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THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF VIRTUAL PUBLIC MEETING

Phoenix, Arizona
December 15, 2022
9:30 a.m.

By: Kathryn A. Blackwelder, RPR
Certified Reporter
Certificate No. 50666



<p>1 VIRTUAL PUBLIC MEETING BEFORE THE CITIZENS 2 CLEAN ELECTIONS COMMISSION convened at 9:30 a.m. on 3 December 15, 2022, at the State of Arizona, Clean 4 Elections Commission, 1110 West Washington, Conference 5 Room, Phoenix, Arizona, in the presence of the 6 following Board Members: 7 Mr. Damien Meyer, Chairman 8 Mr. Mark Kimble 9 Mr. Galen Paton 10 Mr. Steve Titla 11 12 OTHERS PRESENT: 13 Thomas M. Collins, Executive Director 14 Paula Thomas, Executive Officer 15 Mike Becker, Policy Director 16 Gina Roberts, Voter Education Director 17 Avery Xola, Voter Education Manager 18 Kara Karlson, Assistant Attorney General 19 Mary O'Grady, Osborn Maledon 20 Cathy Herring, Staff 21 David Kolker, Campaign Legal Center 22 Elizabeth Shimek, Campaign Legal Center 23 Rivko Knox, Member of the Public 24 25</p>	<p>1 CHAIRMAN MEYER: Thank you and good morning. 2 Agenda Item -- I'm Damien Meyer, I'm Chairman of the 3 Citizens Clean Election Commission for this year. 4 Agenda Item No. I is the call to order. It's 5 9:30 a.m., December 15, 2022, and I call this meeting 6 of the Citizens Clean Elections Commission to order. 7 I'd like to ask audience members to please ask their 8 microphones on mute. 9 And with that, we will take attendance. 10 Commissioners, please identify yourselves for the 11 record. 12 COMMISSIONER PATON: Galen Paton. 13 COMMISSIONER KIMBLE: Mark Kimble. 14 CHAIRMAN MEYER: So we have Commissioner -- 15 COMMISSIONER TITLA: We have Steve Titla on 16 the phone, Commissioner Steve Titla. 17 CHAIRMAN MEYER: All right. We have 18 Commissioner Titla, Commissioner Kimble, and 19 Commissioner Paton all present. 20 So Item No. II is discussion and possible 21 action on meeting minutes for October 27 of 2022. Any 22 discussion on the minutes from our October 27th 23 meeting? 24 (No response.) 25 CHAIRMAN MEYER: If not, can I have a motion</p>
<p>1 to approve the minutes? 2 COMMISSIONER KIMBLE: Mr. Chairman. 3 CHAIRMAN MEYER: Commissioner Kimble. 4 COMMISSIONER KIMBLE: I move we approve the 5 minutes for the October 27th, 2022 meeting. 6 CHAIRMAN MEYER: Is there a second for that 7 motion? 8 COMMISSIONER PATON: Second, Galen Paton. 9 CHAIRMAN MEYER: All right. We have a motion 10 to approve the October 27, 2022 meeting minutes and a 11 second, so we'll go ahead and call the roll. 12 Commissioner Kimble. 13 COMMISSIONER KIMBLE: Aye. 14 CHAIRMAN MEYER: Commissioner Paton. 15 COMMISSIONER PATON: Aye. 16 CHAIRMAN MEYER: Commissioner Titla. 17 COMMISSIONER TITLA: Aye. Aye. 18 CHAIRMAN MEYER: And this is Commissioner 19 Meyer, I vote aye as well. 20 Moving on to Agenda Item No. III is 21 discussion and possible action on the Executive 22 Director's Report. Tom. 23 MR. COLLINS: Thank you, Mr. Chairman, 24 Members. This is our last meeting of the year, 25 assuming -- you know, all other things being equal, so</p>	<p>1 thank you all for being here. 2 I wanted to take a little time here in the 3 Executive Director's Report to talk a little bit about 4 where we are with the wrap-up of the election in 5 November. There was a canvass on December 5th, and we 6 have -- and during the 2020-2022 legislative session, 7 the Legislature changed the threshold and made it 8 more -- you know, essentially saying that it was a -- a 9 recount would be required under a higher threshold than 10 previously was there. 11 So we have three state recounts, two 12 statewide ones and one in Legislative District 13. 13 Those are actually ongoing. The -- that requires 14 essentially a court order to start and then -- and then 15 a full set of logic and accuracy tests on those 16 machines that are being used for the tabulation, as 17 well as a hand count audit. 18 Unlike the general election, over the next 19 few weeks you won't be seeing sort of counties record 20 out on a periodic basis as they complete the recount; 21 rather, the results of the recount will be provided to 22 the court directly and then unsealed in open court and 23 then the court, at that point, declares the results of 24 the recount and the winner of the election. 25 That said, we have, you know, a full</p>

<p>1 resolution of the Governor's race, the Secretary of 2 State's race, and others. The inauguration ceremony is 3 scheduled for January 5th. And then the first day of 4 the legislative session, January 9th.</p> <p>5 We learned yesterday -- Gina and I did an 6 interview with some -- an outgoing lawmaker and a 7 government relations expert, and they noticed -- noted 8 two things that were really interesting. One, we'll 9 have a divided government between the Governor and the 10 Legislature for the first time in more than a decade, 11 and something like 50 percent of the Legislature is new 12 to the Legislature, which is a really extraordinary 13 thing.</p> <p>14 And you can see there in the note that, which 15 we'll be working on with voter education, Gina has 16 helped -- has been producing these subject matter 17 expert videos, which we did for the beginning of the 18 election season and we'll be doing those again. We 19 also -- we filmed one with Gina as, obviously, a 20 subject matter expert on post-election materials -- 21 post-election processes, including the recounts, and I 22 think that was pretty well received. I know it got at 23 least out from reporters to folks.</p> <p>24 And we are working -- Alec is working, along 25 with Riester and others, on analysis of the -- of our</p>	<p>1 website because, you know, I think our website has been 2 a -- it's a key tool for us and I think for our 3 outreach to voters because of its effectiveness, and so 4 we want to keep that up.</p> <p>5 You can see that during this interim period 6 Avery has continued to do a number of different 7 outreach activities. I think one he's really happy -- 8 that he enjoyed a lot was the -- serving as a judge for 9 the regional We The People competition, which was held 10 at Corona Del Sol, I believe, last week.</p> <p>11 So I wanted to mention on the candidates, you 12 know, as far as legislative Clean general election 13 candidates, we had -- I think we had at least three -- 14 no -- four candidates at least in the Legislature, I'm 15 not sure we got higher than that. And then we have the 16 two Corporation Commission candidates who were 17 successful. And then we had, you know, one other 18 statewide Clean Elections candidate, who was 19 Superintendent Hoffman, who was not successful in her 20 reelection.</p> <p>21 I want to take -- real quickly I wanted to 22 mention a few legal issues there. We did have an oral 23 argument on November 15th in a case called Legacy 24 Action Fund versus Clean Elections. That is a case 25 that arises from an enforcement the Commission</p>
<p>1 undertook, if you can imagine this, before, I think, 2 every Member of the Commission was appointed except for 3 Commissioner Titla, which is really hard to believe, so 4 a kind of Bleak House quality.</p> <p>5 Anyways, that -- the issue before the Supreme 6 Court is whether or not -- if a defendant -- or, a 7 petitioner, rather, in this case, fails to appeal an 8 administrative order within the time allotted by 9 statute, if they nevertheless can collaterally, that is 10 to say, outside of the previous proceedings, get out 11 from under that order by asserting that the 12 administrative agency lacks subject matter jurisdiction 13 over the object of the enforcement.</p> <p>14 So we -- it was a six-judge panel of the 15 Supreme Court. Justice King recused herself. Justice 16 Lopez also recused himself, but Justice Pelander -- or, 17 former Justice Pelander sat in his stead. And so we'll 18 have a result hopefully -- well, sometime next year.</p> <p>19 We did wrap up -- or, Mary is here. So thank 20 you, Mary, for all of your assistance on this. We did 21 wrap up the Clean Elections Commission versus Jennings 22 with a permanent injunction barring the defendant in 23 that case and her affiliates from using Clean Elections 24 marks.</p> <p>25 I want to quickly mention that there are</p>	<p>1 some what I -- they're post-election lawsuits. There's 2 at least three; I think there might be a fourth. You 3 know, those are -- I'm not sure what to say about them 4 in the sense that I'm -- I don't -- I don't -- it's a 5 difficult problem, they're -- particularly the 6 challenge that comes -- arises out of the Governor's 7 race. Because on the one hand, if you're, for example, 8 reporting on that to the public as a -- as a reporter, 9 you are going to follow the procedural aspects of that 10 along just like, that's the story. This is what 11 happened. The judge set a briefing schedule. The 12 judge set a hearing date. You know, those kind of 13 things.</p> <p>14 The problem is, and this is a real issue, 15 that those procedural steps, that those of us who 16 are -- either been attorneys or spend a lot of time 17 with legal processes know, are just what you have to do 18 when someone files a lawsuit in order to -- regardless 19 of the merits of the lawsuit, take on something like a 20 meritorious kind of aspect by virtue of the fact 21 they're being reported.</p> <p>22 You know, setting aside the AG litigation, 23 which is Kentch v. Mayes, because of the recount, and 24 so I just don't feel like I want to talk about that 25 very much, the Lake versus Hobbs and Finchem versus</p>

