

THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

May 15, 2009

11:12 a.m.

Reported By:

Angela Furniss Miller, RPR
Certified Reporter (AZ 50127)

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1 A PUBLIC MEETING, BEFORE THE CITIZENS CLEAN
 ELECTIONS COMMISSION, convened at 9:30 a.m. on April 30,
 2 2009, at the State of Arizona, Clean Elections
 Commission, 1616 W. Adams, Conference Room, Phoenix,
 3 Arizona, in the presence of the following Board members:

4 Mr. Gary Scaramazzo, Chairperson
 Ms. Royann Parker
 5 Ms. Lori Daniels
 Mr. Jeff Fairman
 6 Mr. Louis Hoffman

7 OTHERS PRESENT:

8 Todd Lang, Executive Director
 Paula Ortiz, Executive Assistant
 9 Colleen McGee, Deputy Director
 Rita Azcona, Administrative Assistant III
 10 Michael Becker, Voter Education Manager
 Daniel Ruiz II, Campaign Finance Manager
 11 Tanja Shipman, Attorney General's Office
 Jim Barton, Perkins, Coie, Brown & Bain
 12 Paul Davenport, Associated Press
 Nancy Read, Office of the Secretary of State
 13 Jackie Thrasher, Legislative District 10
 Ann Eschinger, Clean Elections Institute
 14 Christian Palmer, Capital Times
 M.J. Pitzel, AZ Republic
 15 Mike Valder, AZ Advocacy Network
 Lee Miller, Attorney for Doug Quelland
 16 Larry Davis, Intermedia Public Relations
 Patti Epler, AZ Guardian
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P R O C E E D I N G

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 3 CHAIRPERSON SCARAMAZZO: Let's go ahead and
 4 call this meeting to order of the Citizens Clean
 5 Election Commission.
 6 It is Friday, May 19th, [sic] 2009, at 11:12 in
 7 the morning.
 8 And we're going to go ahead and seek approval
 9 of the April 30th, 2009, Commission meeting minutes to
 10 start us off.
 11 COMMISSIONER DANIELS: Mr. Chairman, I move the
 12 approval of the April 30th, 2009, Commission meeting
 13 minutes.
 14 COMMISSIONER FAIRMAN: I'll second that motion.
 15 CHAIRPERSON SCARAMAZZO: It's been moved by
 16 Commissioner Daniels, seconded by Commissioner Fairman
 17 to approve the minutes of April 30th, 2009. Any
 18 discussion on this item?
 19 All those in favor say "aye."
 20 (Chorus of ayes.)
 21 CHAIRPERSON SCARAMAZZO: Opposed? Motion
 22 carries.
 23 Todd, we'll move onto Item III, Executive
 24 Director's report.
 25 MR. LANG: Thank you, Mr. Chair. Good morning,

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1 Commissioners.
 2 The -- nothing really earth shattering has
 3 happened in the last two weeks. But COGEL planning
 4 continues. We had a meeting with the COGEL
 5 representatives. Colleen McGee and Paula Ortiz have led
 6 the -- have led that effort and have really done a great
 7 job. The materials are really good. And I know the
 8 COGEL folks across the country are thrilled.
 9 And, once again, that -- that conference will
 10 be held here in Arizona in 2000- -- December 2009. So I
 11 hope you've all marked your calendars.
 12 CHAIRPERSON SCARAMAZZO: We might note that --
 13 COMMISSIONER DANIELS: What are the dates on
 14 that?
 15 MR. LANG: December 9th.
 16 COMMISSIONER DANIELS: Thank you.
 17 MS. MCGEE: 6th through the 9th.
 18 MR. LANG: 6th through the 9th.
 19 CHAIRPERSON SCARAMAZZO: We might note that
 20 this year it was in Chicago in December, so --
 21 MR. LANG: Right, right.
 22 CHAIRPERSON SCARAMAZZO: -- I can see why
 23 they're a little excited.
 24 MR. LANG: Yes. And it's easy travel for all
 25 the Commissioners, so I hope you can all attend.

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1 We're also working on legislation, as you can
 2 imagine. That's -- that's a -- you can in particular
 3 can imagine, it's quite a challenge. We have folks who
 4 want to fix every concern they have about tertiary
 5 effects of election law. But we're making real
 6 progress, both parties are involved, and there's a lot
 7 of compromise involved.
 8 If you have questions -- more specific
 9 questions, I'll be happy to answer them. That concludes
 10 my report.
 11 CHAIRPERSON SCARAMAZZO: Okay. Any questions
 12 for Todd?
 13 (Whereupon Commissioner Parker is now present.)
 14
 15 CHAIRPERSON SCARAMAZZO: Okay. Welcome,
 16 Commissioner Parker. Thanks for braving the traffic to
 17 get here.
 18 COMMISSIONER PARKER: I apologize for being
 19 tardy.
 20 CHAIRPERSON SCARAMAZZO: Oh, no. We appreciate
 21 you being here.
 22 All right. We do have four members -- or, five
 23 members in attendance now, so let's just keep the agenda
 24 as is, rather than bouncing around, okay?
 25 So, that brings us to Item No. IV,

