

TENNESSEE ETHICS COMMISSION MEETING

June 10, 2020

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Court Reporter

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BUREAU OF ETHICS AND CAMPAIGN FINANCE

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1 so you are aware of it. We have some new additions
2 to the bureau family. Derrick Apple, who is our
3 newest auditor, some of you met Derrick, they just
4 had a new baby girl, little Apple, born May 29th.
5 Derrick was going to be here and deal with
6 Representative Staples' issue, but our Jay is going
7 to take that because we are going to be allowing
8 Derrick to stay at home with his newborn baby.
9 Morgan Lee is doing fine. She is on
10 maternity leave. We expect her back in July.
11 And, finally, last but not least, we
12 have a new legal counsel. And I appreciate all of
13 y'all to support in allowing them to hire a legal
14 counsel. We definitely need someone to help me out,
15 and her name -- and she is in the back there --
16 Lauren Tompkin. Lauren, raise your hand. She comes
17 to us from the secretary of state's office, from Tre
18 Hargett's office. And I did check with the
19 secretary of state to make sure he was okay with me
20 bringing Lauren over because the secretary of state
21 does a lot of good work for us and I do not want to
22 be on his bad side. So, Lauren, we appreciate your
23 being here.
24 We have Emerson with materials. Ms.
25 Williams or Mr. Frizzell can help you with that if

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1
2
3 MR. YOUNG: All right. Mr. Chair, we
4 are ready to go if you are, and all the other
5 members.
6 MR. LAWLESS: Am I on?
7 MR. YOUNG: First I'll start us off,
8 Mr. Chair, and then I'll -- we'll get to the agenda
9 items. First, welcome back. It's been a while
10 since our last meeting. No one anticipated the
11 COVID-19 virus and the other events of the time that
12 kept us from meeting from March until now. So
13 welcome back. These are difficult times we're
14 living in, and greatly appreciate all the members
15 actually being here in person to hear an agenda that
16 is important for us.
17 You notice in the room we are engaged in
18 social distancing. The chairs and tables are far
19 apart. Please continue to remember that. I see
20 several folks have masks. We appreciate that.
21 These are tough times and we want to make sure that
22 we're following the right recommendations. We
23 appreciate Embassy Suites giving us this space given
24 that the state's space was not available.
25 **A couple of updates from the bureau just**

1 you need any materials. I know several of you have
2 requested those already. Please ask them or Jay
3 Moeck, our director of audit, for audit materials,
4 and he will be happy to hand those out towards the
5 end of the meeting.
6 I always say this, but please silence
7 your cell phones during the meeting. Mine should be
8 on silent. I took care of that before I came in,
9 but please silence your cell phones.
10 We do have people on the telephone.
11 They are not going to participate in this meeting.
12 They are listening in. Ms. Johnson may participate,
13 but mostly they are listening in.
14 We are recording this because of the
15 executive orders that the governor put down and
16 because we are doing this electronically. So we
17 have our court reporter to my left. The court
18 reporter has requested and I ask any of you when you
19 are asking questions, please state your name so that
20 she can get your name down, and we will remind you
21 of that fact as well.
22 With that, Mr. Chair, I'm ready to move
23 to the agenda after some updates. Again, welcome
24 back, members of the board. It feels like we've
25 been in the twilight zone in our place, but we are

1 up and working, mostly working from home as the
2 governor has asked us to do, and we are staying
3 place.
4 So, Mr. Chair, we are on the agenda now,
5 and the first agenda item is approval of the March
6 minutes.

7 MR. LAWLESS: Okay. If we can first, I
8 would ask, Mr. Secretary, do we have a quorum of
9 members present today?

10 We have a quorum.

11 All right. So we have constituted a
12 quorum. We are now presently in session. I want to
13 welcome our world traveler member who's been rescued
14 from the French republic. Hank, thanks for coming
15 back. We appreciate that.