<p>1 Fontes cases are -- they're not plausible lawsuits and 2 they're not going to result in anything remotely like 3 what the plaintiffs in those cases are demanding. 4 There's not a legal mechanism for that. There's not an 5 evidentiary mechanism for that. 6 And so I think, you know, one of the things 7 we'll continue to have to work on, and everybody who's 8 involved in elections will have to work on, is the fact 9 that when you sue the folks who count ballots, you put 10 those people in -- those folks in a position where 11 they're having to defend their own work, right. That's 12 an area in which there's a serious -- it's a voter 13 education problem because the attention this lawsuit 14 will get naturally, by virtue of the proceedings that 15 have to occur whether it's meritorious or not, give it 16 weight to which the pleadings in those two matters are 17 simply not entitled. And so I think it's just 18 something that we'll have to keep our eye on. 19 I think that that kind of wraps up my -- my 20 report. And so, Commissioners, if you have any 21 questions for me or anybody else on staff, please fire 22 away. 23 CHAIRMAN MEYER: Commissioners, any questions 24 for Tom on the Executive Director Report? 25 (No response.)</p>	<p>1 CHAIRMAN MEYER: Tom, I had a question on the 2 timing of the Lake Hobbs suit or some of these suits. 3 Don't they need to be heard within something like 15 4 days so they can be resolved before the inauguration? 5 MR. COLLINS: Yeah, that's -- Chairman Meyer, 6 yes, that's correct. These are -- these are on a -- on 7 a tight timeline. If they were to go to a hearing, for 8 example, the judge has five days to resolve the case. 9 They had to be filed within five days of the canvass. 10 Yeah, so, you know, these are fast-moving pieces of 11 litigation. 12 You know, there's a motion to -- motions to 13 dismiss in the Lake case and the Finchem case. The 14 schedule for that has been set. I think the Finchem 15 case is ahead on their -- on when they'll have a 16 hearing. And then there will be a hearing on the PI -- 17 I'm sorry -- on the motion to dismiss, I think, on 18 Monday in the Lake case, and the briefing will be 19 completed over the weekend, right. So the motion to 20 dismiss is due either today or tomorrow, the response 21 is due on Saturday, the replies on due on Sunday, the 22 hearing is on Monday. So, you know, it's a -- 23 There was a pretty good story on the Arizona 24 Mirror website, which I can refer you to if you want to 25 read it, of some legal experts assessing these cases.</p>
<p>1 And, you know, one of the things that one of the 2 lawyers, and I tend to agree with this, pointed out is 3 that knowing the way the allegations are made in the 4 Lake matter, there would be simply no way to answer the 5 complaint because of the -- it's pled in such a sort of 6 ham-fisted and illogical and actually incorrect manner. 7 I mean, you'd be denying something in an answer, but 8 you'd be denying something that like -- it's just 9 like -- I don't even know how you could formulate a 10 response to it. 11 CHAIRMAN MEYER: Any other questions? Thank 12 you, Tom. Any other questions on the Executive 13 Director's Report? 14 (No response.) 15 CHAIRMAN MEYER: Okay. Thank you. We're 16 going to move on to Agenda Item No. IV, which is 17 discussion and possible action on overview of 18 Proposition 211 from Campaign Legal Center Action. 19 Proposition 211 was approved by voters and 20 became effective with the official canvass on 21 December 5th. According to the Act's text, the new 22 law, known as the Voter Rights -- Voters' Right to Know 23 Act, requires public disclosure of the identity of all 24 donors who give more than \$5,000 to fund campaign media 25 spending in an election cycle and the source of those</p>	<p>1 monies. The Commission is charged with enforcement of 2 this Act, which sets minimum penalties, authorizes the 3 Commission to take complaints and to develop rules, 4 among other things. 5 Campaign Legal Action is a nationally known 6 organization that works on campaign finance reform and 7 election reform. They were deeply involved in the new 8 Act, so we have asked them to give us a brief overview 9 of what they see as the key points of the Act. So 10 joining us are David Kolker and Elizabeth Shimek -- and 11 I apologize if I mispronounced either of your names, 12 please correct me -- and they are both with Campaign 13 Legal Action. 14 David has spent 20 years with the Federal 15 Election Commission before joining Campaign Legal in 16 2016. He has litigated important campaign finance 17 cases, such as Citizens United and SpeechNOW. 18 Elizabeth served as chief staff in the 19 Wisconsin Legislature, has worked on a number of 20 efforts to promote public engagement in the legislative 21 process and against efforts to undermine democratic 22 principles. She practiced political law before joining 23 Campaign Legal Action. 24 So with that, David and Elizabeth, thank you 25 so much for joining us. You have our attention. And</p>

<p>1 then once you've completed, we'll see if any of the 2 Commissioners have questions. So, again, thank you so 3 much and the floor is yours, so to speak. 4 MR. KOLKER: Well, thank -- first of all, 5 thank you for inviting us on behalf -- 6 CHAIRMAN MEYER: You're very welcome. 7 MR. KOLKER: -- of me and Beth. It's a 8 pleasure to be with you. And yes, I have been involved 9 with campaign issues -- campaign finance issues since 10 1994, so I've seen the various cycles. 11 So what we wanted to do this morning is to 12 give you a brief overview and then take your questions, 13 because I assume you'll have some, and if not today, 14 sometime in the future as you dig further into it. We 15 assume that you've been provided a memo that we wrote 16 about Prop 211, as well as a frequently asked questions 17 document that goes into quite a bit of detail. So with 18 that, let me -- let me give you my half of the 19 interview, and then I will turn it over to Beth. 20 In our view, what the Act really does is 21 restore campaign finance disclosure laws to what they 22 were always supposed to be. When the Supreme Court 23 upheld disclosure in 1976, and it has continued to 24 uphold disclosure -- just a footnote. In Citizens 25 United, although we lost, when I was at the FEC, the</p>	<p>1 spending limit in that case, the court upheld 2 disclosure eight to one. And what the court said in 3 1976 and has continued to say is that these disclosure 4 laws provide voters with important information, and 5 therefore, that's one of the main reasons they're 6 constitutional. 7 They help people evaluate the messages they 8 hear. They help people evaluate the candidates who are 9 running, to know the money who's behind the candidates. 10 They also help to prevent corruption; because if big 11 money is exposed to the light of day, people will be 12 less likely to engage in favors for campaign 13 contributions. And finally, it helps the government, 14 folks like you, enforce campaign finance laws if you 15 have the data so that you can check whether people are 16 abiding by the law. 17 So the focus of Prop 211 is on big donors, 18 those who give more than \$5,000, and on the 19 intermediary process, where the money is just passed 20 along from person to person. It does not limit 21 expenditures, it does not limit contributions. We 22 believe it's clearly constitutional, it goes back to 23 why these laws were passed in the first place, and it 24 is very narrowly tailored to prevent circumvention of 25 disclosure requirements.</p>
<p>1 The basic structure works like this. Lots of 2 defined terms; it's a statute. If you are a covered 3 person, you're somebody who spends more than \$50,000 in 4 Arizona on statewide campaigns or \$25,000 on other 5 campaigns, and you need to file reports about your 6 spending and you need to report the original source, 7 the original monies that were used for campaign media 8 spending. 9 Campaign media spending is primarily focused 10 on various kinds of public communications: Ads that 11 expressly advocate for or against candidates; that 12 refer to a candidate in the window before the 13 elections; that promote or attack candidates. It does 14 cover ballot measure spending, so messages that promote 15 or attack ballot measures are included. 16 And it does include certain partisan voter 17 activity. So if you do a get out the vote drive, but 18 you're only trying to drive, you know, Republicans or 19 Democrats to the polls, that is also included in the 20 definition of the campaign media spending, as well as 21 any underlying costs that were incurred to do that 22 work. So if you have a TV commercial, it's not just 23 the money that you spend to get it on the air, but the 24 money that you spent to produce the ad. 25 If you're an individual and you're just</p>	<p>1 spending your own money to advocate somebody's 2 candidacy or you're just contributing your own money to 3 a covered person who's doing campaign electioneering, 4 you don't really have to do anything under this Act. 5 It doesn't -- doesn't require you to report anything to 6 the government. 7 And the Act does have a special provision to 8 cover unions and membership organizations. The idea is 9 that if somebody gives less than \$5,000 in union dues 10 or if they're members of the Chamber of Commerce, for 11 the public it's more important to know that that money 12 is being spent by the union or the Chamber of Commerce 13 and not to trace it back to the individual dues-paying 14 members. But it does have a \$5,000 cap so that it's 15 not used as subterfuge, so that an organization doesn't 16 say, gee, everybody should pay a hundred thousand 17 dollars in dues and then we'll spend it in our name. 18 So it would require tracing back if an organization is 19 collecting more than \$5,000. 20 One of the key aspects of the Act is the way 21 it treats donors, in terms of giving them notice and 22 putting certain obligations on them, and this is 23 because it does intend to trace back to the original 24 source of the money. 25 If you're a covered person and you're raising</p>

