- give you a perspective 15 as a person who ran as a Clean Elections candidate. 16 Number 1, I was not asked to run by the 17 Democratic party. I can thank Representative Salman 18 and Senator Mendez for having the courage to ask me to 19 run with them in a district that I have lived in for 20 over 20 years. I am a Tempe High graduate, Tempe 21 High's sits in my district, LD26. My students -- my 22 children are products of the Tempe elementary public 23 school sytem. They are both students at ASU. So I 24 understand and know my district really well. So Number 25 1, the Democratic party did not ask me to run.</p>
<p>11:49:01-11:50:23 Page 107</p> <p>1 my back. The second time I watched being told for the 2 list that you are talking about, the list where 3 Democrats are -- because I'm a Democrat -- the first 4 time it was 600. The second time it was 800. And I 5 asked then is it going to be a thousand next time? 6 There has to be some common sense here and you're our 7 common sense. 8 A career in the military has taught me I 9 don't micromanage. I don't tell you how to do your 10 job, but I will tell you one thing that I ran for 11 office every time, including this time, to serve my 12 country. That's the main thing, and that's why I'm so 13 much in agreement with this Commission. The spirit of 14 representing our districts, if they don't intend on 15 doing it -- they come in anticipating money, I'm sorry. 16 I don't like that because that's not what this 17 Commission is about. 18 And you're my only safeguard and right now 19 we have people picking and choosing who's going to run 20 and they are not even qualified. They don't even show 21 up to capitol, but yet they want to run for the Senate 22 and the House. I have a problem with that, and you're 23 my only safeguard to get what's fair. And thank you 24 for that. 25 ACTING CHAIRPERSON MEYER: Okay. Next --</p>	<p>11:51:48-11:53:23 Page 109</p> <p>1 Thank you Representative Salman and Senator 2 Mendez for the courage to asking me to run. 3 Number 2, the money that I used in my Clean 4 Elections was not used to gift to the Democratic party. 5 I can tell you how my money was spent. During the 6 primary it was spent to get pamphlets, to get a couple 7 of mailers out, but more importantly, to knock on 8 doors. I spent a bulk of my time -- and I talked about 9 that last month. Starting in July of last year the 10 three of us, along with a small band of volunteers, 11 were walking from 8:30, 9:00 a.m. to 12:00 p.m. taking 12 a break and then walking again all afternoon until late 13 in the evening until the sun went down. 14 This was not because of the Democratic 15 party. This was because this was an opportunity for us 16 as candidates to try and create a level playing field 17 for people like me. People like me who are not well 18 connected. People like me who do not have contacts 19 with lobbyists or groups or organizations that can fund 20 my campaign as a traditional. In fact, I feel like I 21 have to comment that I wish that my colleagues across 22 the aisle would spend more time regulating and looking 23 at how much money traditional candidates get during 24 their campaigns. 25 You guys know what it looks like to get a</p>

<p>11:53:26-11:54:37 Page 110</p> <p>1 \$5 qualifying candidate because you see the forms. I 2 have to spend an extra few minutes which happy to do 3 because that allows me to get to know the person that 4 I'm talking to when asking them for a \$5 contribution. 5 They have to fill out their name, their address, their 6 phone number, their email and they have to sign. And 7 then I have to hold on to one copy for myself. I have 8 to give them a copy and then another copy goes to the 9 Secretary of State. 10 It's -- it's a huge process. I don't 11 believe the same process is accurate when somebody who 12 is run -- run traditional gets over \$5,000 or over 13 \$100. I actually don't even know what the process is, 14 but I bet you that they don't have to fill out a form 15 asking for all the information. 16 As a -- as a Clean Elections candidate I 17 had to -- because I was one of the lucky candidates 18 that was audited, I had to provide a list of all the 19 names of my relatives, my grandparents who have been 20 deceased for a very long time. That was challenging 21 and incredibly difficult. So the reason I'm providing 22 this perspective is because there's a lot of rules 23 attached to being a Clean Elections candidate, and as a 24 person who voted to create Clean Elections so many 25 years ago, I was doing it because I wanted to provide a</p>	<p>11:56:17-11:58:06 Page 112</p> <p>1 these rules and rumors and innuendos. 2 It shocks me that we are doing everything 3 to discourage people like me to run for public office. 4 Is this what the mission was of the people who so voted 5 and believed in the Clean Elections system so many 6 years ago? I believe the number of Clean Elections 7 candidates has gone down over the years, especially 8 after the matching funds went away, I imagine. You 9 guys know the history probably better than I do. I can 10 only speak for my experience. 11 And I can tell you with 100 percent 12 certainty in truth that my money as a Clean Elections 13 candidate went to serve the people in terms of me 14 knocking on doors. In my district, Legislative 15 District 26 in the primary, our team, without the help 16 of the Democratic party -- because, again, the only 17 time I gave money was for the general to get three 18 people hired. Knocked on over 30,000 doors. We 19 increased voter turnout by close to 30 percent and in 20 some districts, precincts, even higher. 21 That's an incentive to give people like me 22 who will spend 99 percent of their time walking in 23 100-degree, 110-degree temperature to knock on doors as 24 opposed to spending 90 percent of my time talking to 25 lobbyists or groups or organizations to fund a campaign</p>
<p>11:54:40-11:56:14 Page 111</p> <p>1 level playing field for people like me to allow to be 2 able to run, not because the Democratic party asked me 3 to but because people that know and understand my 4 community trusted me to. 5 This idea that there's -- it's a financial 6 incentive for Democratic -- the Democratic party, it 7 just shocks me. I don't know what the financial 8 incentive is. I can tell you that in the general I did 9 provide less than \$5,000 to the Democratic party, and I 10 can tell you what it was used for. Their names are 11 Fatima Islas and Colin Behar. They were the people who 12 were running my campaign. They were there day in, day 13 out, nights, weekends gathering and organizing 14 volunteers -- volunteers, not paid volunteers -- 15 volunteers to knock on doors. 16 That was a coordinated campaign. It was 17 not me funneling money from Clean Elections into the 18 Democratic party so the Democratic party can then use 19 the money for I don't know what. I'm not really sure 20 where these innuendos are coming from. Oh, and also I 21 forgot to mention Phil. Phil Waguara, which I know I'm 22 saying his name wrong, but three people. I saw them 23 day in and day out every day. I can tell you where my 24 money was used. I can tell you where my money went. 25 It did not go to other districts as I'm hearing all of</p>	<p>11:58:09-12:00:08 Page 113</p> <p>1 where there apparently I don't believe is a money troll 2 because we continue to deregulate traditional 3 candidates. Think about that. 4 We're talking about, in essence, what is -- 5 \$16,000 is what I received in the primary and about 6 \$24,000. That's like \$40,000. So you look at me right 7 now as I stand before you telling you I was not asked 8 by the Democratic party to run. I did not give my 9 money to the Democratic party to spend on other 10 candidates in other districts because I looked at the 11 people that I hired with that money on an effort to 12 increase voter turnout in our community, in my 13 community on the streets that I grew up in. 14 I grew up on 44th Street and Southern. In 15 the primary in the first two weeks, the ballots that 16 were turned in were higher than the amount of votes 17 four years earlier. That was because of the work that 18 we did knocking on doors. All you have to do, I 19 encourage you, please -- I got the audit. I'm sure you 20 received the paperwork. Look through my information. 21 You'll see exactly how I spent my money. \$700 went to 22 the minivan system so we can access voter files. 23 I keep hearing some interesting numbers. 24 \$700, I think, is what I paid. So, again, it's a 25 perspective that we need to seriously consider. So is</p>

<p>12:00:13-12:02:03 Page 114</p> <p>1 the goal to dis -- discourage people like me from 2 running? Because that's what Rule A and B will do. Is 3 the goal to give a heads up or a leg up or a full -- 4 you know, if you're running and running around the 5 track, literally traditional candidates have a huge leg 6 up because there are fewer rules for them. Again, as a 7 voter we wanted to encourage people like me to run. 8 And then I also want to yellow highlight -- 9 you know this. Senator Mendez, third time running, 10 first time running as a senator, and he stepped to the 11 Clean Elections system. I wish he was here so he could 12 tell his story, but I can tell you right now that I as 13 a Clean Elections candidate have never been asked by 14 the Democratic party to run. In fact, I was 15 discouraged. I was not asked to give my money to the 16 Democratic party. Those are my facts. That is my 17 perspective. 18 So I'm not sure what has happened in the 19 past that has created this rumor mill. You need to 20 come and talk to the candidates. I wish Pam Powers -- 21 Representative Pam Powers Hannley was here because she 22 could tell you the exact same story I'm telling you. 23 She was not encouraged by the Democratic party to run, 24 and I guarantee she probably did not give her money to 25 the Democratic party so it would be used in other</p>	<p>12:03:29-12:04:47 Page 116</p> <p>1 My -- and I want you to go door to door. 2 That's my whole spiel is go door to door. This should 3 be a grassroots effort and so on. That's not the 4 issue. The issue is these three people that helped 5 you, why can't you just pay them directly without the 6 Democratic party? Do you not see that that could lead 7 to undue influence by the party telling you what to do 8 and so on? It's happened all over the world. Tammany 9 Hall, Chicago, all over -- anywhere there's political 10 parties. 11 REPRESENTATIVE BLANC: Undue influence. 12 COMMISSIONER PATON: And so my issue is not 13 you going door to door. You should use the money how 14 you want to. This is state money that's given to you. 15 We just ask that you document it and don't write checks 16 to the party. That's my issue. So these three people 17 that helped you, that's fine. People do that all the 18 time. Pay them directly. That's the only problem that 19 I have with that. 20 REPRESENTATIVE BLANC: And I -- 21 COMMISSIONER PATON: Do you understand 22 that? 23 REPRESENTATIVE BLANC: Well, and I 24 appreciate your honesty. Thank you so much, 25 Commissioner Paton. Huge reality, right? Paton.</p>
<p>12:02:04-12:03:27 Page 115</p> <p>1 areas. 2 Have those conversations and -- or look 3 at -- look at our files. Obviously, the system works 4 because, unfortunately, you guys have to discuss 5 Representative Rubalcava. The system is apparently 6 working. It's effective. What is ineffective is the 7 fact that there is no system for traditional candidates 8 which I know you have no say in, but I just want to 9 point that out. 10 We're breaking or we're deregulating often 11 for traditional candidates on vast amounts of money and 12 we as Clean Elections all we have is less than \$40,000, 13 not including the \$4,000 that we're asked to raise. 14 And I'm happily -- which, by the way, came from friends 15 and family, friends and family. 16 So there's a problem, but it's not with 17 Clean Elections. Let me be clear. It is not with 18 Clean Elections. 19 Thank you. Any questions? 20 COMMISSIONER PATON: Question. 21 ACTING CHAIRPERSON MEYER: Commissioner 22 Paton. 23 COMMISSIONER PATON: So, I mean, obviously, 24 we're all on -- have something to do with Clean 25 Elections so we're not against Clean Elections.</p>	<p>12:04:49-12:06:17 Page 117</p> <p>1 Sorry. Thank you. I can tell you that the three 2 people were influenced by the team: Representative 3 Salman, myself and Mendez. It was a coordinated 4 campaign. As you well can imagine, there's a lot 5 happening in a general election where we're just -- 6 it's just coordinated. Which doors are we knocking? 7 You know, if this team is knocking on that door. 8 And I understand your concerns, right, but 9 what I've heard is this idea -- what was it? There was 10 a reference to, like, \$80,000. I don't know where 11 these numbers are coming from. So all I'm trying to do 12 is just provide you a perspective from someone who ran 13 clean for the first time, providing just a perspective 14 on I was not asked by the Democratic party because 15 there was also another reference that people are asked 16 to run in certain areas and then they can take that 17 money and funnel it or take it or put it in a different 18 area. So I'm just here, and I certainly understand and 19 respect your perception. 20 COMMISSIONER PATON: Right. Can you -- can 21 you answer what is wrong with if you're running as a 22 team, why do you need to write checks to the Democratic 23 party or the Green party or whoever? Why can't you get 24 together, find these people that can help you because 25 they've got the knowledge, like Mr. Constantin -- I</p>