16 MR. FINCHER: Good to be home, Mr.
17 Chairman.

18 MR. LAWLESS: If we could, we will start
19 with the first item, which is approval of minutes
20 from our last actual meeting, which was on the 11th
21 that we did. All the members had an opportunity to
22 review the minutes.

23 Hearing no particular, do I have a
24 motion?

25 MR. MORTON: You have a motion.

1 MR. LAWLESS: I have a motion. Is it
2 duly seconded?

3 MR. MORTON: Second.

4 MR. LAWLESS: I have a second. All
5 in -- thank you. You know, it's this technology we
6 have. I'm glad he was able to take care of us.

7 MR. YOUNG: I should have said you work
8 the mikes -- there's a button right in the middle.
9 They are up when you are turned on; down, you are
10 off, stay off unless you are speaking.

11 Also it looks like someone may have
12 called in on the telephone again, so whoever that
13 is, we need to get their name. So go ahead and
14 check and see if we had anyone else call in. Mr.
15 Chairman, sorry.

16 MR. LAWLESS: That's all right. We are
17 sort of working our way through this.

18 MR. YOUNG: We are.

19 MR. LAWLESS: And I want to compliment
20 the entire staff --

21 MS. TOMKINS: Did someone else call in?
22 We need to get your name.

23 MR. LAWLESS: -- for the hard work they
24 did in putting us to the point where we could get
25 back and take care of the matters that we needed to

1 today.

2 MS. TOMKINS: Anyone new just call in?

3 MR. YOUNG: Thank you, Mr. Chair, for
4 those kind words to the staff. It's a team effort.

5 With that, I'll hand it back over to
6 you.

7 MR. LAWLESS: All right. We have a
8 motion duly seconded to approve the minutes. Are
9 there any discussion?

10 All in favor of approving the minutes
11 for the March 11th meeting, signify by saying aye.

12 (Chorus of ayes.)

13 MR. LAWLESS: All opposed?

14 Seeing none. Minutes are approved.

15 (Discussion off the record.)

16 MR. YOUNG: Next agenda item, Mr. Chair,
17 is consideration of allowing the board members to
18 attend meetings -- TCA 824108B, and I'll hand it to
19 you for discussion.

20 MR. LAWLESS: All right. This matter
21 was requested to be brought up. There is a
22 provision under the -- under the state statute that
23 requires unless there is no quorum, that we would be
24 here and present in person and not attending over or
25 if there is some emergency reason. And we've had

1 these discussions in the past and I see no reason
2 to, frankly, change the requirement of personal
3 attendance at these board meetings unless there is
4 an emergency.

5 It does take four affirmative votes to
6 change what we do, and for that particular reason,
7 is there any desire on the part of any of the
8 members to discuss this?

9 MR. FINCHER: I'll ask to be heard, Mr.
10 Chairman.

11 MR. LAWLESS: If you would, Mr. Fincher.

12 MR. FINCHER: Sure. The -- of course,
13 we are in the middle of a pandemic right now that's
14 affected the globe and that has no end in sight.
15 That alone, I think, constitutes certainly for the
16 foreseeable future a standing -- what's the language
17 in the Open Meetings Act, Mr. Director? It's
18 like -- it's not technically an emergency, is it?
19 It's like an imperative reason or something like
20 that. I'm working off memory.

21 MR. YOUNG: There are two, Mr. Fincher,
22 and it depends on which one you're talking about.
23 There's the first sentence of that section,
24 844-108-(b)1 talks about that it's in a board's
25 discretion whether anyone can attend electronically,

1 but it does require that you have a physical forum.
 2 MR. FINCHER: Right.
 3 MR. YOUNG: And the physical forum for
 4 this group is four members.
 5 MR. FINCHER: Correct.
 6 MR. YOUNG: So if you don't have a
 7 physical quorum, there's a mechanism under B2 B3 to
 8 vote to allow electronic attendance without a
 9 physical quorum, but if we do that, we have to state
 10 the reason why and we have to give notification to
 11 the secretary of state. So there are two separate
 12 provisions. It depends on whether you've got a
 13 physical quorum or not.
 14 MR. FINCHER: Okay. Thank you very
 15 much. That clarifies it and will help my remarks
 16 here.
 17 The -- this board traditionally draws on
 18 membership from across the state. I'm fairly close
 19 compared to some of the members that have come from
 20 Memphis, we've had members from Kingsport, have one
 21 from Kingsport. I've had members from Gatlinburg in
 22 the past. Mike McCrosky was on this board when I
 23 first started back in the early 2000s. And the
 24 board, as we know, it's a -- it's a volunteer
 25 service, it's the volunteer state, but having to