<p>1 money for campaign media spending, when you go to 2 donors to get money, if you want to use the money you 3 receive for campaign spending, you need to let the 4 donors know that you intend to spend the money that way 5 in Arizona and that donors have a right to opt out so 6 that their money is not used that way. As the covered 7 person you don't need to have separate bank accounts, 8 but you do need to keep track of who has opted in and 9 who has opted out.</p> <p>10 It does give the covered persons a lot of 11 flexibility in terms of timing. So, for example, say 12 you're an interest group and you're raising money in 13 January and you really don't expect to spend any money 14 on campaigns, but come August some horrible person is 15 running and you want to try to defeat that person. You 16 can go back to your donors then, the big ones, right, 17 the ones who gave more than \$5,000, and say, you know, 18 you gave us \$20,000. We'd like to run a campaign 19 against this person. I didn't notify you at the time 20 that I wanted to use it that way. I'm notifying you 21 now. You have a right to opt out. So that money can 22 be collected in one month, but the notice could be 23 provided later on, so that you don't have to, if you're 24 an interest group, always tell people that you might 25 use that money that way, because maybe you don't know</p>	<p>1 yet.</p> <p>2 If you are one of these big donors who give a 3 covered person more than \$5,000 and if you don't opt 4 out, then the covered person is going to say to you, 5 okay, are you the original source of this money or did 6 it come from somebody else. If you're an individual 7 and you earned that money with your salary or whatever 8 or if you're a business and you earned that money 9 selling whatever products you sell, you say, yes, I'm 10 the original source of that money.</p> <p>11 But if you got the money from somebody else 12 and you didn't earn it yourself, then you're not the 13 original source and you have to tell the covered person 14 where that money came from and how it was passed along. 15 So that if you're an interest group -- say you're an 16 interest group that got a hundred thousand dollars from 17 another interest group or from some rich person. 18 You're not the original source, and when you pass money 19 along to the covered person you need to reveal who the 20 original source is.</p> <p>21 Now, it does give donors quite a bit of 22 flexibility, because the donor only has to tell the 23 covered person the original source of the money being 24 contributed, not all of the money in the donor's 25 possession. So let me give you an example of that.</p>
<p>1 Let's say you're an interest group and you've collected 2 a hundred thousand dollars in four \$25,000 donations, 3 so you have a hundred thousand dollars in your treasury 4 that is not original to you, you got it from four big 5 donors to you, and you want to pass on \$25,000 to a 6 super PAC, who's going to spend it on elections.</p> <p>7 The super PAC, when they get your \$25,000 8 donation, is going to say, where did it come from. And 9 you're going to have to say, well, it's not original to 10 me. I got it from Kolker. And the first \$25,000 that 11 the interest group passes on, that group gets to 12 decide, okay, I have a hundred thousand dollars. Whose 13 money am I passing on? I don't have to reveal where 14 all of the hundred thousand dollars that I've got in my 15 account came from; I just have to reveal where the 16 \$25,000 that I'm passing on came from.</p> <p>17 And the interest group may say, you know, 18 Kolker believes in this organization that I'm giving 19 the money to. I'm going to tag the 25,000 I got from 20 him as the original source of the contribution being 21 donated to the super PAC.</p> <p>22 So that gives the donor a lot of flexibility, 23 some may argue too much flexibility. And I would just 24 point out that if that interest group is sitting on a 25 hundred thousand dollars, if it wants to give away all</p>	<p>1 a hundred thousand dollars to covered persons, like 2 super PACs, it will eventually have to reveal the 3 original source of all 100,000. But if it's only 4 giving away a subset of that money, say, the first 5 25,000, it seems fair that they should get to choose, 6 among the funds that they, have who is the most 7 appropriately tagged as the original source of that 8 money.</p> <p>9 And we think that that doesn't create a dark 10 money problem because, again, if all of the money 11 that's given away -- if all of the money that the 12 interest group has is eventually given away, it will 13 all eventually be revealed. And if it's not ever spent 14 on campaign media spending, why should they have to 15 reveal all of the money in their treasury. So that's 16 one of the key ways that this Act is very narrowly 17 tailored.</p> <p>18 So I am going to stop here and pass it over 19 to Beth, who will talk more about your role in all 20 this, and then we really hope you'll have questions and 21 that we can try to answer them for you. And again, 22 thank you for inviting us.</p> <p>23 MS. SHIMEK: Thank you, David. Hard act to 24 follow, but I have the privilege of discussing 25 implementation of the Act and the new powers and</p>

<p>1 responsibilities that the Act provides to the 2 Commission. 3 You'll see, in practice, some things won't 4 necessarily change substantially after the Voters' 5 Right to Know Act. For example, PACs who already do 6 regular periodic reporting can largely stick with the 7 schedule that's already been established and include 8 this original source information within those reports. 9 In other places the Act provides the Commission with 10 additional powers and responsibilities, primarily 11 relating to these new trace-back authorities. The Act 12 is very specific about some of the Commission's powers 13 and very general about many others. 14 So I'll start by running through the seven 15 general powers that the Commission is provided with in 16 the Voters' Right to Know Act: That's the ability to 17 adopt and enforce rules; the ability to issue and 18 enforce civil subpoenas; the ability to initiate 19 enforcement actions and conduct fact-finding hearings 20 and investigations; the ability to impose civil 21 penalties for noncompliance; the ability to seek legal 22 and equitable relief in court; and the ability to 23 establish recordkeeping requirements. So these are the 24 general powers that are given to the Commission in the 25 Act.</p>	<p>1 The Act also includes some very specific 2 powers for the Commission. I'm going to highlight four 3 key areas here. First and foremost, the Commission is 4 required to establish top three original source donor 5 disclaimer requirements for any public communications 6 that are done by covered persons. These top three 7 donors are those who directly or indirectly made the 8 three largest contributions of original monies during a 9 single election cycle to the covered person. 10 In addition, the Act also requires the 11 Commission to develop a means for this disclaimer 12 information to be shared with an ad's audience, even if 13 it's not technologically feasible to include all of 14 that information on the face of the ad. For example, 15 if I receive an ad via text or social media message or 16 if I see it in a little banner at the top of a web 17 page, it might not be possible to fit all three 18 personal names or organizational names of the three top 19 original source donors on the face of that little tiny 20 banner. The Commission is given the power to develop 21 the means for that information to be shared with the 22 audience, even if it's not directly on that ad in the 23 immediate moment. 24 And these top donor disclaimers are not new. 25 They have been implemented successfully in other states</p>
<p>1 and localities. This combines them with this original 2 source trace-back and -- and it gives that fuller 3 picture of who the source of the funds are in the 4 disclaimer instead of hiding behind a series vaguely 5 named organizations. CLC has developed approaches to 6 addressing top three donor disclosure, and we're happy 7 to be a resource during the rulemaking process if the 8 Commission has questions. 9 The next power I want to touch on is the 10 Commission's standing to defend the Act on behalf of 11 the State in the case of legal action and the fact that 12 the Commission has the exclusive right to select 13 counsel to represent the Commission. And that's in 14 regards to lawsuits that might arise as to the 15 Commission's duties under the chapter or when it comes 16 to challenges to the general validity of the law. 17 The third specific power granted to the 18 Commission is the ability to adjust contribution 19 expenditure thresholds to reflect inflation. And this 20 empowers the Commission to keep the Act current, 21 relevant, up to date with inflation in Arizona without 22 requiring additional legislation. 23 The fourth and final power I want to touch on 24 is the Commission's ability to provide an exemption 25 from original source disclosure for those original</p>	<p>1 source donors who can demonstrate that they or their 2 family members face a serious risk of physical harm if 3 their identity were to be disclosed. And this is not a 4 new concept. The Supreme Court has long provided for 5 these protections for donors if they're facing a 6 serious risk of harm. This provides the Commission 7 with the ability to grant that exemption directly, as 8 opposed to forcing someone to sue in court in order to 9 keep their identity secret in the case of that serious 10 risk of harm. Those are kind of the four key specific 11 powers provided. 12 The final place I want to touch on in regards 13 to implementing the Act is a little bit different. 14 It's the creation of a verified public complaint 15 process. This allows any qualified Arizona voter to 16 file a verified complaint with the Commission alleging 17 that a person has failed to comply with the Act. This 18 is very similar to the citizen complaint process for 19 the FEC under FECA, the federal level. If the 20 Commission were to dismiss a complaint or fails to take 21 substantive enforcement action within a certain period, 22 the complainant is empowered to bring a civil action 23 against the Commission in court to pursue the alleged 24 failure to comply with the Act. 25 So in summary, as you implement the Voters'</p>