<p>12:06:20-12:07:40 Page 118</p> <p>1 always forget his last name. There are people 2 available to do this. You said you're a first time 3 person -- 4 REPRESENTATIVE BLANC: Yeah. 5 COMMISSIONER PATON: I can understand how 6 you wouldn't know that, but they recruited you. They 7 said you would be a good person and so you get with 8 like-minded people that -- and if you want to band 9 together, so be it. That's fine, but why do you have 10 to write checks to the party? Nobody is answering my 11 question. Why is that so difficult? 12 REPRESENTATIVE BLANC: It's not that it's a 13 difficult question. I'm not really sure how to answer 14 it other than just with honesty. The Democratic party 15 was just an opportunity to work on a coordinated 16 campaign so we were not hitting the same doors, so we 17 would hit different neighbors, but here's the thing. 18 Maybe -- and there's a reason you're creating these 19 rules, right? I don't know what to tell you. I 20 honestly don't know what to tell you other than it was 21 an opportunity -- 22 COMMISSIONER PATON: Sure. 23 REPRESENTATIVE BLANC: -- to run an 24 effective campaign in a coordinated effort influenced 25 by the three people who hired those three individuals.</p>	<p>12:08:49-12:09:50 Page 120</p> <p>1 with other organizations? I mean, I'm sure there's a 2 lot of organizations -- or coordinating happening. 3 Just because somebody has the title of private -- and, 4 I mean, I don't know. I'm asking the same question. 5 COMMISSIONER PATON: And that's my -- 6 that's my point. There may not be -- maybe this is all 7 semantics but, it's all optics as well. We are trying 8 to -- we are trying to get the public -- when the 9 public hears -- and eventually they will. When the 10 public hears that all these candidates are writing 11 checks to any party, then they -- Clean Elections 12 gets -- gets a black eye. How does clean -- 13 REPRESENTATIVE BLANC: It does not get a 14 black eye. 15 COMMISSIONER PATON: I'm sure it will. 16 REPRESENTATIVE BLANC: I will politely 17 disagree with you. I appreciate it, but I just wanted 18 to make a point, right? And that was I'm only standing 19 here before you to provide you my perspective of how I 20 spent my money. 21 COMMISSIONER PATON: Sure. 22 REPRESENTATIVE BLANC: And I don't know 23 what people are thinking. People are not -- what I 24 know is the money that was given to the Democratic 25 party in the general. I named the three people. They</p>
<p>12:07:43-12:08:46 Page 119</p> <p>1 COMMISSIONER PATON: Right. 2 REPRESENTATIVE BLANC: Yes. In our -- in 3 our primary we had a consultant, but a lot of our work 4 happened to be with volunteers. And that was our focus 5 was mostly volunteers. 6 COMMISSIONER PATON: And that's good. 7 That's what -- that's what I want. That's what 8 Mr. Constantin has been talking about and you and your 9 teammates -- nobody has any issues with that. The 10 issue is that you can meet these people, coordinate 11 your campaign, pay the same three people however you 12 want to do it, but just don't write checks to the 13 party. And I don't -- and when people say this is too 14 difficult to do this, I don't understand the 15 difficulty. 16 REPRESENTATIVE BLANC: Well, then, I guess 17 the question is, too, then why don't we write just huge 18 checks to consultants without really understanding how 19 much money is being given to the consultants and what 20 they're spending their money on? I mean, that's -- 21 that's the same question. 22 COMMISSIONER PATON: But they're private. 23 This is state monies that you're giving to the party. 24 REPRESENTATIVE BLANC: But are they -- but 25 do we know they are private or are they coordinating</p>	<p>12:09:56-12:11:08 Page 121</p> <p>1 worked with us day in and day out and knocked on doors 2 with us and coordinated our volunteers. That's what 3 they did. It wasn't given so that the money would go 4 to a different -- and those are -- I'm just answering 5 to those -- those innuendos. That's what I was 6 answering to. 7 I'm just here as a Clean Elections 8 candidate to say that this is what I did with my money. 9 And I appreciate your question and your perception, but 10 I'm trying to help you understand that this is what 11 I -- I was not asked by the Democratic party to run, 12 discouraged but not encouraged because that was an 13 innuendo as well, a general innuendo. And the money 14 that I gave, I named the three people that worked in my 15 campaign. And I saw them day in and day out and 16 working because I knocked on the doors with them and 17 they coordinated those volunteers. 18 I'm sorry. 19 ACTING CHAIRPERSON MEYER: And, 20 Representative Blanc, I want to thank you, you know, 21 for your service using Clean Elections and running the 22 way you've run, and I sincerely appreciate what you've 23 told us today. And I just want to -- I just want to 24 say that the public comment process, that's not 25 necessarily the view of the Commission. I'm sure you</p>

<p>12:11:11-12:11:59 Page 122</p> <p>1 know that. 2 REPRESENTATIVE BLANC: No, no, and I do. 3 Thank you. 4 ACTING CHAIRPERSON MEYER: So -- so we're 5 giving everyone an opportunity to speak, you and others 6 here. So I would just urge everyone here that one 7 public comment is not our decision. 8 REPRESENTATIVE BLANC: Agree. 9 ACTING CHAIRPERSON MEYER: Two, a single 10 commissioner might -- with respect to my colleague here 11 Commissioner Paton has made it clear how he feels about 12 that. He's one of five commissioners. So we want to 13 give this consideration. I personally want to give 14 this consideration, and I appreciate comment from 15 everyone. So I appreciate what you've offered today 16 very much, as I appreciate what everyone has offered 17 today. 18 So I know -- Commissioner Chan, did you 19 have something that you wanted -- 20 COMMISSIONER CHAN: On a second thought, 21 no. 22 ACTING CHAIRPERSON MEYER: Okay. 23 REPRESENTATIVE BLANC: And I appreciate it 24 and just -- again, I just wanted to -- because there 25 were some statements made. And I respect them, but my</p>	<p>12:12:49-12:13:40 Page 124</p> <p>1 there was a lot of references made in testimony. And I 2 respect people's opinions, but I thought it was really 3 important to just share my perspective as someone who 4 did run clean very recently. And for me personally, 5 you know, it's troubling when there's, again, innuendos 6 that are made. So I just wanted to provide a 7 perspective. That's it. A perspective from my point 8 of view, especially since it was just a year ago when 9 we were walking in this heat. 10 Thank you. 11 ACTING CHAIRPERSON MEYER: From my 12 perspective, you have been heard and I very much 13 appreciate it. 14 REPRESENTATIVE BLANC: Thank you so much. 15 ACTING CHAIRPERSON MEYER: Any other 16 questions? 17 (No response.) 18 ACTING CHAIRPERSON MEYER: Any other 19 further public comment? Please come up. State your 20 name for the record, please. 21 Tom? 22 MR. COLLINS: Yeah, just the air 23 conditioner has, in fact, given out. So that's why -- 24 if you're wondering why it's warmer, it's because we've 25 broken the air conditioner.</p>
<p>12:12:02-12:12:47 Page 123</p> <p>1 goal here was to stand before you and just talk about 2 my perspective and my experience as a Clean Elections 3 candidate just so you know and understand that this is 4 my experience. So that was it. 5 ACTING CHAIRPERSON MEYER: And I've very 6 thankful that you shared that. 7 REPRESENTATIVE BLANC: Thank you. 8 ACTING CHAIRPERSON MEYER: I wasn't at the 9 last meeting so maybe others have already -- 10 COMMISSIONER CHAN: That's what I was just 11 going to say is that I know that -- 12 REPRESENTATIVE BLANC: Yes. 13 COMMISSIONER CHAN: -- the chairman was not 14 here and I -- one of the things when I was asking 15 questions of the other folks who testified was you -- 16 your testimony and your seatmates' testimony were 17 front -- front and center in my mind. I mean, I am 18 very clear, and I thought it was unfortunate that 19 everybody wasn't here today. And I'm glad you guys 20 came over just to kind of have a juxtaposition, 21 especially for Chairman Meyers since he wasn't able to 22 be here. 23 REPRESENTATIVE BLANC: Yeah. I encourage 24 you to watch the video. It will just provide 25 perspective. So just, again, I'm just here because</p>	<p>12:13:44-12:14:54 Page 125</p> <p>1 REPRESENTATIVE SALMAN: It seems to be 2 happening everywhere. 3 Athena Salman, state representative for 4 District 26. Hello again to some of you and, 5 Commissioner Meyer, It's a pleasure to see you. 6 ACTING CHAIRPERSON MEYER: I'm only acting 7 Commissioner. 8 REPRESENTATIVE SALMAN: So Representative 9 Blanc did a fantastic job in covering most of the 10 points so I just want to reiterate that in the last 11 testimony I really talked about how -- how much I liked 12 Option C because I think that transparency is good. 13 And transparency is not only good for candidates who 14 are choosing the party as the vendor, and in my 15 instance, for the general election I chose the party as 16 the vendor. I thought that given all the options that 17 were able to me and given the capacity, they had the 18 capacity to do what I needed to get done to achieve my 19 election goals. 20 If A or B were to pass, you would put me at 21 a competitive disadvantage to traditional candidates 22 who can still use the party as a vendor and I would not 23 be able to because I decided to run clean which is the 24 absolute transparent process to run for elected office 25 in Arizona, but I also --</p>

