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THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona
December 2, 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
 ELECTIONS COMMISSION, convened at 9:30 a.m. on December
 2 2, 2010, 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 Ms. Royann Parker, Chairperson
 Mr. Gary Scaramazzo
 5 Ms. Lori Daniels
 Mr. Louis Hoffman
 6 Mr. Jeff Fairman

7 OTHERS PRESENT:

8 Todd Lang, Executive Director
 Paula Thomas, Executive Assistant
 9 Michael Becker, Voter Education Manager
 Daniel Ruiz, II, Campaign Finance Manager
 10 Carrie Brennan, Attorney General Office
 Rhonda Barnes, Perkins, Coie, Brown & Bain
 11 Steve Clawson, Moses Anshell
 Bob Thomas, Candidate
 12 Paul Yoder, Candidate
 Alyssa Newcomb, ASU Journalist

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P R O C E E D I N G

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 3 CHAIRPERSON PARKER: I'd like to call to order
 4 this meeting of the Citizens Clean Elections Commission.
 5 It's 9:30 and it's Tuesday -- or Thursday -- Thursday,
 6 December 2nd, 2010.

7 There may be an occurrence where we'd need to
 8 go into executive session, and if we do, please be aware
 9 that the minutes of and discussions made at an executive
 10 session are confidential pursuant to A.R.S. Section
 11 38-431.03(B), and shall not be released to anyone unless
 12 specifically authorized by law.

13 First item on our agenda is approval of the
 14 November 18, 2010, Commission meeting minutes.

15 COMMISSIONER FAIRMAN: I'll make a motion to
 16 approve the minutes.

17 COMMISSIONER DANIELS: Second.

18 CHAIRPERSON PARKER: Okay. It's been --
 19 motion's been made and -- and seconded to approve the
 20 November 18th, 2010, Commission meeting minutes. All in
 21 favor?

22 (Chorus of ayes.)

23

24 CHAIRPERSON PARKER: Opposed? Motion carries.
 25 Next item is the Executive Director's
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1 report. Todd?

2 MR. LANG: Thank you, Madame Chair. Good
 3 morning, Commissioners. I will be attending the COGEL
 4 conference, this weekend I leave, and I'm looking
 5 forward to it. I'm making a presentation.

6 CHAIRPERSON PARKER: Pack your warm coat.

7 MR. LANG: Yes. It looks very cold there.

8 CHAIRPERSON PARKER: My husband is going to be
 9 there part of the time this weekend too.

10 MR. LANG: May -- yeah. And hopefully he's
 11 bringing some warm coats as well.

12 I'll be doing a presentation on matching funds
 13 and the litigation and the status of that, a short one;
 14 and otherwise, I will be attending all the different
 15 sessions on -- on government ethics and campaign finance
 16 reform.

17 I should introduce Carrie Brennan, our
 18 assistant AG today. Jim is in D.C., actually, being
 19 trained on appellant advocacy, so -- which might just
 20 come in handy. So thank you, Carrie, for helping us out
 21 today.

22 I'm meeting with Corporation Commissioner Paul
 23 Newman today, later today, to advise him on how the
 24 process works. As you know, he makes the decision on
 25 the person who will repair -- replace our Chair. And --

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1 and he wanted to just understand a little better on how
 2 it -- how it works, so we'll help him with that.

3 I am going to be on TV on Sunday chatting about
 4 the matching funds case with our friend, Nick Dranias of
 5 the Goldwater Institute.

6 CHAIRPERSON PARKER: What program?

7 COMMISSIONER DANIELS: Yeah.

8 MR. LANG: Channel 3's "Politics Unplugged," I
 9 think it's called.

10 CHAIRPERSON PARKER: Are you going to put that
 11 up on the --

12 MR. LANG: I never watch it because it's during
 13 football games. So, I need to start TiVo-ing it.

14 CHAIRPERSON PARKER: Oh. Uh-huh.

15 MR. LANG: And so, it should be a fun
 16 discussion. I'm sure he will be quite reasonable.

17 COMMISSIONER DANIELS: I'm glad you're sure of
 18 that. After a seven-hour deposition, I'm not sure.

19 MR. LANG: I've been to a couple of hockey
 20 games, and the education items there are great. The
 21 presentation, when you -- when they acknowledge one of
 22 the Armed Forces -- one of the -- our military service
 23 personnel, is really a nice -- a nice thing, and I think
 24 it -- it -- it's really well met.

25 And that concludes my presentation, unless you
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1 have questions.

2 COMMISSIONER FAIRMAN: I have one question --

3 CHAIRPERSON PARKER: Uh-huh.

4 COMMISSIONER FAIRMAN: -- for Todd.

5 Given what's going on with -- with the

6 Supreme Court and Goldwater Institute, are any of

7 your -- people in similar positions around the country,

8 talking to you at all, is there -- is there a national

9 interest or buzz about what's going on here? Is

10 there -- so they determine how it relates to what they

11 do?

12 MR. LANG: Well, the election law blogs are

13 certainly all atwitter about the fact that the Court

14 just issued certiorari or granted certiorari in the

15 matching funds case; which, as you may have seen in some

16 of the press reports, I said was the biggest non-story

17 since the sun came up. You know, of course, they issued

18 certiorari. I mean, they -- they granted an injunction

19 in the middle of a race that overturned a unanimous

20 Ninth Circuit, so I would have anticipated they would

21 have granted certiorari. But -- yeah.

22 And basically what folks are saying is campaign

23 finance reform will still work, even if matching funds

24 are struck down. There's a mix of opinion on whether

25 the Court's going to strike down matching funds or not.

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1 believe that a violation may have occurred in -- in

2 regard to both the return of the funds and the general

3 election expenditure limit.

4 I don't think -- are you here -- are you -- oh.

5 MS. DICKINSON: I am.

6 MR. LANG: Ms. Dickinson is here today.

7 CHAIRPERSON PARKER: Ms. Dickinson, would you

8 like to -- to say anything?

9 MS. DICKINSON: No, not really, I don't think.

10 CHAIRPERSON PARKER: Okay.

11 You guys have any questions?

12 COMMISSIONER FAIRMAN: I have no questions.

13 COMMISSIONER SCARAMAZZO: No.

14 CHAIRPERSON PARKER: Okay. Do I have a motion?

15 COMMISSIONER SCARAMAZZO: I'll make that motion

16 to find reason to believe that a violation occurred in

17 MUR No. 10-0020.

18 COMMISSIONER DANIELS: Second.

19 CHAIRPERSON PARKER: Okay. The motion has been

20 made and seconded on MUR 10-0020 that a reason to

21 believe. Questions?

22 All in favor?

23 (Chorus of ayes.)

24

25 CHAIRPERSON PARKER: Opposed? Motion carries.

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1 There's still a significant group of folks out there who

2 thinks the Court will uphold matching funds, despite

3 what it has done already. I think -- certainly think it

4 will be a challenge for us to persuade the Court to do

5 that, but I think it's a challenge we can meet. There

6 certainly are compelling arguments. And the fact that

7 the Plaintiffs really weren't hurt, either according to

8 the District Court or the Ninth Circuit, and that this

9 is purely theoretical, I think is one of our strongest

10 arguments.

11 CHAIRPERSON PARKER: Anyone else have questions

12 for Todd? Thanks, Todd.

13 Next item on our agenda is several enforcement

14 actions. So we'll start with the first one,

15 MUR 10-0020, Rita Dickinson, candidate for State Senate,

16 District 11.

17 MR. LANG: Thank you, Madame Chair.

18 Commissioners, this is -- a complaint of what appears to

19 be an honest mistake. The -- the Respondent has been

20 completely cooperative and worked with us and

21 acknowledged pretty much what the complaint is about,

22 which is simply she carried over her early contributions

23 and personal monies from the primary into the general

24 which, as you know, is a violation and is not permitted.

25 And so staff and I recommend that you find reason to

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1 The next item on the agenda is

2 MUR 10-0023, Jeff Dial, candidate for the House of

3 Representatives, District 20.

4 MR. LANG: Thank you, Madame Chair --

5 COMMISSIONER SCARAMAZZO: Todd, excuse me to

6 interrupt real quick.

7 MR. LANG: I'm sorry.

8 COMMISSIONER SCARAMAZZO: You will be in touch

9 with Ms. Dickinson to -- to -- on this reason to believe

10 violation?

11 MR. LANG: Yeah. We would like to resolve

12 that --

13 COMMISSIONER SCARAMAZZO: Yes.

14 MR. LANG: -- amicably.

15 COMMISSIONER SCARAMAZZO: Exactly. Thank you.

16 Sorry to interrupt.

17 CHAIRPERSON PARKER: That's okay. Glad you

18 did.

19 MR. LANG: Madame Chair, this is a complaint

20 filed by Rhonda Barnes, who is here today, against Jeff

21 Dial regarding some mailers that were sent out by the

22 Arizona Republican Party. Those mailers very clearly

23 did not fit the party exception. They clearly targeted

24 an opponent. They weren't simply a slate mailer or

25 otherwise, and they were clearly critical of Ms. Waters.

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1 And so this isn't a question about the
 2 exception that we often received last election cycle.
 3 The issue here is: Can this attack piece be imputed to
 4 Jeff Dial? And based on the evidence we have received,
 5 the answer is -- is no, there's simply no evidence of
 6 coordination between the Arizona Republican Party and
 7 the Dial campaign on this. The hard thing about that,
 8 or the challenge and perhaps something we should address
 9 in rulemaking is, well, the Arizona GOP works with their
 10 candidates all the time. And I think we're -- I'm sure
 11 we'll hear from Ms. Barnes. And I think one thing
 12 she'll tell us is that that sort of coordination should
 13 be imputed at the very least, and I'm sure she'll argue
 14 more strenuously than that.

15 And so I think it's a policy question for you
 16 and a rulemaking question for us down the road. But I
 17 think, based on the evidence we have here, it would be
 18 unfair to dock the Dial campaign when he had no
 19 knowledge or approval of the communications.

20 COMMISSIONER DANIELS: Well -- and Madame
 21 Chairman, Todd, I -- I don't know how you resolve this
 22 in rulemaking, because I -- I know personally from my
 23 own experience, that there were times that people did
 24 outside expenditures, including the GOP, that I had no
 25 knowledge of until it hit my mailbox or one -- my

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1 resolved these cases is by issuance of matching funds.
 2 And that's always been the issue. Well, with matching
 3 funds not here, it now becomes an enforcement issue.
 4 And that -- and so that's the challenge for us.

5 CHAIRPERSON PARKER: Any other questions?
 6 So then would staff bring us back some
 7 recommendations for a proposed rule change; is that what
 8 you're saying, Todd?

9 MR. LANG: If you direct us to do so, we
 10 certainly can. I can work with Ms. Barnes and the
 11 parties on -- on the sort of proposed rule changes.

12 COMMISSIONER DANIELS: So Madame Chairman,
 13 today I think we want a motion to -- that there is no
 14 reason to believe, but do we want to hear from
 15 Ms. Barnes before we make that motion?

16 MR. LANG: Yeah.

17 CHAIRPERSON PARKER: I think we should.

18 COMMISSIONER DANIELS: It's up to -- to her,
 19 but --

20 MS. BARNES: Yeah. I mean, I really didn't
 21 need to say too much, but I can -- sure. Rhonda Barnes.
 22 I'm an attorney with Perkins, Coie, Brown and Bain.
 23 You know, I think the -- the question raised
 24 here is, you know, obviously from our perspective in
 25 looking at these pieces, we can't know if there was

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1 family's and they'd call me.
 2 So, how would you resolve in rulemaking to hold
 3 the candidate responsible?

4 MR. LANG: Well, I -- Madame Chair. I think
 5 we -- I think -- Commissioner Daniels, I think we would
 6 just simply address what -- give some specific
 7 illustrations of what constitutes coordination because,
 8 as you know, the -- the definition of "agency" in the --
 9 in 16-901 is very broad. And we would -- we could use
 10 some clarification on what constitutes coordination for
 11 purposes of party activity, because it's going to come
 12 up again and again and again. So I think it's something
 13 we should -- we should provide for the candidates.

14 COMMISSIONER HOFFMAN: Well, particularly given
 15 that one of the candidates that was -- on whose behalf
 16 this mailer was sent is Mr. McComish, who is the named
 17 Plaintiff in -- in the lawsuit striking down matching
 18 funds. So, of course, had matching funds not been
 19 stricken down, Ms. Waters would be given additional
 20 money to -- assuming she was a Clean Elections
 21 candidate -- to respond to a piece like this. Which
 22 means that we can expect that they're striking down
 23 matching funds to provide lots more hit pieces.

24 MR. LANG: I -- I think Commissioner Hoffman
 25 raises an important point. In the past, the way we

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1 coordination. But we know that the parties work
 2 incredibly closely with the candidates in developing
 3 their message and understanding what they're doing and
 4 looking at their universes and doing "get out the vote"
 5 efforts and all of that. And this piece, because the
 6 mailer clearly violated the stat- -- or the rule, the
 7 party -- political party exception, we felt like we
 8 needed to bring the issue before the Commission.

9 You know, I -- I assume that Mr. Miller is
 10 correct that there was no coordination and I -- I
 11 certainly don't have any evidence otherwise, so I'm not
 12 going to try to attack that. But I -- I -- I do think
 13 it raises concerns when the political parties work so
 14 closely with their candidates. I mean, that's -- that
 15 is their primary purpose, their job is to get the
 16 candidates elected. And when they're going to do these
 17 negative pieces that violate these rules, I think it's a
 18 fair inference and -- and appropriate to look into it
 19 and make sure there hasn't been a violation. And if
 20 they're saying that there wasn't coordination, I'm
 21 certainly not going to dispute that.

22 And -- and I -- I sympathize with the
 23 Commission's struggle with how you would come up with a
 24 rule that would appropriately draw the line between
 25 making that inference and recognizing the role of the

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1 parties but not impugning something that isn't there.
 2 And I greatly look forward to working with the
 3 Commission and its staff if there's a rulemaking that's
 4 going to take place. And I'm happy to answer any
 5 questions.
 6 CHAIRPERSON PARKER: Anyone have questions for
 7 Ms. Barnes? Thank you.
 8 Luis, did you have a question?
 9 COMMISSIONER HOFFMAN: I have a question for
 10 Todd.
 11 CHAIRPERSON PARKER: Oh. Okay.
 12 COMMISSIONER HOFFMAN: Thank you, Ms. Barnes.
 13 Sorry?
 14 MR. LANG: Nothing.
 15 COMMISSIONER HOFFMAN: Madame Chair, Mr. Lang,
 16 the procedure we're looking at right now is to decide
 17 whether there is reason to believe that a violation may
 18 have occurred.
 19 MR. LANG: Right.
 20 COMMISSIONER HOFFMAN: And the word "may" seems
 21 to me, important. There might have been coordination
 22 here in some sense, and if we were to vote that there
 23 is -- a violation may have occurred, then you would be
 24 empowered, Mr. Lang, to do an investigation, you and
 25 your team, right?