<p>1 Right to Know Act, some things are not necessarily 2 going to change substantially, particularly in terms of 3 reporting for many PACs. The Commission is granted a 4 broad array of powers to implement and enforce the Act 5 and a number of specific powers and responsibilities, 6 including top three donor disclaimers. There's also 7 the creation of this verified public complaint process, 8 similar to the FEC.</p> <p>9 If David has any further thoughts to add, I'm 10 happy to hand it back to him; otherwise, we'd be happy 11 to take any questions.</p> <p>12 MR. KOLKER: No, Beth, I have nothing to add 13 on your half, so we're here to answer whatever 14 questions you may have.</p> <p>15 CHAIRMAN MEYER: Thank you, David. I had a 16 question on the trace-back process. And if the -- if 17 the donor -- does the Act give you the authority to 18 actually get back to a human being, as opposed to just 19 a business? For example, like if it's an LLC -- you 20 know, in Arizona, for an LLC, there's a statutory 21 requirement that you have to disclose any member that 22 owns 20 percent or more of that LLC. So like in this 23 Act let's say if the original source of the funds is an 24 LLC, we may not be able to know who -- you may not know 25 who those members are. I know in some states you don't</p>	<p>1 have to disclose who any of those members are, like I 2 believe in Delaware. Is there a way -- does this Act 3 require -- does it allow you to get to the human beings 4 that are part of that LLC or company, or do you just -- 5 are you just stuck with the -- with the entity?</p> <p>6 MR. KOLKER: I think that's something that 7 you'll be able to focus on in implementation. I think 8 the answer is yes, that you can, and here is why. If 9 you look at the definition of original monies, it's 10 either personal funds or business income. And business 11 income is income, you know, earned by an entity in its 12 normal course of business. So if you have an LLC -- I 13 guess it depends upon what kind of LLC you have. If 14 you have an LLC that is a genuine business and it's 15 selling widgets, and they're literally using their 16 profits from that and giving it to a covered person, 17 then the LLC would be considered the donor and that 18 would be the end of it. But if the LLC is essentially 19 a front group, where I've set up an LLC, I've fed it 20 \$3 million, and it really isn't much of a business, 21 then the LLC isn't passing on money that it earned in 22 the normal course of business. It's passing on money 23 as a conduit.</p> <p>24 So I think it would depend upon whether the 25 LLC is a bona fide business or not. So that if it's a</p>
<p>1 bona fide business -- I mean, this is something I think 2 you'll have to decide as you interpret it. But my 3 interpretation would be if the LLC is a bona fide LLC 4 and it's really earning money in the marketplace and 5 that's the money it's giving, then that is the original 6 source. But if it's being used as a front group, which 7 is a common scheme in the dark money --</p> <p>8 CHAIRMAN MEYER: Right.</p> <p>9 MR. KOLKER: -- world that we're living in, 10 then you can pierce the veil and go back.</p> <p>11 CHAIRMAN MEYER: And then for Elizabeth I had 12 a question on the exemption of original source donors. 13 I guess historically how often or to what extent has 14 that exemption been requested or implemented? And 15 given the last, you know, three, four years and our 16 political climate now in this country, is it -- is it 17 being used more than it was previously?</p> <p>18 MS. SHIMEK: I can speak to this to the best 19 of my ability.</p> <p>20 CHAIRMAN MEYER: Sure.</p> <p>21 MS. SHIMEK: David may have additional 22 thoughts given his long history dealing with campaign 23 finance law.</p> <p>24 While this is not a new exemption, it has 25 been applied in some cases, most prominently to the</p>	<p>1 NAACP. That said, my understanding is it is not a 2 commonly applied exemption and I'm not personally aware 3 of any recent uses of it. Although, given that it is 4 meant to protect donors who might face a serious risk 5 of harm, that may not be public information.</p> <p>6 MR. KOLKER: Let me jump in. It does -- it 7 does -- as Beth said, the original concept with the 8 NAACP was actually not in the campaign finance context, 9 but it is the first time the court recognized it back 10 in a case in the 1950s.</p> <p>11 It has not been litigated very much. The 12 Socialist Workers Party brought a case that they won 13 before the Supreme Court. And then over time they went 14 to the -- this is at the federal level. They would go 15 back to the Federal Election Commission every two years 16 and say, we want to keep our exemption, and for years 17 the Commission allowed them to. But I'm not exactly 18 sure of the timing, maybe 10 years ago or so the 19 Commission decided, you know, the Socialist Workers 20 Party just isn't as vulnerable as they may have once 21 been during, you know, the 1950s, so they don't have an 22 exemption anymore.</p> <p>23 Most of the cases that have been brought 24 about this have been rather weak, where people who were 25 very wealthy have tried to say, you know, my business</p>

<p>1 is going to get harassed or whatever, and the courts 2 just haven't really equated that with the NAACP, where 3 you had individual people, you know, being physically 4 threatened or harmed.</p> <p>5 So the short answer is: It hasn't been 6 litigated much. And it's tended, in recent years, to 7 be used as a sort of tool, frankly, for people who want 8 to evade disclosure, who may not like being trolled 9 online, but don't really face the kind of serious harm 10 equivalent to what the NAACP faced in the 1950s.</p> <p>11 CHAIRMAN MEYER: Thank you. Any other of the 12 Commissioners have questions?</p> <p>13 COMMISSIONER KIMBLE: Mr. Chairman, this is 14 Commissioner Kimble.</p> <p>15 CHAIRMAN MEYER: Go ahead.</p> <p>16 COMMISSIONER KIMBLE: Elizabeth, I have a 17 question for you. In your discussion of the powers 18 that the Commission is granted through this, you 19 mentioned the amount that candidates get for running as 20 a Clean Elections candidate. And is it my 21 understanding that the Commission now can adjust those 22 amounts, the amount of funding a candidate who opts for 23 Clean Elections funding receives?</p> <p>24 MS. SHIMEK: I apologize. This applies to 25 the contribution and expenditure thresholds that are</p>	<p>1 discussed only in regards to the trace-back, the 2 original source trace-back contained within the Voters' 3 Right to Know Act. So there are thresholds that 4 require reporting that's -- you know, any contribution 5 of more than \$5,000 triggers that original source being 6 named in a report.</p> <p>7 COMMISSIONER KIMBLE: Okay.</p> <p>8 MS. SHIMEK: This provides the Commission 9 with the ability to adjust that amount as inflation 10 changes the value of the money in that contribution.</p> <p>11 COMMISSIONER KIMBLE: Okay. I'm sorry. I 12 misunderstood what you said then. Thank you.</p> <p>13 That's all, Mr. Chairman.</p> <p>14 CHAIRMAN MEYER: Thank you. Commissioner 15 Paton, do you have any questions?</p> <p>16 COMMISSIONER PATON: I have a question, but 17 it may be for Tom. Is this going to change our 18 staffing? Do we have the staff to follow this and how 19 does that really affect us, setup?</p> <p>20 MR. COLLINS: Sure. Mr. Chairman, 21 Commissioner Paton, so that's something we're looking 22 at. We -- in the interim period before the canvass, 23 we asked the Attorney General's Office to appoint 24 Mary O'Grady at Osborn Maledon to work with us on this, 25 in addition to the other resources we have. That's</p>
<p>1 sort of where we're starting. What we anticipate doing 2 in the first quarter of next year is a process that 3 involves, you know, first assessing what the rulemaking 4 needs to look like, kind of getting a handle on that 5 first.</p> <p>6 There are some serious technological 7 improvements that will be required of the Secretary of 8 State's Office. Those are similar to the technological 9 improvements that have consistently been required of 10 the Secretary's Office for the last decade that they 11 haven't undertaken. That's a serious -- so those are 12 the two first things.</p> <p>13 Third, on the staffing aspect of it, you 14 know, we're going to have to look at the volume of 15 complaints. Our volume of complaints at the Commission 16 over the course of the last 10 years has dropped 17 dramatically. We -- I think in 2014, which was really, 18 prior to this Act, the last time the Commission and the 19 Secretary's Office together both worked fairly -- this 20 was an active issue, it was a public issue, there were 21 lots of complaints happening, and it was something that 22 the Secretary's Office and we were working on on a 23 consistent basis, you know, I think we -- I want to say 24 -- I'm going to end up overshooting, but I think we had 25 30 or 40 complaints in the 2014 cycle. This year we've</p>	<p>1 had seven, and that includes Clean candidates.</p> <p>2 So it's going to take time. It'll take, I 3 think, an assessment of where the money is being spent, 4 that is to say, if you were to look at the 2022 and 5 2020 election cycle, how many people -- how many PACs 6 that we know of were over the threshold, how many 7 spenders who either filed trigger reports required 8 already under the Clean Elections Act or 9 (unintelligible) would have been at the state level.</p> <p>10 And then I think the other question that we get into is 11 there's some local, that is to say, county and city 12 races that will fall under this that would not have 13 previously been on our radar. So I think that if we -- 14 if we take a look at those inputs, we can start to make 15 some decisions about that.</p> <p>16 We are not planning, frankly, on an immediate 17 hiring sort of spree, if you will. We really look -- 18 the way we see it -- and obviously, we're in the 19 relative beginning of this. And the way we sort of 20 understand the Act and the intentions, and I'm open to 21 be corrected on this by David or Elizabeth, but the key 22 really becomes 2024. We need to -- there are -- there 23 are a number of implementation decisions on the 24 rulemaking and technological side that need to be in 25 place by 2024. There will be elections in 2023 that</p>