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1 consideration and possible action on enforcement case
 2 MUR 08-0035, Doug Quelland, participating candidate,
 3 House of Representatives, District 10.
 4 What we'd like to do this morning is make --
 5 make the public aware we will, I assume, be going into
 6 executive session, but prior to doing that -- thank
 7 you -- we would like to open this up. Todd, have some
 8 remarks from you, and then we'll open it up for public
 9 comment. And I'm not going to put any time frames on --
 10 on anyone wishing to address the Commission. I don't
 11 believe in that. But for brevity's sake, if we can keep
 12 comments to something that's, you know, new information,
 13 not been repeated, we would appreciate that, okay, for
 14 everybody's sake. Thank you.
 15 Todd?
 16 MR. LANG: Mr. Chair, Commissioners, if -- if
 17 you'd like me to proceed, I can proceed with my
 18 presentation regarding my recommendation in the Quelland
 19 matter. I have a short PowerPoint --
 20 CHAIRPERSON SCARAMAZZO: Okay.
 21 MR. LANG: -- that I'd like to do.
 22 CHAIRPERSON SCARAMAZZO: That's fine.
 23 MR. LANG: Don't zap him.
 24 MS. SHIPMAN: Sorry.
 25 MR. LANG: Commissioners, as you know we -- we,
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1 of the contract on May 1st, 2007. The payments were to
 2 total \$15,000 for broad consulting and fundraising
 3 services.
 4 Mr. Davis tells us that he completed the
 5 contract, that he received \$9,000 in monthly payments,
 6 and that the remainder was paid with free rent at
 7 Representative Quelland's real estate, his strip mall.
 8 I'd also note that according to -- according to
 9 Mr. Davis, those -- that free rent period began February
 10 2008, which, of course, is the month immediately after
 11 January 2008, where the last \$1,000 payment was made.
 12 So, we had a smooth transition from payments to free
 13 rent.
 14 Re- -- Mr. Davis also told us that he did do
 15 some work for Representative Quelland's businesses, but
 16 that was in an effort to circumvent the enforcement
 17 matter that was going on regarding the "Q" signs. That
 18 was MUR 08-0003, which you considered last fall.
 19 I'm not going to go back into all Mr. Davis'
 20 statements. We went over those in the last meeting, but
 21 I'm sure you recall them.
 22 We now have some new information. Brent
 23 Eigsti, an employee of Intermedia, was able to send us
 24 several additional e-mails that he sent to
 25 Representative Quelland. These included expenditures by
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1 obviously, considered this matter two weeks ago, and due
 2 to the press of time we had to postpone it, and this is
 3 the first day we were able to get everybody here, so
 4 thank you very much for making your schedules work.
 5 In that last recommendation -- in that last
 6 meeting, I recommended that you find Representative
 7 Quelland violated the law in those six -- six areas of
 8 law and that you impose a penalty \$46,000. Since that
 9 time, we've had new information; but, I stand by my
 10 recommendation that you penalize him as I discussed at
 11 the last meeting.
 12 Just to refresh you on the issues here before
 13 you today -- and, of course, we have all the exhibits
 14 available, if you'd like to look at them.
 15 Representative Quelland and his consultant, Larry Davis
 16 of Intermedia Public Relations, entered into a contract
 17 on March 7th, 2007, for full political consulting
 18 services.
 19 This is two of those pages. And you can see
 20 there Representative Quelland's signature and Larry
 21 Davis' signature. It's for a full political consulting
 22 contract. And as you heard before, the terms of the
 23 contract were pretty straightforward: A thousand
 24 dollars on the first of each month, with the first
 25 payment to be \$2,000 to be paid according to the terms
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1 Intermedia on behalf of the campaign. This included
 2 invoices from Intermedia to Representative Quelland's
 3 campaign, and a couple of e-mails from Representative
 4 Quelland to Brent Eigsti in which he approved some
 5 campaign transactions; in other words, in which he
 6 tacitly acknowledges the political work done by
 7 Intermedia.
 8 Here are a couple of the e-mails. These are
 9 e-mails from Eigsti to Doug Quelland in which he goes
 10 over a couple of purchases, one in July of 2008 and the
 11 other one in August of 2008, and then -- actually, two
 12 in August of 2008. So, here we have some expenditures
 13 by Intermedia in which Brent Eigsti updated
 14 Representative Quelland. This includes the T-shirts and
 15 some other items.
 16 Here we have e-mails from Representative
 17 Quelland to Brent Eigsti in which he approves some
 18 campaign expenditures. First, in August, we have a
 19 flyer that Representative Quelland approved. And as you
 20 know from e-mails you received, that flyer included a
 21 picture of Representative Quelland's family and the
 22 usual political text.
 23 And then the other one was a magnet, a "Q"
 24 magnet that was based on a "Q" logo that Representative
 25 Quelland provided. And as you can see, Representative
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1 Quelland writes, "Good. I approve. Doug." That's on
 2 January 2008. So, nine months after the consulting
 3 contract had been signed.
 4 We also received at our request --
 5 Representative Quelland's attorney Lee Miller asked his
 6 client to provide e-mails, showing what e-mails
 7 representative Quelland had from Brent Eigsti, Larry
 8 Davis, and Intermedia. You have those documents.
 9 There's a nice set of them that we sent to you. And
 10 what it shows is a printout of -- from Windows of the
 11 e-mails in his in-box. And --
 12 COMMISSIONER HOFFMAN: Sorry. Where is this?
 13 MR. LANG: I don't know that you have a
 14 printout. It was mailed to you. Do they a printout?
 15 MS. SHIPMAN: There should be.
 16 MR. LANG: There should be a printout in your
 17 packet, yeah.
 18 COMMISSIONER HOFFMAN: This packet?
 19 MR. LANG: Yes. It should be in Tab 4.
 20 But I'll have -- some of those e-mails that I
 21 sent to you are -- are right here. Actually, these
 22 aren't it. Those were sent to you earlier.
 23 The interesting thing that is, that Eigsti gave
 24 us eight e-mails, and of those eight e-mails, none were
 25 on that Windows in-box that Representative Quelland
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1 because Brent Eigsti was CC'd on it, and Brent saved his
 2 e-mail, we have copies. And, so, we know of at least
 3 two occasions were the invoices were sent.
 4 And this was important, I think, to you
 5 Commissioners, because it's an indication that
 6 Representative Quelland was on notice that Intermedia,
 7 Larry Davis, certainly considered their work to be
 8 political consulting based on the language here in the
 9 invoice and, of course, that it was addressed to "The
 10 Committee to Elect Doug Quelland" from Intermedia.
 11 For his part, and we've gone over his
 12 testimony, Representative Quelland does not acknowledge
 13 receiving these invoices, denies he received them, and
 14 in his sworn statement -- in his sworn deposition, he
 15 said they were falsehoods that were made up. I think
 16 that this indicates that at that time that there's
 17 certainly substantial evidence that these invoices were,
 18 in fact, sent to him. And, in fact, as you know later,
 19 Representative Quelland, though denying he'd ever seen
 20 these logos up here, this Intermedia logo or the IMPR
 21 logo, he actually produced his own invoice on a
 22 different business transaction that had the same logo.
 23 The point is, of course, that there's
 24 significant indicia that these invoices are legitimate.
 25 We also had the -- the -- the form with Compass
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1 provided for us. And, frankly, I don't think that's a
 2 huge shock. Because if you're like me, you delete a lot
 3 of e-mails. And so if I go back and print and do the
 4 same thing that Representative Quelland does, and print
 5 out what's in my in-box, it's going to be an incomplete
 6 picture. So the fact that these e-mails aren't in his
 7 in-box, really doesn't prove much of anything.
 8 And we checked with our computer consultants
 9 and, of course, they -- they confirmed what I think is
 10 everyone's reasonable understanding of how this works.
 11 Some of the e-mails that Representative
 12 Quelland did provide for us, though, show some campaign
 13 work. It shows work done on the campaign Website in
 14 September of '07. It reflects the voter vault
 15 transaction when Representative Quelland's assistance
 16 was needed in order to get Larry Davis access to the
 17 Republican Party's voter vault, which is the list of
 18 high efficacy voters and the like. And so we see more
 19 evidence piled onto the evidence you've already seen at
 20 the last meeting that Representative Quelland and Larry
 21 Davis worked together on the political campaign.
 22 Here's an invoice that Brent Eigsti sent to
 23 Representative Quelland; one in August and one in
 24 October. One was sent by Brent Eigsti himself at Larry
 25 Davis' request. The other was sent by Larry Davis. But
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1 Bank that permitted IMPM -- IMPR Intermedia employee
 2 Brent Eigsti to engage in transactions on behalf of the
 3 Quelland campaign. In fact, this form gives him a
 4 campaign debit card. You can see, obviously, there's
 5 Representative Quelland's signature first and then Brent
 6 Eigsti's signature. He had the campaign credit card for
 7 over a year, and he used it on numerous occasions for
 8 over a year period. He didn't use it frequently, but he
 9 used it throughout the campaign.
 10 He's another order made by Intermedia on behalf
 11 of the Quelland campaign. This is to Lift Him High
 12 Productions for the T-shirts. You can see the contact
 13 person isn't Doug Quelland, it's Larry Davis. And,
 14 again, this confirms Larry Davis' version of events:
 15 That he was negotiating political contracts; he and
 16 Brent Eigsti were doing political business on behalf of
 17 the Quelland campaign; and, in fact, were making
 18 payments on behalf of the Quelland campaign using that
 19 debit card.
 20 Here's another order made on behalf of Quelland
 21 campaign by Intermedia. You can see Brent Eigsti
 22 ordered 10,000 palm cards using these various materials
 23 that they've put together. All of these materials were
 24 put together by Intermedia on behalf of the Quelland
 25 campaign.
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1 And just briefly to mention the community
 2 breakfast. This was important because this is where we
 3 started with the -- with this inquiry. Representative
 4 Quelland denied in his sworn statement at the deposition
 5 that this community breakfast ever took place or that he
 6 participated in it. It happened on May 19th, 2007, and
 7 we know -- and that's what Larry Davis told us. And we
 8 know that Mr. Davis told us the truth because, well,
 9 here's -- this, if you need it, is his deposition
 10 testimony in which he denies the community breakfast
 11 happened in 2007.

12 But we know that Mr. Davis told the truth
 13 because we have an affidavit, a sworn affidavit from
 14 Representative Jim Weiers, who said he attended, it was
 15 on May 19th, he contributed, it was at Q's Banquet Hall,
 16 his place of business, and Representative Quelland was
 17 also there.

18 At the last meeting, Representative Quelland
 19 spoke to you at some length. And one of the things he
 20 told you was that Larry Davis didn't do -- gather
 21 petition signatures for him. In fact, that's not the
 22 case. What Representative Quelland told you was: Why
 23 does his name not appear as a signature on any of the
 24 forms?

25 Now, two people who worked for a time for
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1 Larry Davis did work for the campaign, but it was -- I
 2 mean, did work for him, but it was for his businesses.
 3 And this is the flyer he says Larry Davis put together
 4 for him. And, in fact, Larry Davis acknowledges that he
 5 and Brent Eigsti did put together this flyer. But, of
 6 course, he tell us it was done as a subterfuge in order
 7 to sort of distract the Commission or the public from
 8 the idea that they'd be doing paid political work.