1 geographic diversity among the board and lets people
 2 that are, you know, less free with their time to
 3 actively participate.
 4 And so with that said, I would move that
 5 we adopt that two-tier approach.
 6 MR. LAWLESS: There is a motion on the
 7 table. Is there a second?
 8 MR. MORTON: I have a question. Do you
 9 need a second before I --
 10 MR. LAWLESS: No. Well, there hasn't
 11 been a motion to suspend the rules that I would very
 12 quickly entertain since we're just having a general
 13 discretion and discussion this morning. This is the
 14 first time we have been back together in a while.
 15 If someone wants to make a motion to suspend the
 16 rule, I would really like it. I've got --
 17 MR. FINCHER: So moved.
 18 MR. LAWLESS: -- and I had a nod --
 19 MR. GOLDEN: Second.
 20 MR. LAWLESS: And I would prefer it that
 21 way. I think that we would do much better if we
 22 proceeded that way. There's a motion that's duly
 23 seconded, are there any objections, move to accept
 24 that one by acclamation of the chair, any objection
 25 to that.

1 volunteer, you know, a day, day and a half, to come
 2 down to a meeting -- for this one, it's not hard
 3 because there's a lot on the docket that it's good
 4 to be here, but for a lot of the routine stuff when
 5 we're just dealing with late filings and, you know,
 6 the citizen groups that haven't dotted an I or
 7 crossed a T, that's a bit more volunteering than
 8 the -- my friends in Nashville were having to give.
 9 And I think that we should adopt a
 10 two-tier approach to this. One is for the situation
 11 when we have a physical quorum. Certainly physical
 12 attendance is preferred. I have no problem with
 13 that. But if -- I think we ought to adopt a
 14 standing rule that our membership can participate
 15 electronically as long as there is a physical quorum
 16 present.
 17 And then the second part of this -- I'm
 18 going to put this in the form of a motion at the end
 19 so we can discuss it. The second part of it is I
 20 think we should declare a standing emergency until
 21 further notice on the COVID virus that allows
 22 electronic participation for this group. Electronic
 23 participation has worked. I have probably been the
 24 greatest indulger, I guess, the greatest user of it,
 25 and it's a great convenience and it allows greater

1 Janet, are you getting all this, I hope?
 2 All right. Thank you.
 3 Okay. We are suspending the rules. We
 4 will have a general discussion at this point in
 5 time. So Mr. Morton.
 6 MR. MORTON: If we go to nonattendance
 7 at the meetings and we refer to it as
 8 electronically, I would suggest that we change that
 9 to telephonic vis-à-vis what I'm getting at is the
 10 complaint about the Open Meetings Act where we took
 11 a vote electronically as to a meeting.
 12 MR. FINCHER: Amendment.
 13 MR. MORTON: Yeah, I would rather that
 14 it be referred to as --
 15 MR. FINCHER: I accept that as a
 16 friendly amendment. That's what I'm meaning. I
 17 didn't want to rule out like Zoom -- like a Zoom
 18 conference, but telephonic is fine. That's what
 19 I've been doing.
 20 MR. MORTON: That's what I was getting
 21 at.
 22 MR. FINCHER: If that helps, Brother, I
 23 accept that amendment.
 24 MR. LAWLESS: All right. And --
 25 MS. BURCHAM-DENNIS: Chairman?