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1 mentioned. That might be a different thing than if
 2 there were completely separate people involved in those
 3 two activities or whatever. So, why wouldn't we
 4 investigate?
 5 MR. LANG: Madame Chair, Commissioner Hoffman.
 6 We could have found reason to believe -- recommended
 7 that you find reason to believe and that -- and -- and
 8 proceeded just as you described. But frankly, unless we
 9 see evidence to the contrary, we take the responses at
 10 their word. And Mr. Miller's response made it clear
 11 there was no coordination and we were satisfied by that.
 12 Is there grounds to look into it further and to
 13 get affidavits or to talk to -- talk to more folks and
 14 to make -- and to examine it more carefully? Yes. But
 15 I think this is more of a legal question than a factual
 16 one. I think we'll find that there is no coordination.
 17 And really, the problem here is -- is party advocacy on
 18 behalf of the candidates. You know, what should the
 19 Commission do, if anything, about that, and that's how I
 20 approached it. But I would be happy to -- to look into
 21 it further if the Commission instructs -- instructs me
 22 to do so.
 23 CHAIRPERSON PARKER: Anyone else, comments or
 24 questions? Jeff?
 25 COMMISSIONER FAIRMAN: Madame Chair, I -- I

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1 MR. LANG: Yes.
 2 COMMISSIONER HOFFMAN: And at that point you
 3 would interview the Republican Party people who were
 4 involved with production of the piece, you would
 5 interview the candidates, and you would determine
 6 whether there were communications between them and what
 7 the nature of those communications were.
 8 MR. LANG: That's correct.
 9 COMMISSIONER HOFFMAN: And you haven't done
 10 that so far.
 11 MR. LANG: No. In the -- these --
 12 COMMISSIONER HOFFMAN: So, why wouldn't this be
 13 something that would be worth investigating, given the
 14 nature of the -- you know, to see if there's -- if
 15 Mr. Miller -- I mean, I have a lot of respect for
 16 Mr. Miller and I take his word very seriously, and I
 17 totally believe that he knows what a coordination
 18 involves.
 19 On the other hand, I don't know what the facts
 20 are. And if it turns out that, you know, I can imagine
 21 certain scenarios in which this would be problematic.
 22 If, for example, the people who prepared this piece had
 23 specifically, you know, were the same people who had
 24 consulted with Mr. Dial and Mr. Robson and Mr. McComish
 25 on their messaging or something like, you know, like was

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1 don't disagree with anything that's been said, but I
 2 think the best course for us would be to look at this as
 3 we're going through our rules. And -- and I agree a
 4 hundred percent, it's going to be very, very difficult
 5 to understand this. But I think this is another point
 6 where during -- we're doing our -- our education process
 7 with the potential candidates, then -- that this can
 8 help them understand what really constitutes going over
 9 the line.
 10 So understanding that a little bit more from
 11 our point of view and being able to prepare that and
 12 give that to them, this is a, maybe a platform to do
 13 that.
 14 MR. LANG: Madame Chair, Commissioner Fairman,
 15 the interesting or the challenging thing here is they
 16 blew through the exception, as Rhonda Barnes alluded to.
 17 Parties are very careful to stay within that exception,
 18 and by attacking Ms. Waters in the fashion they did,
 19 this ad clearly did not meet that exception. And that's
 20 generally how we train folks.
 21 The challenge here is, again, we all assume
 22 parties do coordinate with candidates, because they do
 23 in so many ways, and how do we -- how do we deal with
 24 that? When -- when -- there's -- there's -- there's got
 25 to be some sort of technical coordination here between

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1 the Dial campaign and the -- and the parties. I just
 2 don't think it was on this communication. But if they
 3 coordinate on everything else, how do we and where do we
 4 draw the line? And that's policy question for future
 5 rules.

6 CHAIRPERSON PARKER: Lori?

7 COMMISSIONER DANIELS: Well, Madame Chairman,
 8 in my personal experience, they don't coordinate a whole
 9 lot. They offer a -- a candidates' workshop at the
 10 beginning to help you. And after that, I saw no
 11 coordination with the GOP in -- in 10 years of being in
 12 office and running. So, I -- I think maybe we're giving
 13 the party a little bit more credit for dealing --
 14 especially with -- not -- I would say they probably do
 15 with federal candidates and possibly statewide. But
 16 when you get into all the legislative districts and
 17 those lower-lying candidates, I -- I don't truthfully
 18 believe they do. So I -- and he states there's -- he
 19 was in compliance.

20 So, you know, I understand where you're coming
 21 from. I -- I just don't see the coordination and I -- I
 22 never have.

23 MR. LANG: Okay.

24 CHAIRPERSON PARKER: Do I have a motion
 25 regarding MUR 10-0023?

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1 Thomas; and two are for State Rep., Mr. Yoder and
 2 Ms. Condit. And you have their responses as well,
 3 there's separate responses.

4 And it's an interesting question. The question
 5 is: In an ad paid for by three candidates that supports
 6 those three candidates but attacks only one opponent, a
 7 well-known -- the one well-known incumbent, she's
 8 technically not incumbent, Sinema -- Representative
 9 Sinema was running for Senate, but she was the
 10 well-known candidate in that area -- is it a legitimate
 11 campaign strategy to attack the well-known incumbent and
 12 not the two lesser-known candidates who are running for
 13 House? And even if it is a legitimate campaign
 14 strategy, does it still violate our rules?

15 And so I thought I'd ask you to look at this ad
 16 and keep in mind: Who does this attack and who does it
 17 benefit? And -- and take a look at it.

18 And I -- I believe the can- -- I believe the
 19 candidates are here today, so they'll be able to address
 20 any questions you have.

21 (Whereupon the ad was played.)

22

23 COMMISSIONER FAIRMAN: That's another story
 24 there.

25 CHAIRPERSON PARKER: Someone's a Cardinal fan.

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1 COMMISSIONER FAIRMAN: In that case, I'll make
 2 a motion in the case of 10-0023, that we find no reason
 3 to believe a violation has occurred.

4 COMMISSIONER SCARAMAZZO: I'll second that.

5 CHAIRPERSON PARKER: Okay. Motion's been made
 6 and seconded to find no reason to believe in MUR
 7 10-0023. All in favor say "aye."
 8 (Chorus of ayes.)

9

10 CHAIRPERSON PARKER: Opposed?

11 COMMISSIONER HOFFMAN: I'm going to abstain
 12 because I'm really undecided about this.

13 CHAIRPERSON PARKER: Okay. Motion carries.

14 The next item is MUR 10-0024, Caroline
 15 Condit, Bob Thomas, and Paul Yoder.

16 MR. LANG: Madame Chair, Commissioners. You
 17 have the --
 18 (Whereupon the ad started playing.)

19

20 MR. LANG: Oh, can you hold off? Yeah.
 21 I asked Daniel to bring -- I asked Daniel
 22 to bring up the ad for us.

23 This is a complaint filed by Ms. Barnes
 24 against these -- these participating candidates in
 25 District 15. One is for State Senate, that's Mr.

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1 MR. LANG: So, we can either watch football or
 2 -- so what you see there, of course, is the ad clearly
 3 supports the three candidates and speaks of them in a
 4 positive light but only attacks Sinema and not the other
 5 two House -- Democrat House candidates, Alt Alston
 6 and...

7 COMMISSIONER FAIRMAN: Katie Hobbs.

8 MR. LANG: Katie Hobbs. Yeah. Yeah. Sorry.
 9 So -- so, that's the interesting
 10 question. And ultimately, it's tough for us. And you
 11 can see we struggled with this a bit, and there were
 12 some internal discussions. This, in my view, is a
 13 completely legitimate ad, a completely legitimate way to
 14 communicate your platform and -- and to distinguish
 15 yourself from your opponent.

16 And -- and so I was troubled by this, because
 17 at the same time I think it's technically a violation of
 18 our rules. Because it only attacks Sinema, there's an
 19 argument, one that Ms. Barnes put forth, that it only
 20 benefits the Senate candidate, Mr. Thomas, and it
 21 doesn't benefit -- that the portion that attacks Sinema,
 22 that is. Obviously, the -- the portion that -- that
 23 endorses the three are -- is fine. But the portion that
 24 attacks Sinema only benefits Thomas and -- and it's --
 25 and in that sense, it's an improper, impermissible,

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1 illegal in-kind contribution by Yoder and Condit to the
 2 Thomas campaign.
 3 CHAIRPERSON PARKER: That's kind of a stretch,
 4 isn't it, because on the flip side they're taking the
 5 chance that the people that support Sinema not liking
 6 them because they're in this ad, and -- you know.
 7 COMMISSIONER HOFFMAN: Could you play the ad
 8 one more time, please. I'm sorry, I -- I just wanted
 9 to --
 10 CHAIRPERSON PARKER: Sure.
 11 COMMISSIONER HOFFMAN: -- take one more look.
 12 Sorry.
 13 (Whereupon the ad was played.)
 14
 15 COMMISSIONER HOFFMAN: Thank you.
 16 CHAIRPERSON PARKER: I guess I don't understand
 17 why that would be illegal.
 18 MR. LANG: Well, the -- the problem is it --
 19 you know, whether it backfires or not I think is
 20 immaterial to our analysis. The question is: Is it, in
 21 fact, an in-kind contribution by the House candidates
 22 to -- let's say it didn't endorse them at all and it
 23 simply attacks Sinema and was signed on by all three of
 24 them, paid for by all three of them, but it didn't
 25 endorse them at all, it simply attacked Sinema: Kyrsten
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1 when this issue arose, they immediately took it down.
 2 They clearly want to comply with our rules. And so I
 3 think that, in my view, the -- the Republicans in this
 4 case acted in good faith throughout the process.
 5 But that said, there's still an argument that
 6 it benefits Sinema. Now -- I mean, that it benefits
 7 Sinema's opponent to the exclusion of the other two in
 8 the portion that attacks her. Again, this is one of
 9 those things where I think we need, regardless of which
 10 way you come down on this, I think we need to address
 11 this with rulemaking. We need -- either need to permit
 12 this sort of strategy expressly or exclude this sort of
 13 strategy expressly.
 14 CHAIRPERSON PARKER: Okay. Lori first, then
 15 Luis.
 16 COMMISSIONER DANIELS: Madame Chairman, Todd,
 17 basically, then, if they had just said "Sinema and her
 18 slate" because they were running together, would that
 19 have helped a little bit? I'm just curious of where --
 20 MR. LANG: It would have helped.
 21 COMMISSIONER DANIELS: -- we would have come
 22 down. Okay.
 23 MR. LANG: It would have helped. But I -- I --
 24 COMMISSIONER DANIELS: Or if they just
 25 mentioned the other two?
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1 Sinema's bad for District 15, vote for these three.
 2 CHAIRPERSON PARKER: Were they running as a
 3 team?
 4 MR. LANG: I think were doing a lot of slate
 5 communications.
 6 CHAIRPERSON PARKER: Sinema's?
 7 MR. LANG: Oh, Sinema's folks, yeah. They
 8 were -- they were too.
 9 CHAIRPERSON PARKERS: They were a team, too,
 10 right?
 11 MR. LANG: Yeah. But if it just attacks
 12 Sine- -- Sinema and it's paid for by all three, I think
 13 it's an easier case there, because it's benefitting the
 14 Senate candidate and not really benefitting the House
 15 candidates, because it doesn't really ment- -- talk
 16 about their opponents.
 17 In this case, it's much tougher, because it's
 18 endorsing all three of them, plus they're all
 19 distinguishing themselves from Sinema: We are not
 20 Kyrsten Sinema and you should vote for us for that
 21 reason. And I think it's a, as I said, a legitimate,
 22 complete -- I don't think they were playing games. I
 23 don't think they were trying to game the system. I
 24 think they were -- this was a legitimate communication.
 25 I think their sincerity is reflected by the fact that
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1 MR. LANG: And that's the problem, you know,
 2 candidates need bright lines. Rhonda grabs me by the
 3 neck and shakes me: I want bright lines. And -- and I
 4 think they deserve bright lines. But even if it had
 5 been Sinema and her slate, that still would have been
 6 problematic. Generally, when you see these ads, when
 7 they're combined ads, they either attack everybody or
 8 they endorse everybody. You don't see one like this
 9 where it endorses everybody on one side and just attacks
 10 one person on the other side.
 11 CHAIRPERSON PARKER: Was Sinema the only
 12 incumbent that was running?
 13 MR. LANG: Yeah. Alston had held office about
 14 20 years ago, but she was the only current officeholder
 15 running.
 16 CHAIRPERSON PARKER: Lela Alston?
 17 MR. LANG: Yeah.
 18 CHAIRPERSON PARKER: Okay. Yeah. That was my
 19 old district.
 20 MR. LANG: Yeah. Well, she's now a
 21 representative, so there you go.
 22 CHAIRPERSON PARKER: Okay.
 23 MR. LANG: Old -- old school.
 24 CHAIRPERSON PARKER: Yes, Luis?
 25 COMMISSIONER HOFFMAN: Madame Chair,
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1 Commissioners, I think we don't want to have a situation
 2 where people can use participating candidate money to
 3 use to apply to a different race and -- that they're not
 4 involved in, because that would just allow Clean
 5 Elections funds to be misused for a different purpose.
 6 But I agree with Todd that this situation
 7 presents a much more complex question, because Kyrsten
 8 Sinema is the sitting representative in the district.
 9 And so if, for example, they said: Kyrsten Sinema
 10 missed 140 votes in the last two sessions and -- I mean,
 11 the last two-year session, and we, if we're elected your
 12 State Representatives will not do that, then the fact
 13 that, you know, you're running -- that Kyrsten Sinema is
 14 running for Senate, is immaterial because she's the
 15 current sitting House member. And the implication is,
 16 you know, we're going to do better than what has been
 17 done in the past two years. And I don't see any reason
 18 that that's not a legitimate campaign strategy and
 19 spending money on this race.
 20 Unfortunately, that's not exactly what they
 21 said, but it could be the implication of what they -- or
 22 people draw from what they said, which makes it a close
 23 call. And I commend them for taking it down, because
 24 it, you know, avoids that kind of problem.
 25 The other half of it, besides the, you know, is
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1 involving any of these candidates or -- or interested
 2 folks, but regarding candidates or campaign consultants
 3 using money from one race, one participating candidate's
 4 race to benefit another race. And this sort of sharing
 5 of funds and secret splitting of funds has been a real
 6 problem.
 7 And I think if you simply allow this without
 8 further guidance, it's a problem. Because candidates --
 9 in this case, I believe the sincerity of the candidates.
 10 But we will see campaign ads that blast one candidate,
 11 paid for by three candidates, with some tacked-on thing
 12 to ostensibly make it about all three candidates in
 13 order to exploit the funding and use it to really go
 14 after one person. And in fact, if -- if I'm
 15 Representative Sinema sitting here right now, I'd
 16 probably think that's what's going on right here. And
 17 so I think as a matter of policy, this is a problem.
 18 Again, I think their -- I don't -- I -- I said
 19 it several times, I'm going to say it again, I think
 20 they were sincere that this wasn't that, but I think if
 21 we allow this, it will lead to gaming of the system that
 22 people will see as in- -- inappropriate.
 23 COMMISSIONER HOFFMAN: You mean you think if
 24 you allow this without pa- -- dealing with it in a
 25 rulemaking?
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1 -- is basically attacking her -- Kyrsten Sinema's voting
 2 as representative. And again, if they had said:
 3 Kyrsten Sinema voted this way, we won't vote that way if
 4 we're elected, that's a legitimate point of view for
 5 both the -- the House and the Senate race. Again, they
 6 didn't exactly say that, but they --
 7 MR. LANG: Well, they say they're going to come
 8 out of the dark and into the light. I think that's
 9 implied.
 10 COMMISSIONER HOFFMAN: Well, the implication of
 11 it is that we're going to vote differently and, you
 12 know, we want you to come out of the -- the dark of, you
 13 know, supporting somebody who votes like Kyrsten Sinema
 14 does. And I think that can apply to all three races --
 15 or, all two races, all three candidates, as well as --
 16 as that.
 17 So on balance, although I think this is a close
 18 call, I don't think that they were taking funds from one
 19 race in order to benefit the other. I think they were
 20 simply contrasting their position with what had occurred
 21 in the past two years. But it's -- I'm glad this was
 22 brought to our attention, because this is a close call.
 23 CHAIRPERSON PARKER: Todd?
 24 MR. LANG: Madame Chair, Commissioners, we've
 25 had a number of allegations over the years, not
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1 MR. LANG: Well -- yes. I think we need to
 2 deal with it in rulemaking, but I also think we need to
 3 find reason to believe and then close it. And close it
 4 because they -- they dropped the ad and because they --
 5 because of the -- I think what I considered their good
 6 faith.
 7 They're here today, so I'm sure they would like
 8 to address you.
 9 COMMISSIONER DANIELS: So, Madame Chairman,
 10 Todd, if we find reason to believe but no further action
 11 taken, then you're very comfortable with that, is that
 12 you're saying?
 13 MR. LANG: Yes.
 14 COMMISSIONER DANIELS: Because I just don't see
 15 a fine in this instance myself at all, and so that's
 16 why...
 17 MR. LANG: I don't think there needs to be
 18 further action.
 19 COMMISSIONER DANIELS: Okay.
 20 MR. LANG: Ms. Barnes may disagree with me,
 21 but -- and she's here, of course.
 22 COMMISSIONER DANIELS: I was going to tease her
 23 about being the complainant on all this.
 24 MR. LANG: Well, I'm -- I'm glad. It keeps us
 25 busy.
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1 MS. BARNES: I keep busy.

2 COMMISSIONER DANIELS: Earn our keep.

3 COMMISSIONER HOFFMAN: Can we switch her name

4 to "complainer"?

5 MS. BARNES: Hey.

6 COMMISSIONER DANIELS: Ooh, that was mean.

7 CHAIRPERSON PARKER: I believe the candidates

8 would like to speak.

9 MR. THOMAS: I'm Bob Thomas. Ladies and

10 gentlemen, I would -- I would like to address this

11 issue. The information that you saw in that

12 advertisement were legitimate advertisement of the

13 public record. They were pulled from the Capitol Times

14 One and the National Federation of Independent Business.

15 But there's no dispute about the contents of the -- of

16 the accuracy of the information that was used.