9 Davis tells us in his sworn state- -- his sworn
 10 testimony that all the payments that he received were
 11 for campaign work and that the business flyers were just
 12 thrown in. Remember what -- and remember what
 13 Representative Quelland tells us in his sworn statement,
 14 that he says that the flyers ended -- the flyers done by
 15 Davis on behalf of his businesses, according to his
 16 story, those ended at the end of 2007 after Christmas,
 17 because by that time they had saturated the
 18 neighborhoods and there was no need for further flyers.

19 The problem is, the "Welcome to the
 20 Neighborhood" flyers that I just showed you, weren't
 21 produced until May 2008, after the time for -- that
 22 Davis was allegedly doing work for his business. So,
 23 the timing simply doesn't hook up.

24 We know that the flyers actually were ordered
 25 in May 2008 because we have the e-mails to Ryan Foxx and
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1 Intermedia collected some signatures, but they weren't
 2 part of Intermedia, they were paid to do that: "They
 3 just collected signatures for me, 45."

4 But, in fact, we know that Larry Davis was a
 5 solicitor and has his signature on a document in which
 6 he turned in a number of petition signatures. And
 7 Intermedia employee, Holly Alton, likewise, also a
 8 solicitor. And we have Larry Davis' statements and
 9 sworn testimony that he did this as a paid employee of
 10 Intermedia, as a paid political consultant. And we have
 11 Holly Alton's affidavit which says pretty much the same
 12 thing: That her petition gathering -- her signature
 13 gathering on behalf of the Quelland campaign, was as a
 14 paid employee of Intermedia, was on the clock, was not
 15 as a volunteer.

16 And you can see there, Larry Davis solicited
 17 60 signatures. Holly Alton gathered over a 100. Out of
 18 the 274, right there is 160. So, that's a significant
 19 portion of the number of signatures Representative
 20 Quelland needed to get on the ballot. Of course, he
 21 collected much more than that. But, the point is, this
 22 is a significant number of signatures, and we have sworn
 23 statements that this was done as a paid employee of
 24 Intermedia.

25 This is -- Representative Quelland tells us,
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1 the e-mails from Ryan Foxx. So, we know this happened.
 2 We also know these flyers were created after the "Q"
 3 signs become controversial. That started happening
 4 in -- right before May 2008. So, I don't think the
 5 timing was coincidental.

6 We asked Representative Quelland about the
 7 payments; and, of course, he told us, as I said, the
 8 thousand dollar payments were for the work. Regarding
 9 the \$2,000 payment, he came to you and spoke quite
 10 extensively on the \$2,000 at the last meeting. You have
 11 the transcripts in your notebooks there. You just
 12 approved them. And I'll point out a couple of things.

13 Representative Quelland said at the last
 14 meeting: "It's clearly a paramount issue here with the
 15 contract that I terminated with Mr. Davis, and that is
 16 the \$2,000 was never paid to Mr. Davis. He never asked
 17 for it and it remains a non-issue today." He then goes
 18 on: "Even though the complaint has been here since
 19 December, Mr. Davis has never asked me about, and he
 20 knows well that it's not going to happen because he
 21 forgave that \$2,000. Never paid."

22 He goes on: "I believe that the very heart of
 23 my innocence is the cancelled agreement between myself
 24 and Intermedia. I've given staff a copy of the
 25 termination letter, the agreement. I've proven that
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1 this never took place. It calls for a beginning payment
 2 of \$2,000 and this fact never took place. This one fact
 3 is pivotal. Pivotal to why I don't need to report the
 4 income balance to the Secretary of State or the CCEC."
 5 That's what he told you two weeks ago, and this
 6 is what we know today. He did receive the \$2,000 from
 7 Larry Davis [sic]. The pivotal bit of evidence was
 8 finally produced by Larry Davis, he was able to go to
 9 his bank and get this document, and so we now know that,
 10 in fact, that initial \$2,000 check was paid.
 11 MS. SHIPMAN: \$2,000 check was from Q-Land to
 12 Larry Davis. You said it backwards.
 13 COMMISSIONER DANIELS: You said it backwards.
 14 MR. LANG: Oh, I apologize. Apparently I
 15 misspoke.
 16 Yes. This check was from Q-Land Enterprises,
 17 that's Representative Quelland's company, to Intermedia
 18 Public Relations for \$2,000 on May 1st, 2007. And as
 19 you recall, May 1st, 2007, was the exact date that the
 20 initial payment under the political consulting contract
 21 was due.
 22 The reason we didn't have the \$2,000 check, is
 23 because we attempt- -- we subpoenaed it from
 24 Representative Quelland's bank. That bank had changed
 25 ownership, changed names, and so they had to produce the
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1 the appropriate penalty. Obviously, when he entered
 2 into this contract in March, he didn't have the money to
 3 pay any of the monthly payments and certainly not the
 4 \$15,000 contract.
 5 He also violated campaign reporting
 6 requirements. Representative Quelland should have
 7 reported these -- these payments as required by 16-915
 8 and the Clean Elections Act. Under our -- under our
 9 statutes, the penalty is a hundred dollars per day for
 10 each amount not reported. And that is capped by our
 11 rule at \$15,000. As you know, the cap actually reads at
 12 Rule 222, \$30,000, but we have traditionally held
 13 ourselves to a \$15,000-per-penalty cap. That's why I
 14 recommended this when I wrote the probable cause brief
 15 several weeks ago.
 16 So I ask that you find he violated the
 17 reporting requirements and assess a penalty of \$15,000.
 18 He also violated the primary expenditure limit
 19 for the same reason. In fact, like most candidates, he
 20 spent almost up to the limit, just under the limit, so
 21 when you add \$15,000 to that expenditure, of course, it
 22 goes way over. Because the amount it went over is in
 23 excess of the 10 percent of the combined primary and
 24 general election spending limit, which in this case is
 25 quite high because we had a lot of matching funds, in
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1 older checks manually. And according to bank officials,
 2 they simply missed this one. And, obviously, it's quite
 3 a coincidence that the most crucial check was missed by
 4 the bank. But we now have it and we now know what the
 5 truth is. And the truth is that this contract was in
 6 force.
 7 That Larry Davis performed political consulting
 8 services under the terms of this contract. And that he
 9 received, first, the \$2,000 payment, and then monthly
 10 payments, which are all dated the 1st, and in exact
 11 accordance with the contract. And you can see, he
 12 received seven of those as well. And then beginning in
 13 February, Larry Davis tells us he received free rent at
 14 his complex.
 15 So, what this chart shows you is basically the
 16 terms of the contract were fulfilled. Representative
 17 Quelland tells us, yeah, he let Larry Davis use space at
 18 his -- at his shops, but it was simply because he hoped
 19 to get a new tenant. But, unfortunately, the timing is
 20 just so in line with the terms of the political
 21 consulting contract that it appears that this was also
 22 done in lieu of cash payment.
 23 And so I recommend that you find the violations
 24 as I recommended last week. First, that you find a
 25 violation of the cash on hand rules and that you impose
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1 this case it was actually 73- -- \$7,335.
 2 Because he didn't report an amount over
 3 that -- because he exceeded the primary expenditure
 4 limit by an amount greater than that number, the
 5 forfeiture of office penalty is triggered.
 6 And so here you see the breakdown of the
 7 analysis, how the penalty should be. It was \$15,000,
 8 slightly under that, that exceeded the limit. In this
 9 case, the math comes out to \$14,938.72. The penalty is
 10 10 times that amount. But, again, we've capped it at
 11 \$15,000. Through our usual procedure, that's -- that's
 12 how we cap it.
 13 The campaign Website, frankly, given the
 14 information we have, given the Brent Eigsti affidavit in
 15 which he said he did substantial revisions to the 2006
 16 site, I would ask that you dismiss this charge. I
 17 believe that the work he did was sufficiently new that
 18 -- and part of the political consulting contract, that a
 19 separate charge for the failure to pay for the prior
 20 campaign asset isn't necessary.
 21 And then, finally, personal money and source
 22 restrictions. As you saw from the checks, this came
 23 from Representative Quelland's business, which, of
 24 course, is forbidden under the Clean Elections Act. You
 25 cannot accept corporate checks. And so, the money paid
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1 under this check violates our statute 16-945, and
2 therefore I ask for a penalty of \$500 pursuant to our
3 rules.