<p>12:14:58-12:15:58 Page 126</p> <p>1 COMMISSIONER CHAN: Mr. Chairman -- and I'm 2 sorry, Representative Salman. 3 If I may, Mr. Chairman. 4 ACTING CHAIRPERSON MEYER: Sure. 5 COMMISSIONER CHAN: One question I do want 6 to ask to that point is just that I feel strongly that 7 every candidate should be able to choose who their 8 vendors are and be able to make that decision, and I 9 personally like Option C because I think it allows for 10 that. And it also allows for a transparency check in 11 making sure that the monies that are paid are doing 12 what they're supposed to do. 13 Some of the points that were made earlier 14 was that maybe candidates aren't making the best 15 decision because people can get voter lists for free, 16 those sorts of things, and I wondered if you had any -- 17 anything to say on that point. And if you don't, 18 that's okay. I just -- that was one of the things that 19 was mentioned earlier. I hope I'm doing it justice. 20 REPRESENTATIVE SALMAN: And just a 21 clarifying question, when you say people are getting 22 voter lists for free, do you mean from their respective 23 parties or from consultants? 24 ACTING CHAIRPERSON MEYER: From anywhere. 25 COMMISSIONER CHAN: You know, from</p>	<p>12:16:57-12:18:07 Page 128</p> <p>1 standard county voter file does not provide, and my 2 district is in only one county. It's in Maricopa 3 County, but also it's a hub for the data that I 4 collected this past election cycle. So I can keep 5 building upon that. 6 And I am not a computer science expert. I 7 don't know how to do that outside of what the party has 8 built. So that is a service that was built by the 9 party that has been incredibly helpful for myself. 10 COMMISSIONER CHAN: So if I might just make 11 a comment, Mr. Chairman and Representative Salman. We, 12 actually, it sounds like, be putting one party's 13 candidates at a real disadvantage if we were to 14 prohibit them from obtaining this information from 15 their party. 16 REPRESENTATIVE SALMAN: So I would -- since 17 we heard from -- since I know, because I've only run as 18 a Democrat, that that is something that the Democratic 19 party provides, I could say that, yes, that would be 20 putting me at a disadvantage. I don't know if the 21 Green party provides that. I don't know if the 22 Libertarian party, Republican party, but by all means, 23 if the parties and these other parties that I compete 24 with want to develop that service for their candidates, 25 there's nothing that would prevent them from doing so.</p>
<p>12:16:00-12:16:55 Page 127</p> <p>1 anywhere. And nobody actually said where they got the 2 voter list for free, but they said they're out there. 3 I don't know, you know, what the quality of the list 4 would be, for example. 5 ACTING CHAIRPERSON MEYER: Rather than 6 having to spend your Clean Election funds for a voter 7 list, is there a way for candidates to obtain that same 8 list for nothing from some other source? 9 COMMISSIONER CHAN: And, actually, to be 10 fair, I think Constantin did mention that for the 11 Democratic party perhaps that's not possible because 12 there is one kind of great list that you do have to pay 13 for. So it may be not be possible for the Democratic 14 candidates, actually. 15 ACTING CHAIRPERSON MEYER: That's right. 16 REPRESENTATIVE SALMAN: What I really love 17 about that exchange is I think you guys just answered 18 it. 19 COMMISSIONER CHAN: Thank you. 20 REPRESENTATIVE SALMAN: You know, I ran as 21 a Democrat. And plan to continue running as a 22 Democrat, and for the Democratic party it is an 23 enriched file. And I'll be using the voter file from 24 the Democratic party as well both because we have 25 options to get even deeper information that the</p>	<p>12:18:10-12:19:11 Page 129</p> <p>1 So right now it would be a hindrance on the 2 Democratic party, but who knows. Maybe in the future 3 another party will provide that service. I don't know 4 the inner workings of the other parties, but the 5 other -- the other thing that I really like about C, 6 too, so it would allow us to use the tools that are 7 available to us as Clean Election candidates and as 8 competitive candidates so that we can properly run an 9 effective, efficient and ultimately a winnable 10 campaign, but I also think that it's really important 11 to get more -- more information and more transparency 12 on consultants. 13 Commissioner -- every time I see you I want 14 to call you General Paton. Commissioner Paton -- 15 ACTING CHAIRPERSON MEYER: It took me about 16 six months. 17 REPRESENTATIVE SALMAN: Did it? Okay. So 18 it's not just me? That's good. 19 COMMISSIONER PATON: That's good. That's 20 my pseudonym. 21 REPRESENTATIVE SALMAN: So I hear -- I hear 22 your point, and I kind of wonder, though, this is -- 23 you know, this is just -- the Democratic party has been 24 very transparent about you can choose us as a vendor 25 and here's the services that we provide. I ask myself</p>

<p>12:19:13-12:20:23 Page 130</p> <p>1 why isn't other parties doing that for their 2 candidates? And, if not, are there consultants out 3 there that aren't coordinating with the party? We 4 should know that and voters deserve to know that and 5 just to have that more transparency. 6 And I think with Section C we'll have a 7 more complete picture and -- and that's just a good 8 thing, you know, and I think Representative Blanc did a 9 fantastic job highlighting that. I really do wish that 10 there was the same level in standard for traditional 11 candidates because ultimately I want to just compete 12 about ideas and I want the resources to run an 13 effective campaign so I can communicate that idea, 14 communicate my message to voters. 15 And if someone wants to run traditional, 16 that's fine, but let's keep it an equal play field. 17 Let's not handicap the process, the rules for Clean 18 Elections to make it so onerous that folks like me who 19 truly believe in the mission of Clean Elections, truly 20 believe that we should get -- eliminate money from 21 politics or try to mitigate the influence of money in 22 politics so we can continue to use this fantastic 23 system. 24 I want to mention something. Because of 25 the way that exists -- and, again, I fully support</p>	<p>12:21:42-12:22:43 Page 132</p> <p>1 scratch and we're taking the oath. We're taking the 2 pledge. And then, I guess, as some candidates kind of 3 freaked out and said, well, let's create a tiered 4 system and say we won't take money from these groups, 5 you know, but it shifts the conversation. And that's 6 what -- that's what Arizona voters are thirsty for. 7 That's what voters in the entire country are thirsty 8 for. 9 I would be glad to take more questions, but 10 that's kind of where I'm coming from and that's been my 11 experience with Clean Elections. And if we have to do 12 some more paperwork, you know, if the consultants that 13 we work with have to just do more dotting their I's and 14 crossing their T's so our voters know exactly how the 15 Clean Election money was spent, that's great. I will 16 make my consultants do that. And money is also money. 17 I would be shocked if consultants turned away money 18 when their business is to run elections. 19 ACTING CHAIRPERSON MEYER: Thank you, 20 Representative Salman. 21 Any other questions from the commissioners? 22 (No response.) 23 ACTING CHAIRPERSON MEYER: Thank you so 24 much. 25 REPRESENTATIVE SALMAN: Thank you.</p>
<p>12:20:26-12:21:40 Page 131</p> <p>1 Option C. I advocate and would love to have more 2 transparency, but even just the system as it existed 3 since the inception and since I used it -- I've only 4 used it once. I'm a first-term representative. 5 I met state legislators from Virginia and, 6 unfortunately, because of the influence of money in 7 politics, they cannot create -- and they don't have the 8 citizens initiative process. So they cannot create a 9 ballot -- or they cannot create a Clean Elections 10 system for themselves, but what they did -- and it's 11 called -- it's called the Clean Elections -- not team 12 because that's what we call ourselves -- squad, Clean 13 Elections Squad. 14 And they literally -- from hearing the 15 story of Clean Elections in Arizona and being inspired 16 by the transparency and the fact that we don't take 17 money from dark money groups and PACs and independent 18 expenditures, that we really are advocating for the 19 public and running our campaign thus far, in Virginia 20 they started the Clean Elections Squad which is 21 candidates committing not to take PAC money for their 22 campaigns, any PAC money whatsoever. 23 And they're, like, we're going to start 24 with this and build from there. Maybe we can have what 25 Arizona has in the future, but we're starting from</p>	<p>12:22:43-12:23:47 Page 133</p> <p>1 ACTING CHAIRPERSON MEYER: Any additional 2 public comment? 3 Go ahead in the front here and then you 4 can -- 5 MS. WALTON: Hi. Dana Walton. I spoke the 6 last time. I am an employee of the Democratic party. 7 I specifically work with legislative candidates across 8 the state both traditionally and candidates who 9 participate in Clean Elections. So we do encourage 10 candidates to run in every single district across the 11 state. I believe I said that last time. It is a ton 12 of work. I'm staffed with two right now. So it's 13 like, you know, 14-hour days, but the intention is to 14 make sure that everyone -- every voter across the state 15 has the opportunity to vote for a Democrat on the 16 ballot. 17 Beyond that I wanted to just address some 18 of Commissioner Paton's questions about why writing a 19 check to the Democratic party. If you listened to the 20 way Isela talked to the individuals who worked on her 21 campaign, you can tell she had great adoration and 22 respect for these individuals because knocking doors in 23 Arizona summer is not easy. Excuse me. 24 What I would say is when she's able to buy 25 into a structure that is the Democratic party, those</p>

<p>12:23:51-12:24:58 Page 134</p> <p>1 staffers are then treated as employees. And what 2 you're offered as an employee versus a consultant, 3 health insurance. You've got workers' compensation. 4 You've got rules and regulations that we as the 5 Democratic party have to abide by when treating our 6 employees with respect. This also happens to be a 7 great value of the Democratic party to treat our 8 employees with respect. 9 So I have had -- actually, last year I had 10 a staffer who had to go to the hospital for three days 11 because she was dehydrated and had heat exhaustion 12 which was covered under our workers' compensation 13 through the Democratic party. So -- there's also 14 stories of people getting bitten by dogs or twisting 15 their ankles after falling off of steps, right? There 16 are -- there's infrastructure in place for the 17 Democratic party that allows us to make sure that our 18 employees, while they are working day in and day out, 19 are being taken care of. 20 There's a few other questions that I was 21 going to try and take a stab at answering, but I just 22 can't remember them now. So if you have questions, I'm 23 happy to answer them, but I just wanted to make sure 24 that note was also made. 25 ACTING CHAIRPERSON MEYER: Thank you,</p>	<p>12:26:01-12:27:02 Page 136</p> <p>1 wealthy people and there's your campaign budget. 2 You're all set. And I worry that the harder we make it 3 to run clean, you know, keep tilting that scale a 4 little bit and you're starting to nudge people in the 5 direction of running traditional. And the program is 6 already so much smaller than it was in its heyday and 7 hopefully we can get back to that heyday rather than 8 moving the opposite direction. 9 And I don't think that's the intent of 10 anybody on the Commission to shrink the participation 11 in the program. I really don't, but I worry that that 12 would be one of the impacts of anything other than 13 Option C. And I think that because, you know, we've 14 heard candidates say that they think it would make 15 their lives -- their lives harder. 16 You know, I'm confident that 17 Representatives Blanc and Salman would probably 18 continue to run clean. They're big believers in the 19 Clean Elections system. That's why they're here. I'm 20 more concerned with your candidates who are -- who are 21 on the margins, who, you know, don't have the deep, you 22 know, philosophical commitment, but who you really 23 benefit as voters from them having their funds not come 24 from, again, that small handful of really wealthy 25 donors who can now fund the traditional campaign, you</p>
<p>12:24:58-12:25:58 Page 135</p> <p>1 Ms. Walton. 2 Any questions? 3 (No response.) 4 ACTING CHAIRPERSON MEYER: Okay. The 5 gentleman in the back. 6 MR. EDMAN: Thank you, commissioners. I'm 7 up here, well, in front of most of you again and then 8 the first time. My name is Joel Edman. I'm the 9 executive director of Arizona Advocacy Network. We're 10 a nonpartisan organization one of whose top priorities 11 is protecting the Clean Elections system. So I'm not 12 here to -- you know, defending the interests of the 13 Democratic party or the Republican party, for that 14 matter. 15 It is a little troublesome to me, I think, 16 that the push does seem to be coming largely from one 17 side. And as, you know, Commissioner Chan mentioned, 18 this may have a disproportionate impact on one side's 19 candidates, but my main interest here is to make it -- 20 make sure that we are not discouraging people from 21 running clean. 22 Down the block at the capitol we're making 23 it easier and easier to run traditional. We're jacking 24 up the contribution limits through the roof to the 25 point where now you just need a small handful of very</p>	<p>12:27:05-12:28:20 Page 137</p> <p>1 know, basically on their own. 2 So that's -- that's all I have. I know 3 it's a big picture, but I think that the big picture 4 here is really more important than the little details 5 that we've gotten into through a lot of the morning. 6 ACTING CHAIRPERSON MEYER: Any questions? 7 (No response.) 8 ACTING CHAIRPERSON MEYER: Thank you. 9 MR. EDMAN: Thank you. 10 ACTING CHAIRPERSON MEYER: Please step up. 11 MS. KNOX: I'm Rivko Knox, on behalf of the 12 League of Women Voters of Arizona. And I merely wanted 13 to kind of in a way second what Mr. Edman just said. 14 As you all well know -- and I've done it for the record 15 just to say that, again, the league is a totally 16 nonpartisan but very political -- progressive political 17 organization that was very instrumental in getting 18 Clean Elections passed and very instrumental in 19 supporting the Voter Protection Act. 20 It really pains me to hear many of the 21 things that have been said and that appear to have been 22 in the news a lot about somehow that Clean Election 23 candidates are now becoming almost puppets of a 24 particular party. I think that's really sad and I 25 would hope that the Commission would continue to put</p>