17 I would ask you to also consider this: When

18 Sinema put her team together -- and she advertised as a

19 team, she ran as a team -- her signs all said "proven

20 leadership." Granted, Lela had been in the House some

21 18 years ago and Sinema had been in the House currently

22 the past two sessions. Katie Hobbs has never held

23 public office, from my awareness. So, they -- they were

24 running their team ads and they were misleading people

25 with their team ads and running as a team.

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1 I said that -- I announced her record of missing 140

2 votes out of 220, I believe it was, and said that I

3 would do things differently, and went on to -- to talk

4 about some of the things I would do.

5 So, seen in that context, it came exactly on

6 the heels of what you were talking about that would be

7 acceptable. So in -- in that way, I think it -- it's --

8 it's a natural -- it's a natural bridge. But, the

9 second we found that there was any kind of a -- of a

10 complaint about it, we did take the ad right off.

11 COMMISSIONER HOFFMAN: Can -- can I comment

12 further, Madame? Oh, I'm sorry.

13 CHAIRPERSON PARKER: I think Ms. Barnes wants

14 to say something first.

15 MS. BARNES: Do you want to -- I can wait.

16 COMMISSIONER HOFFMAN: Please.

17 MS. BARNES: You can just call me "The

18 Complainer."

19 I just want to say just really briefly that I

20 think it's problematic when you've got a Clean Elections

21 participating candidate attacking somebody that's not

22 their opponent, using public money for that, and that's

23 why we brought this complaint. Because you've got House

24 candidates who are not running against Kyrsten Sinema.

25 She was not their opponent by -- by the law, under the

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1 This ad cost each of these three participants

2 \$167. We're not talking about a great deal of money.

3 The minute that this ad aired and this lady made her

4 complaint, we immediately have a sworn affidavit with an

5 e-mail copy that shows that the ad was pulled at 8:30

6 the morning of this complaint. We received notification

7 of the complaint verbally from Clean Elections about

8 8:10. So I don't know that there was really any, you

9 know, damage that was done by this. There was certainly

10 not any intent to defraud. There was no intent to

11 manipulate Clean Elections funding. There was no intent

12 to actually hurt or help.

13 These House candidates, basically Yoder and

14 Condit, were running against someone coming out of the

15 House. She was not elected Senate, she was -- she was a

16 former House person at that time. I think these ads

17 were very legitimate, effective and appropriate, and I

18 would appreciate your-alls' consideration.

19 Mr. Yoder might want to speak on this as well,

20 he's here.

21 MR. YODER: I just want to add a couple things.

22 I think we ought to remember that campaigns aren't just

23 one ad. And that this ad did come on the heels of a

24 robocall that I had sent out the week before in which I

25 did exactly what Commissioner Hoffman did -- said. I --

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1 definitions of what it means to be a candidate and an

2 opponent. She was not their opponent. And so they were

3 using public money to attack somebody.

4 And I -- I think, as Mr. Lang said and as you

5 guys are aware, that this kind of action can then spur

6 other activity and it can become problematic down the

7 line. So this may have been an innocent mistake, but as

8 was Ms. Dickinson's, she made an innocent mistake. You

9 know, people make innocent mistakes all the time, but

10 they need to be held accountable for it when it harms

11 another candidate. And here they were using that public

12 money to attack the Senate candidate, even though they

13 were House candidates and those are two separate races.

14 And that's why I think it's problematic and -- and

15 I think a reason to believe should be found. And if the

16 ad was only \$167, I think that's a fair fine. It will

17 remind candidates going forward that they will have to

18 pay out of their pocketbook if they violate the rules,

19 and it will make them focus on their own campaigns.

20 CHAIRPERSON PARKER: Any questions for

21 Ms. Barnes?

22 COMMISSIONER HOFFMAN: Yeah, Madame Chair.

23 CHAIRPERSON PARKER: Yes.

24 COMMISSIONER HOFFMAN: Yeah. I -- I

25 appreciated your raising this issue. I think you've --

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1 very public service in doing so and I apologize for my
 2 comment before. I didn't mean to be -- I was just
 3 joking around with you.
 4 MS. BARNES: I know.
 5 COMMISSIONER HOFFMAN: I certainly -- I
 6 certainly do appreciate that.
 7 Your letter, which has an excellent analysis of
 8 it, I thought, says that for -- on the issue that --
 9 that is before us, as opposed to the issue before the
 10 Secretary of State.
 11 MS. BARNES: Right.
 12 COMMISSIONER HOFFMAN: It says that the rule is
 13 that -- that the -- the House members, Condit and Yoder,
 14 must use funds to pay for -- must use funds to pay for
 15 goods or services for direct campaign purposes. And
 16 "direct campaign purposes" are defined as communications
 17 used towards the election of a candidate.
 18 MS. BARNES: Uh-huh.
 19 COMMISSIONER HOFFMAN: Okay? So I agree that's
 20 the standard, right? We all agree that.
 21 So the question is: Does that ad -- is that ad
 22 a communication that is -- that is actually useful
 23 towards election of the House candidates? Forget about
 24 its implication on the Senate.
 25 MS. BARNES: Uh-huh.

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1 have been run even if she wasn't running for the
 2 Senate --
 3 MS. BARNES: If you're saying --
 4 COMMISSIONER HOFFMAN: -- by the House members?
 5 There was no Senate race. Imagine that
 6 she was in office for, you know, the Senator was -- was
 7 uncontested and, you know, was somebody else.
 8 MS. BARNES: So she was running as a House
 9 candidate or not at all?
 10 COMMISSIONER HOFFMAN: No, not at all.
 11 MR. LANG: She's not running at all.
 12 MS. BARNES: Not at all.
 13 COMMISSIONER HOFFMAN: Right. So there's --
 14 let's suppose that -- that that -- that the -- that she
 15 had been in the House for two years and she was
 16 retiring, and the only people involved here are the
 17 House members advertising. Let's really isolate the
 18 question --
 19 MS. BARNES: Well --
 20 COMMISSIONER HOFFMAN: -- aren't they allowed
 21 to mention her as a legitimate campaign tactic and isn't
 22 that using it as a communication used towards their
 23 election?
 24 MS. BARNES: Madame Chair, Mr. -- Commissioner
 25 Hoffman, I think that does make an interesting

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1 COMMISSIONER HOFFMAN: Is that a -- is that a
 2 communication used towards the election of a candidate,
 3 of -- of a House candidate?
 4 MS. BARNES: But --
 5 COMMISSIONER HOFFMAN: And so are you allowed
 6 to comment on your -- on the previous House member in
 7 order to gain election as a House member?
 8 MS. BARNES: Madame Chair, Mr. Commissioner, I
 9 think it's problematic, because while it may be
 10 considered a legitimate campaign tactic or however you
 11 want to describe that, the rule is clear that you have
 12 to use it for your direct campaign purposes. And I
 13 don't think it's a direct campaign purpose when you're
 14 actually talking about a completely separate race. It's
 15 a completely separate line on the ballot.
 16 COMMISSIONER HOFFMAN: Are they talking about
 17 the race or are they talking about the pre- -- the, you
 18 know, Ms. Sinema in her role as the past -- there was --
 19 suppose --
 20 MS. BARNES: Well --
 21 COMMISSIONER HOFFMAN: Hang on.
 22 -- suppose Ms. Sinema had not been
 23 running for the Senate and the same ad were ran --
 24 MS. BARNES: Uh-huh.
 25 COMMISSIONER HOFFMAN: -- couldn't the same ad

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1 distinction, and -- and I will fall back on the lawyer
 2 stance of "that's not my facts here," but --
 3 COMMISSIONER HOFFMAN: You're right, it's not.
 4 MS. BARNES: -- you know, I think -- I think
 5 what that issue raises is a question of whether or not
 6 you've got a candidate in another race versus not a
 7 candidate at all. And here, if there's not a candidate
 8 at all, then there's not somebody else being harmed.
 9 Her campaign had other money going in against her with
 10 public money when she was running in the Senate.
 11 Whereas if she's not a candidate at all, I think that
 12 changes the calculus because it kind of -- it
 13 differently weights the use of public money by House
 14 candidates against somebody who is not even a candidate
 15 at all.
 16 I mean, certainly -- sorry, Todd. You want to
 17 interrupt?
 18 MR. LANG: No. I want to wait for you to
 19 finish.
 20 MS. BARNES: Certainly, we -- we had -- a
 21 couple years ago, we had mailers that attacked President
 22 Bush, and there was that -- that issue was brought
 23 before this Commission, and it was a question of whether
 24 or not we're using President Bush as the sort of moniker
 25 of all things that Democrats were opposed to versus him

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1 as a candidate. And I know this Commission found that
2 that ad was not a violation. And so perhaps having
3 somebody who is a retired Representative who is no
4 longer on the ballot, would be more similar in that
5 aspect of being sort of a moniker for all things that
6 maybe the Republican candidates oppose.

7 But here she was clearly a Senate candidate.

8 She was not a House candidate --

9 MR. LANG: Right.

10 MS. BARNES: -- and I think that's what makes
11 the distinction, because it -- it worries me that then
12 down the line you could have somebody who is attacking
13 different candidates using public money because, sure:
14 I'm not going to be like, you know, Governor Brewer or
15 Terry Goddard or whoever you want to say, that's not who
16 I am, but I'm using my public money in my race to talk
17 about other candidates. And I don't see how that's a
18 direct campaign purpose under the Commission's rules.

19 COMMISSIONER HOFFMAN: Thank you.

20 CHAIRPERSON PARKER: Todd?

21 MR. LANG: Madame Chair, you got to it at the
22 end, my point, which is, your -- your hypoth- --
23 hypothetical completely isolates the real issue, which
24 is the benefit to the Senate candidate. If Sinema isn't
25 running, then there is no benefit to a -- impermissible

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1 benefit to the Senate candidate paid for by the House
2 candidates.

3 COMMISSIONER HOFFMAN: Right.

4 MR. LANG: And you have no problem. But in
5 this case, Sinema is running against the Senate
6 candidate, and that's the problem. The House candidates
7 are paying for an ad that benefits the Senate candidate.

8 Now, again, I think the Commission could rule
9 that, well, no, it's really for all of them. But in my
10 view, it's a technical violation; and I totally, you
11 know, find Mr. Thomas and Mr. Yoder completely credible
12 on their points, which is that they were not gaming the
13 system at all. And that's why we don't want to proceed
14 further, but we do think it's a technical violation.

15 COMMISSIONER HOFFMAN: Madame Chair?

16 CHAIRPERSON PARKER: Yes.

17 COMMISSIONER HOFFMAN: Yeah, I -- I appreciate
18 it. The -- the statute and rule as they're written,
19 though, say that you have to use funds for your race.
20 It doesn't say you can't use funds for your race to the
21 extent they overlap with another race. And, you know, I
22 think if we -- if there is a problem with that, we ought
23 to address it by rulemaking.

24 The problem is that what this says is -- the
25 question is: Is this a direct campaign purpose?

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1 Meaning, is -- is it used towards the election of the
2 House candidate. And that's -- I'm quoting directly
3 from the re, used towards the election of a candidate.

4 So, if it's used towards the election of a
5 candidate and it has a collateral effect on the other
6 race, I don't think that's a violation according to our
7 current rules. I think it maybe should be and maybe we
8 should look at that, because I -- I take your point that
9 it is a problem.

10 We don't want -- you know, we want to -- and
11 I -- I certainly agree with the policy point that we
12 ought not to allow people to use money in one race to
13 attack someone in another race. And I'm concerned about
14 that and -- and -- and hope we do that. But just
15 looking strictly at what we've said right now, the
16 question is not whether it has overlap on something
17 else, the question is whether it's a communication used
18 towards the election of this candidate. And if it is,
19 then I don't think we vote that there's a violation.

20 I'm glad, by the way, that this comes up in a
21 context where the penalty would be minimal or
22 nonexistent as well so that we're talking about, in
23 effect, a hypothetical issue here and not something that
24 makes a, you know, million dollar difference to people's
25 lives. But, you know, it -- it, you know, or changes

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1 the outcome of an election or anything.

2 But, you know, from a technical point of view,
3 I think we have to look at whether -- what our rule says
4 and enforce our rule the way it's written. And that --
5 that's my conc- -- my -- my issue here. I -- anyway.
6 I've been going on too long. Thank you.

7 CHAIRPERSON PARKER: Lori, did you have another
8 question?

9 COMMISSIONER DANIELS: No, I'm fine. Thank
10 you.

11 MS. BARNES: And Madame Chair, if I could just
12 address Mr. Hoffman?

13 COMMISSIONER HOFFMAN: Please.

14 MS. BARNES: I think having more explanation in
15 the rules is always helpful to the candidates because
16 intuitively one might understand what a direct campaign
17 purpose is, it would imply that then it's for your own,
18 you, the candidate's, your own benefit, and so going off
19 in another race might be problematic. But the rule as
20 written is -- is, I don't want to say "vague," that has
21 connotations, but it's -- it's, you know, it's not
22 exactly laying out a lot of specifications. And -- and
23 maybe that's the answer.

24 I would -- I don't know if this is within your
25 jurisdiction, but I would pose another option, and that

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1 might be to have the House candidates amend their
 2 campaign finance reports to indicate that there was a --
 3 a contribution in support of the Senate candidate. Just
 4 so the public is aware that there was a finding of a
 5 violation but no enforcement action, but that they're
 6 aware that money, in kind, changed hands. But I don't
 7 know if that's in your jurisdiction.
 8 COMMISSIONER HOFFMAN: Yeah -- Madame Chair.
 9 CHAIRPERSON PARKER: Uh-huh.
 10 COMMISSIONER HOFFMAN: Yeah, I don't know. I
 11 mean, the -- the -- the -- it says -- the sentence that
 12 struck me in your -- your letter was, it says: When a
 13 House candidate attacks a Senate candidate, he's not
 14 making expenditures towards the election of the House
 15 candidate. That's what you wrote.
 16 MS. BARNES: Yeah.
 17 COMMISSIONER HOFFMAN: And that says that when
 18 there is an attack, that automatically means it can't be
 19 an expenditure towards your own race. In other words,
 20 when you attack somebody in another race, it can't -- it
 21 can't be per se, and I don't know that that's true. I
 22 think that's true in certain circumstances and not
 23 others. You can be running, you know, making
 24 expenditure that favors your race and it also has, as I
 25 said, a collateral effect.

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1 Thank you, Ms. Barnes.
 2 MS. BARNES: Thank you.
 3 COMMISSIONER DANIELS: Do you want a motion?
 4 CHAIRPERSON PARKER: Yes.
 5 COMMISSIONER DANIELS: Madame Chairman, I move
 6 that there -- that we find no reason to believe that a
 7 violation has occurred in the matter of MUR No. 10-0024,
 8 Caroline Condit, Bob Thomas, and Paul Yoder.
 9 CHAIRPERSON PARKER: Do I have a second?
 10 COMMISSIONER FAIRMAN: I'll second that.
 11 CHAIRPERSON PARKER: Okay. Motion has been
 12 moved and seconded to find no reason to believe in
 13 MUR 10-0024. All in favor, say "aye."
 14 (Chorus of ayes.)
 15
 16 CHAIRPERSON PARKER: Opposed? Motion carries.
 17 MR. THOMAS: Thank you-all.
 18 COMMISSIONER FAIRMAN: Madame Chair?
 19 CHAIRPERSON PARKER: Yes.
 20 COMMISSIONER FAIRMAN: Is this the appropriate
 21 time to -- to talk to staff about going further with
 22 everything?
 23 CHAIRPERSON PARKER: Yes.
 24 COMMISSIONER HOFFMAN: I'm sorry?
 25 COMMISSIONER DANIELS: Just want to direct

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1 MS. BARNES: Uh-huh.
 2 COMMISSIONER HOFFMAN: And we might want to
 3 look at that situation more closely in future
 4 rulemaking, but I don't know that we can do anything
 5 about it in the -- in the -- in the past. But,
 6 anyway --
 7 CHAIRPERSON PARKER: Lori?
 8 COMMISSIONER HOFFMAN: -- just ruminating here.
 9 Thank you.
 10 COMMISSIONER DANIELS: I was just -- I was
 11 going to say, I really agree with that, because I think
 12 it did benefit the House candidates, too, because she
 13 was a House member and they're going against her record
 14 and -- and making a distinction there. And I do think,
 15 you know, there's issues in rulemaking. And we
 16 struggled a lot on this Commission when it was Bush and
 17 the Democrats, and we looked at all those commercials
 18 and flyers and stuff.
 19 So I'm -- I'm kind of in agreement that I -- I
 20 don't know that I even want to find a reason to believe
 21 in this matter, but that's just where I'm coming from,
 22 so...
 23 MS. BARNES: Sure.
 24 CHAIRPERSON PARKER: Any other comments or
 25 questions?