4 So, the total is, if you do the math, \$45,500
5 and a forfeiture of office. Unless you have questions,
6 that concludes my presentation.

7 COMMISSIONER HOFFMAN: That last item, the last
8 violation, we now know is -- appears to be \$9,000, that
9 doesn't make any difference in your recommendation?

10 MR. LANG: This one?

11 COMMISSIONER HOFFMAN: Right. There's --

12 MR. LANG: Right. It's a \$500 penalty
13 regardless of the --

14 COMMISSIONER HOFFMAN: Of the amount.

15 MR. LANG: It's the source that's the
16 violation, not the amount.

17 Actually, I should mention the burden of proof.
18 As we discussed before, the preponderance of evidence is
19 the standard here, which is the lowest standard of
20 proof. Administrative agencies, for you to find a
21 violation, you must decide that it's more likely than
22 not. Just 51 percent likelihood that Representative
23 Quelland violated the law. A much higher burden of
24 proof is required in criminal cases: Beyond a
25 reasonable doubt. That's a very difficult standard to

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1 meet. But, frankly, based on the new information we
2 have, the \$2,000 check and the e-mails, I think we even
3 meet that standard.

4 You don't need to meet that standard, and I
5 think that's the most important thing to take away. You
6 only need to meet the preponderance of evidence
7 standard. But I think it's quite clear that the law was
8 violated. Therefore, I urge you to find a violation.

9 I mean, this -- these statute disputes are
10 difficult. I know you've agonized about it and -- and
11 continue to do so. But, when you look at the evidence,
12 when you look at the checks, when you look at what was
13 done, the fundraisers, the campaign debit card, the work
14 with the vendors, the T-shirts, everything, it becomes
15 difficult to think that a person would then continue to
16 do all this work as a volunteer after receiving a
17 termination letter that said you were unethical.

18 I think what happened here is that there was a
19 political consulting agreement and some business work
20 was done, but that ultimately the law was violated.

21 Representative Quelland is a participating
22 candidate. He took Clean Elections funding, and he's
23 held to a high standard, and he signs an oath that says
24 he will abide by those standards. In this case, because
25 he failed to do so, I urge you to penalize him as I've

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1 recommended. Thank you.

2 I'd note that Lee Miller, the attorney for
3 Representative Quelland, is here today.

4 CHAIRPERSON SCARAMAZZO: Okay. Prior to
5 opening it up for comments, did anyone have any comments
6 or questions for Todd?

7 COMMISSIONER HOFFMAN: Have you received any --
8 any response or explanation with respect to the new
9 evidence that we received since our last meeting, from
10 Representative Quelland or his attorney?

11 MR. LANG: No written response, but Lee Miller
12 did send the e-mails I've discussed. The printout of
13 the e-mails from Representative Quelland.

14 COMMISSIONER HOFFMAN: Which we now have?
15 This?

16 MR. LANG: Yeah. That's this.
17 And as I explained, I have no reason to
18 disbelieve this. I just don't think it proves much.

19 COMMISSIONER HOFFMAN: Has the candidate
20 provided any explanation of the \$2,000 check or the
21 e-mails from Mr. Eigsti?

22 MR. LANG: No.

23 CHAIRPERSON SCARAMAZZO: Anything else?

24 Okay. Let's open it up then for public
25 comments. And, Mr. Miller -- or, do you wish to address

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1 the Commission? I don't mean to put you on the spot,
2 but I want to give you first out of the block there.

3 MR. MILLER: No, Mr. Chairman. I spoke to
4 Mr. Quelland earlier this morning, and he has nothing
5 further to add beyond what he shared with you--all the
6 last time we were together.

7 CHAIRPERSON SCARAMAZZO: Okay. Thank you.

8 All right, anyone who wishes to have input is
9 certainly welcome. Please just come forward, and if
10 you'd state your name for the record, we would
11 appreciate that. And I do have a request from
12 Mr. Valder, I believe.

13 MR. VALDER: Yeah, thank you.

14 CHAIRPERSON SCARAMAZZO: Certainly.

15 MR. VALDER: Good morning.

16 CHAIRPERSON SCARAMAZZO: Good morning.

17 MR. VALDER: Mr. Chairman, members of the
18 Commission, my name is Mike Valder. I'm an attorney.
19 Have been an attorney for over 40 years. I was one of
20 the initiators of the Clean Elections system in this
21 state. I was part of the Arizonans for Clean Elections,
22 and I actually organized the Clean Election Institute.
23 I was the first board chairman. I served on that board
24 for nine years. I left the board a year ago. I'm the
25 founding president of the Arizona Advocacy Network,

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1 where I am now active working on democracy issues
 2 generally, and that includes specifically the Clean
 3 Elections system.
 4 It is -- I don't consider it my baby because
 5 there was a lot of people who worked on Clean Elections.
 6 But I'm very interested in integrity of the system, and
 7 that's what calls me to address you this morning. It's
 8 vitally important that the integrity of the Clean
 9 Elections system and how it operates is maintained at
 10 the highest level.
 11 It gives me great heartburn to have to say this
 12 in a case involving Doug Quelland, because I know him.
 13 I've been around the country many times speaking about
 14 Clean Elections. I actually sat at a dinner table in
 15 Washington, D.C., at a big event where we were
 16 celebrating Clean Elections, and I think we both gave
 17 small contributions that night to the effort in
 18 California to adopt Clean Elections. But I know he has
 19 done good things for the Clean Elections' system and
 20 that's really what burns my heart to see what's going on
 21 now.
 22 I've been to every Commission meeting this
 23 year. I've read everything that's available for public
 24 comment. And I would just urge you to adopt the
 25 recommendations that your Executive Director has -- has

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1 of the Clean Elections system, and that's my primary
 2 concern. So, thank you.
 3 CHAIRPERSON SCARAMAZZO: Thank you, Mr. Valder.
 4 Yes, ma'am.
 5 MS. THRASHER: Hello, I'm Jackie Thrasher.
 6 CHAIRPERSON SCARAMAZZO: Welcome.
 7 MS. THRASHER: Thank you very much for giving
 8 me the opportunity to speak briefly --
 9 CHAIRPERSON SCARAMAZZO: Certainly.
 10 MS. THRASHER: -- with you. Former State
 11 Representative from District 10, and I feel like I'm
 12 part of this story and just wanted you to hear just a
 13 few words from me.
 14 I'm a proponent of Clean Elections. I believe
 15 in it. I've lost more elections than I've won from
 16 using Clean Elections. But I really believe in the
 17 public funding system. I don't believe I would have had
 18 the opportunity to run, and it gave me that opportunity
 19 to serve in a greater capacity. You know, as a teacher,
 20 I feel that's public service, and to take it a step
 21 further, to serve the broader community, was really
 22 important for me to have that opportunity.
 23 I -- whether they do or not, I believe that
 24 candidates and elected officials must understand that
 25 they're going to be held accountable. And, you know, I

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1 suggested to you.
 2 I believe that the evidence in this case is
 3 clear and convincing, which is in the civil law system
 4 where I practice, that's a burden somewhere between
 5 preponderance of the evidence and guilt beyond a
 6 reasonable doubt. This satisfies every notion of clear
 7 and convincing evidence that I've ever run into.
 8 And -- and the last thing I would say is that I
 9 don't know what your process is, but it seems to me that
 10 there's evidence of criminal violations in this case.
 11 Evidence of a conspiracy between a candidate and a
 12 campaign consultant to evade the requirements of the
 13 Clean Elections system of campaign reporting
 14 requirements, things done in secret which may well have
 15 never seen the light of day except for a few sort of
 16 happenstance things.
 17 I don't know whether the Attorney General's
 18 Office looks into this or not, but it seems to me that
 19 -- that the evidence in this case warrants a careful
 20 look by the appropriate prosecuting authority to see if
 21 there is criminal violation, conspiracy to violate laws,
 22 and perjury.
 23 This, as I say, it's -- it's very hard for me
 24 to appear in a case involving Doug Quelland because, at
 25 least as of a couple years ago, he was a real champion