<p>12:28:24-12:29:44 Page 138</p> <p>1 out the facts. I think Option C is excellent because I 2 think that the more faith that we can ensure the public 3 has in how Clean Election operates, the better. And I 4 think that the better, more documentation. 5 I think what appears to have happened since 6 the last election was some lessons were learned about 7 the need to get more documentation. I think that's 8 perfectly fine. I also just -- and I'm not trying to 9 denigrate anybody, but I do believe that one of the 10 Commissioners spoke about the fact that the Clean 11 Election candidate get state money. They do not get 12 state money, with all due respect, as I understand it, 13 because state money tends to imply that the State is 14 somehow taxing or getting revenue from the public. 15 And as you all know, because you are 16 commissioners and certainly the staff knows, the Clean 17 Elections money is not raised that way. So it is not 18 really state money. It certainly is public money. I 19 would prefer that terminology, if I might. And I do 20 not mean to impune you, Commissioner Paton, but that 21 word just struck me. It is public money, and that is 22 why I think the more transparency, the more 23 documentation the better. 24 Again, it sounds to me, having listened -- 25 I was not here last month as you well know because of</p>	<p>12:31:15-12:32:07 Page 140</p> <p>1 (No response.) 2 ACTING CHAIRPERSON MEYER: Okay. Is there 3 any further public comment? 4 MR. COLLINS: Well, Mr. Chairman, 5 Mr. Querard has a comment and then we're going to lose 6 Commissioner Chan here. We still have a quorum. We do 7 have to get to Mr. Kanefield on the agenda item we 8 pushed last time because of this going longer than we 9 expected. So my suggestion is if Mr. Querard could be 10 brief and then we can move on to Mr. Kanefield, I think 11 that will be best. 12 ACTING CHAIRPERSON MEYER: Yes. One 13 minute. 14 MR. QUERARD: In the interest of body heat, 15 I will move myself. 16 Again, I appreciate the stories. I love 17 how people are run clean and win and I've helped a lot 18 of those candidates myself. So I hope nothing we've 19 said is construed as an attack on Clean Elections. The 20 specifics of District 26, however, is that this is a -- 21 it's not a competitive district. The action is in the 22 primary. If you win the primary you can pretty much 23 start measuring the drapes. So it is illustrative of 24 who you spend money when it matters versus how you 25 spend money when it doesn't matter.</p>
<p>12:29:48-12:31:14 Page 139</p> <p>1 some personal reasons, although I read the minutes of 2 the meeting. And I'm aware of what was said, but I 3 would hope that the Commission would continue to ensure 4 that you as commissioners and Staff continue to inform 5 the public is to how Clean Elections really operates so 6 there does not get to be some incorrect information or 7 some tendency for people to believe something that 8 apparently is not true, to put it as plainly as I can. 9 So the league has not taken a position of 10 the options. We might after everything I've heard, but 11 up to this point I've not recommended it because I do 12 not feel it was appropriate. We might at this point 13 because we do not want to see -- I can speak for myself 14 here. I do not want to see Clean Election -- or people 15 who choose to run as Clean Election candidates in any 16 way made -- to make it harder for those who choose to 17 run that way because I think it is a wonderful system 18 because of its transparency. 19 So thank you--all very much. If anyone has 20 a question -- and, again, Commissioner Paton, I hope I 21 did not offend you. It was not my intent. 22 COMMISSIONER PATON: Oh, no. 23 MS. KNOX: So thank you very much. 24 ACTING CHAIRPERSON MEYER: Thank you. 25 Any questions?</p>	<p>12:32:09-12:33:10 Page 141</p> <p>1 All of this expertise -- they had an Evan 2 Behar that was -- and I'm probably saying it wrong -- 3 that all three of the candidates in the team paid. 4 Nominal amounts during the primary when money was tight 5 and really large money also in the general, \$3,500 a 6 month kind of thing. Mr. Mendez didn't. He -- his 7 money was taken because he didn't have a general 8 election. 9 The team suddenly had this party expertise 10 it needed at extraordinary cost to guide them on how to 11 do something they had already successfully done in the 12 race that mattered when they wouldn't have spent their 13 money that way because every dollar was so precious. 14 Suddenly they needed this expertise to guide this team 15 and to do all this stuff. Again, Mr. Mendez 16 contributed nothing to that expense. It benefits the 17 team when two of the candidates are paying; the third 18 candidate is not paying. 19 So how you spend your money when it matters 20 versus how you spend it when it doesn't matter is 21 illustrative of what really mattered. If this guidance 22 was so critical, so crucial, these people were just God 23 sent and they just had skills that, my gosh, we just 24 didn't have without them, you wouldn't have seen them 25 in the general that didn't matter -- I wouldn't say it</p>

<p>12:33:13-12:33:57 Page 142</p> <p>1 didn't matter, but really it was impossible to lose 2 that district in the general election -- you would have 3 seen them in the race that mattered. 4 And in the race that mattered when the 5 dollars were tight, everybody got less money. 6 Paychecks were smaller. The party got no money. And 7 it's just -- so from a strategic standpoint, that's 8 what we look at. I'm not sure why Mr. Mendez didn't 9 contribute anything at all, but that's -- he didn't 10 really have a race, though. 11 MR. COLLINS: Well, he didn't really have 12 a -- 13 ACTING CHAIRPERSON MEYER: Understood. 14 Thank you. 15 On to -- 16 MR. COLLINS: We really need -- there's 17 going to be an opportunity next month, Representative 18 Blanc, unless it's really -- 19 REPRESENTATIVE BLANC: It's quick. I'm 20 sorry. I just -- 21 MR. QUERARD: And it's fair. 22 REPRESENTATIVE BLANC: Thank you. 23 Really briefly, I'm not really sure where 24 that -- that came out of left field, sir. Evan Bejar 25 was also our consultant during the race that really</p>	<p>12:35:23-12:36:18 Page 144</p> <p>1 that I don't know how he wants to handle that. 2 MR. KANEFIELD: Thanks, Tom. 3 Mr. Chair, members of the Commission, I 4 think Tom summarized the issue. I don't know if you're 5 familiar with respect to the court -- the surcharges 6 that are collected by the court and primarily or 7 exclusively fund the Commission these days. Because of 8 the legal issues associated with the question, I think 9 it probably would make sense for the Commission to go 10 into executive session so I could give you some counsel 11 on how we might want to proceed with our dealings with 12 the court. 13 ACTING CHAIRPERSON MEYER: Okay. Do we 14 need a motion? 15 MR. COLLINS: Yes, please. 16 ACTING CHAIRPERSON MEYER: I'll move that 17 we go into executive session. 18 Is there a second? 19 COMMISSIONER KIMBLE: Second. 20 ACTING CHAIRPERSON MEYER: Okay. Motion. 21 All in fair enough say aye. 22 (Chorus of ayes.) 23 ACTING CHAIRPERSON MEYER: Any opposition? 24 (No response.) 25 ACTING CHAIRPERSON MEYER: All right.</p>
<p>12:34:00-12:35:21 Page 143</p> <p>1 mattered which was the primary. I just wanted to point 2 that out. So he was our consultant throughout both our 3 primary and general. 4 Thank you. 5 ACTING CHAIRPERSON MEYER: Thank you. 6 All right. Agenda Item Number VII, Tom. 7 MR. COLLINS: Okay. So we are going to try 8 to -- this is something only the Commission and Staff 9 care about, I think. Mr. Kanefield is here to talk to 10 us about our progress in discussing matters of our 11 surcharge with the Arizona Administrative Office of the 12 Courts. 13 Just to kick that off, I don't know if we 14 want to go into executive session or not, but just to 15 kick off the public portion, as you all know, starting 16 in last year, I was in communication with the court 17 staff, the chief justice and the Commission on 18 reforming the financial operations related to those who 19 are considered to be in poverty about the 20 constitutional implications and other implications of 21 what they -- what they propose to do. 22 Those efforts weren't successful, but once 23 they introduced the bill, we were finally able to get 24 into some productive conversation and then -- and Joe 25 has some ideas on how to take some stuff from there</p>	<p>12:36:18-01:03:07 Page 145</p> <p>1 Motion carries three-zero. 2 /// 3 (The following section of the meeting is in 4 executive session and bound under separate cover.) 5 * * * * * 6 (End of executive session. Public meeting 7 resumes at 1:02 p.m.) 8 ACTING CHAIRPERSON MEYER: All right. We 9 are back out of executive session. 10 Is there a motion, my fellow commissioners? 11 COMMISSIONER KIMBLE: Mr. Chairman? 12 ACTING CHAIRPERSON MEYER: Commission 13 Kimble. 14 COMMISSIONER KIMBLE: I move that we 15 proceed as discussed in executive session. 16 ACTING CHAIRPERSON MEYER: Is there a 17 second? 18 COMMISSIONER PATON: Second. 19 ACTING CHAIRPERSON MEYER: All right. We 20 have a motion. It's been moved and seconded. 21 All in favor say aye. 22 (Chorus of ayes.) 23 ACTING CHAIRPERSON MEYER: All opposed? 24 (No response.) 25 ACTING CHAIRPERSON MEYER: All right.</p>