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1 staff --
 2 COMMISSIONER HOFFMAN: Were you done?
 3 COMMISSIONER FAIRMAN: No. No, I'm done. I
 4 was just --
 5 COMMISSIONER HOFFMAN: Oh, I -- I was going to
 6 say, I would totally support looking at this on the
 7 question of rulemaking, though. I -- I think that is
 8 the right answer. And, you know, I -- I think, you
 9 know, we need to try to provide clearer guidance so
 10 that, you know, either somebody can or can't do this,
 11 and -- and that you don't face these kinds of problems
 12 in the future. Because you do raise an extremely
 13 legitimate point that people will start, you know, using
 14 this to game the system. And without -- if there are no
 15 matching funds in the next election, then it even more
 16 allows for this kind of thing to happen, because people
 17 can use their funds and not cause a match in the other
 18 race where it has a similar effect.
 19 COMMISSIONER SCARAMAZZO: And I think that, in
 20 essence, is where this problem emanates from. Had it
 21 been during the election cycle with matching funds, we
 22 would have dealt with it at that time.
 23 COMMISSIONER HOFFMAN: Exactly.
 24 COMMISSIONER SCARAMAZZO: So, yeah. We
 25 needed -- we need to react to that in rulemaking to go

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1 ahead and amend these --

2 COMMISSIONER HOFFMAN: Yeah. Well, this is
3 Clean Elections funds, so it wouldn't have triggered
4 matching funds; but had it been done with regular funds,
5 it would have.

6 COMMISSIONER SCARAMAZZO: Right.

7 COMMISSIONER HOFFMAN: So it's -- it's -- you
8 know, is my point.

9 COMMISSIONER SCARAMAZZO: Okay.

10 COMMISSIONER HOFFMAN: So, yeah. But, anyway.

11 CHAIRPERSON PARKER: So you can get back to us
12 on that, Todd?

13 MR. LANG: Yeah. Just to be clear, Madame
14 Chair, you want us to draft rules that would not permit
15 this?

16 COMMISSIONER HOFFMAN: That would make it clear
17 what the line is between what's permitted and --

18 MR. LANG: Well, where do you want the line?

19 COMMISSIONER HOFFMAN: Well, I -- I guess the
20 question is --

21 CHAIRPERSON PARKER: We don't want to write
22 their ads for them.

23 COMMISSIONER HOFFMAN: No. But if there is --
24 I mean, I think that we need to -- we need -- we
25 don't -- I always have a bias of trying not to tell

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1 candidates what they can or can't do in their campaigns.

2 And I'd like as much as possible to allow them free
3 chance to communicate as they wish, not as we wish.

4 On the other hand -- so the question is, if
5 there is a communication that is -- by the way, that's a
6 really good question you asked me. If there is a
7 communication that has a collateral effect on the
8 other -- on the other race, the question is, does it
9 really have an effect on the current race, or is that
10 just an excuse and --

11 MR. LANG: That sounds very subjective.

12 COMMISSIONER HOFFMAN: Well, I understand. But
13 I'm saying, how do we -- how do we draw that line?

14 COMMISSIONER DANIELS: Madame Chairman --

15 COMMISSIONER HOFFMAN: I don't know. I mean,
16 the honest truth is I'm not sure.

17 MR. LANG: Well, we'll draft something that
18 probably prohibits much of this because of the gaming of
19 the system, and if you're not comfortable with it, we'll
20 revisit it.

21 COMMISSIONER DANIELS: And Madame Chairman, my
22 point would -- might be that -- that you look at the
23 percentage of the time on the ad. If they had mentioned
24 the other two House candidates, it's saying: These
25 people are running with Kyrsten Sinema, and it mentioned

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1 all three, then I have no problem with that because
2 that's a fair -- so you might want to look at the
3 percentage of the time spent on versus what -- and we've
4 looked at that before, how much of the ad is a negative,
5 how much is a positive, does this count against him for
6 this reason type thing, so...

7 COMMISSIONER HOFFMAN: Well, you could write
8 something that simply said that you can't mention one in
9 a three-person race -- I mean, in a -- in a three-person
10 slate. That if you're -- if you're going to do a slate

11 ad, you have to mention all -- either all opponents --

12 COMMISSIONER DANIELS: Or none.

13 COMMISSIONER HOFFMAN: -- and not single out
14 one or none. You know, if you're going to mention
15 the -- I mean, so you can have a very bright-line rule
16 like that, and -- and I guess that would be okay.

17 COMMISSIONER FAIRMAN: So, you're keeping the
18 three against three or two against two or one against
19 one right there.

20 CHAIRPERSON PARKER: Does that --

21 COMMISSIONER HOFFMAN: Yeah. I mean -- I
22 mean -- you know, and then -- then, you know, if -- if
23 that's the -- I'm not sure that's the only answer. I
24 mean, the -- the other thing to consider, though, is it
25 could be like the Bush situation or the Governor

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1 situation that was -- that Ms. Barnes mentioned.

2 MR. LANG: We had a lot of slate mailers with
3 Governor Napolitano back in the day.

4 COMMISSIONER HOFFMAN: Yeah. I mean, if
5 somebody is going to say, you know, you know, we are
6 running because, you know, against the policies, you
7 know, instituted by our ineffective Governor, whoever
8 that might be, or, you know, we're running to oppose the
9 policies of the Democratic Obama, you know, machine and,
10 you know, and he's not even running in Arizona. You
11 know, that could happen in the next election too. I
12 mean, he's the sitting president of the United States
13 and -- and people are talking in this State about -- I
14 mean, we already saw an ad today about, you know, that
15 mentioned something about Obama's alleged
16 nationalization of healthcare in a -- in a -- in an
17 Arizona ad for State legis- -- Repub- -- State
18 legislature who have nothing -- no possible way to
19 change that, but nonetheless it's mentioned.

20 So, you know, if -- so I mean, we need to
21 consider not only the case of where you're mentioning
22 somebody in the companion race in an LD, but also
23 mentioning the Governor level or -- or even the national
24 level.

25 CHAIRPERSON PARKER: I guess, I personally have
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1 a problem with putting too much of a restraint on it
 2 because that's taking away their candidates' free
 3 speech. But -- well, like in this case, they were
 4 drawing a distinction between them and the type of
 5 representation this district had had in the past. Even
 6 though she was now a Senate candidate, she had been a
 7 House candidate, and they were trying to distinguish how
 8 they would be a House candidate as opposed to the way
 9 she had been a House candidate --
 10 COMMISSIONER HOFFMAN: Right.
 11 CHAIRPERSON PARKER: -- based on that ad. So
 12 in a sense, it -- it really wasn't -- I didn't really
 13 see a problem with it because they were -- they were
 14 using this lady's past record to show what they did not
 15 want to be.
 16 COMMISSIONER HOFFMAN: And the other two were
 17 not previously incumbents in the House race.
 18 CHAIRPERSON PARKER: Right. But they were
 19 trying to distinguish between what kind of
 20 representation you had in the past and what kind of
 21 representation they would give you in the future if you
 22 voted for them.
 23 COMMISSIONER HOFFMAN: Right.
 24 CHAIRPERSON PARKER: So by them posting this
 25 person's record, it did benefit their race and not just
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1 COMMISSIONER HOFFMAN: Right.
 2 COMMISSIONER DANIELS: -- so I don't want us to
 3 get into -- to that aspect, either.
 4 COMMISSIONER HOFFMAN: That's good, yeah.
 5 CHAIRPERSON PARKER: We're not in the business
 6 of -- of running people's campaigns.
 7 COMMISSIONER DANIELS: No. So, good luck.
 8 MR. LANG: Thank you.
 9 COMMISSIONER HOFFMAN: We knew that would be
 10 your job.
 11 COMMISSIONER FAIRMAN: Seemed like a clear
 12 direction.
 13 MR. LANG: Make this work, but don't meddle.
 14 COMMISSIONER DANIELS: Exactly.
 15 COMMISSIONER HOFFMAN: The question -- I guess
 16 the other thing I would like to think about more is --
 17 is what is the thing -- what is the horror story that
 18 we're trying to prevent?
 19 In other words, what's the scenario -- what's
 20 the horror scenario? Somebody has a completely, like,
 21 uncontested race, and there's another race over in
 22 the -- in the -- in the other district --
 23 MR. LANG: In the same district, different --
 24 different --
 25 COMMISSIONER HOFFMAN: In -- in -- well, the
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1 the Senate race.
 2 COMMISSIONER FAIRMAN: Would it -- would it
 3 make any sense to rather than write a rule that becomes
 4 more restrictive --
 5 CHAIRPERSON PARKER: Yeah.
 6 COMMISSIONER FAIRMAN: -- write a rule that --
 7 that actually just provides some guidelines that --
 8 that -- you know, I'd looked at that ad and there's two
 9 or three simple things that could have been said in --
 10 in the course of less than a second and a half, that
 11 would have absolutely made it completely clear what it
 12 was and who was doing what and it would have never come
 13 before us.
 14 So rather than continuing to write ads [sic]
 15 about what -- what they can't do, maybe there's a --
 16 there's a -- there's a permissive part of this that
 17 tells them what they need to do to make it -- to make it
 18 viable.
 19 MR. LANG: Okay.
 20 COMMISSIONER DANIELS: And the other thing I --
 21 I just want to say, I don't -- I don't want to get to
 22 such a percentage, you could have five people in the
 23 Democrat or Republican primary and you may only want to
 24 attack one or two because they're the strong ones and
 25 you're not even going to mention the other two --
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1 same --
 2 MR. LANG: -- different seat.
 3 COMMISSIONER HOFFMAN: -- other race in the
 4 same district, which is, you know, hotly contested. And
 5 so now they're going to sit there and, you know, just
 6 run hit piece after hit piece when they don't care less
 7 about it themselves because they know they're going to
 8 win or lose.
 9 MR. LANG: Right. Right.
 10 COMMISSIONER HOFFMAN: They know they're going
 11 to lose.
 12 It's a -- let's make a worse scenario. It's
 13 a -- it's a fake candidate who runs only for the purpose
 14 of getting Clean Elections money to attack the Senator.
 15 COMMISSIONER SCARAMAZZO: Sounds familiar.
 16 COMMISSIONER HOFFMAN: Yeah.
 17 MR. LANG: You should ask Caroline Allen about
 18 that --
 19 COMMISSIONER HOFFMAN: Yeah.
 20 MR. LANG: -- Senator Caroline Allen.
 21 COMMISSIONER HOFFMAN: Okay. So -- so the
 22 question is: If you had such a scenario, what would be
 23 the least restrictive rule to prevent that kind of
 24 gaming?
 25 MR. LANG: The problem is, we can't look at the
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1 subjective intent at all --

2 COMMISSIONER HOFFMAN: No, I understand.

3 MR. LANG: -- so you have to have a rule that
4 would -- so the rule is going to apply to that nightmare
5 scenario, and it's going to apply to Yoder, it's going
6 to apply this scenario.

7 COMMISSIONER HOFFMAN: Right.

8 MR. LANG: Because you can't distinguish,
9 because it all comes to others' subjective intent and we
10 can't look at that.

11 COMMISSIONER HOFFMAN: Right. So if the -- so
12 if the -- if the ad has, you know -- I mean, the way we
13 have it now, if the ad has no possible benefit to the
14 House member, then it's a violation. Maybe what we
15 ought to be doing is saying, if the principal purpose is
16 to benefit a different race, then -- then -- then that
17 is not good enough. I don't know. But, I mean,
18 obviously, one has to decide what is the principal
19 benefit, you know, what is the main purpose or
20 something, you know, rather than anything like that.

21 If all we did is we said, I mean, we can also
22 say that it's okay to mention another candidate if
23 they're the previous incumbent but not otherwise, and
24 then that would remove an entire category --

25 CHAIRPERSON PARKER: Well, then you'd have the
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1 people who -- who were in the legislature and decided to
2 come back and run five years later, you're not
3 technically the incumbent --

4 COMMISSIONER HOFFMAN: Oh, well. We can fix
5 that. Okay.

6 CHAIRPERSON PARKER: -- but they've got a
7 record. You know.

8 MR. LANG: Bob Robson.

9 CHAIRPERSON PARKER: I think we don't want
10 to --

11 COMMISSIONER HOFFMAN: Mention their previous
12 record.

13 CHAIRPERSON PARKER: I think we have to be
14 careful not to be so restrictive that we're shooting our
15 foot.

16 COMMISSIONER HOFFMAN: Well, you could -- you
17 could say that you could mention any previous occupant
18 of the office in which you're running, that's like a
19 safe harbor. And then, you know, that wouldn't -- that
20 would allow that sort of thing to happen if Kyrsten
21 Sinema was running for -- you know, was in that off race
22 and were running for the new race, but it wouldn't allow
23 it to happen if Kyrsten Sinema was the senator and is
24 now re-running for re-election in the Senate. You know
25 what I'm saying?

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1 CHAIRPERSON PARKER: I think we'd be better off
2 giving some -- maybe some guidelines in our --

3 COMMISSIONER HOFFMAN: Some examples.

4 CHAIRPERSON PARKER: -- training and things
5 like that. But to make the rule -- I mean, we're not
6 going to be able to write a rule for every single
7 scenario --

8 COMMISSIONER DANIELS: Scenario.

9 CHAIRPERSON PARKER: -- that we're going to run
10 across.

11 COMMISSIONER HOFFMAN: Yeah.

12 CHAIRPERSON PARKER: And I -- and I think we
13 have to be careful that we don't write rules that are so
14 restrictive that people are going to spend more time
15 trying to figure out: Am I going to break this rule,
16 and not getting their campaign message out, in a sense.

17 I think there's fine balance there, between us
18 being the dictators of the campaign and the people
19 trying to develop its strategy within our parameters.

20 And I think our parameters need to be such that people
21 can understand them and operate within them, but not
22 feel like their hands are tied --

23 COMMISSIONER HOFFMAN: Well --

24 CHAIRPERSON PARKER: -- to get the message out
25 they want to get out.

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1 COMMISSIONER HOFFMAN: I -- I do think that --
2 that I would have liked to have had a rule that allowed
3 us to find an improper purpose in the right case. And
4 the way the rule is now, if it has any bearing on the
5 House race, it seemed to me, and -- and I may be
6 misreading it, but it seemed to me -- and I apologize
7 for, you know, just coming up with it -- it seemed to me
8 that if it had any bearing on the House race, it had to
9 be permitted, even if it had, you know, 1 percent
10 bearing on the House race and 90 percent bearing on the
11 Senate race.

12 MR. LANG: Yeah, but you're forgetting about
13 903, which prohibits any candidates, Clean or
14 traditional, from spending money on another campaign.
15 And that's a statutory requirement, and they violated
16 that in my view.

17 COMMISSIONER FAIRMAN: But the only --

18 COMMISSIONER HOFFMAN: Well, that's not in --
19 in Rhonda's letter. I didn't see that.

20 MR. LANG: Yeah, but it's in our analysis.

21 CHAIRPERSON PARKER: It's in --

22 COMMISSIONER FAIRMAN: But it's -- but that's a
23 legal question --

24 COMMISSIONER HOFFMAN: Then maybe I made a
25 mistake. I'm sorry. But -- well, hold on a second. It

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1 says -- 903 says --

2 MR. LANG: 903 is not part of the Clean

3 Elections Act. It says: The candidates -- it -- it's

4 inartfully written, but it basically says candidates

5 can't spend money from one campaign for another.

6 COMMISSIONER FAIRMAN: Right.

7 COMMISSIONER DANIELS: And -- but I believe in

8 this instance, Madame Chairman, Todd, that they weren't

9 doing that --

10 COMMISSIONER HOFFMAN: Okay.

11 COMMISSIONER DANIELS: -- that they were

12 actually trying to compare themselves to a previous

13 representative and say: Listen, I'm not going to do

14 that. So, I -- I understand. I -- I don't think they

15 were spending, and I don't think they believed they were

16 spending the money -- again, you're subjective here --

17 but I don't believe they were spending the money except

18 on their race, trying to make a distinction.

19 MR. LANG: And I don't think they were either.

20 COMMISSIONER DANIELS: Yeah.

21 MR. LANG: I -- but I don't think we get to

22 look at subjective intent --

23 COMMISSIONER HOFFMAN: Can I see 903?

24 MR. LANG: -- because then cheaters get to hide

25 behind Mr. Yoder and Mr. Thomas who weren't cheaters,

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1 rules. I think you can bring stuff to us and we can at

2 that point in time --

3 MR. LANG: Right. If we push too far --

4 COMMISSIONER DANIELS: -- examine the language.

5 MR. LANG: -- you can -- you can tone it down.

6 COMMISSIONER DANIELS: Yeah. And figure out

7 what we want to do.