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1 made a mistake this last session too, this last election
 2 cycle. And I paid the fine and I moved on because
 3 that's what you do. You held me accountable and I
 4 should have, because I made a mistake. And that's what
 5 we do.
 6 And I wanted you to know specifically that I
 7 don't feel that this is about me at all, and that's why
 8 I wanted to at least talk to you for just a moment. I
 9 know how you struggle, and I know that holding people
 10 accountable is not really the best part of the job in
 11 your work that you do. I know it's tough. I have just
 12 recently been appointed to serve on the board and it's
 13 tough work, and I appreciate all that you're doing and
 14 how much time you've taken to take all of this in
 15 consideration.
 16 This -- this event that we're talking about is
 17 huge, and I appreciate all of you for what you're going
 18 to have to do -- do here. But I know that you must do
 19 it, and I wanted you to know that -- also not being
 20 about me, it's -- it's about the people in District 10.
 21 I'm trying not to be too emotional about it, but I feel
 22 that the people in District 10, the voters, were denied
 23 a fair election. And if -- if it's true to be found out
 24 that Mr. Quelland cheated, then, you know, that's -- I
 25 don't know how we -- we regain the faith in District

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1 10's voters. You know, it's going to be hard work for
 2 all us who want to serve the public, to regain their
 3 confidence.
 4 And, you know, the people who worked for me and
 5 the hours that they spent walking door-to-door and in
 6 the heat and all kinds of different temperatures, you
 7 know, they thought all during the time they were doing
 8 this work for me, that they were, you know, working in a
 9 fair fight. And after all this has come out, really,
 10 they were denied a fair fight. And I just wanted to let
 11 you know what I was thinking. And I know this is tough,
 12 but I appreciate everything that you're doing. And
 13 thank you for the time to let me speak.
 14 CHAIRPERSON SCARAMAZZO: Thank you.
 15 COMMISSIONER DANIELS: Mr. Chairman?
 16 CHAIRPERSON SCARAMAZZO: Yes, Lori.
 17 COMMISSIONER DANIELS: I don't have a question.
 18 I just want to state: I don't think anyone on the
 19 Commission feels like it is about you. We have looked
 20 at the facts and this situation. And it's not just
 21 District 10, it's the state taxpayers of Arizona. This
 22 is a tax-supported system that it hurts the entire state
 23 when something is done incorrectly or conspiratorial;
 24 something that's not done in a legal manner or a factual
 25 manner and is basically skirting the law or just flat

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1 campaign expenditure.
 2 But I want to talk about something that went a
 3 little farther, which is the issue of candor and
 4 cooperation with you and the Commission staff. I think
 5 the lack of that in this case makes Mr. Quelland more
 6 culpable, and I think that should make it easier for you
 7 to give a harder fine, or a harder penalty. But I also
 8 want to point out, when I train Clean Elections
 9 attorneys, I always tell them: Be candid with the
 10 Commission, be truthful, cooperate with the staff. Not
 11 only because it's the right thing to do, but because,
 12 you know, when you're negotiating down the road about
 13 the penalty, you want to have made that good faith
 14 effort to do what's right, and even when you make a
 15 mistake, you're going to be able to have some leniency
 16 from the Commission.
 17 In this case when you have the evidence that's
 18 presented today, you need to show the other candidates
 19 that the other side is true: That when you don't give
 20 the Commission candor, when you don't cooperate,
 21 there's -- there's a penalty for it.
 22 So, for that reason I'd like to encourage you
 23 to give the -- the strongest penalty you can in this
 24 case.
 25 CHAIRPERSON SCARAMAZZO: Thank you. Any

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1 out cheating.
 2 I just want you to know I don't think this is
 3 anything to do with you. I think this is to do with
 4 Representative Quelland.
 5 MS. THRASHER: Thank you very much. I
 6 appreciate that.
 7 CHAIRPERSON SCARAMAZZO: Yes, sir.
 8 MR. BARTON: Good morning. My name is Jim
 9 Barton of Perkins, Coie, Brown & Bain. I'm here on
 10 behalf of the complainant, Carol Vandercook.
 11 I think that the staff has done a really good
 12 job of presenting the overwhelming evidence in support
 13 of the initial question, whether it's more likely than
 14 not that a violation occurred here. So, I just want to
 15 speak for a couple of minutes about what kind of penalty
 16 should be assessed and why I believe you should assess a
 17 strong penalty in this case.
 18 This case is unlike most of the cases that come
 19 before this Commission. Most of the time you see people
 20 who made a mistake. Sometimes it recklessness that
 21 cause a mistake, so it's not exactly what you would --
 22 what you would call a pure accident, sometimes it's from
 23 carelessness.
 24 That's not what we saw today in this
 25 PowerPoint. We saw a willful decision to hide a

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1 questions? Okay. Thank you, Mr. Barton.
 2 MR. LANG: Mr. Chair, I just want to say for
 3 the record, and I don't think -- I don't think
 4 Mr. Barton was implying anything, but I just want to
 5 make it clear to you, that Lee Miller has been
 6 completely candid and -- with me, and I have no concerns
 7 at all about his performance in this case.
 8 CHAIRPERSON SCARAMAZZO: Okay. Lori?
 9 COMMISSIONER DANIELS: Mr. Chairman, I
 10 understand that Mr. Miller has. Do you feel like
 11 Representative Quelland has been as forthcoming also?
 12 I realize he's an attorney, so maybe that's not
 13 a legal question I should be asking. I'm not an
 14 attorney. But I just was curious.
 15 MR. LANG: So, your question is about
 16 Representative Quelland?
 17 COMMISSIONER DANIELS: Do you feel he was as
 18 candid and upfront about things as he could have been?
 19 MR. LANG: I can't go into his motives, but,
 20 obviously, staff and I have found a great deal of
 21 evidence that contradicts what he's told us.
 22 COMMISSIONER DANIELS: Didn't mean to put you
 23 on the spot, Todd, but thank you.
 24 CHAIRPERSON SCARAMAZZO: Anyone else? Hearing
 25 none, let's -- I think we need to probably get some

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1 legal advice.

2 COMMISSIONER DANIELS: Mr. Chairman, you need a

3 motion?

4 CHAIRPERSON SCARAMAZZO: Yes.

5 COMMISSIONER DANIELS: Mr. Chairman, I move we

6 go into executive session for legal advice.

7 COMMISSIONER FAIRMAN: I'll second that.

8 CHAIRPERSON SCARAMAZZO: It's been moved and

9 seconded to adjourn into executive session. All those

10 in favor say, "aye."

11 (Chorus of ayes.)

12 CHAIRPERSON SCARAMAZZO: Opposed? Motion

13 carries. Thank you.

14 (Whereupon the public retires from the meeting

15 room.)

16

17 (Whereupon the Commission is in executive

18 session from 11:49 a.m. until 12:15 p.m.)

19

20 (Whereupon all members of the public are

21 present and the Commission resumes in general session.)

22

23 CHAIRPERSON SCARAMAZZO: We'll reconvene back

24 into regular session at 12:15, okay?

25 And we are on Item No. IV, consideration and
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1 have initiated conversations with staff regarding

2 resolving this entire matter in a way that would obviate

3 the need for any of us to worry about an appeal going

4 forward. I have every confidence your staff has

5 generally made you aware of the direction of those

6 conversations, and am hopeful we can in the near term

7 get to a place where we can bring this entire matter to

8 closure and not have to continue with litigation.

9 CHAIRPERSON SCARAMAZZO: The question, Todd, is

10 to go ahead -- and Mr. Miller, do you have any

11 particulars on what's being discussed here as far as, I

12 take it, a settlement offer of some kind?

13 MR. LANG: Obviously the parameters are open,

14 but Mr. Miller -- and I -- I don't think I'm speaking

15 out of turn here -- is interested in reaching a

16 resolution which does not result in forfeiture of

17 office. Is that --

18 MR. MILLER: Yes, sir.

19 CHAIRPERSON SCARAMAZZO: Okay. All right.

20 Other questions? Comments?

21 There's a motion on the floor and -- oh, Louis?

22 COMMISSIONER HOFFMAN: No. I'm sorry. Go

23 ahead.

24 CHAIRPERSON SCARAMAZZO: No.

25 COMMISSIONER HOFFMAN: I was going to ask if
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1 possible action on enforcement case MUR 08-0035.

