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THE STATE OF ARIZONA  
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

July 6, 2010

9:30 a.m.

Reported By:

Angela Furniss Miller, RPR  
Certified Reporter (AZ 50127)

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1 A PUBLIC MEETING, BEFORE THE CITIZENS CLEAN  
 2 ELECTIONS COMMISSION, convened at 9:30 a.m. on July 6,  
 3 2010, at the State of Arizona, Clean Elections  
 4 Commission, 1616 W. Adams, Conference Room, Phoenix,  
 5 Arizona, in the presence of the following Board members:

6 Ms. Royann Parker, Telephonic  
 7 Mr. Gary Scaramazzo, Chairperson  
 8 Ms. Lori Daniels  
 9 Mr. Louis Hoffman  
 10 Mr. Jeff Fairman

11 OTHERS PRESENT:

12 Todd Lang, Executive Director  
 13 Colleen McGee, Deputy Director  
 14 Paula Thomas, Executive Assistant  
 15 Terah Kenney, Executive Support Specialist  
 16 Michael Becker, Voter Education Manager  
 17 Daniel Ruiz, II, Campaign Finance Manager  
 18 Jim Barton, Attorney General Office  
 19 Nancy Read, Secretary of State's Office  
 20 Kirstin Eldenbach, Perkins, Coie, Brown & Bain

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P R O C E E D I N G

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3 CHAIRPERSON SCARAMAZZO: Good morning. I'd  
 4 like to call to order this meeting of the Citizens Clean  
 5 Elections Commission.  
 6 It's Tuesday, July 6th, 2010. It is 9:30 in  
 7 the morning, and we do have Commissioner Parker on the  
 8 phone from Tucson.  
 9 Given that, we'll move to Item No. II, which is  
 10 seeking approval for the June 14th and June 17th, 2010,  
 11 Commission meeting minutes.  
 12 COMMISSIONER DANIELS: Mr. Chairman, I move the  
 13 approval of the June 14th and June 17th, 2010,  
 14 Commission meeting minutes.  
 15 COMMISSIONER FAIRMAN: I'll second that.  
 16 CHAIRPERSON SCARAMAZZO: It's been moved and  
 17 seconded to approve the June 14th and June 17th, 2010,  
 18 Commission meeting minutes. Any discussion on this  
 19 item?  
 20 All those in favor say "aye."  
 21 (Chorus of ayes.)  
 22  
 23 CHAIRPERSON SCARAMAZZO: Opposed? Motion  
 24 carries. Thank you.  
 25 Todd?

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1 MR. LANG: Good morning, Commissioners. The --  
 2 Representative Quelland's request for a stay was denied.  
 3 He's filed notice of appeal, but there is no stay, and  
 4 so the removal procedure has proceeded. The -- the  
 5 precinct committeemen -- the Republican precinct  
 6 committeemen of District 10 have chosen three candidates  
 7 to replace him, and it's up to the County Board of  
 8 Supervisors to pick from that list of three. They have  
 9 not yet done so, and we'll let you know when they do.

10 As you know, in the Brewer Campaign, they filed  
 11 a Motion For Clarification. There are negotiations  
 12 going on with the Plaintiffs in the lawsuit regarding  
 13 how to proceed, but responses -- or, responses in  
 14 opposition to their Motion to Intervene are due on --  
 15 the 9th?

16 MR. BARTON: The 9th.  
 17 MR. LANG: And -- and then we'll -- we'll have  
 18 -- then they'll have an opportunity to respond to those.  
 19 The debates are on-line. And I've looked at  
 20 some of them, they're great. If you haven't seen the  
 21 governor's debate for the Republican primary, it's very  
 22 good in the terms of there's lots of conflict, which  
 23 always makes it more -- which makes it more interesting.