<p>1 may or may not fall under the requirements of the Act, 2 and those we're going to have to sort of assess on an 3 ongoing basis. 4 So I'm sorry if that's kind of a long, 5 indirect answer, Commissioner Paton, but the answer 6 is -- 7 COMMISSIONER PATON: It's rather 8 bureaucratic. 9 MR. COLLINS: Right. We have a -- we have a 10 process -- we envision a process to get to the answer, 11 and then when we get there we'll be able to make some 12 better recommendations. 13 COMMISSIONER PATON: But you don't sound 14 intimidated by it, that's -- I guess that's -- is this 15 going to be a daunting thing or not? 16 MR. COLLINS: Well, my personal view is that 17 with our staff and legal resources, Mary and Kara and 18 Mike in particular and myself, I mean, we have, you 19 know, had a lot of involvement in this issue in 20 Arizona. And people can quibble about what we've done 21 and what we propose, for example, we have one on the 22 Agenda, a proposed resolution on a case, those kinds of 23 things. But, you know, we believe as staff that we 24 have, and we think the regulated community believes 25 this too, that the Clean Elections Commission has been</p>	<p>1 the serious agency in the state with respect to the 2 disclosure obligations that exist in state law and 3 making sure at least those disclosure obligations are 4 met. 5 And so I am not particularly -- I mean, I 6 have -- I'm not overconfident, but I am confident that 7 with the -- some of the legal -- I hesitate to say even 8 doubts, but legal clouds that have been put on some of 9 the Commission's existing expressed authority over 10 independent spending cleared by this Act that we're in 11 a position to have -- to implement it effectively. And 12 I think, you know, obviously, although all of you are 13 in holdover status, and we all hope at some point 14 you'll begin a -- they'll begin a process of replacing 15 Commissioners, so long as you all are here and your 16 experience with, you know, a variety of different 17 enforcement actions, litigation actions in this niche 18 over the past decade, I mean, I feel like I'm hopeful 19 that the voters knew or at least had constructive 20 knowledge that the folks who would be -- at least the 21 current people who would be responsible for 22 implementing this would do an okay job of it. 23 COMMISSIONER PATON: Okay. Then I have a 24 question for our presenters. Do you foresee this 25 cooling donations or not?</p>
<p>1 MR. KOLKER: It's a little hard to say. I 2 mean, I think there are people who give dark money who 3 will give less if it has to come to light, but I think 4 that there are a lot of people who give dark money, 5 probably the majority, who will just say, okay, now I 6 can't do it in the dark anymore. And I think that 7 because there is some flexibility built into this Act, 8 as I mentioned, if you're sitting on a bunch of money 9 and you're only giving away a subset of it to a covered 10 person who has to do -- who has to do reporting, you 11 can tailor the money that you have to be given to 12 somebody who's going to disclose it in a way that, you 13 know, is less likely to chill your donors. But I'm 14 kind of speculating here. 15 You know, the people who, like us, who are 16 for this kind of disclosure, we're sort of -- it's not 17 meant to chill spending or not. It's just meant to 18 give voters the information that they deserve. 19 You know, one thing to keep in mind, in 1976, 20 when the Supreme Court upheld disclosure, they 21 recognized that it might chill some donors. And they 22 said, this is constitutional nevertheless, because it 23 was so important that people have this information. So 24 there could be some chilling; I don't believe that that 25 will matter in terms of defending the statute.</p>	<p>1 COMMISSIONER PATON: And are we the guinea 2 pigs, are we experimental, or how do you see that? 3 MR. KOLKER: Yes and no. Alaska passed a 4 ballot measure a couple years ago that does also 5 involve tracing back to the true source. We have been 6 involved in helping to defend the law there, and we won 7 at the trial level and now it's before the ninth 8 circuit on appeal. Rhode Island recently successfully 9 defended its top three donor disclaimer before the 10 first circuit court of appeals. So so far these laws 11 have been upheld. I would say that I think that the 12 Voters' Right to Know Act is actually a bit easier to 13 defend than the law in Alaska because it has the donor 14 notice and opt-out provision, which the Alaska 15 provision does not. So I think that that will give 16 Arizona a leg up on defending it. I don't doubt there 17 will be challenges, but I'm quite optimistic that the 18 courts will uphold it. 19 COMMISSIONER PATON: Thank you. 20 CHAIRMAN MEYER: Thank you, Commissioner 21 Paton. 22 Any other Commissioners have any questions 23 for our guests? 24 (No response.) 25 CHAIRMAN MEYER: Okay. Hearing none, I want</p>