2 COMMISSIONER DANIELS: Mr. Chairman.

3 Mr. Chairman, members of the Commission, I -- I have

4 done a lot of soul searching on this matter, and I have

5 read just about everything I can, and it is with a very

6 heavy heart and a complete change of attitude from me, I

7 almost believe that the Commission shouldn't remove

8 anybody from office, but having seen all the evidence, I

9 believe that, and want to make the motion, that we fine

10 Representative Quelland \$45,000 and that he forfeits his

11 office in the matter of the case MUR 08-0035, Doug

12 Quelland.

13 COMMISSIONER FAIRMAN: I would like to second

14 that motion, please.

15 COMMISSIONER HOFFMAN: I'm sorry?

16 COMMISSIONER DANIELS: Motion to fine \$45,000

17 and forfeiture of office.

18 CHAIRPERSON SCARAMAZZO: And it has been moved

19 and seconded, Commissioner Daniels and Commissioner

20 Fairman, to impose a fine of \$45,000 and a forfeiture of

21 office in MUR 08-0035.

22 Okay, that motion is on the floor. Discussion

23 concerning this item? Mr. Miller?

24 MR. MILLER: Mr. Chairman, I -- I simply wanted

25 to make sure each of the Commissioners was aware that we
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1 there was going to be discussion on the motion, because

2 I'd like to hear what people think.

3 CHAIRPERSON SCARAMAZZO: That's what I opened

4 it up for. Anyone that -- any further comments

5 regarding this issue with this motion concerning

6 MUR 08-0035, with the fine of \$45,000 and forfeiture of

7 office?

8 Hearing none then, I'll --

9 COMMISSIONER HOFFMAN: I would like to make

10 some comments.

11 CHAIRPERSON SCARAMAZZO: Okay.

12 COMMISSIONER HOFFMAN: I think that I'd like to

13 hear what the other Commissioners think about the

14 situation as well. I've been very distressed with this

15 situation, because it's a situation of great importance

16 not only to the candidate who is running against

17 Representative Quelland, to Representative Quelland

18 himself, and the former campaign manager, and the other

19 people who assisted the Commission in investigating.

20 And I take seriously the obligation to work through

21 this.

22 It's also important to the people in the

23 district and the people in the state of Arizona. Like

24 Mr. Valder, I was involved with the foundation of the

25 Act, and I believe there is an issue of credibility of
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1 the Act involved.

2 It is distressing that it occurs to a friend of

3 Clean Elections; but with friends like this, who needs

4 enemies?

5 I think that the evidence seems to make clear

6 that there are -- that the contract was formed. The

7 \$2,000 check coming up with no explanation merely a

8 couple weeks afterwards, and apparently with e-mails

9 given to Representative Quelland identifying the work

10 being done, attaching invoices for campaign work, does

11 make it clear that the contract was taken out of the

12 system -- of the Clean Elections system, and that to me

13 is distressing. And I think I'm glad we took our time,

14 rather than rushing to judgment, to make sure that we

15 understood the facts and saw what I think are a fairly

16 clear evidence of the -- that there was a violation.

17 With regard to the penalties that are on hand,

18 I would -- I would like to move to amend the

19 Commissioner Daniel's motion to remove a couple of the

20 penalties for the violations. One is, I'd like to

21 accept staff's recommendation to eliminate penalty (D)

22 which was the prior assets version. Second, I'd like to

23 add the source of contribution violation, (E). And

24 third, I believe -- I'm open to hearing about this --

25 but I would like to eliminate the rule violation (A).

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1 MR. LANG: We recommended eliminating (D),

2 Mr. Chair and Commissioners, because when that -- when

3 that probable cause brief was written, we didn't have

4 the extent of the information we now have. And it was

5 written in the idea that if you found that the contract

6 had been cancelled, that perhaps -- then it certainly

7 would have been a prior asset.

8 But given the testimony and the new information

9 we received from Brent Eigsti, that indicated that he

10 did the computer work on behalf of the campaign through

11 -- in his normal course of business on behalf of

12 Intermedia --

13 COMMISSIONER HOFFMAN: That had to do with the

14 revised Website, if I recall correctly.

15 MR. LANG: That's right. He redid the entire

16 Website. And based on that, it wasn't simply a

17 continued use of a prior asset, it was a new asset. And

18 so we recommend that you not find a violation of that

19 particular rule.

20 COMMISSIONER HOFFMAN: So, in effect,

21 Mr. Chairman, the prior asset, or the Website, was part

22 of the same \$15,000; and, therefore, the -- and not

23 merely a transfer of a prior asset; and, therefore, that

24 Item (D) should be, you know, according to my amendment

25 be removed.

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1 So, by my amendment would result in a fine of

2 \$30,500, rather than the \$45,000 imposed, plus

3 forfeiture of office. And I'd be interested in hearing

4 what the others think about the different violations.

5 I'd like an opportunity to -- somehow to

6 consider those separately.

7 CHAIRPERSON SCARAMAZZO: And what -- maybe if

8 you could give us the basis behind your recommendations.

9 COMMISSIONER HOFFMAN: Well, staff recommended

10 eliminating the prior assets penalty.

11 COMMISSIONER DANIELS: Point of clarification.

12 Mr. Chairman, can the staff put up on the chart?

13 CHAIRPERSON SCARAMAZZO: Sure.

14 COMMISSIONER DANIELS: I think it will be

15 clearer, just so I can have a visual.

16 CHAIRPERSON SCARAMAZZO: Right.

17 COMMISSIONER DANIELS: I'm sorry if that makes

18 you move, but --

19 CHAIRPERSON SCARAMAZZO: No, that's fine.

20 COMMISSIONER HOFFMAN: Staff had recommended no

21 finding on Item (D), and I believe that the reasoning

22 given was -- was correct. As I think given that it

23 seems clear that the contract was performed -- could you

24 refresh my recollection? I don't remember the reasoning

25 for eliminating (D).

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1 COMMISSIONER DANIELS: I thought that was the

2 original motion was for \$45,000.

3 COMMISSIONER HOFFMAN: Right, I'm asking that

4 item -- \$45,000 would not include Item (E) either. So,

5 I wanted to have that one added, because these checks

6 clearly came from a business. And I believe that the --

7 that Representative Quelland ought to be fined for

8 writing checks from his business for campaign purposes

9 in the amount of \$500. So, I would like to accept -- I

10 would like to increase your total for that reason.

11 And then the last change I was recommending was

12 eliminating (A), cash on hand, which I think is a

13 somewhat complicated legal situation, and I'm still a

14 little unclear about the basis of that. But on balance,

15 I think that the -- that the cash on hand -- I'm not

16 convinced there's a violation of (A), let's put it that

17 way, and I am convince there's been a violation of (B),

18 and (C), and (E). So my amendment would be to impose a

19 \$30,500 fine.