8 COMMISSIONER HOFFMAN: Wait a second. Do we

9 have authority to enforce 903(D)?

10 MR. LANG: 941 says that they comply with all

11 parts of the Act, all parts of the Election Code.

12 COMMISSIONER HOFFMAN: Okay. So this says: "A

13 political committee that supports or has supported

14 another candidate or more than one candidate, may not be

15 designated as a candidate's campaign committee."

16 So the -- the thrust of that is that if you

17 have a candidate's campaign committee, that has to be

18 directed only towards -- only towards supporting a --

19 a -- the given candidate and not multiple candidates or

20 some other candidate. That's your reading of it?

21 MR. LANG: Uh-huh.

22 CHAIRPERSON PARKER: But how do candidates

23 running as a team --

24 COMMISSIONER DANIELS: But -- but that doesn't

25 block dueling expenditures.

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1 and you need to have a clear rule. Either they violated

2 or they didn't.

3 COMMISSIONER HOFFMAN: Yeah, I agree.

4 MR. LANG: And --

5 COMMISSIONER HOFFMAN: I agree with you there.

6 MR. LANG: -- but in my view they did. And --

7 but in my view, because of all the things you've said

8 and everyone else has said, no penalty is appropriate

9 because they didn't do anything ethically wrong.

10 COMMISSIONER HOFFMAN: 903 which?

11 MR. LANG: (B).

12 CHAIRPERSON PARKER: Lori?

13 COMMISSIONER DANIELS: Madame Chairman, Todd, I

14 think we can make the rule --

15 MR. LANG: (D). Sorry.

16 COMMISSIONER DANIELS: -- you know, that's

17 clearer than what it is right now.

18 MR. LANG: Yeah.

19 COMMISSIONER DANIELS: You know what I'm

20 saying?

21 MR. LANG: Yes. Yes.

22 COMMISSIONER DANIELS: I don't think -- I don't

23 think we have to micromanage. I don't think we have to

24 be specific, that's why I said "good luck." I -- I

25 think you can do it. I think you've done a lot of

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1 CHAIRPERSON PARKER: -- pool their resources?

2 MR. LANG: No. I don't think it blocks joint

3 expenditures, either --

4 COMMISSIONER HOFFMAN: Right.

5 MR. LANG: -- but what I think if it -- if

6 it -- if it's equal, but once you start benefitting just

7 one candidate, then it's a problem.

8 COMMISSIONER HOFFMAN: So if you say -- if we

9 have a joint expenditure rule that says that you can

10 only have joint expenditures if they -- if the benefit

11 from the joint expenditure is approximately equal, that

12 might be a reasonable rule.

13 MR. LANG: Yeah. We can do that.

14 COMMISSIONER DANIELS: And if we did that,

15 though, I'd really in our training want to make sure

16 that we gave specific examples --

17 COMMISSIONER HOFFMAN: Examples, absolutely.

18 COMMISSIONER DANIELS: -- because that could

19 be: Rule 8, what does that mean, type. You know, we

20 know what it means because we've been sitting here with

21 this discussion, but I can see candidates just going: I

22 have no clue what that means, you know, if we don't

23 explain it.

24 COMMISSIONER HOFFMAN: Sure. Sure. Yeah. No,

25 I mean, we can give examples of good ones --

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1 COMMISSIONER DANIELS: Right.
 2 COMMISSIONER HOFFMAN: -- and examples of bad
 3 ones. But -- and maybe that's the direction then,
 4 something like that? We don't -- we don't talk about
 5 the content of the communication that way. We don't,
 6 you know, we don't purport to control it. We just say
 7 that the -- the communication must be such that it
 8 benefits all of the joint expenditures, and if it looks
 9 like it's out of whack, you know, supporting one more
 10 than the other, it's gonna -- you're -- you're running
 11 the risk of an enforcement action.

12 CHAIRPERSON PARKER: That's a good place to
 13 start, Todd.

14 MR. LANG: Okay. All right. Thank you.

15 CHAIRPERSON PARKER: Let's get on to the next
 16 one, then. Item (D), MUR 10-0025. Kee Allen Begay --

17 COMMISSIONER HOFFMAN: Good discussion, guys.
 18 That was fun.

19 CHAIRPERSON PARKER: -- candidate for State
 20 Senate, District 2.

21 MR. LANG: Thank you, Madame Chair. This is an
 22 internally-generated complaint after Mr. Begay contacted
 23 us and let us know about a loan situation. The
 24 candidate basically borrowed money from his brother to
 25 take out an ad in the newspaper and -- and -- and didn't

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1 realize that that would put him over the personal money
 2 limit. It, obviously, did put him over the personal
 3 money limit by \$90, and it's a violation. And so I'd
 4 ask that you find reason to believe and that rather than
 5 pursuing this further, you simply accept Mr. Begay's
 6 proposed resolution, which is for him to reimburse the
 7 Commission the amount that exceeded the limit, which is
 8 that \$90 figure -- \$90.97.

9 COMMISSIONER SCARAMAZZO: Plus \$160?

10 MR. LANG: Right. Over the individual
 11 contribution limit.

12 CHAIRPERSON PARKER: It's \$230.16.

13 MR. LANG: Yeah. You see math there. The
 14 total is 230 -- \$230.16.

15 COMMISSIONER HOFFMAN: I'm a little slow on
 16 this. I'm sorry. The -- the -- he repays the amount
 17 over the personal limit.

18 MR. LANG: Right. And then there's a
 19 contribution limit.

20 COMMISSIONER HOFFMAN: To -- to the brother or
 21 to us?

22 CHAIRPERSON PARKER: To us.

23 MR. LANG: To us.

24 COMMISSIONER HOFFMAN: To us. And then there's
 25 an individual contribution limit that he also violated.

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1 MR. LANG: That the loan exceeded, because it
 2 was \$300 --

3 COMMISSIONER HOFFMAN: \$300 over the \$140?

4 MR. LANG: -- and he can only get \$140 --

5 COMMISSIONER HOFFMAN: Okay.

6 MR. LANG: -- so that's \$160.

7 COMMISSIONER HOFFMAN: And so he pays the total
 8 sum of those? Okay.

9 COMMISSIONER DANIELS: Madame Chairman, I would
 10 move in the matter of MUR No. 10-0025, that we find a
 11 reason to believe and that we accept as a res- --
 12 resolution that the -- Mr. Begay repay \$230.16.

13 COMMISSIONER SCARAMAZZO: Second.

14 CHAIRPERSON PARKER: Motion's been made and
 15 seconded regarding MUR 10-0025, to accept the repayment
 16 -- reason to believe and a repayment of \$230.16. All in
 17 favor?

18 (Chorus of ayes.)

19 CHAIRPERSON PARKER: Opposed? Motion carries.
 20 Next item, discussion and possible action

21 on conciliation agreements MUR 10-0012, Victor
 22 Contreras, candidate for State Senate, District 16.

23 MR. LANG: Madame Chair, thank you.
 24 Commissioners, you have the proposed conciliation

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1 agreement and for your -- to refresh your recollection,
 2 we have the statement of reasons that you approved back
 3 in September.

4 As you recall, this is a case where
 5 Mr. Contreras contracted to make a number of -- of
 6 expenditures but didn't pay for them because he hadn't
 7 yet been billed and he felt that it was appropriate.
 8 Unfortunately, the combination of those expenditures
 9 exceeded the amount of cash he had on hand which, as you
 10 know, is not permitted. So it was a violation of our
 11 rules. You found reason to believe and -- and this is
 12 the proposed resolution.

13 Basically, he wants to repay the amount but --
 14 by which he exceeded the -- his cash on hand. And
 15 that's -- that the difference between his expenditures
 16 of \$6,412 and his cash on hand of \$4,910. And so he'll
 17 enter into an agreement of \$15 -- repayment of
 18 \$1,501.79.

19 You see that, of course, the penalty is 10
 20 times that amount, but we don't think an imposition of
 21 -- we think that imposition of that penalty is not
 22 necessary in this case and that a \$1,500 penalty is
 23 quite significant and that he be permitted to pay that
 24 amount in full resolution of this matter. And as you
 25 can see, he's going to do it through payment.

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1 COMMISSIONER HOFFMAN: Madame Chair?

2 CHAIRPERSON PARKER: Yes.

3 COMMISSIONER HOFFMAN: I move that we accept

4 the conciliation agreement in MUR 10-0012.

5 COMMISSIONER DANIELS: Second.

6 CHAIRPERSON PARKER: Motion's been made and

7 seconded to accept the conciliation agreement in

8 MUR 10-0012, for Victor Contreras. All in favor?

9 (Chorus of ayes.)

10

11 CHAIRPERSON PARKER: Opposed? Motion carries.

12 Next item, MUR 10-0020, Rita Dickinson,

13 candidate for State Senate, District 11.

14 COMMISSIONER SCARAMAZZO: Thanks for getting on

15 that so quick, Todd.

16 MR. LANG: Yes. Madame Chair, Commissioners,

17 Commissioner Scaramazzo asked us to resolve the

18 Dickinson matter, and so we have that before you now.

19 Ms. Dickinson, we should have addressed it back

20 when we did the first part of the case, and so I

21 apologize for -- for not moving forward with this.

22 Madame Chair, Commissioners, you see our -- our

23 proposed resolution. Again, this is -- this is a case

24 of an innocent mistake where they thought they could

25 carry over the amounts and they were not permitted to do

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1 -- or \$4,200 of early contributions and personal money

2 and spent that in the general rather than the primary?

3 MR. LANG: She didn't spend it all, but she

4 carried it over --

5 COMMISSIONER HOFFMAN: She carried it over?

6 MR. LANG: -- she carried over personal money,

7 and you can't -- you can't have personal money in your

8 account.

9 COMMISSIONER HOFFMAN: Okay. So what she

10 should have done was spend it in the primary or returned

11 it to us at the time of the primary, and then she would

12 have had somewhat less to spend on the general election

13 than she actually spent --

14 MR. LANG: Right.

15 COMMISSIONER HOFFMAN: -- by the amount of the

16 difference that you just calculated and told us about,

17 right?

18 MR. LANG: Right.

19 COMMISSIONER HOFFMAN: Which is the \$1,400?

20 MR. LANG: Yes.

21 COMMISSIONER HOFFMAN: So she should have spent

22 \$1,400 less in her general election than she did?

23 MR. LANG: That's right.

24 COMMISSIONER HOFFMAN: Okay. And so now she's

25 proposing to return to the fund the \$1,400 out of her

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1 so. The statutory penalty is quite significant, it's

2 \$42,000, and she's agreed to pay \$4,200, minus those

3 unspent funds. And so the total penalty is \$1,427.73,

4 which is fairly significant. I think that's a lot of

5 money and I think this is a fair resolution, considering

6 that Ms. Dickinson, again, acted in good faith. And

7 she's here if you'd like to ask her questions.

8 CHAIRPERSON PARKER: Do we have a motion?

9 COMMISSIONER SCARAMAZZO: Yes. I'll make the

10 motion that we accept the conciliation agreement

11 MUR 10-0020, as outlined.

12 COMMISSIONER DANIELS: Second.

13 CHAIRPERSON PARKER: Motion's been made and

14 seconded to accept the conciliation agreement for

15 MUR 10-0020, Rita Dickinson. All in favor?

16 (Chorus of ayes.)

17

18 COMMISSIONER DANIELS: Oh. I think Luis has a

19 question.

20 CHAIRPERSON PARKER: Sorry.

21 COMMISSIONER HOFFMAN: I just wanted to ask a

22 question and make sure I understood it first. I'm

23 sorry. I -- I don't think I have a problem with it, but

24 I just wanted to understand the calculation.

25 So, she carried over \$3,500 some -- somewhat of

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1 personal monies.

2 MR. LANG: Right.

3 COMMISSIONER HOFFMAN: Which makes the fund

4 whole.

5 MR. LANG: Right.

6 COMMISSIONER HOFFMAN: And since it was an

7 honest mistake, the idea is that we don't ding her for

8 any penalty on top of just repaying the -- making the

9 fund whole.

10 MR. LANG: That's right.

11 COMMISSIONER HOFFMAN: That makes sense to me.

12 Thank you for --

13 COMMISSIONER DANIELS: Madame Chairman, I would

14 like to just make it on the -- a point on the record and

15 that is that we don't really try to penalize these

16 people to -- unless they have purposefully tried to --

17 to mislead or lie about something they've done. You

18 know, I -- because we've put some major penalties in in

19 the past, but in the past we found that --

20 COMMISSIONER FAIRMAN: For a reason.

21 COMMISSIONER DANIELS: -- there was a specific

22 reason. And so I don't want people to think that we're

23 not following the statute. I just want them to know

24 that we understand honest mistakes and are trying

25 rectify that.

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1 CHAIRPERSON PARKER: Uh-huh.

2 COMMISSIONER SCARAMAZZO: Good point.

3 MR. LANG: And we have penalized innocent

4 actors in the past if it affected the race, if it

5 delayed matching funds or if the report was not timely

6 so the public didn't get the information in a timely

7 fashion.

8 COMMISSIONER HOFFMAN: Right. And that's --

9 that's important also, because people can make honest

10 mistakes that cause major implications. And even in

11 that case we want to, you know, come down on them a bit

12 to make sure it doesn't happen again and people are more

13 careful. But making an example of someone who -- in

14 this situation, doesn't achieve that purpose.

15 CHAIRPERSON PARKER: Is there a motion on the

16 table?

17 COMMISSIONER SCARAMAZZO: There's a motion --

18 CHAIRPERSON PARKER: Okay.

19 COMMISSIONER SCARAMAZZO: -- and seconded.

20 CHAIRPERSON PARKER: Motion made and seconded

21 to accept the conciliation agreement for MUR 10-0020.

22 All in favor?

23 (Chorus of ayes.)

24

25 CHAIRPERSON PARKER: Opposed? Motion carries.

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1 in the Barton and Crandell method -- matter. And

2 attached to it is the statement of reasons which you

3 approved in October, and it was regarding a number of

4 campaign finance reports.

5 But, ultimately, what we've discovered was that

6 there's -- that Mr. Crandell made some mistakes on his

7 report. That he initially reported some expenditures

8 and then after receiving several invoices that created

9 some confusion in his campaign, he removed that report,

10 and it should have been in there, and that's clearly a

11 violation. And so we recommend on that -- in that

12 regard that you do find reason to believe -- I mean,

13 that you do find probable cause.

14 Similarly --

15 COMMISSIONER HOFFMAN: Probable cause to -- oh,

16 that the --

17 MR. LANG: That's the final finding.

18 COMMISSIONER HOFFMAN: That there was a

19 violation.

20 MR. LANG: That there was a violation.

21 COMMISSIONER HOFFMAN: Okay.

22 MR. LANG: That there is probable cause to

23 determine there is a violation here.

24 And then the second issue is the timely

25 reporting of expenditures. Again, because of the

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1 Okay. The next item is discussion and

2 possible action on the probable cause report in

3 MUR 10-0011, Brenda Barton and Chester Crandell.

4 MR. LANG: Can I have 30 seconds?

5 CHAIRPERSON PARKER: Sure. You can have a

6 whole minute, if you want.

7 MR. LANG: Thank you.

8 CHAIRPERSON PARKER: I feel generous today.

9 It's the holiday season.

10 COMMISSIONER SCARAMAZZO: Christmas spirit.

11 COMMISSIONER DANIELS: Don't start singing,

12 okay?

13 CHAIRPERSON PARKER: I almost wore my Santa

14 Claus sweater and I thought I'd better not. It's a

15 little bit early still.

16 MR. LANG: Thank you, Madame Chair.

17 COMMISSIONER DANIELS: Good timing of that.

18 CHAIRPERSON PARKER: For which one, Todd?

19 MR. LANG: For the -- for the break. I'm a

20 little disappointed in the Santa decision. May I -- may

21 I proceed?

22 CHAIRPERSON PARKER: Yes, you may.

23 MR. LANG: You have before you --

24 COMMISSIONER HOFFMAN: That was good.

25 MR. LANG: -- a probable cause recommendation

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1 invoices and some issues that came up, they were not

2 reported in a timely matter, and you see this in Part

3 (B) on Page 2. However, they were all reported in the

4 proper campaign finance reports. So the public wasn't

5 harmed, there was no delay in the public receiving the

6 information; but, again, it was a violation. They've

7 assured us that the invoice issue will not happen again.