1 MR. LAWLESS: Yes, ma'am.
 2 MS. BURCHAM-DENNIS: Just a little bit
 3 of friendly discussion. I personally feel just like
 4 when we're looking at the public notice that was put
 5 out, the importance -- and I think it's something to
 6 think about. Because of the items on the agenda,
 7 because of the importance of them, I find in-person
 8 is really -- there's some things that get lost in
 9 translation. And whether it's telephonic
 10 communication or electronic communication, we have
 11 all volunteered for this position and I think it is
 12 really important, when possible, that we participate
 13 in person for these meetings. I believe that we get
 14 a full grasp and understanding of what's going on
 15 and true feelings when we do that. I understand if
 16 we are in a global pandemic, I understand that we
 17 are taking social distancing measures here, and I
 18 understand that some times in the future we may need
 19 to be somewhat lenient if it gets to a certain
 20 situation, but I do think attendance is so
 21 important, and that's my personal opinion, Chairman.
 22 MR. HAYNES: Mr. Chair?
 23 MR. LAWLESS: Yes, sir.
 24 MR. HAYNES: I would -- that comment --
 25 you know, as someone who probably drives as far as

1 operating, you know, with a bare -- the bare quorum
 2 to the extent that we had only four members for the
 3 better part of two and a half years. And sometimes
 4 members would -- like myself would participate
 5 electronically. Other times -- you know, other
 6 times we would have a full quorum. But it seemed to
 7 work effectively and efficiently.
 8 What I'm hearing today is that there
 9 seems to be a consensus among the members to at a
 10 minimum having physical quorum present, and based on
 11 the comments, it seems to me that moving forward,
 12 you know, even in this pandemic, we will have a
 13 physical quorum present. That's the sense that I'm
 14 getting. But I would ask the executive director or
 15 Mr. Chairman or the members themselves whether --
 16 whether such a motion or separation of emergency is
 17 necessary if we have flexibility for under the
 18 statute, and which I've just pulled up, and if we
 19 got the -- if we've got a stated intent to maintain
 20 a physical quorum on the table.
 21 MR. YOUNG: Mr. Haynes directed to me as
 22 to what the current situation is. We talked about
 23 the statute, and the statute basically is two-fold.
 24 One, you have to have a physical quorum present. If
 25 you don't, you have to -- as specified in the

1 anybody, if not farther than most --
 2 MR. LAWLESS: Now, don't forget Tom over
 3 here.
 4 MR. HAYNES: That's why I included that.
 5 Tom I think drives eight miles farther than me.
 6 So much is lost in translation when you
 7 can't see the people in person presenting, and as --
 8 you know, I don't want to rule out that if there's a
 9 second wave or there's other reasons that there
 10 might be out of expediency a need to do this at some
 11 point, but I guess my question would be is what
 12 would be the mechanism to ensure if there's a --
 13 kind of a broad allowance that -- that we show up
 14 and that there is a physical quorum present?
 15 MR. LAWLESS: And, Hank, do you have
 16 any -- and please understand we -- there's a certain
 17 reason that I'm referring to everybody sort of by
 18 their first names, because we haven't been around
 19 each other in such a long time and I -- we've
 20 suspended the rules and it's a whole lot easier to
 21 talk as normal folks, which is what we need to do.
 22 Paz, have you got any comments one way
 23 or the other?
 24 MR. HAYNES: No. For -- I guess for the
 25 better part of the last three years, we have been

1 meeting, why. It has to be reflected in the
 2 minutes. You have to give notice to the secretary
 3 of state as to why and then it's recorded. If you
 4 have a physical quorum and there -- and someone
 5 wants to attend electronically, as I read the first
 6 part of that statute, it's at the discretion of the
 7 board. So four members to allow that to happen,
 8 it's okay.
 9 There's a second part, however. The
 10 governor has entered two executive orders, Executive
 11 Order 16 and 34, and that has loosened the standard.
 12 As Mr. Fincher points out, we are in the middle of a
 13 pandemic. That allows us to do electronic meetings
 14 without a physical quorum if we wish, without
 15 complying with all the provisions of the Open
 16 Meetings Act as far as notification secretary of
 17 state.
 18 We do have to record those meetings if
 19 we do it that way, that is part of the provision,
 20 but as I understand it from the governor's office,
 21 again, it's in the discretion of the board how the
 22 meetings are conducted. He has just given us an
 23 opportunity given the pandemic to do electronic
 24 meetings without jumping through the hoops of the
 25 statute.