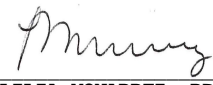
01:03:08-01:03:39 Page 146

1 Motion carries three-zero.
 2 Mr. Collins?
 3 MR. COLLINS: Public comment. There's no
 4 one here for public comment. So we can move to a
 5 motion to adjourn.
 6 ACTING CHAIRPERSON MEYER: Who would like
 7 the honor of the motion to adjourn?
 8 COMMISSIONER PATON: I would make a motion
 9 to adjourn this meeting.
 10 ACTING CHAIRPERSON MEYER: Second?
 11 COMMISSIONER KIMBLE: Second.
 12 ACTING CHAIRPERSON MEYER: All right.
 13 MR. COLLINS: Do you want to do a vote?
 14 ACTING CHAIRPERSON MEYER: Motion to
 15 adjourn.
 16 All in favor?
 17 (Chorus of ayes.)
 18 ACTING CHAIRPERSON MEYER: Any opposition?
 19 (No response.)
 20 ACTING CHAIRPERSON MEYER: No? Motion
 21 carries.
 22 That concludes our meeting on June 27 --
 23 22nd.
 24 Thank you.
 25 (Whereupon, the proceedings concluded at

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1 1:03 p.m.)
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1 STATE OF ARIZONA)
 2 COUNTY OF MARICOPA)
 3 BE IT KNOWN the foregoing proceedings were
 4 taken by me; that I was then and there a Certified
 5 Reporter of the State of Arizona, and by virtue thereof
 6 authorized to administer an oath; that the proceedings
 7 were taken down by me in shorthand and thereafter
 8 transcribed into typewriting under my direction; that
 9 the foregoing pages are a full, true, and accurate
 10 transcript of all proceedings and testimony had and
 11 adduced upon the taking of said proceedings, all done to
 12 the best of my skill and ability.
 13 I FURTHER CERTIFY that I am in no way
 14 related to nor employed by any of the parties thereto
 15 nor am I in any way interested in the outcome hereof.
 16 DATED at Phoenix, Arizona, this 24th day of
 17 June, 2016.
 18
 19
 20 
 21 LILIA MONARREZ, RPR, CR #50699
 22
 23
 24
 25

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**CITIZENS CLEAN ELECTIONS COMMISSION
EXECUTIVE DIRECTOR REPORT
July 20, 2017**

Announcements:

- The public can view Commission meetings live via the internet at www.livestream.com/cleanelections. A link is available on our website.
- We are excited to announce that Stephanie Cooper has joined the Commission staff on July 3rd as the Executive Support Specialist. Stephanie was formerly with the Secretary of State's Office and the Apache County Elections Department.

Voter Education:

- The Roundtable event occurred on July 13th with approximately 100 attendees. Staff has received positive feedback from attendees and will work to consolidate the roundtable sessions into a report.
- The next consolidated election date is August 29, 2017 and the next voter registration deadline is Monday, July 31st. The following jurisdictions are conducting elections:
 - Phoenix (candidate)
 - Prescott (candidate and ballot measures)
 - Tucson (candidate)
 - Yuma (candidate)
- Staff is working on finalizing the chat bot content and intends to go live prior to the voter registration deadline.
- Gina will present at the Arizona Municipal Clerk's Association elections training on July 26th and Alec and Stephanie will attend the full training session.

2018 Candidate Information:

- The first day to collect \$5 qualifying contributions is August 1st (Qualifying Period begins).
- Participating Legislative Candidates: **13**
- Participating Statewide Candidates: **7**
- Clean Elections Training Workshops will start this afternoon and continue until the end of the Qualifying Period.

Enforcement – 2017 Election Cycle:

Complaints Pending: 1

- MUR 17-001 – Jesus Rubalcava – currently during investigation phase.

Enforcement – 2014 Election Cycle:

Complaints Pending: 3

- MUR 14-006, -015 (consolidated/conciliated): Horne - pending completion of items in conciliation agreement.
- MUR 14-007: Legacy Foundation Action Fund (LFAF) – Arizona Supreme Court
 - Legacy and the Commission filed Supplemental Briefs Friday May 12. These are attached as Exhibits 1 and 2. Oral Argument is currently set for September 11, 2017
- MUR 14-027: Veterans for a Strong America (VSA)

Miscellaneous

New Attorney General Opinion—Attachment A

The Attorney General’s Office issued an Attorney General Opinion recently on public records. This opinion has problematic language in it. In my view, it might lead one to the conclusion that certain records that are public under the existing law are not. The existing law, including the case law is binding on all state agencies and those who possess and create public records.

First, the question presented has been framed this way: **“WHETHER ARIZONA’S PUBLIC RECORDS LAW EXTENDS BEYOND ITS TERMS AND APPLIES TO PRIVATELY SENT MESSAGES”** (all caps original). This framing begs the question—if the message is a public record, how it is sent is not relevant under the law. “[T]he nature and purpose of the document determine its status. . . .” *Griffis v. Pinal Cty.*, 156 P.3d 418, 422 ¶ 14 (Ariz. 2007).

Although the Attorney General’s Opinion correctly notes that “public officials cannot use private devices and accounts for the purpose of concealing official conduct,” this opinion nevertheless reasons that certain statutes’ “plain language makes clear that when the Legislature expanded the scope of public records to include electronic records, it did so only with respect to agency-maintained systems.” This reasoning, in effect, undercuts the short answer quoted above.

In other words, public records cannot be concealed on private devices, but the public records law, by the opinion’s reasoning, appears to cover only agency maintained systems. This is a very confusing line of reasoning. Moreover, it is in tension with other case law that focuses on the public’s interest in public records. *Cf. Arpaio v. Citizen Publishing Co.*, 211 P.3d 8 (Ariz. App. 2008) (holding that attorney fee awards are available against public officers other than the custodian of records in public records cases).

Indeed, the Attorney General opinion turns the public’s interest on its head, stating “public employees have a strong privacy interest in their personal electronic devices and social media accounts, which contain significant personal, private information.” *Griffis* addressed the privacy issue by holding that if a privacy interest existed in documents on a government computer system, the party seeking to prevent disclosure had the burden of proof. In that case, the employee trying to prevent disclosure based on his asserted privacy interest had the burden of proof. 156 P.3d at 423 ¶ 16. Under *Griffis*, personal email on a public system are not public records and the employee seeking to prohibit disclosure has the burden of proof. But under the Attorney General’s opinion, public communications on a private device are not public records. *The privacy interest of the employee is used to justify not treating documents on a private system as public records even if their “nature and purpose” are related to government work.* The reasoning of the AG opinion appears backward.

Ultimately, the AG Opinion states: “Classifying messages on personal electronic devices and social media accounts as public records would potentially expose the entire contents of employees’ personal electronic devices and social media accounts to agency access and perusal as part of the public records response process.” This is an extraordinary assertion un contemplated in Arizona law. Public records and other matters are subject to inspection. Excluding so-called private media

from a request is the functional equivalent of allowing public officials to keep their paper files in a drawer at home and exempting them from inspection.

The opinion itself recognizes that “officers and public bodies are under independent obligations to record their work and otherwise maintain records.” Nothing in that duty provides that such records may be shielded, as the opinion recognizes by explaining public records violations may give rise to prosecution. And communications of public business on private devices is particularly troubling *when many agencies provide no public communication tools, and prevents the public from being able to inspect the documentation, records, and other matters that lead to government decisions*. The opinion therefore is very confusing and difficult to apply and interpret in an area where clarity is critical.

For example, nothing in A.R.S. § 41-151.18, the statute relied upon by the opinion, appears to support the reasoning of the opinion. The statute states:

In this article, unless the context otherwise requires, "records" means **all** books, papers, maps, photographs or other documentary materials, **regardless of physical form or characteristics**, including prints or copies of such items produced or reproduced on film or electronic media pursuant to section 41-151.16, **made or received by any governmental agency in pursuance of law or in connection with the transaction of public business** and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained in the record, and includes records that are made confidential by statute.

A.R.S. § 41-151.16(A), the critical paragraph in the Attorney General's analysis, merely sets forth the authorization for electronic record production. It does not say anything about the underlying public records and other matters subject to inspection.

The AG Opinion's reasoning is confusing, as it states “The statutes' plain language makes clear that when the Legislature expanded the scope of public records to include electronic records, it did so only with respect to agency maintained systems.” Nothing in the 41-151.16 or -151.18 supports that conclusion. To the contrary, A.R.S. § 41-151.18 says records are records “regardless of physical form or characteristics” and include “any records made or received . . . in connection with the transaction of public business.” Indeed, under A.R.S. § 41-151.15 (“All records made or received by public officials or employees of this state or the counties and incorporated cities and towns of this state in the course of their public duties are the property of this state.”).

As noted above, the court of appeals has already rejected a similar limitation based on a false distinction between custodians of record and other public employees. *Arpaio*, 211 P.3d at 12 ¶ 13 (noting that the legislature has broadened rather than narrowed responsibility for failing to meet requests), while the Arizona Supreme Court has held that even meta data is a public record, *Lake v. City of Phoenix*, 218 P. 3d 1004 (Ariz. 2009).

The Attorney General's Opinion confuses what are, in my view, clear statements of Arizona law. That confusion has potential consequences. Consequently, under my authority as Executive Director, Commission staff will treat public records as public records under the existing law, not the Attorney General's reasoning. This will provide broader transparency than is required under the Attorney General's analysis. I would recommend that the Commissioners themselves take the same steps. To the extent a formal resolution of some kind is necessary we will address that in subsequent meetings.

Attachment A



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION By MARK BRNOVICH ATTORNEY GENERAL July 7, 2017	No. I17-004 (R15-026) Re: Whether Arizona's Public Records Law Extends Beyond its Terms and Applies to Privately Sent Messages
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To: Senator Steve Farley
Arizona State Legislature

Questions Presented

Are messages sent and received via texting and social media sites by officers or public bodies that have a substantial nexus to the job public records, even if the employee uses a private cell phone or electronic device?¹

Summary Answer

Electronic messages sent or received by a government-issued electronic device or through a social media account provided by a government agency for conducting government business are public records. With respect to communications conducted on private devices or accounts, although private devices or accounts do not themselves harbor public records, public officials have an affirmative duty to reasonably account for official activity. This duty

¹ This opinion addresses only the specific request made, relating to electronic messages sent via "texting and social media sites," and does not evaluate the applicability of the Arizona Public Records Law, A.R.S. § 39-121 *et seq.*, to any other types of potential public records.

encompasses official activity engaged in through private devices or accounts. In other words, public officials cannot use private devices and accounts for the purpose of concealing official conduct.

Analysis

I. Electronic Messages Sent or Received Using Electronic Devices or Social Media Accounts Provided by A Government Agency for Conducting Government Business.