8 And so given the fact that they've corrected their

9 campaign finance reports and that the public was not

10 harmed, we recommend no further action.

11 COMMISSIONER DANIELS: Madame Chairman, I move

12 that we find reason to believe in the matter of MUR No.

13 10-0011, Brenda Barton and Chester Crandell, but take no

14 further action.

15 MR. LANG: It's probable cause.

16 COMMISSIONER DANIELS: Probable cause. Sorry

17 about that. And take no further action.

18 COMMISSIONER SCARAMAZZO: Second.

19 CHAIRPERSON PARKER: Okay. The motion's been

20 made and seconded. All in favor?

21 (Chorus of ayes.)

22

23 CHAIRPERSON PARKER: Opposed? Motion carries.

24 COMMISSIONER HOFFMAN: Can -- can I ask a

25 structural question, because -- so we -- we -- the

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1 procedure is we find reason to believe it may have
2 occurred, the staff investigates, and then when staff
3 comes back and says to us that they found a violation,
4 we find probable cause? Why -- why don't we just find
5 it as a violation?

6 MR. LANG: We could, but that's how the rules
7 have read for 10 years. But we could change it. We can
8 add that to our rulemaking agenda.

9 COMMISSIONER DANIELS: Find violation
10 occurred...

11 COMMISSIONER FAIRMAN: Violation --

12 COMMISSIONER HOFFMAN: Yeah. I mean, I think
13 it's more than probable cause. We have cause to believe
14 that -- or we -- we have -- there's nothing probable
15 about it. We're finding a violation, I think. Unless
16 I'm missing something.

17 MR. LANG: Would you like us to address that in
18 rulemaking?

19 COMMISSIONER DANIELS: Madame Chairman, there's
20 an opposite side of that, though. When we find probable
21 cause and take no further action, I don't think that's
22 something to use against a candidate. If we find a
23 violation had occurred, even though we took no further
24 action, I can see that as political ploy to say: Oh,
25 they violated the Clean Elections Act, minutes of this

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1 as a probable cause --

2 COMMISSIONER HOFFMAN: But they did.

3 COMMISSIONER DANIELS: I understand what you're
4 saying. I just -- I kind of struggle with that one.

5 COMMISSIONER HOFFMAN: But I don't know. I
6 kind of think that if what we're actually finding is
7 that there was -- I mean, I was confused by the "reason
8 to believe" versus "probable cause" thing, as they sound
9 the same to me. You know, it's like: Okay, why are we
10 doing this again?

11 CHAIRPERSON PARKER: Well, who wrote this
12 thing?

13 COMMISSIONER FAIRMAN: That's a good point.

14 COMMISSIONER HOFFMAN: Well, not me. But --

15 MR. LANG: This is the -- this is rule -- let's
16 see.

17 COMMISSIONER HOFFMAN: It's a rule.

18 CHAIRPERSON PARKER: I'm sorry, Luis. I
19 couldn't resist.

20 COMMISSIONER HOFFMAN: What did I actually --
21 the thing about -- the thing about the statute, I think,
22 says -- what does the statute say?

23 MR. LANG: Well, "reason to believe" is in
24 957(A).

25 COMMISSIONER HOFFMAN: Thank you. Haven't
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1 gotten there yet. If -- if the Commission finds there's
2 reason to believe they violated, then you serve an order
3 and stating nature, then there's an explanation or
4 whatever, you can settle it. And if they remain out of
5 compliance, the Commission shall make a public finding
6 to that effect.

7 MR. LANG: It doesn't have to be called
8 "probable cause."

9 COMMISSIONER HOFFMAN: It should be called a
10 public finding that there -- that there was a violation.
11 Isn't that right? A finding of violation.

12 MR. LANG: That's fine with me. Whatever --
13 whatever you instruct us to do, we'll do.

14 COMMISSIONER HOFFMAN: So there.

15 COMMISSIONER DANIELS: Merry Christmas.

16 COMMISSIONER HOFFMAN: Anyway, I don't know if
17 we have a -- is there --

18 COMMISSIONER DANIELS: It would be a rule -- it
19 would be a rule change, so it would have to come back --

20 COMMISSIONER HOFFMAN: Is there a --

21 COMMISSIONER DANIELS: -- to us, anyway, so --

22 COMMISSIONER HOFFMAN: Is there a rule that
23 says it's on the procedural rules?

24 MR. LANG: Yeah. Yes.

25 COMMISSIONER FAIRMAN: It actually puts a lot

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1 more -- I'm sorry, Madam Chair.

2 CHAIRPERSON PARKER: Uh-huh. Go ahead.

3 COMMISSIONER FAIRMAN: It puts a lot more
4 pressure on us to find a reason to believe then, and it
5 makes that, I think, it -- it -- it adds a certain
6 degree of seriousness to that that...

7 COMMISSIONER HOFFMAN: Well, the reason to
8 believe at the first point, you know, should not have
9 political effect, because that's simply an investi- --
10 okay, we're going to open an investigation.

11 COMMISSIONER FAIRMAN: I'm not saying that.
12 What I'm saying is that --

13 COMMISSIONER HOFFMAN: And then if we have --
14 once we find that -- to find that there's an actual
15 violation, yes, it puts pressure on us to be more
16 serious.

17 COMMISSIONER FAIRMAN: What I'm saying is that
18 we can't dismiss them quite as easily. I think that it
19 causes us to have to be more serious about reason to
20 believe and err on the side of reason to believe more
21 often than not.

22 COMMISSIONER HOFFMAN: On the first one?

23 COMMISSIONER FAIRMAN: On the first one.

24 COMMISSIONER HOFFMAN: Really?

25 COMMISSIONER FAIRMAN: Yeah.

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1 COMMISSIONER HOFFMAN: I'm not sure I follow
 2 that.
 3 COMMISSIONER FAIRMAN: Because of the severity
 4 of the probable cause later. We -- we -- I don't think
 5 we can as easily dismiss things. They'd have to be
 6 given more thought, I think, in the -- in the
 7 reason-to-believe stage because of the -- the greater --
 8 the greater penalty that could come up later, because of
 9 what you said and how it's used in the campaign.
 10 COMMISSIONER DANIELS: See, that's -- I -- I --
 11 COMMISSIONER SCARAMAZZO: Basically, you're
 12 trying to err on the side of caution.
 13 COMMISSIONER FAIRMAN: You have to be formally
 14 cautious in that -- in that respect --
 15 COMMISSIONER HOFFMAN: Well --
 16 COMMISSIONER FAIRMAN: -- I think.
 17 COMMISSIONER HOFFMAN: -- the -- the way I -- I
 18 kind of see it, that if you're -- if we have a sharp
 19 distinction between an actual finding of a violation and
 20 just merely a reason to believe, then it makes it less
 21 likely that candidates could misuse the fact that we had
 22 a reason to believe, you know, for political purposes.
 23 I'd -- I'd like them -- that not to be a story that
 24 somebody found reason to believe and we're going to
 25 investigate, and I'd like there to be a story when we

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1 out.
 2 MR. LANG: And as -- as Commissioner Daniels
 3 pointed out, sometimes they use just the reason to
 4 believe. That's why when I -- when the press calls me
 5 and asks me about that, I always say "may." You know,
 6 I -- I emphasize the word "may."
 7 COMMISSIONER HOFFMAN: Yeah.
 8 MR. LANG: And I say -- and I always make sure
 9 to tell them we haven't reached any final conclusions,
 10 even when I think they're totally guilty, so...
 11 COMMISSIONER HOFFMAN: Right.
 12 CHAIRPERSON PARKER: We ready to move on?
 13 COMMISSIONER DANIELS: Uh-huh.
 14 COMMISSIONER HOFFMAN: Okay.
 15 CHAIRPERSON PARKER: Next item --
 16 COMMISSIONER HOFFMAN: Thank you.
 17 CHAIRPERSON PARKER: -- discussion and possible
 18 final action on the amendment to the Commission Rule
 19 R2-20-702(C), use of campaign funds. Questions? Or
 20 Todd, I guess -- you have any comment?
 21 MR. LANG: Madame Chair, this has come up
 22 several times over the years. This is something the
 23 Commission considered back in its beginning. And you
 24 spoke earlier when we were talking about the
 25 Yoder/Thomas complaint, about the concern about

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1 find there actually is a violation. And so having a
 2 distinction between those two seems to me to make some
 3 sense.
 4 MR. LANG: I've already drafted it, so...
 5 CHAIRPERSON PARKER: That was fast.
 6 COMMISSIONER DANIELS: And Madame Chairman --
 7 CHAIRPERSON PARKER: I'll give you a one-minute
 8 break more often.
 9 COMMISSIONER DANIELS: I -- Madame Chairman,
 10 Mr. Lang, I don't remember the gentleman's name, but the
 11 one from Chandler that did the flight, the airplane --
 12 COMMISSIONER HOFFMAN: Personal airplane.
 13 COMMISSIONER DANIELS: -- thing and we did an
 14 investigation, that was used against him in the
 15 campaign. And so I know that, you know, a violation
 16 occurred and he -- he understood that. So, I'm not
 17 saying we shouldn't change this, and I just -- I want us
 18 to be aware of it's going to be used.
 19 COMMISSIONER HOFFMAN: Which one, the first
 20 step or the second?
 21 COMMISSIONER DANIELS: Violation.
 22 COMMISSIONER FAIRMAN: The second one.
 23 COMMISSIONER HOFFMAN: The violation. I think
 24 that's perfectly fair we use that. I mean, if people
 25 violate the law, they should expect to have it pointed

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1 dictating too much to campaigns, and that's why the
 2 Commission has always stepped away from these sorts
 3 of -- of rules.
 4 The other complexity is, in this particular
 5 case, the surplus statutes and rules are a little bit
 6 cumbersome. However, we bring this --
 7 COMMISSIONER HOFFMAN: Surplus?
 8 MR. LANG: Surplus. The State surplus rules.
 9 If we -- this rule would provide that --
 10 COMMISSIONER HOFFMAN: Oh.
 11 MR. LANG: -- that candidates would turn in --
 12 in equipment that in some cases would become surplus.
 13 COMMISSIONER HOFFMAN: I see.
 14 MR. LANG: The reason it's before you, though,
 15 is because these issues continue to arise. To be fair,
 16 though, the -- the expenditures often in question are
 17 the same expenditures that traditional candidates make.
 18 If you're running a serious campaign these
 19 days, you need a computer, you need a printer, you need
 20 probably a cellphone and a camera. And so while
 21 questions have arisen regarding some of these
 22 expenditures, the answer is traditional candidates get
 23 the same benefit. They buy the same cameras and the
 24 same computers and they keep them.
 25 However, there still is a question here,

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1 because sometimes people push the envelope. For
 2 instance, I have an iPad -- that was not paid for by the
 3 State, so don't worry -- but I find it quite useful for
 4 State work. And so for a candidate to purchase that, it
 5 might raise eyebrows; but at the same time, those things
 6 are great and they're so much more portable than a
 7 computer.

8 My point is not whether a particular iPad is a
 9 good purchase or not; the point is, it's a subjective
 10 question. And again, I know the Commission wants to
 11 stay away from subjective inquiries. They want to have
 12 objective rules.

13 And so the theory behind this rule is that we
 14 permit people to continue to buy the things they've been
 15 buying, but if they have a value of over \$200, they
 16 return them, even though traditional candidates don't
 17 have to do that. And so it's a bit of a disadvantage
 18 for participating candidates. They still have the
 19 option to purchase them for 75 percent of the price,
 20 which is, I think in most cases higher than what it
 21 would be available for used. But that way if it would
 22 be a huge convenience to that candidate -- like, for
 23 instance, a computer -- and they'd really rather just
 24 keep it, they can do so, they can have that option.

25 But if they really just want to use it for the
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1 rules on surplus. If not, that would be wonderful,
 2 because then we could just give it to Goodwill or what
 3 have you.

4 CHAIRPERSON PARKER: Lori?

5 COMMISSIONER DANIELS: Well -- and I was just
 6 going to say, Madame Chairman, Mr. Lang, you made a -- a
 7 different distinction, because traditional candidates
 8 would not have to do this, whereas Clean Elections
 9 candidates were, but there is a distinction because it
 10 is taxpayer dollars. I -- I understand it's from fines,
 11 but it's people who are paying their fine as a taxpayer
 12 that -- that these funds are. So I think there can be a
 13 distinction, and I think that's a decision that
 14 candidates can -- can make on their own -- gonna run.

15 CHAIRPERSON PARKER: Jeff first and then Luis.

16 COMMISSIONER FAIRMAN: Madame Chair, I like the
 17 way you've written the rule. I think it makes a lot of
 18 sense. I would want to do everything we could, though,
 19 to avoid taking a lot of used computers back in.

20 MR. LANG: Yes.

21 COMMISSIONER FAIRMAN: There are two
 22 suggestions that I would make, is one -- and I know we
 23 had this conversation at length the last time, but I --
 24 I would drop from that 75 percent to 50 percent. That
 25 way it's -- it's -- it's not a terrible hardship,
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1 campaign and it's kind of a windfall after the campaign,
 2 they'll just return it. So this provides that option.

3 It's going to create some bureaucracy for us in
 4 terms of surplus and in terms of buying and selling.
 5 And we will, of course, come into compliance with the
 6 State requirements on all that. But that's -- this
 7 is -- this is why it's been presented to you for your
 8 consideration.

9 CHAIRPERSON PARKER: Todd, I have a question.
 10 Seeing as we're not funded by State money, would this
 11 have to go to State surplus or would we start our own
 12 surplus?

13 COMMISSIONER FAIRMAN: Our own thrift shop.

14 MR. LANG: I'll ask Ms. Brennan.

15 MS. BRENNAN: We'll take all your old stuff.

16 CHAIRPERSON PARKER: Because that could be a
 17 source of income.

18 MR. LANG: I think -- my understanding -- it's
 19 something Ms. Brennan or -- or Mr. Barton would have to
 20 research, but my understanding is, we're subject to the
 21 State -- you know, we comply with the State rules on
 22 procurement, we comply with the --

23 CHAIRPERSON PARKER: Okay.

24 MR. LANG: -- State rules on personnel. My
 25 understanding is we'd have to comply with the State
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1 they're getting a great computer for a reasonable price,
 2 and it's -- it's simply done. And I think more people
 3 would take that option than at the 75 percent level.

4 And then the second thing is, and because I'm
 5 kind of living this right now, one week may cer- -- may
 6 simply just not be enough. If you are intending on
 7 giving it back, to clean out a computer and do what you
 8 need to do and -- one week, especially after you're just
 9 taking a breath after a campaign, I would probably
 10 expand that to 30 days. Just two thoughts. But I like
 11 the way it's written.

12 COMMISSIONER HOFFMAN: Madame Chair?

13 CHAIRPERSON PARKER: Yes, Luis.

14 COMMISSIONER HOFFMAN: I wanted to say a couple
 15 of things. First, with regard to Commissioner Daniels,
 16 it is not -- it is public money, although I don't -- I
 17 wouldn't necessarily say it's taxpayer money, it may or
 18 may not be, depending on whether the person fined is a
 19 taxpayer. But anyway, the --

20 COMMISSIONER DANIELS: I will correct my
 21 statement to say "public money."

22 COMMISSIONER HOFFMAN: Yeah. But the point
 23 is -- well, people have been -- accused us of using
 24 taxpayer dollars and so let's try to at least be
 25 care- -- careful about the -- the -- the term, but
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1 anyway.

2 I wouldn't have ob- -- objection to expanding

3 the time period, but I think given the shortness of

4 time, I'm not real thrilled with the idea of reducing

5 the percentage. Although, I certainly understand

6 Mr. Fairman's reasons for wanting to do that to have

7 it -- encouraged more to -- to do that and to -- to not

8 putting it on us.

9 The main reason I stuck my hand in the air,

10 though, was to ask Mr. Lang, if -- if you have a

11 campaign -- if you have a computer and you load all your

12 campaign stuff on it and you're a Clean Elections

13 candidate and you want to take the data, you know, you

14 won't -- you don't have any personal use for the

15 computer. You just want it to, you know, collect dust

16 for a couple years and then use it in your next

17 campaign, you don't want to re- -- reload it and unload

18 it, is there a way to do that? How would you approach

19 that situation?

20 MR. LANG: We do not --

21 COMMISSIONER SCARAMAZZO: Buy a new computer.

22 MR. LANG: You'd have to buy the computer.

23 We're not going to store computers. We're not going to

24 be a storage facility, so...

25 COMMISSIONER HOFFMAN: No. Okay. So the --

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1 give it back?

2 COMMISSIONER HOFFMAN: Then can their next

3 campaign two years hence buy it from their personal

4 account?