<p>1 to again thank David and Elizabeth for being with us 2 today and providing the information. It was very 3 helpful. Thank you so much, and we -- we may take you 4 up -- likely will take you up on your offers to help in 5 implementation, so we will probably be speaking with 6 you again.</p> <p>7 MR. KOLKER: Okay. Well, again, thank you so 8 much for inviting us. And our offer for additional 9 question and answering or assistance was genuine and 10 heartfelt, so I hope this is just the beginning of our 11 conversations.</p> <p>12 MS. SHIMEK: Thank you.</p> <p>13 CHAIRMAN MEYER: Thank you.</p> <p>14 Okay. So now we will move on to Agenda Item 15 No. V, which is discussion and possible action on staff 16 recommendation of conciliation agreement MUR 22-01, 17 Freedom's Future Fund.</p> <p>18 This item relates to a matter that the 19 Commission made a reason to believe determination on in 20 August. The staff is recommending conciliation 21 agreement; that was in our materials. Tom, is there 22 anything you would like to add on this?</p> <p>23 MR. COLLINS: Mr. Chairman, just briefly. 24 And I -- you know, I went almost an hour without a 25 technological breakdown, but the computer I'm working</p>	<p>1 on just --</p> <p>2 CHAIRMAN MEYER: Don't jinx it.</p> <p>3 MR. COLLINS: No, it just crashed. It 4 literally just --</p> <p>5 CHAIRMAN MEYER: Oh, okay.</p> <p>6 MR. COLLINS: I've got a message. I do not 7 understand where my notes are supposed to be, so give 8 me one second.</p> <p>9 CHAIRMAN MEYER: Gotcha. Well, the 10 conciliation agreement, it looks like it's a settlement 11 for a payment of \$45,000 --</p> <p>12 MR. COLLINS: Yes.</p> <p>13 CHAIRMAN MEYER: -- is the monetary amount. 14 And I assume has the -- has the Freedom -- I want to 15 say their name right -- Freedom's Future Fund, have 16 they agreed to this agreement, you're just kind of --</p> <p>17 MR. COLLINS: Yep. Right.</p> <p>18 CHAIRMAN MEYER: -- getting the blessing from 19 us? Okay.</p> <p>20 MR. COLLINS: Right. So just to walk through 21 where we -- where we were, we anticipate that -- yes, 22 we do believe that this will -- that we will -- we will 23 have their agreement, and that's why we're recommending 24 it to you. We did -- we are recommending the \$45,000 25 fine. They will also have to file reports with the --</p>
<p>1 with the filing officer that will encompass their 2 spending on -- essentially on Kari Lake-related ads, so 3 ads that mentioned the clearly identified candidate of 4 Kari Lake.</p> <p>5 You know, obviously we are confident that the 6 other part of that reporting plus the other provisions 7 of the conciliation relating to ensuring that there was 8 not some other relationship, for example, with another 9 candidate, you know, or otherwise an effort to evade 10 the, you know, contribution limits, that that's an 11 important aspect of this as well. We also have an 12 agreement from them not to -- not to do business in 13 Arizona again; although, I think they will wind up 14 fairly quickly after this is completed.</p> <p>15 And then, you know, on the fine, I mean, the 16 issue is always -- you know, the new Act sets forth 17 some minimums that we don't have in current law, and 18 that will be interesting there. One of the things that 19 we have found in terms of when we try -- when we 20 negotiate a fine are two specific things that -- and I 21 only bring it back to what we just talked about because 22 these will be different things. First, the strongest 23 place for us to stand, in terms of effectiveness of the 24 Act, is on the 941(D) reports. The fines on the 941(D) 25 reports are only loosely proportional to the amount of</p>	<p>1 the spending because they run on a daily basis.</p> <p>2 Second, when you go into a situation like 3 this, especially where you have a corporation that, in 4 effect, was created for this purpose, which will be a 5 different -- you know, this will be a different 6 standard going forward, you essentially, as soon as you 7 go into the negotiation process, you're almost in a 8 position of being a creditor or -- you know, more than 9 anything else in terms of --</p> <p>10 You know, so two problems. So that creates 11 two problems. One -- on the one hand, the fine 12 schedule itself that's set up in statute is not driven 13 by the amount of the spending largely. It's got a -- 14 it's got literally a second order effect on the amount 15 of the fines that cannot really, at a certain point, 16 get to a level of a real 17 beyond-the-cost-of-doing-business type of number, 18 right, and that's just sort of where things are.</p> <p>19 And then relatedly, the way that -- the way 20 that these organizations are currently set up, given 21 the powers we know we have and we're most confident we 22 have under the current regime, we really end up in this 23 sort of creditor relationship at the end rather than 24 sort of -- than a -- than a -- you know, it's just the 25 nature of it.</p>

<p>1 Additionally, our focus has always been on 2 trying to get the reports, trying to get the -- trying 3 to get the assurance that no other campaign finance 4 laws were broken. 5 So those are all the factors that go into 6 this. We do think that this is on the order of the 7 kind of fines that we have issued in similar cases. We 8 did one with the teachers union in 2020 that was 9 roughly proportional to this, so -- so that's kind -- 10 those are the factors that we considered, and we think 11 that that -- all those things taken together -- and 12 then adding, you know, not only the risk of the 13 organization essentially winding down in a way we might 14 not be able to get to -- in this case, they are, in 15 fact, a Delaware LLC -- we run into the litigation cost 16 associated with the Legacy Foundation Action Fund case 17 where we're literally eight years out and still don't 18 have the reports or the fine. 19 So, again, you know, I think that all those 20 things taken together, you know, favor this 21 recommendation, and we make it -- so we make it -- we 22 make it pretty unreservedly, but we did want to give 23 you, as much as we could, our context for making the 24 recommendation. 25 CHAIRMAN MEYER: Any other questions for Tom</p>	<p>1 on this conciliation agreement that he's recommending 2 the Commission approve today? 3 COMMISSIONER KIMBLE: Mr. Chairman, this is 4 Commissioner Kimble. 5 CHAIRMAN MEYER: Go ahead, Commissioner. 6 COMMISSIONER KIMBLE: Tom, I'm not sure I 7 understood all of that. So you're saying basically 8 that they're going to fold up shop anyway. So is this 9 going to be collectible? 10 MR. COLLINS: That's precisely the right 11 question, Mr. Chairman, Commissioner Kimble. In order 12 to ensure we can collect, we will -- we are -- we 13 are -- we were willing to accept a slightly -- a 14 smaller fine than we would have. With the -- with the 15 current -- the existing Act, one of the limitations of 16 the existing Act is it does create some incentives 17 to -- essentially to go out of business rather than 18 collect anything, so that gives leverage to the 19 respondent. And we kind of think that that -- you 20 know, I mean, so that's why I used the analogy of 21 debtor/creditor, because, you know, that's -- that's 22 the kind of analysis that you get into when you're -- 23 when you're trying to -- when you're trying to work -- 24 make sure that you can collect enough to, you know, at 25 least cover the effort put into bringing about the</p>
<p>1 result of the report. 2 CHAIRMAN MEYER: So, Tom, yes, we're going to 3 collect this 45,000? 4 MR. COLLINS: Yeah. I'm sorry. Yes. I felt 5 like I -- I felt like there were two questions, one, 6 what was I talking about, and two -- but maybe I just 7 didn't answer either of them. 8 CHAIRMAN MEYER: Just to confirm -- no, you 9 know probably said it; I just missed it. 10 Commissioner Kimble, go ahead. 11 COMMISSIONER KIMBLE: No, that's all. I just 12 -- I wasn't clear whether -- how confident we are that 13 we're actually going to see this money. 14 MR. COLLINS: We are as confident as we can 15 be. 16 COMMISSIONER KIMBLE: Okay. Thank you. 17 MS. KARLSON: Chairman, you're muted. 18 CHAIRMAN MEYER: I am sorry. Hearing no 19 other questions from Commissioners Paton or Titla, is 20 there a motion anyone would like to make regarding the 21 conciliation agreement? 22 COMMISSIONER KIMBLE: Mr. Chairman. 23 CHAIRMAN MEYER: Go ahead, Commissioner 24 Kimble. 25 COMMISSIONER KIMBLE: I move that we approve</p>	<p>1 the conciliation agreement as outlined in our material 2 today. 3 CHAIRMAN MEYER: Thank you. 4 Is there a second? 5 COMMISSIONER PATON: This is Commissioner 6 Paton. I'll second. 7 CHAIRMAN MEYER: All right. We have a motion 8 to approve the conciliation agreement attached to our 9 materials and we have a second to that motion, so we'll 10 go ahead and vote on that motion and call the roll. 11 Commissioner Kimble. 12 COMMISSIONER KIMBLE: Aye. 13 CHAIRMAN MEYER: Commissioner Paton. 14 COMMISSIONER PATON: Aye. 15 CHAIRMAN MEYER: Commissioner Titla. 16 COMMISSIONER TITLA: Aye. 17 CHAIRMAN MEYER: And Commissioner Meyer, I 18 vote aye as well. The motion carries 4 to zero. The 19 conciliation agreement is approved. 20 So, Tom, I assume you'll now move forward in 21 getting this signed and performed? 22 MR. COLLINS: Yes. 23 CHAIRMAN MEYER: All right. Thank you. That 24 completes that item, correct? All right. Thank you. 25 Okay. Item No. VI on the Agenda, discussion</p>