20 COMMISSIONER DANIELS: And, Mr. Chairman, I --

21 CHAIRPERSON SCARAMAZZO: Lori.

22 COMMISSIONER DANIELS: I don't know

23 procedurally, if we're supposed to -- there's a motion

24 on the floor. I don't know there it's been seconded. I

25 don't know --

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1 CHAIRPERSON SCARAMAZZO: There is. We have a
 2 motion on the floor and it's been seconded.
 3 COMMISSIONER DANIELS: But the amendment hasn't
 4 been.
 5 CHAIRPERSON SCARAMAZZO: No, it has not.
 6 COMMISSIONER DANIELS: Can we continue to talk
 7 about this, though? Do we need a second first?
 8 I -- I don't understand how you don't believe
 9 that he didn't violate cash on hand when he signed a
 10 contract for \$15,000 and he had no cash on hand to pay
 11 for that. That is basically entering into a contract.
 12 And my hands are up there -- a contract where you didn't
 13 have the money to enter into that contract, so it does
 14 violate the law.
 15 And I know we as a Commission have penalized in
 16 the past many people who -- who went to a printer or
 17 something and -- and made an expenditure or promised the
 18 payment of an expenditure in advance and we have fined
 19 them for that.
 20 CHAIRPERSON SCARAMAZZO: Todd?
 21 MR. LANG: Mr. Chair, Commissioners, perhaps
 22 what we could do is -- one thing I can suggest is that
 23 you find the violations of (B) and (C), because they are
 24 so clear. The cash on hand rule is complex. And follow
 25 Commissioner Hoffman's recommendation, but simply impose
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1 debt, these kinds of things. And, you, know I think
 2 given that it involves the same \$15,000, I'm comfortable
 3 with -- with finding him under (B), and (C), and (E),
 4 and eliminating (A) and (D).
 5 That's -- that's my reasoning. Now, I'm more
 6 than happy to hear others. And it could well be that we
 7 would have authority. There's -- there's a lot of
 8 complication with regards to the expenditure statute and
 9 the cash on hand rule and their interplay in this case.
 10 But to me, the rest of it seems perfectly clear, and I'm
 11 more than happy to move forward on those.
 12 And I -- all that has to do with the amount of
 13 the contract. I believe that the -- that Representative
 14 Quelland deserves to forfeit his office for, you know,
 15 for this situation as well.
 16 COMMISSIONER DANIELS: Well, and, Mr. Chairman,
 17 I'm not a legal mind, but to me it is a debt. If I sign
 18 a contract on a house, and I buy that house, I sign the
 19 contract, I have to make the payment or I forfeit it and
 20 it is a debt. So to me, the contract -- and, again, I'm
 21 not a legal mind. So, there could be legal definitions
 22 here I'm not clear with. But, to me, it was a legal
 23 debt that he incurred by signing that contract at that
 24 time.
 25 Especially because he signed it at that time,
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1 the same fine, \$45,500 for (B), (C), and (E). Keeping
 2 in mind that the cap is a self-imposed cap of \$15,000.
 3 It's actually much higher, it's \$30,000. And that might
 4 provide the clarity. And, also, frankly, remove one
 5 issue for appeal and still result in the same outcome.
 6 COMMISSIONER DANIELS: Are you willing --
 7 COMMISSIONER HOFFMAN: Mr. Chair, I -- the
 8 issue -- and I -- you know, I'm not certain that we
 9 have -- that I have a firm position on it.
 10 The issue with regards to the cash on hand
 11 issue is that the limit -- the rule -- our rule says
 12 that candidates shall not incur debt or make an
 13 expenditure in excess of cash on hand. So, the question
 14 is: Is the contract that was apparently signed a debt
 15 or an expenditure?
 16 I don't believe it's -- it's a debt, per se. I
 17 believe that ought to be reserved for things like loans
 18 and direct loans. The question is whether it's an
 19 expenditure. And expenditure means a -- according to
 20 901.8, I believe is the statute, it means: "A purchase,
 21 payment, distribution, loan advance, deposit, or gift of
 22 money or anything of value made for purpose of
 23 influencing an election."
 24 And, so, there's a complicated question as to
 25 whether signing the contract is a loan, or advance, or a
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1 not having the cash on hand, if I'm correct, of the
 2 \$2,000, which would be -- if he terminated the contract
 3 he would owe that. Even if he terminated the contract,
 4 he was in violation of the cash on hand rule.
 5 COMMISSIONER HOFFMAN: If he had terminated,
 6 according to the contract terms, he would have been
 7 responsible for whole \$15,000, but that's a hypothetical
 8 situation that didn't occur.
 9 COMMISSIONER DANIELS: I just -- I see it as a
 10 debt, so that's where I'm coming from, and whatever the
 11 Commission decides.
 12 CHAIRPERSON SCARAMAZZO: All right.
 13 COMMISSIONER DANIELS: If you want to turn the
 14 lights on. Poor Mr. Chairman. I'm sorry.
 15 CHAIRPERSON SCARAMAZZO: Turn that off there.
 16 Yeah. Thank you.
 17 There is a motion and a second on the floor,
 18 then there was a proposed amendment. So far I've heard
 19 no second to that amendment.
 20 COMMISSIONER HOFFMAN: Could I separate the --
 21 the thing. I'd like to move to add the \$500 for
 22 violation (E) first. I -- I'm sorry. Move to amend the
 23 motion to add the \$500.
 24 COMMISSIONER FAIRMAN: I would second that
 25 motion, if that's appropriate.
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1 CHAIRPERSON SCARAMAZZO: Okay. To add (E) --

2 COMMISSIONER HOFFMAN: Yes.

3 CHAIRPERSON SCARAMAZZO: -- \$500.

4 COMMISSIONER FAIRMAN: To the balance of \$45,5.

5 CHAIRPERSON SCARAMAZZO: Okay. It's been moved

6 and seconded to amend the motion on the floor to add

7 Item (E), in the amount of \$500 to bring to a total of

8 \$45,500 fine. Any discussion on this item?

9 All those in favor say "aye."

10 (Chorus of ayes.)

11 CHAIRPERSON SCARAMAZZO: Opposed? Motion

12 carries. Okay.

13 COMMISSIONER HOFFMAN: I'd like to move to

14 remove from the motion the cash on hand violation

15 findings and \$15,000 of the penalty. That's a motion to

16 amend.

17 CHAIRPERSON SCARAMAZZO: Okay. There's a

18 motion to amend to remove cash on hand provision and

19 reduce by \$15,000 the penalty. Is there a second to

20 that item -- to that motion?

21 Okay. Hearing none, that dies for a lack of a

22 second.

23 Any other amendments?

24 COMMISSIONER DANIELS: Mr. Chairman.

25 CHAIRPERSON SCARAMAZZO: Lori.

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1 favor say "aye."

2 COMMISSIONER DANIELS: Aye.

3 COMMISSIONER HOFFMAN: Aye.

4 COMMISSIONER FAIRMAN: Aye.

5 CHAIRPERSON SCARAMAZZO: Aye.

6 Opposed?

7 COMMISSIONER PARKER: Nay. And I'd like to

8 explain my vote.

9 CHAIRPERSON SCARAMAZZO: Please.

10 COMMISSIONER PARKER: I think Mr. Quelland is

11 guilty of the things that we found here, but I don't

12 feel that we should make him forfeit his office. I

13 think that is something between he and the voters of his

14 district. And I think that they should have the ability

15 to recall him if they so choose, or if they wish to

16 retain him in office, or wish to vote for him again.

17 That is their right. They voted for him.

18 I personally don't feel that I can -- I can --

19 can vote for the forfeiture of office.

20 CHAIRPERSON SCARAMAZZO: Thank you. And I

21 certainly agree with the hardship there of what you're

22 discussing.

23 Okay. That item being concluded, we -- what am

24 I missing here?

25 COMMISSIONER DANIELS: The motion carried?

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1 COMMISSIONER DANIELS: Staff asked me if I

2 would amend my original amendment to say that there were

3 violations -- to amend my amendment to say there were

4 violations of: (A) cash on hand rule; (B) the reporting

5 requirements rule; (C) the primary spending limit rule;

6 and then (E) because we just had added that, the source

7 of contribution rule. So, that we're specific.

8 CHAIRPERSON SCARAMAZZO: So, you wish to

9 amend --

10 COMMISSIONER DANIELS: Amend it.

11 CHAIRPERSON SCARAMAZZO: -- your original

12 motion to include (A), (B), (C), and (E).

13 COMMISSIONER FAIRMAN: I'll second that.

14 CHAIRPERSON SCARAMAZZO: Second? Second, okay.

15 Moved and seconded. All those in favor to the original

16 motion say "aye."

17 (Chorus of ayes.)

18 CHAIRPERSON SCARAMAZZO: Opposed? Motion

19 carries.

20 So we're back to the amendment. And we'll --

21 COMMISSIONER DANIELS: To the motion as

22 amended.

23 CHAIRPERSON SCARAMAZZO: Motion as amended,

24 there we go, okay.

25 Further discussion on this item. All those in

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1 CHAIRPERSON SCARAMAZZO: Pardon?

2 COMMISSIONER DANIELS: The motion carried?

3 CHAIRPERSON SCARAMAZZO: Yes, the motion

4 carries.

5 COMMISSIONER DANIELS: Okay. I didn't hear

6 that.

7 CHAIRPERSON SCARAMAZZO: Excuse me. Motion

8 carries four to one, okay? Thank you.

9 We'll move on. Item No. V, consideration and

10 possible action on the following final candidate audit

11 reports. Todd?

12 MR. LANG: Thank you, Mr. Chair.

13 Commissioners, you have before you four audit reports.

14 Our auditors are getting their way through the audits,

15 so we have four more to approve. These are final

16 reports for your approval, and I ask that you approve

17 them.