24 COMMISSIONER DANIELS: Yeah, it was  
 25 interesting.

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1 MR. LANG: And the AG debates are also  
 2 interesting in that regard as well.  
 3 Otherwise -- oh, enforcement. We have two new  
 4 complaints which aren't before you yet but will be  
 5 before you next month, and so that gives us six so far.  
 6 That concludes my report.  
 7 CHAIRPERSON SCARAMAZZO: Questions? Louis?  
 8 COMMISSIONER HOFFMAN: Yeah, I have just a  
 9 couple of questions about Representative Quelland's  
 10 matter, if you could just brief us. What -- was there a  
 11 request -- there was a request for stay pending appeal  
 12 to the trial court that was denied?  
 13 MR. LANG: Yes.  
 14 COMMISSIONER HOFFMAN: And the -- was there a  
 15 request to the Appeals Court?  
 16 MR. LANG: Not yet, no.  
 17 COMMISSIONER HOFFMAN: Okay. And has the Board  
 18 of Supervisors scheduled a meeting or given any  
 19 indication of when they would act?  
 20 MR. LANG: To my knowledge, no. Obviously, if  
 21 a special session is called, I'm sure they will be asked  
 22 to do something quickly; but, otherwise, I would assume  
 23 they would do it in the normal order of business. I can  
 24 look into it and find out more details for you.  
 25 COMMISSIONER HOFFMAN: Well, I was just curious

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1 if you happened to know.

2 CHAIRPERSON SCARAMAZZO: Jeff?

3 COMMISSIONER FAIRMAN: Along those lines, the  
4 process that the Board of Supervisors would use, will  
5 they bring in the candidates and go through a -- go  
6 through an interview process or what's -- what's --  
7 what's next for them?

8 MR. LANG: That's my understanding -- I'm  
9 looking at Mike -- yeah. Yeah, that's how -- that's how  
10 it will go. They will interview the three of them  
11 and --

12 COMMISSIONER HOFFMAN: Oh --

13 MR. LANG: -- make a decision.

14 COMMISSIONER HOFFMAN: -- I'm sorry. There was  
15 one other question, was -- are any of the three  
16 candidates that were chosen running for election?

17 MR. LANG: Yes, I believe two of them are.

18 CHAIRPERSON SCARAMAZZO: Timing is such so  
19 that -- how will that, you know, if they name a  
20 replacement, does it have any impact at all anyways at  
21 this late date?

22 MR. LANG: That's a political question. I  
23 mean, does it help you to say, you know --

24 COMMISSIONER DANIELS: Usually, I would say if  
25 -- if they appoint you and you're running, it gives you

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1 see from the proposed agreement that is in your pac- --  
2 in your packets, we did go through some negotiating with  
3 Mr. Green. He had filed a -- an appeal to the  
4 administrative law judge, and so while that was pending  
5 we were able to negotiate this agreement, so we'll  
6 vacate that -- that appeal if -- if this agreement is  
7 approved.

8 You will see that Mr. Green stipulated to the  
9 fact that he violated Rule 105(C) for at least 40 slips.  
10 And like I said, he's going to vacate his appeal. In  
11 exchange for that, we agree to a 40 percent reduction in  
12 his fine down to \$12,000, which will result in him  
13 making payments for the next, I guess, what is that,  
14 three years, at \$250 a month. And then for the rest of  
15 it, it's, you know, pretty much our boilerplate language  
16 on, you know, defaults and -- and that sort of thing.

17 I guess the other interesting thing is  
18 Paragraph 24 is just where it explains the good cause  
19 for making this reduction, you know, he stipulated to  
20 vacating the hearing, he admitted his violation. We  
21 could say that he cooperated during the conciliation  
22 agreement process, because at that point he was  
23 cooperative, and then there was no prior enforcement  
24 against him. So I can answer any questions on the  
25 agreement.

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1 kind of a heads-up --

2 CHAIRPERSON SCARAMAZZO: Well, yes. But I  
3 mean for --

4 COMMISSIONER DANIELS: -- on that. But as far  
5 as the session, unless there's a special session, and I  
6 don't see them having one because it's an election year,  
7 I don't see what difference it makes when they do it.  
8 You're not -- it's not like they're going to be really  
9 serving or doing anything.