5 COMMISSIONER DANIELS: Madame Chairman --

6 MR. LANG: Yes.

7 COMMISSIONER DANIELS: -- isn't it like

8 campaign signs, if they use it from one campaign to the

9 next, there is a value they have to --

10 MR. LANG: Yeah. They only have to pay one

11 five -- pay one-fifth at that point.

12 COMMISSIONER HOFFMAN: Pay one-fifth, really.

13 MR. LANG: Yeah. They could do it. I'm sorry.

14 I misunderstood your question.

15 COMMISSIONER HOFFMAN: Yeah. No, I -- I

16 certainly understand that we're not going to store it

17 for them and -- and offer them the opportunity, I wasn't

18 suggesting that.

19 MR. LANG: We could do that, but it's crazy.

20 COMMISSIONER HOFFMAN: That would be crazy.

21 But anyway, so -- so the -- so -- so what -- so what

22 they do is they -- they -- they pay 75 percent to the

23 Commission to buy the computer, and then their campaign

24 is allowed to reimburse themselves only 20 percent two

25 years later to buy it back for the campaign?

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1 CHAIRPERSON PARKER: How would they then

2 reflect the cost of a computer --

3 COMMISSIONER HOFFMAN: Well, that -- what I'm

4 asking is --

5 CHAIRPERSON PARKER: -- on the next election?

6 COMMISSIONER HOFFMAN: -- could -- would you

7 have the option paying the Commission the 75 percent and

8 then two years later --

9 MR. LANG: No.

10 COMMISSIONER HOFFMAN: -- buying the, you know,

11 buying it for your next campaign from yourself?

12 MR. LANG: Madame Chair, Commissioners, we can

13 do that, but that's crazy. I mean, that -- sorry.

14 CHAIRPERSON PARKER: Tell us how you really

15 feel, Todd.

16 MR. LANG: I'm sorry. I'm sorry, Commissioner

17 Hoffman.

18 What I mean is, that would be a bureaucratic

19 nightmare. If we lost a computer, would we be liable --

20 COMMISSIONER HOFFMAN: No, I'm not talking

21 about you. I'm saying that suppose they take this

22 option of reimbursing the Commission for 75 percent of

23 the initial price, so it's now their personal

24 computer --

25 MR. LANG: Oh. And then sell it to it -- then

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1 MR. LANG: They could actually pay more than

2 20 percent; 20 percent is the floor.

3 COMMISSIONER HOFFMAN: Ah, okay.

4 MR. LANG: So they could actually reimburse

5 themselves the whole amount.

6 CHAIRPERSON PARKER: The whole 75 percent.

7 MR. LANG: And if I'm their opponent, I'm going

8 to make a big deal about that.

9 COMMISSIONER HOFFMAN: Right. So the only way

10 you would do that is -- is if -- if you hadn't used it

11 and it had simply sat there, then maybe it would be

12 justified at 75 percent or whatever.

13 MR. LANG: But -- you know, and the good thing

14 about --

15 COMMISSIONER SCARAMAZZO: Two years later it's

16 going to be obsolete anyway, so you buy a new one --

17 COMMISSIONER FAIRMAN: This -- this all, of

18 course, gonna be obsolete --

19 COMMISSIONER HOFFMAN: Well, maybe not, if they

20 didn't have to reload com- -- you know, equipment to

21 another computer. I mean, I'm -- we're using the same

22 computer I used quite a few years ago --

23 MR. LANG: But the --

24 COMMISSIONER HOFFMAN: -- because of that

25 reason.

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1 MR. LANG: The point is that that would show
 2 that the use of the equipment is legitimate and that the
 3 concerns that prompt this rule, at least in that case,
 4 are -- are rather unfounded, because clearly the person
 5 does want to use it the next cycle.
 6 COMMISSIONER HOFFMAN: Right.
 7 MR. LANG: And -- and -- and that's whole
 8 point.
 9 COMMISSIONER HOFFMAN: That's what I was just
 10 trying to make sure, is there was a way that they can do
 11 that.
 12 MR. LANG: They can do that.
 13 COMMISSIONER HOFFMAN: Yeah. Okay.
 14 MR. LANG: They -- they -- to answer your
 15 question, the answer is yes.
 16 COMMISSIONER HOFFMAN: Yeah.
 17 CHAIRPERSON PARKER: Anymore discussion?
 18 COMMISSIONER SCARAMAZZO: The only other thing
 19 I'd like to explore just a little bit is if we do get
 20 computers back, negotiate somehow with the procurement
 21 office to find out if there isn't a way you can donate
 22 that equipment schools rather than...
 23 MR. LANG: Madame Chair, Commissioner
 24 Scaramazzo, we will look into that, but I can tell you
 25 my guess is -- my guess based on what I've heard is no.

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1 universities. But we'd have to look into -- I think
 2 we're looking at two different government --
 3 CHAIRPERSON PARKER: Maybe the deaf and blind
 4 school or something.
 5 COMMISSIONER HOFFMAN: Maybe the what?
 6 COMMISSIONER DANIELS: The deaf and blind
 7 school.
 8 MR. LANG: We'll look into it for you,
 9 Commissioner.
 10 COMMISSIONER FAIRMAN: So what, Madame Chair,
 11 what would you need in the way of a motion or would
 12 Todd, do we need to have a motion for this?
 13 MR. LANG: I should also mention, we've had a
 14 little bit of public comment, late -- may I mention
 15 that?
 16 CHAIRPERSON PARKER: Sure.
 17 MR. LANG: It was all verbal. Two candidates
 18 suggested we not do this. Ken Smally, a participating
 19 Republican, thought it was a bad idea; and
 20 Representative -- or, soon-to-be Representative Bob
 21 Robson, a traditional candidate who is no fan of Clean
 22 Elections but often has good suggestions for us, he
 23 think it's a bad idea, too, again, because of that
 24 concern about meddling in campaigns.
 25 You know, that -- the voters will do -- if

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1 And we -- we can't buy it for -- like, we couldn't buy
 2 it from surplus ourselves, you know, employees can't do
 3 that. It can only be used by offices for official use.
 4 COMMISSIONER HOFFMAN: When you say "we," you
 5 mean individuals?
 6 MR. LANG: Yeah. Like, I couldn't -- like, if
 7 you turned in a sweet computer, I can't go buy it, which
 8 is a good thing, because obviously it could lead to --
 9 COMMISSIONER HOFFMAN: But -- but the
 10 Commission could use it.
 11 MR. LANG: The Commission could buy it or use
 12 it.
 13 COMMISSIONER HOFFMAN: And then it would not be
 14 surplus.
 15 MR. LANG: That's right. If we used it, it
 16 wouldn't be surplus.
 17 COMMISSIONER HOFFMAN: I see.
 18 MS. THOMAS: Or it could be transferred to
 19 another State agency.
 20 COMMISSIONER HOFFMAN: Right.
 21 MS. THOMAS: Another agency that needs it.
 22 COMMISSIONER HOFFMAN: So a school is not
 23 considered a State agency because it's a local agency.
 24 Is that the --
 25 MS. THOMAS: Some are quasi, like ASU, the

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1 someone has an in- -- inappropriate expenditure, the
 2 voters will punish him. And, you know, that sort of
 3 thing. And then we had Michael Gular, a Republican
 4 participating candidate, who thought this limitation was
 5 a good idea. I think he had an opponent who spent
 6 some -- who spent money that he felt questionable.
 7 COMMISSIONER DANIELS: Madame Chairman?
 8 CHAIRPERSON PARKER: Uh-huh.
 9 COMMISSIONER DANIELS: Madame Chairman,
 10 Mr. Lang, since we've had such late comments and if we
 11 change this to 30 days and 50 percent, we would need to
 12 put it back out there for public comment again, correct?
 13 MR. LANG: Well -- where are we on this? This
 14 is the -- this is just --
 15 COMMISSIONER DANIELS: The first.
 16 MR. LANG: Oh, this is the final.
 17 COMMISSIONER DANIELS: The final? Okay.
 18 MR. BECKER: So yes, it would have to go back.
 19 COMMISSIONER DANIELS: It would have to go back
 20 out. Okay.
 21 COMMISSIONER HOFFMAN: If we make any change?
 22 MR. LANG: No. Substantive changes, though,
 23 would, and arguably these two changes are substantive.
 24 COMMISSIONER HOFFMAN: Would the timing thing
 25 be substantive even if the percentage wasn't?

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1 MS. BRENNAN: I would think so.

2 COMMISSIONER HOFFMAN: Hmm.

3 MR. LANG: You just earned your pay.

4 MS. BRENNAN: Okay.

5 MR. LANG: So there you go. So -- which we can

6 do. We have time, if that's your preference.

7 COMMISSIONER FAIRMAN: Yeah.

8 CHAIRPERSON PARKER: Okay. So Todd, I would

9 direct -- do we need a motion to change those figures?

10 MR. LANG: I'd recommend it.

11 CHAIRPERSON PARKER: Okay.

12 COMMISSIONER FAIRMAN: I would make a motion

13 that we change the figures in our R2-20-702(C)(6), just

14 to change the -- the time frame to 30 days and the

15 amount to 50 percent.

16 COMMISSIONER DANIELS: Second.

17 CHAIRPERSON PARKER: Can we do this by

18 second -- separate motion?

19 COMMISSIONER FAIRMAN: Sure.

20 COMMISSIONER HOFFMAN: Thank you.

21 COMMISSIONER FAIRMAN: So I'd amend my motion

22 to make it -- the first motion would be to amend it to

23 30 days.

24 COMMISSIONER DANIELS: Second.

25 CHAIRPERSON PARKER: Okay. Motion's been made

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1 opposition to explain their position to us, you know,

2 since this is going to come up again.

3 MR. LANG: Okay.

4 COMMISSIONER HOFFMAN: Because, quite honestly,

5 I don't understand it. So if there's a reason, I'd kind

6 of like to hear from them.

7 MR. LANG: Well, I alluded to the reasoning,

8 but I will ask them to do that. The reasoning is that

9 these -- these are legitimate, and if -- even if they're

10 not, the public would punish them, and the Commission

11 really shouldn't be in the business of regulating how

12 campaigns spend their money. And since traditional

13 candidates can make these expenditures, public

14 candidates should be able to as well.

15 One of the suggestions, and I should have

16 brought this up, one of the ideas bantered about but --

17 that didn't make it into the rule was that you permit

18 them -- you either create an exception or you do

19 something so that they can use personal funds or seed

20 money contributions, which are akin to traditional money

21 contributions to -- to purchase these things and then

22 keep them and not have to be reimbursed. Because then,

23 with that money, they are akin to traditional candidates

24 and it's not public money. Even though the public money

25 comes from voluntary contributions, you know, people are

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1 to amend it to 30 days. All in favor?

2 (Chorus of ayes.)

3

4 CHAIRPERSON PARKER: Opposed?

5 Okay. Next motion.

6 COMMISSIONER FAIRMAN: And then a follow-up

7 motion, exact same wording, except to change the -- the

8 amount of the original purchase price to 50 percent from

9 75 percent.

10 COMMISSIONER DANIELS: Second.

11 CHAIRPERSON PARKER: Motion's been made and

12 seconded to change it to 50 percent of the original

13 purchase price. All in favor say "aye."

14 (Chorus of ayes.)

15

16 CHAIRPERSON PARKER: Opposed?

17 COMMISSIONER HOFFMAN: Nay.

18 CHAIRPERSON PARKER: Okay. Motion passes. So

19 Todd, if you can make those changes, appreciate that.

20 MR. LANG: Thank you, Madame Chair.

21 COMMISSIONER HOFFMAN: I would like to ask if

22 the -- Madame Chair?

23 CHAIRPERSON PARKER: Yes.

24 COMMISSIONER HOFFMAN: I'd like to ask Mr. Lang

25 if -- if we could get the people who indicated

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1 voluntarily giving and from -- and no general revenues.

2 The theory is, that way it's just like traditional.

3 I felt that that added undue complication and

4 created a distinction that we didn't need to make, but

5 if you'd like me to -- I think that this rule is

6 cleaner, but if you'd like me to draft something on

7 that, I can.

8 CHAIRPERSON PARKER: Do you think we need to

9 put something in there about that the items are

10 available to be repurchased for future campaigns for

11 that rule?

12 COMMISSIONER DANIELS: I don't know about that.

13 MR. LANG: I don't think so.

14 COMMISSIONER FAIRMAN: No. They become

15 personal property.

16 CHAIRPERSON PARKER: All right. Then use it

17 like it is.

18 MR. LANG: All right. Thank you, Madame Chair.

19 COMMISSIONER HOFFMAN: Well --

20 MR. LANG: Thank you, Commissioners.

21 CHAIRPERSON PARKER: Yes, Luis.

22 COMMISSIONER HOFFMAN: -- Madame Chair. Help

23 me with another scenario that just came to mind by

24 your -- your suggestion there. Suppose a candidate goes

25 out and buys a computer with their personal money and

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1 donates it to the campaign and that's their early seed
 2 money -- or their --
 3 MR. LANG: Their personal money.
 4 COMMISSIONER HOFFMAN: -- personal
 5 contribution.
 6 MR. LANG: Yeah.
 7 COMMISSIONER HOFFMAN: So the -- what's the
 8 contribution limit?
 9 MR. LANG: \$500.
 10 COMMISSIONER HOFFMAN: \$500. So they buy a
 11 \$500 computer and give it to their campaign.
 12 CHAIRPERSON PARKER: They got a cheap computer.
 13 MR. LANG: They got it on Black Friday, I
 14 assume.
 15 COMMISSIONER HOFFMAN: Well, you can get
 16 computers nowadays for \$500, if you don't need a
 17 monitor. But anyway -- like a laptop.
 18 But anyway, suppose they -- they do that and
 19 donate it to their campaign. That's a -- a donation.
 20 It's still a candidate -- it' still a campaign asset.
 21 They would then have to give that to the Commission?
 22 MR. LANG: Yes. We could create an exception
 23 for in-kind contributions.
 24 COMMISSIONER HOFFMAN: What do you guys think?
 25 You think we should?

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1 in-kind contributions by the candidate herself is
 2 probably where you want to limit it. But you could
 3 limit it for any -- you could say in-kind contributions
 4 are not subject to this rule.
 5 CHAIRPERSON PARKER: If you do that, it could
 6 just balloon, that's -- that was my concern.
 7 COMMISSIONER HOFFMAN: What is the -- what is
 8 the statute -- the statute -- what -- what's the -- what
 9 is imputed to the individual, it's the individual and
 10 the?
 11 MR. LANG: And family.
 12 COMMISSIONER HOFFMAN: Okay. And family?
 13 MR. LANG: Yes.
 14 COMMISSIONER HOFFMAN: So, like, the limit on
 15 personal monies is the individual and the individual's
 16 family?
 17 MR. LANG: Yes.
 18 COMMISSIONER HOFFMAN: So shouldn't this mirror
 19 that?
 20 MR. LANG: Yes. I mean --
 21 COMMISSIONER HOFFMAN: At a minimum. At a
 22 minimum.
 23 MR. LANG: -- I don't think it's a "should,"
 24 but I think it could. I think it's a legitimate,
 25 objective way to -- to structure the exception.

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1 CHAIRPERSON PARKER: Wouldn't that be opening a
 2 huge can of worms?
 3 MR. LANG: I don't think -- I actually think
 4 it -- it kills me to say it -- I think that's a good
 5 idea.
 6 COMMISSIONER FAIRMAN: That's crazy.
 7 COMMISSIONER HOFFMAN: I go from "that's crazy"
 8 to "that's a good idea."
 9 MR. LANG: Because the concern that raised this
 10 issue is the use of campaign contributions and public
 11 funds for your personal benefit. You're buying things
 12 that will benefit you outside the campaign.
 13 COMMISSIONER HOFFMAN: Right.
 14 MR. LANG: This is not that situation, because
 15 here the candidate is paying for it. So it could be
 16 in-kind contributions by the candidate himself or
 17 herself.
 18 COMMISSIONER HOFFMAN: Yeah. Or a family
 19 member, I suppose.
 20 MR. LANG: If you want to make it that broad.
 21 CHAIRPERSON PARKER: What if the owner of Joe's
 22 Electronics wants to donate the computer to his friend
 23 that's running for office?
 24 MR. LANG: Right. I think you could make it
 25 that -- even broader. I think maybe just the candidate,

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1 COMMISSIONER HOFFMAN: Yeah.
 2 CHAIRPERSON PARKER: What if a candidate's
 3 family all put in their contribution to buy him a really
 4 whiz-bang computer and he had, like, three or four
 5 people go in and say: This is our contribution, we're
 6 going to go and buy this \$3,000 computer and divide it
 7 up so that it equals our maximum contribution that we're
 8 allowed to give. Is that something we're willing to
 9 look at too?
 10 MR. LANG: Well, again, I think it -- it really
 11 doesn't matter, because the concern about the improper
 12 use of public money to make your personal benefit is not
 13 here.
 14 CHAIRPERSON PARKER: Okay.
 15 COMMISSIONER FAIRMAN: And what would be the
 16 difference if they simply gave him the money to do
 17 that -- and again, it's not public money.
 18 CHAIRPERSON PARKER: Right. I understand that.
 19 I'm just --
 20 COMMISSIONER FAIRMAN: Yeah. Yeah.
 21 CHAIRPERSON PARKER: -- trying to think of
 22 scenarios that people are gonna --
 23 MR. LANG: We can exempt in-kind contributions.
 24 We can exempt --
 25 CHAIRPERSON PARKER: So we're not back here

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1 next year looking at this.