Public officers and bodies in Arizona are legally obligated to “maintain all records . . . reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by monies from this state or any political subdivision of this state.” A.R.S. § 39-121.01(B). Public records are generally open to inspection by any member of the public during office hours. A.R.S. § 39-121. “[T]he core purpose of the public records law . . . is to . . . allow the public access to official records and other government information so that the public may monitor the performance of government officials and their employees.” *Phoenix New Times, L.L.C. v. Arpaio*, 217 Ariz. 533, 541 ¶ 27 (App. 2008) (internal quotation marks and citation omitted).

An electronic message sent or received using a device or a social media account provided by a government agency for conducting government business is a public record unless it is of a “purely private or personal nature.” See *Griffis v. Pinal Cnty.*, 215 Ariz. 1, 4 ¶10 (2007) (“only those documents having a ‘substantial nexus’ with a government agency’s activities qualify as public records” even when created and located on government systems or devices); see also *Lake v. City of Phoenix*, 222 Ariz. 547 (2009) (where government agency maintains public record in electronic format, document metadata associated with record was also public record); *ACLU v. DCS*, 240 Ariz. 142 (App. 2016) (CHILDS database was public record), *review denied* (Apr. 18, 2017). Thus, where a government agency provides a device or social media account as a means

of conducting government business and generating public records, messages sent or received by any such device or account are public records unless of a purely private or personal nature.

II. Electronic Messages Sent and Received Using Private Electronic Devices or Social Media Accounts Not Established As Systems For Conducting Government Business.

If the electronic message is solely on a private electronic device or through a social media account that an agency has not established as a system for conducting government business, then, as explained below, the electronic message is not a public record.

This is a question of first impression in Arizona, as no Arizona appellate decision has addressed the applicability of the public records law to electronic messages on non-government electronic devices or messages on non-government social media accounts.² Courts interpret statutes by looking first to the plain language of the law as the best indicator of the legislature's intent. *Premier Physicians Grp, PLLC v. Navarro*, 240 Ariz. 193, 195 ¶ 9 (2016). When an ambiguity exists in a statute, courts "determine its meaning by considering secondary factors, such as the statute's context, subject matter, historical background, effects and consequences, and spirit and purpose." *Id.* "[G]enerally 'the legislature does not include in statutes provisions which are redundant, void, inert, trivial, superfluous, or contradictory.'" *Vega v. Morris*, 184 Ariz. 461, 463 (1996).

² Courts in other states have recently issued opinions on public-records related disclosure questions in their own states, interpreting their own state statutes and constitutional provisions in light of judicial precedent. *E.g.*, *Nissen v. Pierce Cty.*, 357 P.3d 45 (Wash. 2015); *City of San Jose v. Superior Court*, 389 P.3d 848 (Cal. 2017). While these opinions may identify many of the same conflicting policy issues identified herein, the policy choices reached in those opinions do not provide a basis for going beyond the plain language of the pertinent Arizona provisions in answering the question presented: what electronic systems the Arizona Legislature *has determined* can contain public records under Arizona law. This is especially true given that, as noted below, it would be improper for this opinion to supplant the legislature's role as the arbiter of the policy balancing on this important question. Making private devices *per se* subject to government review should not be done without authorization in the law, flowing from a proper legislative balancing of constitutional and policy considerations.

Since 2000, the Arizona Public Records Law has covered electronic records as a result of legislative action, which expanded the statutory definition of public records to include records regardless of physical form or characteristics. Specifically, the Legislature amended § 39-121.01(B) as follows (additions are noted by underlines and deletions by strike-through):

All officers and public bodies shall maintain all records, including records as defined in section 41-1350, reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by funds from the state or any political subdivision ~~thereof~~ of the state.

2000 Ariz. Sess. Laws ch. 88, § 54 (2d Reg. Sess.).

The first change is relevant to the present analysis. It incorporated by reference the definition of the term “records,” which (as reflected in the current version of § 39-121.01(B)) has been renumbered to § 41-151.18. That definition provides in relevant part that “records” means:

all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media pursuant to § 41-151.16, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government

A.R.S. § 41-151.18.

The effect of this change was to make clear that materials “regardless of physical form or characteristics” count as records. The 2000 amendment of § 39-121.01(B) is therefore critical to understanding the scope of the public records law as it applies to electronic records. The Arizona Supreme Court’s most recent opinion on the public records law held that when an agency maintains a public record document in electronic form, the document’s metadata is itself subject to disclosure if requested. *Lake*, 222 Ariz. at 551 ¶ 13. In reaching its holding, the Court noted multiple times the significance of the 2000 legislative amendment. *See id.* at 549 ¶9 & n.3

(quoting the definition of “records” in § 41-1350); *id.* at 550 n.4 (noting 2000 amendment and the addition of the reference to § 41-1350 when discussing that “the 1975 adoption of § 39-121.01(B) ‘define[d] those matters to which the public right of inspection applies more broadly.’”).

The text of § 41-151.18 requires that the materials be “*made or received by any governmental agency* in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency” (emphasis added). Similarly, § 41-151.16(A) permits “[e]ach agency of this state” to maintain records using electronic media. The statutes’ plain language makes clear that when the Legislature expanded the scope of public records to include electronic records, it did so only with respect to agency-maintained systems. Concluding otherwise would require going beyond the language of the relevant statutes and would make the 2000 amendment to § 39-121.01(B) superfluous. For the same reason, the language “public records *and other matters*” in § 39-121 does not itself cover electronic communications. If “other matters” itself covered electronic communications, then the 2000 changes to § 39-121.01 would be superfluous. Moreover, the Arizona Supreme Court said long before the 2000 legislative amendments that the breadth of § 39-121.01 “obviate[ed] the need for any technical distinction between ‘public records’ or ‘other matters,’ insofar as the right to inspection by the public is concerned.” *Carlson v. Pima Cty.*, 141 Ariz. 487, 490 (1984).

The Court’s language in *Griffis* that “the nature and purpose of a document determine whether it is a public record,” 215 Ariz. at 4 ¶10 (quoting *Salt River Pima-Maricopa Indian Cmty. v. Rogers*, 168 Ariz. 531, 538 (1991)), is not to the contrary. That language, like similarly broad language in other cases, was used in the context of *limiting* what documents on a government-issued electronic device or in the possession of an agency count as public records,

not *expanding* it beyond those contours. Absent direction from the Legislature otherwise, it is improper to pull language out of its context in *Griffis* limiting the reach of the public records law in order to expand that statute's application.

The plain text of the relevant statutes contemplates government management of *government* systems alone. Several policy arguments bolster this conclusion. First, an agency does not have control of private electronic devices or social media accounts. Deeming all communications on such electronic devices or services to be public records subject to mandatory retention requirements under Arizona law would impose a duty on an agency that may be impossible to meet. See *Kissinger v. Reporters Committee for Freedom of the Press*, 445 U.S. 136, 152 (1980) (Department of State did not improperly withhold documents that had been lawfully taken by Secretary of State and were housed outside of the State Department's control).

Second, public employees have a strong privacy interest in their personal electronic devices and social media accounts, which contain significant personal, private information. See, e.g., *Riley v. California*, 134 S. Ct. 2473, 2491 (2014) (noting special privacy concerns implicated by modern cell phones: "it is no exaggeration to say that many of the more than 90% of American adults who own a cell phone keep on their person a digital record of nearly every aspect of their lives—from the mundane to the intimate"; "a cell phone search would typically expose to the government far *more* than the most exhaustive search of a house"); see also Ariz. Const. art. II, § 8, providing "broad protection" of "individual privacy." *Mobilisa, Inc. v. Doe*, 217 Ariz., 103, 112 (App. 2007). Classifying messages on personal electronic devices and social media accounts as public records would potentially expose the entire contents of employees' personal electronic devices and social media accounts to agency access and perusal as part of the public records response process.

Third, officers and public bodies are under independent obligations to record their work and otherwise maintain records. *See, e.g.*, A.R.S. § 39-121.01(B), (C) (Officers and public bodies are obliged to keep records that are “reasonably necessary or appropriate to maintain an accurate knowledge of their official activities.”). This record-keeping obligation precludes public officials from using private devices or accounts for the purpose of concealing official activities. While nothing herein should be read as encouraging the use of private electronic devices or social media accounts to conduct official activities, if such activity does occur it is the duty of the public official to record the activity in accordance with A.R.S. § 39-121.01.³ Government agents are presumed to meet this obligation. *See, e.g., Bracy v. Gramley*, 520 U.S. 899, 909 (1997) (“Ordinarily, we presume that public officials have ‘properly discharged their official duties.’”) (quoting *United States v. Armstrong*, 517 U.S. 456, 464 (1996)).

Fourth, other statutes provide for criminal penalties for destroying or tampering with public records. *See, e.g.*, A.R.S. § 38-421 (providing for class 4 felony for officer who “knowingly and without lawful authority destroys” any record). If the scope of public records is expanded to include potentially all messages on private electronic devices and social media accounts, then this could create criminal liability for public employees without the notice provided by affirmative legislative action. Long-standing legal principals counsel against this type of extra-legislative expansion of criminal liability. *See, e.g., Crandon v. United States*, 494 U.S. 152, 158 (1990) (Rule of lenity is a “time-honored guideline” that “serves to ensure both that there is fair warning of the boundaries of criminal conduct and that legislatures, not courts, define criminal liability.”)

Conclusion

³ The precise contours of this duty are not the subject of this Opinion and likely involve fact-intensive analyses.

Electronic messages sent or received by a government-issued electronic device or through a social media account provided by a government agency for conducting government business are public records. Messages sent or received by a private electronic device or through a private social media account implicate the public official's duty to provide a reasonable account of official conduct, but do not themselves harbor public records. Interpreting the statute in this manner is consistent with the statutory text and is mindful of the separation of powers. It is the province of the Legislature, not of this office or the courts, to weigh considerations such as balancing public employee privacy rights with the need for government transparency and accountability.

Mark Brnovich
Attorney General

Doug Ducey
Governor

Thomas M. Collins
Executive Director



Steve M. Titla
Chair

Damien R. Meyer
Mark S. Kimble
Galen D. Paton
Amy B. Chan
Commissioners

State of Arizona
Citizens Clean Elections Commission

1616 W. Adams - Suite 110 - Phoenix, Arizona 85007 - Tel (602) 364-3477 - Fax (602) 364-3487 - www.azcanelections.gov

MEMORANDUM

To: Commissioners

From: Tom Collins

Date: 7/17/17

Subject: Governor's Regulatory Review Council New Proposal

As you know, the Commission resubmitted its five year report to the Governor's Regulatory Review Council on June 26, 2017. The Commission maintains, correctly, **GRRC has no authority over it or its rules**, but nevertheless in an effort to minimize conflict while maintaining its firm legal position, the Commission continues to submit reports, while consistently making a record of GRRC illegal activities. The Commission has made a record of the significant legal deficiencies in GRRC's activities.

At the last substantive GRRC meeting, new member Frank Thornwald proposed that GRRC staff begin seeking stakeholder feedback on all rules and five year reports. The details of this proposal may be forthcoming at a future GRRC meeting. It is not clear if GRRC intends to apply this new process to the Commission's pending report. Given the vast amount of information the Commission has provided, this seems wholly unnecessary.