1 That's the way I read the current
 2 provisions, and I think that those executive orders
 3 expire at the end of June. I am hearing they may be
 4 extended, but I don't know. Yes, sir, Mr. Chairman.
 5 MR. GOLDEN: Mr. Director, can that
 6 decision be made on a meeting-by-meeting basis?
 7 MR. YOUNG: Certainly. All of this is
 8 at the discretion of the board, and certainly this
 9 board shouldn't be able to bind future boards if
 10 future boards and membership changes and they want
 11 to do it differently. I think, as I read the
 12 statutes, it's discretion of the board from meeting
 13 to meeting, and if the -- as long as you've got four
 14 votes to do whatever you are doing, how you proceed
 15 is up to the majority of this board.
 16 MR. FINCHER: Mr. Chairman?
 17 MR. LAWLESS: Yes, sir.
 18 MR. FINCHER: In the legislature, when
 19 you are presenting a bill to a committee and things
 20 ain't going your way, the chairman will often peer
 21 over -- the chairwoman will often peer over the
 22 microphone and say, "Representative, I feel a
 23 strong, cool breeze blowing up here." And I feel a
 24 strong, cool breeze blowing at least as far as the
 25 second part of that motion, which is the physical

1 it. We're in discussion.
 2 MR. FINCHER: All right. Here's the
 3 deal. I've been doing this -- I was appointed to
 4 this board I think in 2001 by Speaker democratic
 5 caucus. I served until sometime in 2005 and
 6 practice was getting busy, I resigned. Well, the
 7 next month -- well, almost a year to the day in
 8 February, retired and called me up and said I'm
 9 retiring, I ran and I won and I've filed reports to
 10 this board until I got whooped in 2010. Well, then,
 11 Mike Turner -- I don't know whether it was revenge
 12 or what, but our caucus chairman asked me to serve
 13 again in 2011. So I have either been on this board
 14 or serving with this board since 2001, or reporting
 15 to it. And it is better -- it is better to be in
 16 person and it is better to be there and size people
 17 up, it is better, but we've had -- and I respect
 18 everybody, we have made a commitment to participate
 19 and to be here to do this. But at the same time, it
 20 is a sacrifice to -- to have to attend in person
 21 when we can attend over the phone. And I -- I'm --
 22 it's a personal convenience for me. If everybody
 23 wants to vote it down, that's fine, I understand.
 24 But it worked pretty good for the, what, three or
 25 four years, Paz.

1 attendance of quorum in the emergency. So I'm going
 2 to make you a better deal. I got you a better deal.
 3 MR. LAWLESS: Are you saying that you
 4 are feeling that arctic blast?
 5 MR. FINCHER: It's around my knees. I'm
 6 not feeling it up here.
 7 So the first part of the motion, I'm
 8 going to try it again, but the second part -- the
 9 second part, it's pretty cold. I need my ice
 10 fishing britches on.
 11 So I would like to amend my motion -- it
 12 hasn't been seconded yet -- delete the second part
 13 of it and just go with the standard rule that
 14 members can participate telephonically as long as
 15 there's a physical quorum, and members are urged to
 16 attend in person.
 17 MR. LAWLESS: Okay. So we are going to
 18 open it -- open it back up. Do we have a second?
 19 That might get a little -- it may get real cold --
 20 MR. FINCHER: It might.
 21 MR. LAWLESS: I'm feeling that wind
 22 coming from the -- what they call that in arctic --
 23 MR. HAYNES: Mr. Chair, I'll second the
 24 motion discussed.
 25 MR. LAWLESS: Okay. So we can discuss