2 MR. LANG: -- the problem is if we exempt -- if

3 we exempt money -- if we exempt -- make the exemption

4 broader and exempt money [sic] purchased with, say, seed

5 money, you're getting that sort of game you play with

6 your account: Oh, well, this money was from seed money.

7 COMMISSIONER HOFFMAN: Yeah.

8 MR. LANG: We don't want that.

9 COMMISSIONER HOFFMAN: Yeah. Money is money.

10 MR. LANG: It has to be items, not cash, traced

11 to an in-kind contribution.

12 COMMISSIONER HOFFMAN: Correct.

13 MR. LANG: Which isn't that common.

14 CHAIRPERSON PARKER: Okay.

15 MR. LANG: But people -- but candidates do use

16 personal items.

17 COMMISSIONER HOFFMAN: It would give them

18 another option to, you know, it creates flexibility in

19 the rule, because you always have the option of using --

20 doing that if you care. You know, if you -- if you

21 don't want to follow the rule that we are laying out,

22 you have an alternative, donate it to yourself and -- I

23 mean, donate it to your campaign and -- and there's an

24 alternative. But --

25 CHAIRPERSON PARKER: It needs to be clear that

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1 MR. LANG: And that would exempt any kind of

2 in-kind contribution.

3 COMMISSIONER HOFFMAN: Yeah, but I -- I kind of

4 am persuaded by your -- your -- well...

5 So if a -- if an in-kind contribution came

6 from -- there are limits on in-kind contributions, like,

7 that would be like a PAC could give a computer, right?

8 MR. LANG: No. Not to a Clean Elections

9 candidate.

10 COMMISSIONER HOFFMAN: Not a Clean Elections

11 candidate. What kind of in-kind contributions are

12 permitted?

13 MR. LANG: Just individuals.

14 COMMISSIONER HOFFMAN: Up to the individual

15 limit --

16 MR. LANG: Right.

17 COMMISSIONER HOFFMAN: -- which is how much?

18 MR. LANG: \$500.

19 COMMISSIONER HOFFMAN: \$500?

20 MR. LANG: \$140. Yeah, the family is \$500.

21 I'm sorry.

22 COMMISSIONER HOFFMAN: Right. So the -- so

23 the --

24 (Whereupon a discussion was held off the

25 record.)

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1 that replaces cash that you would donate.

2 COMMISSIONER HOFFMAN: Well, yeah. It's an

3 in-kind contribution, is why everything kind of -- but

4 let me ask you this, Todd, if -- if there is -- if there

5 are an in-kind donation to a campaign, is this fixed

6 asset rule -- the \$800 cap doesn't apply, right?

7 MR. LANG: I'm sorry?

8 COMMISSIONER HOFFMAN: If there's an in-kind

9 donation to a candidate campaign account, the fixed

10 asset cap of \$800, that doesn't apply, right?

11 MR. LANG: No. Because this is about the use

12 of funds.

13 COMMISSIONER HOFFMAN: Correct.

14 MR. LANG: So we don't need the exception

15 because the in-kind contributions aren't subject to this

16 rule, anyway.

17 COMMISSIONER HOFFMAN: Well, the -- the -- the

18 first sentence, number -- the first sentence of (6) is

19 not subject to the rule. But the new sentences...

20 MR. LANG: Oh, yeah. I see what you mean.

21 COMMISSIONER HOFFMAN: So maybe --

22 MR. LANG: We can just add language that says

23 "fixed assets" and then we add the language "purchased

24 with campaign funds."

25 COMMISSIONER HOFFMAN: Well, but...

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2 COMMISSIONER HOFFMAN: So what is it for

3 statewide?

4 MR. BECKER: For statewide, it would be \$1,280.

5 For -- for a personal and family contributions to a

6 candidate, it's \$640, is the max you could have. And

7 that's \$140 from individuals or the candidate can put

8 \$640 in.

9 COMMISSIONER HOFFMAN: So it's -- it's -- so

10 it -- \$1,280?

11 MR. BECKER: \$1,280 for statewide, yes.

12 COMMISSIONER HOFFMAN: For a statewide

13 candidate, husband and wife?

14 MR. BECKER: Yes.

15 COMMISSIONER HOFFMAN: Okay.

16 MR. BECKER: But the husband -- whoever the

17 candidate is, could exceed the \$140 mark. The other

18 individuals cannot, so. And that in-kind contribution

19 from --

20 COMMISSIONER HOFFMAN: Right.

21 MR. BECKER: -- from a wife to a husband has to

22 stay at the \$140 mark.

23 COMMISSIONER HOFFMAN: The \$140 is for

24 legislative?

25 MR. BECKER: No. The \$140 is for everybody.

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1 MR. LANG: The \$140 is for everybody.
 2 COMMISSIONER HOFFMAN: For everybody?
 3 MR. BECKER: Yeah. That's an individual
 4 contribution, whether it's in-kind or it's actual
 5 dollars.
 6 COMMISSIONER HOFFMAN: So, what is the \$1,280?
 7 MR. BECKER: The \$1,280 is the max that you can
 8 have as your personal contribution.
 9 COMMISSIONER HOFFMAN: Personal contribution.
 10 So if we exempt in-kind contributions that -- no in-kind
 11 contribution can come from outside the family that's
 12 above \$200 anyway, correct?
 13 MR. LANG: Right.
 14 That's correct, right?
 15 MR. BECKER: Right.
 16 COMMISSIONER HOFFMAN: So there's -- there's no
 17 difference between just the family and the -- and
 18 exempting all in-kind contributions.
 19 MR. LANG: Right. So what do you want to do?
 20 COMMISSIONER HOFFMAN: So I guess your
 21 suggestion of just saying "fixed assets purchased with"
 22 --
 23 MR. LANG: Campaign funds.
 24 COMMISSIONER HOFFMAN: "Campaign funds." Do
 25 you think this actually should be put as a, like, part
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1 CHAIRPERSON PARKER: Purchased with campaign
 2 funds, what Luis?
 3 COMMISSIONER HOFFMAN: Hang on a second. Which
 4 is better?
 5 MR. LANG: Whichever you prefer.
 6 COMMISSIONER HOFFMAN: No, I don't -- I mean,
 7 I'm open to suggestions.
 8 MR. LANG: Trying to find where --
 9 COMMISSIONER HOFFMAN: I was referring to that
 10 language, which should be the same as that.
 11 MR. LANG: I think it's redundant.
 12 COMMISSIONER HOFFMAN: So you think just
 13 "purchased with campaign funds"?
 14 MR. LANG: Yes.
 15 COMMISSIONER HOFFMAN: Okay. All right. That
 16 we insert after "fixed assets," "purchased with campaign
 17 funds."
 18 CHAIRPERSON PARKER: Okay. Is there a second
 19 for the motion?
 20 COMMISSIONER DANIELS: I'll second.
 21 MR. LANG: Oh --
 22 COMMISSIONER DANIELS: No?
 23 MR. LANG: Excuse me. I think that's phrased
 24 better, Madame Chair, may I -- I'm sorry to interrupt.
 25 CHAIRPERSON PARKER: Sure.
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1 (D) instead of (C)(6) -- part of (C)(6), or do...
 2 MR. LANG: No.
 3 COMMISSIONER HOFFMAN: Just have it as a
 4 stand-alone rule?
 5 MR. LANG: I think it should be where it is,
 6 but I think it would be -- I think --
 7 COMMISSIONER HOFFMAN: Okay. Then we just
 8 repeat the -- all right.
 9 So -- so I move that we include in our
 10 published rule after "fixed assets" in the insert in
 11 Rule R2-20-702(C)(6), we insert after "fixed assets" the
 12 words...
 13 MR. LANG: Purchased with campaign.
 14 COMMISSIONER HOFFMAN: Purchased with
 15 campaign...
 16 MR. LANG: Funds.
 17 COMMISSIONER HOFFMAN: "Purchased with funds in
 18 the candidate's campaign account," right?
 19 MR. LANG: Okay. The -- the Rule 702 is "use
 20 of campaign funds," so I thought "purchased with
 21 campaign funds" reflects that.
 22 COMMISSIONER HOFFMAN: Yeah. I was just
 23 matching the beginning, but we can do it.
 24 CHAIRPERSON PARKER: Okay.
 25 MR. LANG: It's your -- it's your --
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1 MR. LANG: But the rest of the sentence then
 2 says "that were purchased with campaign funds."
 3 COMMISSIONER HOFFMAN: Ah.
 4 COMMISSIONER DANIELS: So we don't need it.
 5 MR. LANG: It's already there.
 6 COMMISSIONER DANIELS: We don't need it.
 7 COMMISSIONER HOFFMAN: That could be used as
 8 a --
 9 MR. LANG: It may be more artful where you put
 10 it, though. I think we should put it where Commissioner
 11 Hoffman suggests.
 12 This would be an example of a technical change
 13 that wouldn't need the additional 30 days.
 14 CHAIRPERSON PARKER: Okay. All right.
 15 COMMISSIONER DANIELS: That sounds good.
 16 MR. LANG: Because it's already in there.
 17 COMMISSIONER FAIRMAN: That's a good change.
 18 COMMISSIONER HOFFMAN: Or you're publishing it,
 19 anyway, so...
 20 MR. LANG: Right.
 21 CHAIRPERSON PARKER: We've already voted on the
 22 other aspects of it, so we're ready for the next item on
 23 our agenda, correct?
 24 COMMISSIONER HOFFMAN: So, fixed asset...for
 25 campaign purposes.
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1 MR. LANG: We're making that change and we'll
2 put it in the published rule.
3 CHAIRPERSON PARKER: Okay. Sounds good. Okay.
4 The next item for discussion and possible action on
5 proposed Commission meeting dates for January through
6 June 2011. Pull out your pocket calendars or iPads
7 or...
8 COMMISSIONER FAIRMAN: Paper. Real paper.
9 COMMISSIONER HOFFMAN: Madame Chair?
10 COMMISSIONER SCARAMAZZO: That's rather behind
11 the times.
12 COMMISSIONER FAIRMAN: I know it is. That's
13 the way I am.
14 COMMISSIONER HOFFMAN: Madame Chair, I owe
15 you-all an apology that I didn't get a chance to
16 actually compare this to my calendar, and I know it was
17 sent like a long time ago, but I've been traveling all
18 over the country, and -- but I -- so that's my personal
19 problem that I screwed it up.
20 COMMISSIONER DANIELS: Well, Madame Chairman,
21 to that point, Mr. Hoffman, if we select the dates,
22 we've been known to change them.
23 COMMISSIONER HOFFMAN: Yeah.
24 CHAIRPERSON PARKER: It's not carved in stone.
25 COMMISSIONER FAIRMAN: Yeah, that's correct.

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1 COMMISSIONER HOFFMAN: Abstain.
2 CHAIRPERSON PARKER: Motion carries.
3 Okay. Our next item is the nomination
4 and election of the Commission Chairperson for 2011.
5 COMMISSIONER SCARAMAZZO: Yes. Madame Chair, I
6 would like to nominate Jeff Fairman to be the new
7 Commission Chairman for 2011.
8 COMMISSIONER DANIELS: I'll second it.
9 CHAIRPERSON PARKER: Okay. The motion's been
10 made and seconded to have Jeff Fairman be our new
11 Commission Chairman for next year. All in favor?
12 (Chorus of ayes.)
13
14 CHAIRPERSON PARKER: Opposed?
15 COMMISSIONER FAIRMAN: No discussion.
16 CHAIRPERSON PARKER: Motion carries. Here you
17 go. Congratulations.
18 COMMISSIONER FAIRMAN: Thank you very much.
19 What a year with a huge target on her back.
20 COMMISSIONER HOFFMAN: I think we ought to
21 particularly --
22 CHAIRPERSON PARKER: We're not done yet. We
23 have litigation update.
24 COMMISSIONER HOFFMAN: -- particularly in favor
25 of that because of the name "Fairman." I mean, what

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1 COMMISSIONER HOFFMAN: I just wanted to
2 apologize in advance if I ask for a change later, but
3 I'm planning on abstaining on the vote because of that,
4 and --
5 CHAIRPERSON PARKER: Okay.
6 COMMISSIONER HOFFMAN: -- I just thought I'd
7 apologize.
8 CHAIRPERSON PARKER: All right.
9 COMMISSIONER DANIELS: Madame Chairman?
10 CHAIRPERSON PARKER: Yes.
11 COMMISSIONER DANIELS: I would be ready to make
12 a motion on all the preferred dates and -- but in May, I
13 would prefer we do it the 20th because we have a
14 tendency to do Memorial Day long weekends.
15 CHAIRPERSON PARKER: And I've got a graduation.
16 COMMISSIONER DANIELS: So Madame Chairman, I
17 would move that the Commission meets on the following
18 dates: January 27th, February 17th, March 17 -- Saint
19 Paddy's Day -- April 21st, May 20th, and June 30th.
20 COMMISSIONER SCARAMAZZO: Second.
21 CHAIRPERSON PARKER: Okay. Motion's been made
22 and seconded for those dates. All in favor say "aye."
23 (Chorus of ayes.)
24
25 CHAIRPERSON PARKER: Opposed? Abstentions?

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1 Commission Chair should not be a fair man?
2 COMMISSIONER FAIRMAN: It's got me a long ways.
3 It may not even be true, but it's got me a long way.
4 CHAIRPERSON PARKER: Congratulations, Jeff.
5 COMMISSIONER FAIRMAN: Thank you very much.
6 CHAIRPERSON PARKER: You'll do a fine job.
7 COMMISSIONER FAIRMAN: By the way, thank you
8 for last year. You did a wonderful job as Chairman.
9 (Round of applause.)
10
11 CHAIRPERSON PARKER: Thank you very much. It's
12 been my privilege to serve, and you guys are awesome to
13 work with, and I fully appreciate it.
14 Okay. Our next item on the agenda is the
15 litigation update.
16 MR. LANG: Madame Chair, Jim -- Jim is in D.C.
17 getting trained. He's working on -- he did an oral
18 argument --
19 CHAIRPERSON PARKER: He's not calling long
20 distance?
21 MR. LANG: I asked him to, but then he -- he
22 mentioned that we could actually have a better attorney
23 here today, so...
24 But he was in the Ninth Circuit doing oral
25 argument last week, and by all accounts did a very good

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1 job. It wasn't a Clean Elections case. And now he's
2 getting trained on appellate advocacy and Supreme Court
3 advocacy, which will be quite handy, given the matching
4 funds.

5 It's my understanding that the matching funds,
6 their brief is due in early January, the Plaintiff's
7 brief is due in early January. Our brief is due, I
8 think, some time in March. And -- and the case will
9 probably heard in mid-spring, April or May, and then
10 we'll have a decision in June.

11 CHAIRPERSON PARKER: Right in the middle of
12 primaries.

13 MR. LANG: So, the good news is, matching funds
14 will be upheld with plenty of time for the new election
15 cycle.

16 CHAIRPERSON PARKER: Thank you, Todd.
17 Public comment. Anyone from the public
18 wish to say anything?

19 MS. BARNES: I've said enough.

20 CHAIRPERSON PARKER: There's a couple of
21 back-row people back there. No? Okay. Well, thank you
22 for coming.

23 All right. Do I have a motion to adjourn?

24 COMMISSIONER DANIELS: Move to adjourn.

25 COMMISSIONER SCARAMAZZO: Second.

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1 COMMISSIONER HOFFMAN: Second.
2 CHAIRPERSON PARKER: All in favor?
3 (Chorus of ayes.)

4
5 CHAIRPERSON PARKER: Opposed? All right.
6 Motion carries.

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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 115, 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 7th day of December,
10 2010.

11
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13 _____
14 Angela Furniss Miller, RPR
15 Certified Reporter (AZ50127)
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