Member Thorwald's proposal is troubling in a number of respects. First, it is clearly beyond the scope of GRRC's authority under any circumstances. GRRC's role, such as it is, is to review, not make or rewrite, rules. It is not a policy body. Member Thorwald's proposal implies GRRC is a super-rulemaking body, able to redo and undo the work of state agencies and boards. For purposes of CCEC any change is of minimal difference given we have a report pending. as a courtesy to GRRC, despite their activities. Nevertheless, I would note the Commission seeks stakeholder feedback and adopts rules in open meetings, pursuant to the Clean Elections Act.

GRRC has, however, been moving in this direction for some time. First its ceaseless effort over Clean Elections is without basis in law and has been done lawlessly. More recently, it has spent several meetings debating the underlying policy of a State Pharmacy Board rule, a discussion well outside GRRC's purview for review of new rules some agencies are subject to. Now, the Thorwald proposal has emerged.

For other agencies legally subject to GRRC the proposal is beyond strange. For example, many agencies and boards must seek gubernatorial approval before engaging in rulemaking. Then, agencies and boards must go through a public comment period involving stakeholders. Finally, the rule is reviewed by GRRC. Mr. Thorwald's proposal is redundant. It also undermines the Governor's office, potentially by allowing GRRC to veto an action already approved in principle by the Governor's staff and boards appointed by the Governor.

From: Pamela Powers Hannley
To: [CCEC Mailbox](#)
Cc: [Pamela Powers Hannley](#); [Pamela Powers](#)
Subject: comment on proposed CCEC rule changes
Date: Monday, June 19, 2017 5:27:37 PM

Greetings, everyone,

As a Clean Elections candidate and a current member of the Arizona House of Representatives, I would like to comment on the proposed rule changes which will be voted on at the 6/22 meeting.

First of all, thank you so much for tackling this topic. I don't like what happened in 2016 regarding transferring all or most Clean Elections funds from certain candidates to political parties or consultants, and I welcome reform by the commission.

I prefer R2-20-702(B) Option C plus the new rule R2-20-703.01 Campaign Consultants. These two rules together tackle the entire problem because it addresses parties and consultants. My only concern about Option C is item e because of the added complexity and short time frame. I understand the intent of C:e, but perhaps there is a simpler way to gain that information. Please - yes on these two.

R2-20-702(B) Option A would be very bad for Clean Elections candidates because it would preclude us from buying legitimate services from a political party. Under Option A, Democratic candidates would not have access to the Democratic Party's VAN database for targeting mailings, phone banking and walks or for voter contact data-gathering. Option A would force Clean Elections candidates to run without that valuable information or to buy it from national vendors, which could be expensive and of variable quality. Option A also doesn't address funds transferred to consultants. No on Option A.

R2-20-702(B) Option B allows candidates to buy lists from political parties but not other services like renting the predictive dialer. Option B also doesn't address funds transferred to consultants. No on Option B.

Thanks for the opportunity to comment. I believe that Clean Elections should be strengthened and expanded-- not diminished.

Rep. Pamela Powers Hannley

Pamela Powers Hannley, MPH

Representative, Arizona House, LD9

<http://powersforthepeople.net/>

Facebook: <https://www.facebook.com/PamelaPowersHannleyforHouse/>

AZ House email: ppowershannley@azleg.gov

Vice Chair: Public Banking Institute

<http://www.publicbankinginstitute.org/>

Co-Director: Arizonans for a New Economy

Website: <http://ArizonaPublicBanking.org>

Facebook: <https://www.facebook.com/ArizonaPublicBanking>

Twitter: @p2hannley @AZProgressives @AZPublicBank

From: evecshapiro@gmail.com
To: [CCEC Mailbox](#)
Subject: rule changes
Date: Tuesday, June 06, 2017 7:59:36 PM

R2-20-702 Option C and the new rule R2-20-703.01 are worthwhile changes in the clean election law because they would clean up what has been happening with both political parties and make the system more transparent– without excessive burden on people who run clean. I support both of these proposals. Thanks, Eve Shapiro MD.

From: elinor brecher
To: [CCEC Mailbox](#)
Subject: rule changes
Date: Monday, June 05, 2017 10:02:10 AM

I was unable to connect through the "submit comment" tab on the website, so I will send it this way: Given how important Clean Elections are to fair elections at every level of state government, excluding the corrupting influence of dark money, I support option C of the proposed revisions. Option C would make the clean elections process more transparent.

Thank you--

Elinor J. Brecher
3231 N. Riverbend Circle E.
Tucson, AZ 85750
305-332-1634

From: Barbara Warren
To: [CCEC Mailbox](#)
Subject: Comments on new proposed rules
Date: Saturday, June 03, 2017 9:39:44 PM

I would like to emphasize that Clean Elections are essential to fair and non-corrupt elections of our State government representatives, senators, corporation commissioners, and others. This process reduces or eliminates the forces of dark money and corruption in our States elections. I strongly support clean elections.

I also strongly support ONLY Option C of the proposed revisions, although Section F seems unnecessarily cumbersome and restrictive. Option C would otherwise bring greater transparency to the clean elections process. I do not support Option A or Option B.

Thank you

Barbara H. Warren, MD
LD9
Tucson, Arizona

From: Phil Lopes
To: [CCEC Mailbox](#)
Subject: Vote on proposed rule changes
Date: Wednesday, May 31, 2017 9:18:17 AM

I strongly support option C and the new rule regarding campaign consultants. Options A and B would do damage to the process.

Thanks for the opportunity to comment.

Phil Lopes

From: rfgraap@comcast.net
To: [CCEC Mailbox](#)
Subject: New rules
Date: Monday, May 29, 2017 5:35:49 PM

I support the following:

R2-20--702 Options C

R2-20-703.01

Raymond Graap
6100 N. Zorrela Segundo
Tucson, Az. 85718

From: Howard L. Johnson
To: [CCEC Mailbox](#)
Subject: upcoming vote on rule changes
Date: Wednesday, May 24, 2017 5:13:17 PM

Ladies and gentlemen,

On this upcoming vote, please support rule R2-20-702 Option C and the new rule R2-20-703.01.....

In advance, Thank you for voting as I have suggested.

Sincerely,

Howard L. Johnson

<http://www.youtube.com/user/hljimesa>

Beware of false knowledge, it is more dangerous than ignorance – George Bernard Shaw

From: ralph atchue
To: [CCEC Mailbox](#)
Subject: Pending Clean Election Rule Changes
Date: Monday, April 24, 2017 1:48:17 PM

Clean Elections Commission

I am seriously considering running for the AZ State Senate in LD11. It is my intention to run under the existing Clean Elections provisions and rules. It is my sincere belief that the election process and public perception of that process is best served and enhanced via Clean Elections.

After reviewing the proposed rule changes, however, I am deeply concerned. I am an advocate of increased transparency in the election and political processes. However, I find that much of the proposed rule changes in both options A and B, would create an unfair disadvantage for Clean Election candidates. The enactment of rule changes in either option A or B would have a negative impact on my decision to run for office

It is my hope that the Clean Elections Commissions continues to find ways to strengthen this important election process so that the voters of Arizona will gain confidence in our electoral process.

Ralph Atchue
3968 W Mustang Ct
Eloy AZ 85131
520 251-8247

From: Brandon Dwyer
To: [CCEC Mailbox](#)
Subject: Comment on proposed rules changes R2-20-702(B)
Date: Tuesday, April 04, 2017 5:45:50 AM

Good day.

My name is Brandon Dwyer. I was a clean elections candidate for the 2016 election cycle and am currently thinking about running as a clean candidate again in 2018.

R2-20-702(B) Option A.

I would not run as a clean elections candidate again. Chances are I wouldn't run in 2018 if this option passed.

R2-20-702(B) Option B.

I used my normal campaign funds to purchase access to the voter file. I would have trouble running as a clean elections candidate again. More likely I wouldn't run in 2018 if this option passed.

R2-20-702(B) Option C. Sets out some great starting ground rules. If these rules were in place before the 2016 campaign it would have made life easier. I only have objections with one section.

R2-20-702(B) Option C Section F. *The Commission shall also be provided with documentation from the mail house, printer or other original source showing the number of mailers printed and the number of households to which a mailer was sent. Failure to provide this information within seven days after a mailer has been mailed may be considered as evidence the mailer was not for direct campaign purposes.*

This sets an undo burden on the printing house. It has also been my experience that print shops typically do not respond in a timely manner if at all. Many times I had to physically show up to their place of business to get a response or solve a problem. The candidate should submit the final invoices to the clean elections commission within seven business days. This extra burden will cause some print shops to turn away candidates.

Getting a print shop to do anything in a timely manor let alone extra uncompensated paperwork will lead to multiple violations from multiple campaigns.

Thanks for listening

Brandon Dwyer

--

Educate your children to self-control, to the habit of holding passion and prejudice and evil tendencies subject to an upright and reasoning will, and you have done much to abolish misery from their future and crimes from society.

Benjamin Franklin

From: [Thomas Collins](#)
To: [Alec Shaffer](#)
Subject: FW: Rule Proposals for Commission Meeting 2/23
Date: Monday, June 19, 2017 3:22:18 PM

From: Constantin Querard [<mailto:grassrootspartners@cox.net>]
Sent: Tuesday, February 28, 2017 9:06 AM
To: Thomas Collins
Subject: Re: Rule Proposals for Commission Meeting 2/23

I reread Option C and think I made a mistake. Does it only apply to expenditures made through political parties (as opposed to actual consultants/vendors)?

If so, then the disclosure you're asking for would allow you to ensure there is no markup and that's okay.

When I read it the first time I thought all of the disclosure regarding profit margins etc would apply to all vendors and that would really interfere with private businesses, but since parties aren't for-profit ventures, it is probably fine. And you could include additional messaging like radio/TV/online in that case...

CQ

On 2/22/17, 2:42 PM, "Thomas Collins" <Thomas.Collins@azcleaselections.gov> wrote:

Are you ok with me sharing some of these thoughts with the commission on both 702 and 703.01?

From: Constantin Querard [<mailto:grassrootspartners@cox.net>]
Sent: Tuesday, February 21, 2017 11:07 PM
To: Thomas Collins
Subject: Re: Rule Proposals for Commission Meeting 2/23

I forgot to mention 703.01

Ugh...

So much more paperwork and hassle... Why is it the business of any of my clients who my other clients are? And why would government feel it has a compelling interest in inserting itself into a private contract and forcing that disclosure? Same goes for requiring everyone to disclose their profit margins for each client and for each job? That's nobody's business and I've been making that argument since 2004. That starts getting into trade secrets and how I literally do business. Why would that sort of information be subject to a FOIA request by my competition?

And we're in trouble if we forget to send you a copy of something we're mailing? Bad idea, but why exclude autodialers, TV and Radio ads, online buys, etc? I'm not sure what problem this is supposed to fix, but it just sets up a whole new bunch of stuff you can get in trouble for, and eventually running Clean isn't worth the risk...