10 CHAIRPERSON SCARAMAZZO: Right.

11 COMMISSIONER HOFFMAN: Is it clear that the  
12 Supervisors will, in fact, act?

13 MR. LANG: I have no reason to believe they  
14 wouldn't.

15 COMMISSIONER HOFFMAN: So...

16 MR. LANG: No. I -- I believe they will.

17 CHAIRPERSON SCARAMAZZO: Any other questions  
18 for Todd?

19 All right then. We'll move on to Item No. IV  
20 -- and Jim is back, okay -- and that is discussion and  
21 possible action on conciliation agreement in MUR  
22 10-0003, Bob Green, Candidate For House of Reps,  
23 District 7.

24 Todd -- excuse me. Jim.

25 MR. BARTON: Thank you, Mr. Chair. As you can  
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1 You don't have the signed copy in front of you.  
2 Mr. Green actually signed the wrong copy, but -- do you  
3 have that in your packet, the faxed --

4 COMMISSIONER DANIELS: Uh-huh.

5 MR. BARTON: That's -- I don't -- he  
6 inadvertently signed sort of the first draft that I sent  
7 to him, which was for \$18,000 fine, and -- but we've  
8 since negotiated a -- a -- a lower fine. So, this would  
9 be the agreement that once I get the hard copy from him,  
10 and then I can -- I can sign it as the negotiator, and  
11 then just, you know, pending approval it will go into  
12 effect.