1 MR. HAYNES: It was at least two and a
 2 half --
 3 MR. FINCHER: -- before we got some -
 4 Yeah, because the Governor appointed anybody, it was
 5 just us four hanging out here. And nothing got done
 6 unless it was by unanimity, because you had to have
 7 four votes to do everything.
 8 MR. HAYNES: Right.
 9 MR. FINCHER: And it worked okay. Rest
 10 his soul, he participated over the phone some when
 11 he was serving on here.
 12 So I -- you know, I'm -- if you can do
 13 it, I would appreciate it. If you can't, I respect
 14 your opinion. So that's my pitch.
 15 MR. LAWLESS: Okay. I'm looking it down
 16 and I'm aiming it and I'm going to start with our --
 17 Paige, do you want to weigh in on it or are you
 18 going to stand by your comment before? David, I
 19 wasn't trying to ignore you, but I let ladies go
 20 first.
 21 MS. BURCHAM-DENNIS: Chairman, I'll
 22 stand by my comments.
 23 MR. LAWLESS: Okay. Paz, you got
 24 anything else you want to --
 25 MR. HAYNES: No, I don't have any

1 problem with the motion based on the past
2 preference. So I'm okay with it.

3 MR. LAWLESS: David, you're up.

4 MR. GOLDEN: I absolutely respect the
5 desire to have flexibility if there's a called
6 meeting and a fairly short agenda, but something on
7 the agenda still needs to be done to convene a
8 meeting and not wanting for X number of us to drive
9 Y number of hours for a 20-minute meeting. I mean,
10 it makes eminent sense to have flexibility on a
11 case-by-case basis to do that, Number 1.

12 But, Number 2, kind of standing in
13 contrast to that is I just don't know the
14 mechanism -- it's almost like the commons. If we
15 could all do it, but we still need a physical
16 quorum, how do we ensure -- and I don't mean this as
17 a question I know the answer to. I don't have the
18 benefit of having served on this commission as long
19 as the -- this team members have and you guys worked
20 it out. I just don't know the mechanism to work it
21 out so we all don't decide to phone in one day, not
22 have a physical quorum, and then, you know, really
23 not do our jobs. And as one who would drive
24 farther, you know, I realize this kind of cuts
25 against me, and since we can do it on a case-by-case

1 Paris.

2 MR. LAWLESS: I could have been twisted
3 on that one. But I think it's important that we
4 don't devolve into the garbage that happens in
5 Washington where -- you know, I have a -- from a
6 historic perspective, when Newt Gingrich said all
7 the members of the house had to go home on weekends,
8 they lost that -- that group feel where they would
9 go out and have cocktails together or have dinner
10 together, and it's a relationship that you develop
11 with your fellow commissioners, and I think that's
12 important.

13 It's also there's a transparency issue.
14 If you're always on -- if you're never there -- even
15 when you are on a Zoom meeting, you don't know
16 what's going on over in the side, who is passing you
17 things, or what's there. And we are the last
18 bastion, so to speak, of protecting or at least
19 putting a light on what the leaders do in terms of
20 the legislature. And we uncover things, and
21 99 percent of the time -- and, Hank, I think you
22 would agree with me on this -- the errors that we
23 come across, they're inadvertent. None of these
24 people that run for the legislature, in my opinion,
25 set out to be bad, evil, or mess things up, and we

1 basis, as an alternate view I would wonder, even if
2 this doesn't pass today, the Chair entertain on a
3 case-by-case basis the possibility that somewhere
4 down the road we may find ourselves in a position to
5 be able to have a physical quorum, but not having a
6 hard expectation that all six people show up.

7 Even if this doesn't pass, I guess for
8 clarification, Tom, would you still entertain the
9 possibility of allowing in the future on a
10 case-by-case basis?