18 In the case of the first one, the Agenda

19 Item V(A), regarding representative Chad Campbell,

20 non-participating candidate for District 14, State

21 Representative. You see that there were some minor

22 glitches found. In three occasions he filed his report

23 one day late; but, in fact, because of the way the

24 software works in the Secretary of State's office --

25 requires reporting to be done, these were actually

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1 timely. That's something we're going to try to work out
 2 with the Secretary of State before the next election
 3 cycle and with our auditors.
 4 He also did not file a supplemental report on
 5 9/2. What's important for you to understand is no
 6 matching funds were delayed. The problem is unclear.
 7 What he tells us is that the trigger gain that comes up
 8 when you -- when you are doing your campaign finance
 9 reports just never happened, so that's something we're
 10 looking into. You will see that two expenditures were
 11 delayed --
 12 COMMISSIONER HOFFMAN: Can you say that again.
 13 The trigger what?
 14 MR. LANG: The - the -- when you're filing --
 15 when you're updating the campaign finance report, the
 16 software alerts you to the fact you have a trigger
 17 report due. And for whatever reason, he tells us that
 18 that didn't happen on 9/2. I'd also note that that's
 19 election day. And so that -- the opportunity to do
 20 anything about his report was minimal, and so no harm
 21 was done.
 22 You will see that he was -- he was delayed.
 23 Two expenditures were delayed. He missed the reports
 24 and got them in late.
 25 COMMISSIONER HOFFMAN: Talking about the
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1 Campbell.
 2 There you go.
 3 COMMISSIONER HOFFMAN: I'm unclear what the
 4 meaning of "approving the audit" means. Does that mean
 5 the Commission has concluded not to undergo an
 6 enforcement procedure or what's the implication of
 7 approving the audit?
 8 MR. LANG: It simply means that the audit is
 9 complete and final --
 10 COMMISSIONER FAIRMAN: Accepting audit.
 11 MR. LANG: -- and at an end. If the Commission
 12 decides to instruct staff to proceed an enforcement
 13 action --
 14 COMMISSIONER HOFFMAN: To look further.
 15 MR. LANG: We can do that.
 16 COMMISSIONER HOFFMAN: The alternative to
 17 approving the audit would be to instruct further
 18 investigation or explanation to see whether an
 19 enforcement action would be needed?
 20 MR. LANG: No. The alternative to approving
 21 the audit is to not approve it and tell us to fix things
 22 that are in this audit. For instance, in the
 23 preliminary report they wrote these things up as if they
 24 were serious violations, the ones with asterisks. Since
 25 that time, we've worked with them and you see the
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1 one-day thing?
 2 MR. LANG: No, no. If you look below. If you
 3 look at the bottom of the last full paragraph on Page 3.
 4 He had some expenditures that were supposed to be on 7/1
 5 --
 6 COMMISSIONER HOFFMAN: Okay.
 7 MR. LANG: -- and they weren't on until the
 8 next report. And he had another one that also was a
 9 report late. Because they didn't trigger matching
 10 funds, we have not written an enforcement action for
 11 your consideration.
 12 Those are the irregularities in his report. I
 13 ask you to approve the report. Doesn't mean you
 14 approved what happened here, simply means you approve
 15 the audit.
 16 COMMISSIONER DANIELS: Mr. Chairman, I move to
 17 approve the audit in the matter of Chad Campbell.
 18 COMMISSIONER PARKER: Second.
 19 COMMISSIONER HOFFMAN: What is the --
 20 CHAIRPERSON SCARAMAZZO: Let me get this on the
 21 floor first, okay?
 22 COMMISSIONER HOFFMAN: I'm sorry.
 23 CHAIRPERSON SCARAMAZZO: That's okay. It's
 24 been moved by Commissioner Daniels, seconded by
 25 Commissioner Parker, to approve the audit for Chad
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1 language there that shows Secretary of State's filing
 2 regulations were complied with. Had that not been
 3 there, you could have instructed staff to go back and
 4 address that.
 5 COMMISSIONER HOFFMAN: I see that.
 6 MR. LANG: The audit is not an enforcement
 7 action. So, it doesn't include an enforcement matter.
 8 COMMISSIONER HOFFMAN: Right. Thank you.
 9 MR. LANG: It's just its own review that we do
 10 to keep candidates advised of where they stand.
 11 COMMISSIONER HOFFMAN: Thank you, Mr. Chair.
 12 CHAIRPERSON SCARAMAZZO: Certainly.
 13 Okay. All those in favor of approving the
 14 final audit for Chad Campbell, say, "aye."
 15 (Chorus of ayes.)
 16 CHAIRPERSON SCARAMAZZO: Opposed? Motion
 17 carries.
 18 MR. LANG: Thank you, Mr. Chairman.
 19 CHAIRPERSON SCARAMAZZO: (B)?
 20 MR. LANG: If you prefer, I can bring all three
 21 to you for your consideration.
 22 CHAIRPERSON SCARAMAZZO: I'd like that, yes.
 23 I'd like that.
 24 COMMISSIONER FAIRMAN: Thank you.
 25 MR. LANG: It's Agenda Items V(B), (C), and (D)
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1 regarding Jack Doody, candidate for state
2 representative, District 6, participating; Sheri
3 Van Horsen, participating candidate for District 9; and
4 Georgette Valle, participating candidate, state senate,
5 District 30.

6 As you can see from reviewing the audits, all
7 of them came clean -- all of them came out clean. In
8 other words, no violations, no irregularities, no
9 concerns. So, I ask that you approve the three audits.

10 CHAIRPERSON SCARAMAZZO: Great.

11 COMMISSIONER DANIELS: Mr. Chairman, I would
12 make a motion that we approve the audits in the cases of
13 Jack Doody, Sheri Van Horsen, and Georgette Valle.

14 COMMISSIONER FAIRMAN: I will second that.

15 CHAIRPERSON SCARAMAZZO: Okay. It's been moved
16 by Commissioner Daniels, second by Commissioner Fairman
17 to approve the final audits for Jack Doody, Sheri Van
18 Horsen, and Georgette Valle. Any discussion on this
19 item?

20 All those in favor say "aye."
21 (Chorus of ayes.)

22 CHAIRPERSON SCARAMAZZO: Opposed? Motion
23 carries.

24 That brings us to call for public comment,
25 although looks like most people have --

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1 COMMISSIONER DANIELS: Left.

2 CHAIRPERSON SCARAMAZZO: Thanks for hanging in
3 there with us. Any -- yes, ma'am.

4 MS. ESCHINGER: Want me to come up there?

5 CHAIRPERSON SCARAMAZZO: Yes, please.

6 MS. ESCHINGER: Ann Eschinger representing the
7 Clean Elections Institute.

8 I would like to thank the Chair and members of
9 the Commission, Todd Lang and the members of the staff,
10 for a very thoughtful and considered preparation and
11 deliberation in the matter of Doug Quelland. The
12 Institute and supporters certainly appreciate the manner
13 that this has been carried out. Thank you.

14 CHAIRPERSON SCARAMAZZO: Thank you.

15 Anything else? Otherwise. That brings us to
16 the final item on the agenda, which is adjournment. Oh,
17 did you have something else --

18 COMMISSIONER FAIRMAN: I would like to make a
19 motion we adjourn.

20 COMMISSIONER PARKER: Second.

21 CHAIRPERSON SCARAMAZZO: Okay. Moved and
22 seconded, all those in favor say "aye."
23 (Chorus of ayes.)

24 CHAIRPERSON SCARAMAZZO: Opposed? Motion
25 carries.

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1 Thanks, everyone. I know it has been
2 difficult.
3
4 (Whereupon the proceeding concludes at 12:42
5 p.m.)

1 C E R T I F I C A T E

2
3 I, Angela Furniss Miller, Certified Reporter,
4 do hereby certify that the foregoing pages numbered 1
5 through 56, inclusive, constitute a full and accurate
6 printed record of my stenographic notes taken at said
7 time and place, all done to the best of my skill and
8 ability.

9 DATED, at Phoenix, this 19th day of May, 2009.

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Angela Furniss Miller, RPR
Certified Reporter (AZ50127)

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