13 CHAIRPERSON SCARAMAZZO: Any questions?

14 COMMISSIONER PARKER: Is Mr. Green there today?

15 COMMISSIONER DANIELS: No.

16 MR. LANG: No. No, he's not, Commissioner  
17 Parker.

18 COMMISSIONER PARKER: Okay.

19 COMMISSIONER HOFFMAN: Just to clarify the  
20 record, I think it will be four years.

21 CHAIRPERSON SCARAMAZZO: On the payment.

22 MR. BARTON: Yes. That's right. Thank you.  
23 It will be four years, that's right.

24 CHAIRPERSON SCARAMAZZO: I think \$12,000 is a,  
25 you know, a hefty fine.

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1 MR. BARTON: I agree. I think that this -- I  
 2 mean, I don't think that anyone would walk away from  
 3 this -- I mean, a \$12,000 fine is severe, and he has had  
 4 to admit, you know, that he's -- that he did it.  
 5 There's no question that he violated the -- the statute.  
 6 So, I feel like this is -- sends a good message that you  
 7 can't just come, you know, turn in so many bad slips and  
 8 expect to get away with it.  
 9 CHAIRPERSON SCARAMAZZO: Good deal.  
 10 COMMISSIONER DANIELS: Mr. Chairman, I would  
 11 move that we agree to the conciliation agreement in MUR  
 12 10-0003 with Robert Green.  
 13 COMMISSIONER HOFFMAN: Second.  
 14 CHAIRPERSON SCARAMAZZO: Okay. Been moved by  
 15 Commissioner Daniels, seconded by Commissioner Hoffman  
 16 to agree to the conciliation agreement in MUR 10-0003,  
 17 Mr. Bob Green. Discussion on this item -- on the  
 18 motion?  
 19 All those in favor say "aye."  
 20 (Chorus of ayes.)  
 21  
 22 CHAIRPERSON SCARAMAZZO: Opposed? Motion  
 23 carries. Again, thank you for the work on that.  
 24 MR. BARTON: Thank you.  
 25 CHAIRPERSON SCARAMAZZO: Moving on to Item  
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1 the actual, you know, the interpretation of the order.  
 2 At this point, we haven't seen anything yet,  
 3 but typically we see people file things on the -- on the  
 4 last day, so we'll expect to see those come in on the  
 5 9th. And then if there's going to be any motion to  
 6 support, that will be due on the 16th. And, so, I mean,  
 7 perhaps it's set up that way on purpose so that we can  
 8 see what comes in on the 9th, and then maybe if nothing  
 9 comes in, you know, parties can decide what they need to  
 10 do.  
 11 Any questions about the status of this, of the  
 12 -- this sort of clarification process?  
 13 CHAIRPERSON SCARAMAZZO: Louis?  
 14 COMMISSIONER HOFFMAN: Mr. Chair, Jim, there  
 15 was some reference to negotiations with the -- ongoing  
 16 on the -- on that matter in Todd's report. Is there any  
 17 clarification that you can provide as to what your --  
 18 your understanding of the nature of the negotiations or  
 19 what's happening there?  
 20 MR. BARTON: Well, unfortunately, the  
 21 negotiations are at a stage where there's a lot of sort  
 22 of one -- one toe in the water and then pull back and a  
 23 little bit of a proposal pending clarification with the  
 24 -- with the client and then pulling it back. And so I  
 25 -- I can tell you that I really, honestly can't give you  
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1 No. V, litigation update. Todd?  
 2 MR. LANG: Thank you, Mr. Chair.  
 3 Commissioners, I think Jim has a few dates he can tell  
 4 you about in the ongoing matching funds litigation and  
 5 some other tidbits.  
 6 CHAIRPERSON SCARAMAZZO: Okay.  
 7 MR. BARTON: Mr. Chairman, thank you, Todd, we  
 8 did receive an order in the McComish case that addressed  
 9 the Motion For Clarification filed by Governor Brewer's  
 10 campaign, and the dates that come out of that are, by  
 11 July 9th, anyone who wants to oppose the motion should  
 12 file something. I don't know if -- I don't know whether  
 13 they expect anyone is going to file a motion to oppose  
 14 or not, or what would be like a, basically, a response  
 15 to her motion.  
 16 Actually, there are -- there remain two  
 17 motions: One is the motion for her to intervene and the  
 18 second is the motion to -- which the Governor's campaign  
 19 styled as a motion to amend the order, but maybe the  
 20 Court will consider it a motion to clarify. We'll --  
 21 we'll see how that goes. But those are actually two  
 22 separate motions. So, it's possible that a party could  
 23 just move to oppose her intervening, I don't know if  
 24 anyone would do that. Or they could oppose -- move to  
 25 oppose the actual -- the seeking of the clarification,  
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1 much help as far as where the negotiations are.  
 2 I can say that there's some effort on the part  
 3 of the Governor's campaign to do some negotiating with  
 4 the Plaintiffs in this case. You know, we have two sets  
 5 of Plaintiffs, we have the Plaintiff Intervenors, and  
 6 the Plaintiffs; one represented by Goldwater Institute,  
 7 the other represented by Institute for Justice.  
 8 And you know, really, I think before the  
 9 Commission can take seriously any negotiation, we have  
 10 to have both of those Plaintiffs together, very, you  
 11 know, unified in what they're -- what they're proposing,  
 12 and I can tell you that right now we're -- we're pretty  
 13 far from that, as -- as -- at least based on the  
 14 information that -- that I've been privy to. So I guess  
 15 where I would say that is right now is that we don't  
 16 have anything that we can really think about.  
 17 COMMISSIONER HOFFMAN: What's your  
 18 understanding is the position of the Plaintiffs?  
 19 MR. BARTON: My understanding is that the  
 20 Goldwater Institute suggested perhaps they would agree  
 21 not to file contempt charges -- or not to move for  
 22 contempt if the Commission was to declare an emergency,  