<p>1 and possible action on adoption of rule amendments to 2 Arizona Administrative Code R2-20-211, R2-20-220, and 3 R2-20-223 relating to compliance and enforcement 4 procedures. 5 A few months ago we approved seeking public 6 comment on some administrative rule changes intended to 7 clarify some procedural steps in the event of 8 investigatory enforcement activity. We all have the 9 rule language in our packet. We have not received any 10 public comment, written public comment. Is there 11 anyone here who would like to make comments before the 12 Commission discusses approval of these amendments? And 13 again, that's directed to the public. Is there any 14 member of the public who would like to make comment on 15 any of the proposed changes to the administrative code? 16 (No response.) 17 CHAIRMAN MEYER: Okay. Do any of the 18 Commissioners have any questions or wish to further 19 discuss these rules that we -- we've already approved 20 these, correct, Tom, and sent them out for comment 21 and -- 22 MR. COLLINS: Yes, so -- yes, you approved 23 them for public comment. 24 CHAIRMAN MEYER: Yeah. 25 MR. COLLINS: We didn't -- we haven't</p>	<p>1 received any. Just so you know, the next step will be 2 we will submit these to the Governor's Regulatory 3 Review Council. 4 CHAIRMAN MEYER: Our friends at GRRC, yes. 5 Okay. So any questions or discussion on this 6 from my fellow Commissioners? 7 (No response.) 8 CHAIRMAN MEYER: And if not, is there a 9 motion? 10 COMMISSIONER KIMBLE: Mr. Chair. 11 CHAIRMAN MEYER: Yes, Commissioner Kimble. 12 COMMISSIONER KIMBLE: I move we approve the 13 proposed rule changes as outlined in our Agenda 14 material today. 15 CHAIRMAN MEYER: Is there a second to that 16 motion? 17 COMMISSIONER PATON: It's Commissioner Paton. 18 I'll second it. 19 CHAIRMAN MEYER: Excellent. We have a motion 20 to approve the rule amendment set forth in our 21 materials today; that motion has been seconded. I will 22 now hold a vote on that motion. I will call the roll. 23 Commissioner Kimble. 24 COMMISSIONER KIMBLE: Aye. 25 CHAIRMAN MEYER: Commissioner Paton.</p>
<p>1 COMMISSIONER PATON: Aye. 2 CHAIRMAN MEYER: Commissioner Titla. 3 COMMISSIONER TITLA: Aye. 4 CHAIRMAN MEYER: And Commissioner Meyer, I 5 vote aye as well. 6 Tom, any further comment on that? We send 7 them to GRRC and we'll hear back from them. 8 Okay. Item No. VII is discussing and 9 possible action on annual budgetary calculations and 10 the 2023 spending plan. 11 Every year the Commission considers a new 12 calendar budget, calendar year budget, and we must 13 approve certain calculations required by law. Again, 14 this was Item VII in our materials, if you want to dig 15 into those, get those in front of you here. And Mike 16 Becker is available for any questions we have. 17 So with that, I will turn it over to Mike. 18 And then if there are any questions anyone has, now is 19 the time. 20 MR. BECKER: Thank you, Mr. Chairman, 21 Commissioners. I won't take too much of your time, as 22 you've all had the opportunity to review the numbers. 23 A few areas I do want to point out in the '23 24 projections. 25 Commissioner Paton, you'd asked about</p>	<p>1 staffing regarding Prop 211 and any issues like that. 2 We do have the funds in the budget for that, if it's 3 necessary, if that's determined. So we do -- we are 4 planning ahead for that just in case. 5 Another area you'll see is rent charges. The 6 move to our new office has increased our rent by about 7 20, \$21,000, so we do have that budget. It's higher 8 than it has been in the past, but that's based on the 9 new rent. 10 And third, if you notice, the revenue 11 projections over the next four years, we are only 12 projecting about \$5.5 million to be coming in, which is 13 a considerable drop from the 7 million which we always 14 projected in the past and the 6 million we projected 15 last year. So I wanted to bring that to your attention 16 so that you're not surprised by that. 17 We do -- unfortunately, the numbers continue 18 to drop in terms of the revenue we get from the court 19 assessments. I think the biggest issue is certain red 20 light cameras, things like that that we've had in the 21 past that are no longer in existence or that there are 22 ways around that. So just to make you aware, our 23 revenue going forward is about 5.5 million from '23 24 through '26, and I don't -- at this point, I don't see 25 that increasing.</p>

<p>1 Lastly, if you look at the actuals, those are 2 not complete for 2022. They're only up through 3 November, which means -- or, I mean, up through 4 October, which means we still have November, December 5 to come in. So once we do, I will be able to give you 6 more up-to-date and complete numbers of what we spent 7 for the 2022 election cycle.</p> <p>8 Well, with that -- those are the areas I 9 really wanted to bring to your attention, and with 10 that, I'm happy to answer any questions.</p> <p>11 CHAIRMAN MEYER: Thank you, Mike. I had some 12 questions on, I guess it's Pages 10 and 11 of the PDF 13 of Exhibit -- Item VII and it relates to the fund 14 balance where it shows us going, you know, negative 15 14.6 million here in 2022. Can you explain that? Is 16 that correct or explain that to me.</p> <p>17 Tom, you look like you want to say something.</p> <p>18 MR. COLLINS: Well, I'm willing to -- only if 19 -- it's a quirk of the law, so I'm just not -- I mean, 20 I don't know, Mike, if you want to -- whoever. I don't 21 care.</p> <p>22 MR. BECKER: Sure. So, Mr. Chairman, 23 Commissioners, what that is showing is where we began 24 -- the way the law is written, it forces us to look 25 back several years and then project out a few years to</p>	<p>1 2023, provided we spend all the way to the cap. And 2 once -- because we don't receive -- at best we receive 3 7 million a year. If we spend -- if we spend to the 4 cap, we're always going to be in the red every time. 5 So that's just to show what would happen if we went to 6 the cap.</p> <p>7 CHAIRMAN MEYER: I think I'm remembering now 8 that I maybe ask this question every year, so I 9 apologize. But with that, maybe I'll be quiet and see 10 if --</p> <p>11 MR. COLLINS: No, it's a good question.</p> <p>12 CHAIRMAN MEYER: -- the Commissioners have 13 any questions.</p> <p>14 MR. COLLINS: I mean, what that really is, if 15 I may, Mr. Chairman, it's the delta between the revenue 16 we once would have undertaken when we had a checkoff 17 tax return that brought in about basically the roughly 18 -- and at this point, with the number of new taxpayers 19 in Arizona, we'd be bringing in way more money than the 20 court assessment. So that's -- that's -- essentially 21 what that is is the money the general fund currently 22 has that should be in the Clean Elections fund had the 23 Legislature not altered the funding formula 24 significantly.</p> <p>25 CHAIRMAN MEYER: Page 12 is sort of the --</p>
<p>1 with the projections is kind of a better number to look 2 at, because that's -- you're actually viewing what 3 we've -- we're going to actually spend this -- not 4 assume we're spending the whole thing, correct?</p> <p>5 MR. BECKER: That's correct, Mr. Chairman.</p> <p>6 CHAIRMAN MEYER: Okay. Thank you.</p> <p>7 All right. Any other Commissioners have any 8 questions on this? 9 (No response.)</p> <p>10 CHAIRMAN MEYER: No. Okay. So if not, can I 11 get a motion to approve the memorandum in Item VII here 12 regarding our budget?</p> <p>13 COMMISSIONER KIMBLE: Mr. Chairman.</p> <p>14 CHAIRMAN MEYER: Yes. Go ahead, Commissioner 15 Kimble.</p> <p>16 COMMISSIONER KIMBLE: I move that we approve 17 the proposed 2023 calendar year budget as outlined in 18 our material today.</p> <p>19 CHAIRMAN MEYER: Is there a second?</p> <p>20 COMMISSIONER PATON: This is Commissioner 21 Paton. I'll second it.</p> <p>22 CHAIRMAN MEYER: All right. We have a motion 23 to approve our 2023 calendar year budget, and it's been 24 seconded, so we'll go ahead and vote. And I'll call 25 the roll.</p>	<p>1 Commissioner Kimble. 2 COMMISSIONER KIMBLE: Aye. 3 CHAIRMAN MEYER: Commissioner Paton. 4 COMMISSIONER PATON: Aye. 5 CHAIRMAN MEYER: Commissioner Titla. 6 COMMISSIONER TITLA: Aye. 7 CHAIRMAN MEYER: This is Commissioner Meyer, 8 I vote aye as well. So the motion carries -- passes 9 4-0.</p> <p>10 Next, we have Item No. VIII, which is public 11 comment. This is the time for consideration of 12 comments and suggestions from the public. Action taken 13 as a result of public comment will be limited to 14 directing staff to study the matter or rescheduling the 15 matter for further consideration and decision at a 16 later date or responding to criticism. Please limit 17 your comment to no more than two minutes.</p> <p>18 Does any member of the public wish to make 19 comments at this time? You may also send comments to 20 the Commission by mail or e-mail at 21 ccec@azcanelections.gov. So if you are out there and 22 want to make a comment, go ahead and raise your hand 23 and we'll recognize you.</p> <p>24 (No response.) 25 CHAIRMAN MEYER: All right. Seeing there's</p>