Sorry if I sound too harsh. I know you're working hard on this stuff and the effort is appreciated. Its tricky trying to craft a solution to the problem...

CQ

On 2/20/17, 5:02 PM, "Thomas Collins" <Thomas.Collins@azcleelections.gov> wrote:
All,

Attached please find draft rules that will be presented to the Commission at its meeting Thursday. The meeting thursday is to open the public comment period if the Commission votes to do so. Proposals are, of course, subject to change.

Let me know if you have questions.

Thanks, Tom

From: [Thomas Collins](#)
To: [Alec Shaffer](#)
Subject: FW: Rule Proposals for Commission Meeting 2/23
Date: Monday, June 19, 2017 3:22:03 PM

From: Constantin Querard [<mailto:grassrootspartners@cox.net>]
Sent: Tuesday, February 28, 2017 10:02 AM
To: Thomas Collins
Subject: Re: Rule Proposals for Commission Meeting 2/23

Okay. Well to the degree you are requiring parties to provide goods/services at cost, you need to know their costs... That doesn't extend to private contractors/vendors, and they're going to object to what are essentially their trade secrets (how they do their business) being subjected to FOIA requests by their competition. Since CCEC isn't requiring private vendors to provide anything at cost, I don't think you or the general public needs to know their internal accounting.

That'll be my comment... Feel free to share...

On 2/28/17, 9:55 AM, "Thomas Collins" <Thomas.Collins@azcleaselections.gov> wrote:

We wrote it to have itemization on both. But obviously we expect and invite comment to the contrary.

From: Constantin Querard [<mailto:grassrootspartners@cox.net>]
Sent: Tuesday, February 28, 2017 9:50 AM
To: Thomas Collins
Subject: Re: Rule Proposals for Commission Meeting 2/23

And the breakdown of costs is parties only as well?

On 2/28/17, 9:43 AM, "Thomas Collins" <Thomas.Collins@azcleaselections.gov> wrote:
No mark up for parties. Correct.

From: [Thomas Collins](#)
To: [Alec Shaffer](#)
Subject: FW: Rule Proposals for Commission Meeting 2/23
Date: Monday, June 19, 2017 3:22:09 PM

From: Constantin Querard [mailto:grassrootspartners@cox.net]
Sent: Tuesday, February 28, 2017 9:50 AM
To: Thomas Collins
Subject: Re: Rule Proposals for Commission Meeting 2/23

And the breakdown of costs is parties only as well?

On 2/28/17, 9:43 AM, "Thomas Collins" <Thomas.Collins@azcleaselections.gov> wrote:

No mark up for parties. Correct.

R2-20-702(B) Option A:

A participating candidate's payment from a campaign bank account to a political committee or civic organization including a person with tax exempt status under section 501(a) of the internal revenue code or an unincorporated association is not a contribution if the payment is reasonable in relation to the value received. Payment of customary charges for services rendered, such as for printing and obtaining voter or telephone lists, and payment of not more than \$200 per person to attend a political event open to the public or to party members shall be considered reasonable in relation to the value received. Clean elections funding shall not be used for an expenditure to any political party and such an expenditure shall be deemed an illegal contribution.

R2-20-702(B) Option B:

A participating candidate's payment from a campaign bank account to a political committee or civic organization including a person with tax exempt status under section 501(a) of the internal revenue code or an unincorporated association entity is not a contribution if the payment is reasonable in relation to the value received. Payment of customary charges for services rendered such as for printing and obtaining voter or telephone lists, and payment of not more than \$200 per person to attend a political event open to the public or to party members shall be considered reasonable in relation to the value received. No other payments are permitted to political parties with clean elections funding.

R2-20-702(B) Option C:

~~A participating candidate's payment from a campaign account to a political committee or civic organization entity is not a contribution if the payment is reasonable in relation to the value received. Payment of customary charges for services rendered such as for printing voter or telephone lists, and payment of not more than \$200 per person to attend a political event open to the public or to party members shall be considered reasonable in relation to the value received.~~

A participating candidate may:

1. Make a payment from the candidate's campaign bank account:
 - a. To a political committee or civic organization including a person with tax exempt status under section 501(a) of the internal revenue code or an unincorporated association. The payment is not a contribution if the payment is reasonable in relation to the value received.
 - b. For customary charges for services rendered, such as for printing and obtaining voter or telephone lists, shall be considered reasonable in relation to the value received.
 - c. Of not more than \$200 per person to attend a political event open to the public or to

party members shall be considered reasonable in relation to the value received.

2. Only make an advanced payment to a political party for services such as consulting, communications, field employees, canvassers, mailers, auto-dialers, telephone town halls, electronic communications and other advertising purchases and other campaign services if an itemized invoice identifying the value of the service is provided directly to the participating candidate at the time of the advanced payment.
 - a. Payment in the absence of an itemized invoice or advanced payment for such services shall be deemed a contribution to the political party.
 - b. Payment may be advanced for postage upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of the postage.
 - c. Payment may be advanced for advertising that customarily requires pre-payment upon the receipt of a written estimate and so long as any balance is returned to the

candidate if the advance exceeds the actual cost of the advertisement.

- d. A political party may not mark up or add any additional charge to the value of services provided to the particular candidate. All expenditures must be for the services used by the particular participating candidate.
- e. The Commission shall be included in the mail batch for all mailers and invitations. The Commission shall also be provided with documentation from the mail house, printer or other original source showing the number of mailers printed and the number of households to which a mailer was sent. Failure to provide this information within 7 days after a mailer has been mailed may be considered as evidence the mailer was not for direct campaign purposes.

R2-20-703.01 Campaign Consultants (NEW RULE)

- A. For purposes of this rule "Campaign Consultant" means any person paid by a participating candidate's campaign or who provides services that are ordinarily charged to a person, except services provided for in A.R.S. 16-911(6)(b).
- B. A participating candidate may engage campaign consultants.
- C. A participating candidate may only advance a campaign consultant for services such as consulting, communications, field employees, canvassers, mailers, auto-dialers, telephone town halls, electronic communications and other advertising purchases and other campaign service if an -itemized invoice identifying the value of the services is provided directly to that particular candidate at the time of the advance payment. ~~The invoice shall also identify the consultant's mark up, percentage or other additional charge above the actual cost of the service provided~~
1. Providing payment for such services as described in subsection (C) of this rule in the absence of an itemized invoice or advance payment for such services shall be deemed not to be a direct campaign expenditure.

2. A participating candidate may advance payment for postage upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of postage.

3. A participating candidate may advance payment for advertising that customarily requires pre-payment upon the receipt of a written estimate and so long as any balance is returned to the candidate if the advance exceeds the actual cost of the advertisement.

D. The Commission shall be included in the mail batch for all mailers and invitations. The Commission shall also be provided with documentation from the mail house, printer or other original source showing the number of mailers printed and the number of households to which a mailer was sent. Failure to provide this information within 7 days after the mailer has been mailed may be considered as evidence the mailer was not for direct campaign purposes.

~~E. Any consultant engaged by a participating candidate shall provide the participating candidate and the Commission with a sworn affidavit identifying all other clients who are: candidates for any office in the state of Arizona, political committees, a person~~

~~with tax exempt status under section 501(a) of the internal revenue code, or an unincorporated association, or corporations engaged independent expenditures in the state of Arizona. This affidavit shall be updated monthly beginning the first of the month of every month of the remaining election cycle. In the event the relationship is terminated a sworn affidavit so stating shall be provided to the participating candidate and the commission within 5 days.~~

PROPOSED

Thomas Collins

From: Thomas Collins
Sent: Friday, July 14, 2017 3:23 PM
To: stitla@mac.com; drm@eblawyers.com; Mark Kimble; galenpaton@msn.com; amybellchan@gmail.com
Cc: Mike Becker; Gina Roberts; Alec Shaffer; Stephanie Cooper; Paula Thomas; Sara Larsen; Kara Karlson
Subject: Clean Elections Rule Proposals For July 20

Commissioners:

This memo/email represents a brief recap of the pending rules eligible for adoption. A copy of this and the proposals will be included in the meeting packet as well, but I wanted to provide a little more time for you to review the materials.

The proposed rules are at this link: <http://www.azcleelections.gov/CmsItem/File/335>

The rule proposals deal with two kinds of expenditures

1. Expenditures to political parties and civic organizations.
2. Expenditures to consultants.

Party related proposals

We have developed three options:

- A. Prohibits the use of clean election funding distributed by the commission to make with parties and civic organizations.
- B. Prohibits use of clean election funding distributed by the commission to make expenditures to parties and civic organizations except for voter information and attending events up to a set cost.
- C. Permits expenditures to parties or civic organizations provided sufficient documentation is provided, including certain mail requirements.

All options permit the limited individual and family contributions to be used to make expenditures to parties and other covered entities.

Additionally, all rules are stricter than existing rules.

As you know there has been public comment.

Among others, some Democratic lawmakers and party aides favor option C, as does the non-profit AZ Advocacy Network. Supporters of C tend to focus on a desire to work with the party infrastructure. Some argued other options would make the clean elections funding program less attractive, which goes to the underlying anti-corruption purpose. On the other hand, it does not appear from the comments that participating will become insurmountable.

There are reasonable bases for limiting expenditures to parties and civic organizations, including concerns about perception of participating candidates and the potential power of the party over candidates.

Not all supporters of Options A and B are the same, however. Republican lawmaker Rep. Vince Leach, R-Saddlebrooke and Scot Mussi of the Arizona Free Enterprise C who favor B or A, while discussing optics have also worked to make this issue controversial in a way that leads their comments to take on a different cast.

For example, Mr. Mussi's previous views have been expressed here: <http://azcapitoltimes.com/news/2017/02/16/clean-elections-has-reached-a-dead-end/>

My response is here: <http://azcapitoltimes.com/news/2017/02/16/claims-against-arizona-clean-elections-commission-are-misleading/>

Mr. Leach has also made prior comments about the Commission, and these proposals in in the legislative process. He was the lead sponsor of legislation to dismantle the act citing this issue.

Consultant Rule

As you know, the commission also has a rule proposal requiring further documentation by candidates of their work with consultants.

This will help ensure that Clean Funding is appropriately accounted for, as it should be in any commercial transaction. Additionally, under the pending rule proposed last month expanding random audits will help ensure the integrity of the fund.

Staff has already limited the scope the consultant rule proposal. For example, the proposal now limits the disclosures required of consultants. However, given many consultants handle multiple candidates and even independent expenditures under contract, keeping clean funding separate and segregated is important.

The main criticism as the last meeting was from Constantin Querard, a consultant, who sees the rule as seeking to prevent an event that has not occurred yet. However, the Commission and its staff know what the risks for abuse. There is no obligation to wait until the horse is gone to close the gate.

Finally, the Commission may revisit a rule under emergency circumstances.

Please let me know if you have questions.
Please expect the agenda and remaining items on Monday.
Please do not reply all to this email.

Sincerely,