 23 so that was an effort to find a way other than getting  
 24 this order and then, you know, a way other than getting  
 25 the clarification. Let's -- well, what if we -- what if  
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1 we go on record as saying -- "we" being the Goldwater  
 2 Institute -- what if the Goldwater Institute goes on  
 3 record as saying it will not pursue contempt charges  
 4 against the Commission.  
 5 COMMISSIONER HOFFMAN: Okay.  
 6 MR. BARTON: Well, first off, that was sort of  
 7 -- that was just sort of floated, that wasn't really --  
 8 they didn't commit to that.  
 9 COMMISSIONER HOFFMAN: Right.  
 10 MR. BARTON: And my understanding is the  
 11 Institute for Justice is not at all interested in that,  
 12 making that pledge.  
 13 So -- and then, of course, when it's -- even if  
 14 we had that, we would have to see very solidly what the  
 15 pledge is, because, you know, a promise not to come  
 16 after us for violating a court order, is not -- that's  
 17 not -- probably not good enough for us to, you know,  
 18 violate a court order, right? I mean, we would -- we  
 19 would have to see the specific language of it and we  
 20 would -- we would have to have it ratified by the Court.  
 21 You know, we would have to have the Court acknowledge or  
 22 in some way issue an order recognizing it.  
 23 So -- so, that's why I'm hesitant, Commissioner  
 24 Hoffman, about commenting on it too much is because,  
 25 frankly, we don't have any firm commitments yet. And  
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1 MR. BARTON: I mean, that doesn't mean  
 2 anything. That doesn't mean you shouldn't --  
 3 COMMISSIONER DANIELS: Feel free to do it while  
 4 I'm not here.  
 5 MR. BARTON: That doesn't mean we shouldn't do  
 6 it, but I'm just -- that's -- that is true.  
 7 COMMISSIONER HOFFMAN: Okay. Could you clarify  
 8 for me who the Goldwater Institute Plaintiffs are and  
 9 who the --  
 10 COMMISSIONER DANIELS: Institute for Justice.  
 11 COMMISSIONER HOFFMAN: -- Institute for Justice  
 12 represents, because I'm not sure I ever got that.  
 13 MR. BARTON: Yeah.  
 14 COMMISSIONER HOFFMAN: I mean, it doesn't have  
 15 to be exact. Just, you know, in terms of the names or  
 16 anything, but just, do you remember what --  
 17 MR. LANG: The Institute represents Dean  
 18 Martin.  
 19 MR. BARTON: The Institute represents Dean  
 20 Martin, that's correct.  
 21 COMMISSIONER DANIELS: And McComish and...  
 22 MR. BARTON: McComish and the other --  
 23 COMMISSIONER DANIELS: The et al. or order.  
 24 COMMISSIONER HOFFMAN: Dean is -- is -- is the  
 25 only client of the Institute?  
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1 then, you know, the devil is in the details, right? So  
 2 we would have to see exactly what it was to know.  
 3 But that's the -- the path, I will -- I can say  
 4 this: I think that the -- particularly the Goldwater  
 5 Institute, is concerned about disturbing the finality of  
 6 the order, and the -- they're trying to -- the Goldwater  
 7 Institute is trying to find a way for us to get what we  
 8 want without disturbing the finality of the order.  
 9 CHAIRPERSON SCARAMAZZO: Lori?  
 10 COMMISSIONER DANIELS: Well, so, basically, if  
 11 the Courts say we can declare an emergency and we do it,  
 12 it still doesn't mean we're going to get to do it  
 13 because we could be right back in court?  
 14 Okay. So it's just a major Catch 22.  
 15 MR. BARTON: Mr. Chair, Commissioner Daniels, I  
 16 agree. Yeah, that's -- I -- I -- the -- who knows  
 17 what -- I mean, who knows what will happen. I've been  
 18 -- I told Todd I -- I'm stopped predicting things in  
 19 this case because I've been wrong since the Supreme  
 20 Court's decision on almost everything that people have  
 21 done.  
 22 But, yeah, I think there's no reason -- there's  
 23 no reason to believe that if we did declare an emergency  
 24 that we wouldn't immediately be sued.  
 25 MR. LANG: That's right.  
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1 MR. LANG: No.  
 2 MR. BARTON: No.  
 3 MR. LANG: That's the one I remember.  
 4 COMMISSIONER HOFFMAN: Oh. Okay.  
 5 MR. BARTON: So, they both represent a number  
 6 -- I believe the Institute for Justice has a PAC.  
 7 MR. LANG: Two PACs.  
 8 MR. BARTON: Two PACs. And the -- and the  
 9 Goldwater Institute has candidates, including McComish,  
 10 and I don't remember the name, Tony --  
 11 MR. LANG: Tony Bouie.  
 12 MR. BARTON: -- Bouie, who spoke here is  
 13 Goldwater.  
 14 COMMISSIONER DANIELS: Is he a candidate again?  
 15 MR. LANG: Different district, but yes.  
 16 COMMISSIONER DANIELS: Okay.  
 17 COMMISSIONER HOFFMAN: Okay.  
 18 COMMISSIONER DANIELS: Because the Courts have  
 19 ruled in the past they would throw out anybody who is  
 20 not a current candidate or in office, that's what they  
 21 did in the past.  
 22 MR. LANG: He is a candidate.  
 23 COMMISSIONER DANIELS: Okay.  
 24 COMMISSIONER HOFFMAN: Okay.  
 25 MR. BARTON: Any other questions on that?  
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1 I do have some other dates just so -- as  
 2 far as the main, you know, if you think of it as the  
 3 main litigation goes. We expect to see the Petition for  
 4 Cert. filed by August 19th, which would mean we would  
 5 have a response to that in opposition to Cert. that we  
 6 would file on September 20th. They actually get a few  
 7 more days if they want to file a reply. So, by the end  
 8 of September, it would be circulated to the Court. And  
 9 then in October of 2010 -- October 8th, 2010, is when we  
 10 would expect the Court to conference and decide whether  
 11 or not to grant Cert. in the case.