<p>1 no public comment -- real quick, this is not on the 2 Agenda, Tom, so I'm not sure how much attention we can 3 give it, but is there going to be a conversation 4 about -- a couple things. We had the issue with the 5 subpoena and Mr. LaSota. Did they -- I'm assuming they 6 didn't comply with that and maybe we need to discuss 7 that.</p> <p>8 MR. COLLINS: No, we'll be issuing you a 9 notice relating to the steps we've taken on that and 10 other correspondence.</p> <p>11 CHAIRMAN MEYER: And then the second is, I 12 can't help but notice it's the last month of the year 13 and I'm the Chairman. There's nothing in here about 14 maybe next year's Chairperson. Do we do that in 15 January?</p> <p>16 MR. COLLINS: No, we can talk about -- I 17 think we can at least briefly say that will be on the 18 next Agenda. And we made a -- we made a staff decision 19 that we would rather not put that in front of you. We 20 just felt like it was --</p> <p>21 CHAIRMAN MEYER: No, that's fine. And then 22 the other -- the other issue I wanted to bring up is 23 this concept of, you know, Commissioners rolling off. 24 Particularly if we're going to be implementing new 25 things, I think we need to have a discussion on that.</p>	<p>1 And I should have talked to you offline about this, so 2 I apologize.</p> <p>3 MR. COLLINS: No. And that is in the 4 Executive Director's Report, so -- and so, I mean, I 5 think that -- I mean, so I guess if you want it 6 clarified for the record, do you want to go back up to 7 Item III just real quick?</p> <p>8 CHAIRMAN MEYER: Yeah. I guess let's circle 9 back to Item III, the Executive Director's Report. I 10 apologize if I missed that, but --</p> <p>11 MR. COLLINS: Well, it's simply -- and I'll 12 just say, if I may, Mr. Chairman, I mean, we are -- you 13 know, staff is in kind of a weird place because of the 14 nature of our sort of self-interest, for lack of a 15 better -- or, perceived self-interest. I believe that, 16 you know, we have -- we have, at least internally and 17 have tried to share where we can with folks who have a 18 direct line to the appointing bodies, you know, some 19 recommendations we've received internally.</p> <p>20 And then -- and then we believe that with the 21 Committee -- the Committee -- the Voters' Right to Know 22 Committee, Stop Dark Money Committee has, you know, an 23 ongoing role under the Act in terms of its defense of 24 the new provisions of the Voters' Right to Know Act, so 25 we think they'll be engaged. I think that that creates</p>
<p>1 a similar kind of a situation to what we once had with 2 a group called the Arizona Advocacy Network that 3 dissolved about a year or so ago. So there are some -- 4 there are some more contact points with the appointing 5 executives than there might have been before, so I 6 think that that may come along.</p> <p>7 I think that one of the things, obviously, 8 that everyone can be concerned about, should be 9 concerned a little bit about is we have -- because of 10 the timing of things, there's substantial experience 11 that Commissioners have. And I know -- I don't know if 12 other Commissioners want to speak to this specifically. 13 Obviously, that's an issue, what's the most effective 14 way to do that while we're working through things and 15 not losing every -- every person who's been involved 16 in, you know, a lot of this stuff.</p> <p>17 I think what you'll find, for example, 18 because we have gone through rulemaking, because we 19 have gone through litigating, the extent of how -- a 20 lot of how these disclosure laws work, a lot of that's 21 going to come back to you. We haven't really dealt 22 with it the last couple years, but it's going to come 23 back to you all in terms of that familiarity. So, you 24 know, those are all things that as staff members we are 25 trying to at least be as facilitative as we can toward</p>	<p>1 getting that on the radar of the appointing bodies, the 2 major --</p> <p>3 I mean, the other thing I'll just say is, and 4 this is -- I just want to be frank. We're -- the state 5 government is going to go through about a six-month to 6 a year of real change. I mean, we have not had a 7 change of party at this significant level since the 8 1950s, I think. So, you know, I think we'll -- so it's 9 just one of those things where we'll -- but I will say 10 that the folks who are -- track the Commission are, you 11 know, incredibly aware of the issue and very sensitive 12 to it and in many ways they're in a position to be 13 more --</p> <p>14 You know, when Commissioner Paton was 15 appointed, for example, there was an actual 16 grassroots-ish -- I don't know if grassroots is quite 17 the right word -- there was an organized effort by some 18 folks who, I think the organization doesn't exist 19 anymore, AZAN, to ask the Governor to make an 20 appointment. That was the last time that happened. 21 So, you know, again -- but that may -- those kinds of 22 things can happen, and so I think that we'll keep our 23 eye on it. I'm -- I'm -- I just want to be, you know, 24 honest that, you know, at the end of the day, there's a 25 lot of things ahead of this in the queue for all of the</p>

<p>1 different folks who are making decisions right now. 2 And then a final -- a final point -- I mean, 3 two final points. The first is, obviously, I believe 4 that the fact that there haven't been appointments made 5 is actually a pretty strong indicator that, yes, it's 6 not maybe the highest priority in the world, but I'm 7 familiar enough with the current Governor and the 8 Secretary of State to say that if we were doing things 9 that were really out of line or not orderly or not well 10 administrated, they would take action. They have and 11 they would. So that's a vote of confidence; that 12 doesn't change the strain of your service, and I 13 recognize that. But we do appreciate it and we do 14 think you're doing a very good job. 15 The other thing is that, you know, there's a 16 provision in the Act that says if you all -- if any 17 Member resigns because they can't complete their term, 18 whatever that means, in theory there's a 30-day clock 19 on the appointing person to make an appointment that 20 exists. Now, what I don't know is, you know, whether 21 or not that's an enforceable thing, in other words, I 22 mean, you can put a clock on stuff and it just 23 doesn't -- you know, it just doesn't happen. 24 So, you know, my hope is that over the course 25 of the next month or so maybe we'll hear more from some</p>	<p>1 of the, you know, organizations and the grassroots 2 organizations, the real grassroots organizations, that 3 are involved in this about what they intend to do. And 4 if you want, Commissioners, I'm happy to, you know, 5 have them communicate directly with you, because I 6 think it is important that, you know, that they have an 7 understanding of what it is you do, what the job is. 8 You know what I mean? There's a lot of aspects of this 9 that, you know, really may be important for 10 stakeholders in this process, whether the regulated 11 community or the advocacy community, to sort of get 12 their -- get their arms around. 13 CHAIRMAN MEYER: All right. Well, thank you, 14 Tom. 15 Do any other Commissioners -- 16 Oh, Ms. Karlson has her hand raised. 17 MS. KARLSON: Sorry, Mr. Chairman. If I can 18 -- I know that Tom did do a little bit of record 19 cleanup, but just to make it super crystal clear, since 20 this took place during the -- or, started during the 21 public comment. It was in his Executive Director's 22 Report on Page 3 was where the appointment was -- was 23 identified, so I just want to make it really clear. 24 CHAIRMAN MEYER: Yes. 25 MS. KARLSON: Thank you.</p>
<p>1 CHAIRMAN MEYER: Thank you for the 2 clarification. 3 Do any other Commissioners have any questions 4 or comments on that issue in Item III that we 5 revisited? 6 (No response.) 7 CHAIRMAN MEYER: If not, we'll move to -- 8 we'll jump back to Agenda Item No. 9, which is a motion 9 to adjourn. At this time, I would entertain a motion 10 to adjourn from my fellow Commissioners. Anyone? 11 COMMISSIONER KIMBLE: Mr. Chairman, I would 12 move we adjourn. 13 CHAIRMAN MEYER: Thank you. 14 Is there a second? 15 COMMISSIONER PATON: I will second that, 16 Commissioner Paton. 17 CHAIRMAN MEYER: All right. At this time, we 18 have a motion to adjourn and a second. We'll call the 19 roll for the vote. 20 Commissioner Kimble. 21 COMMISSIONER KIMBLE: Aye. 22 CHAIRMAN MEYER: Commissioner Paton. 23 COMMISSIONER PATON: Aye. 24 CHAIRMAN MEYER: Commissioner Titla. 25 COMMISSIONER TITLA: Aye.</p>	<p>1 CHAIRMAN MEYER: And Commissioner Meyer, I 2 vote aye as well, so that ends our meeting. 3 Happy holidays to everyone. Thank you for 4 all your hard work all year. And if you're traveling 5 or not traveling, just be safe and enjoy. Enjoy the 6 season. So with that, I'll sign off. 7 (The meeting concluded at 10:53 a.m.)</p>

1 STATE OF ARIZONA)
) ss.

2 COUNTY OF MARICOPA)

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4 BE IT KNOWN that the foregoing proceedings
5 were taken by me; that I was then and there a Certified
6 Reporter of the State of Arizona; that the proceedings
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13

14 I FURTHER CERTIFY that I am in no way related
15 to nor employed by any of the parties hereto nor am I
16 in any way interested in the outcome hereof.

17

18 DATED at Tempe, Arizona, this 19th day of
19 December, 2022.

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