12 Assuming that they do grant Cert., then we  
 13 would see opening briefs due in November. Our briefs  
 14 would be due right before Christmas on the 2010; and  
 15 then the final briefing from the Plaintiffs, their reply  
 16 brief, would be due January 21st of 2011, so -- and then  
 17 oral arguments would be some time in the spring,  
 18 probably. So, we -- that's just to give you an idea of  
 19 where we are. We're looking at early 2011 before we're  
 20 going to see oral arguments.

21 COMMISSIONER DANIELS: So almost into the next  
 22 campaign. I mean, we've got some time, but --

23 MR. BARTON: Correct.

24 CHAIRPERSON SCARAMAZZO: Okay. Thank you, Jim.  
 25 Any other questions for Jim?

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1 Okay. Thank you. That brings us to Item VI,  
 2 which is public comment period. Anyone from the general  
 3 public have any questions or items they wish to address  
 4 for the Commission? We'll be more than happy to listen.  
 5 Anything?

6 Cooperative group, huh.

7 COMMISSIONER DANIELS: Quick meeting.

8 CHAIRPERSON SCARAMAZZO: Okay then, with that  
 9 in mind --

10 COMMISSIONER DANIELS: Quick meeting. I move  
 11 to adjourn.

12 COMMISSIONER FAIRMAN: Second.

13 CHAIRPERSON SCARAMAZZO: Moved and seconded.

14 All those in favor say "aye."

15 (Chorus of ayes.)

16  
 17 CHAIRPERSON SCARAMAZZO: Meeting adjourned.

18 Thank you, everyone.

19 (Whereupon the proceeding concludes at 9:47

20 a.m.)

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C E R T I F I C A T E

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 3 I, Angela Furniss Miller, Certified Reporter,  
 4 do hereby certify that the foregoing pages numbered 1  
 5 through 19, 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 8th day of July, 2010.

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Angela Furniss Miller, RPR  
 Certified Reporter (AZ50127)

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