11 MR. LAWLESS: I don't like hitting these
12 buttons. To answer your question, obviously, yes, I
13 think that as technology improves, as we move
14 forward, that -- and I've only got about five more
15 months or six more months before I think it dumps
16 into your lap, Mr. Golden -- lucky you -- that --
17 that we should continue to expand it, but -- and
18 I've held off making any comments because, honestly,
19 I think it's important not only for the members, but
20 for the public to see us. And it's a
21 relationship -- I consider Hank Fincher a very good
22 friend. I mean, if something happened to him, if he
23 needed -- no, I wouldn't have gone to Egypt to come
24 try to rescue you, but when you were over there --

25 MR. FINCHER: You would have gone to

1 have to have that personality, that feel, that comes
2 from us, and you develop that over time and you
3 develop that over relationships. I haven't served
4 quite as long as you, but I've been here for -- I
5 guess since '10. I think that's --

6 MR. FINCHER: Maybe about half time.

7 MR. LAWLESS: I'm a halfer. And --
8 but --

9 MR. FINCHER: Getting there.

10 MR. LAWLESS: But in that amount of
11 time, we have had a pretty good working
12 relationship, but I do think it's important that we
13 show up because it's important to the people that
14 come in front of us. For some of them it's vital.
15 We have a matter on the agenda today that -- second
16 time through, Hank, and, honestly, I became in awe
17 your -- last time this one came through.

18 MR. FINCHER: Yes.

19 MR. LAWLESS: I honestly was shocked.

20 MR. FINCHER: That's why I'm here.

21 MR. LAWLESS: And I appreciate that and
22 I know it's an inconvenience, but it's also -- we
23 owe something back to the state, and when we agreed
24 to accept the position, the honor of being placed
25 here, I think that we -- it entails sacrifice. The

1 lawyers here could make a whole lot more money
 2 sitting in their office and working and
 3 multi-tasking. I don't do it as well as some, but I
 4 think it's important for the people to see us and --
 5 you know, when we have witnesses come before us.
 6 And it may well be if I'm sitting away, I can be a
 7 little more dispassionate. Well, as Paige said, you
 8 look at that person in the eye and you can tell if
 9 someone looks at you whether they really mean it. I
 10 can't put a price tag -- I can't put -- yeah, it
 11 would be a whole lot easier for me to sit at home,
 12 I'd have my jacket, coat, and tie and I would look
 13 real prim and proper at my desk, but I may be
 14 sitting with my sweat pants and flip-flops that
 15 nobody else could see. I think it's important for
 16 us to be here. It shows our commitment to the
 17 people and to the people that appointed us.
 18 So, Hank, please don't take this
 19 personally, and I know you won't because you know me
 20 and I know you, I can't support your motion, but I
 21 clearly in the future would revisit it, be more than
 22 willing to revisit it. They may come up with a
 23 virtual 3-D type of meeting at some point in time.
 24 I remember the Jetsons. Do you remember that far
 25 back, Hank?

1 cool. I'll be here. Be careful what you ask for.
 2 Sometimes you get it.
 3 MR. LAWLESS: And I can't wait now. I
 4 think I would almost rather go to that Thai
 5 restaurant in your city.
 6 MR. FINCHER: It's pretty good.
 7 MR. LAWLESS: I believe that Mr. Golden
 8 and I --
 9 MR. FINCHER: Y'all come up.
 10 MS. ARIVETT: Yeah, that's a great
 11 place.
 12 (Cross talk.)
 13 MR. LAWLESS: Are you withdrawing your
 14 motion?
 15 MR. FINCHER: Yeah, I'm withdrawing it.
 16 It's done.
 17 MR. LAWLESS: At that point, we have
 18 sort of hit that point, we have about killed it as
 19 far as I think we can.
 20 MR. YOUNG: Ms. Krauss has asked that
 21 you make sure -- and this is for everyone. Please
 22 make sure you turn your mike on when you are
 23 talking. We have persons of the press here, we have
 24 people on the phone. So lean down into it as I'm
 25 doing so that people can hear you. Thank you,

1 MR. FINCHER: That's what Zoom is.
 2 MS. BURCHAM-DENNIS: Mr. Chairman, I
 3 will say that even in this situation with the tables
 4 lined up, it's even a little bit more difficult
 5 because I can't see everything down here on the
 6 other end and see, you know, how everyone is
 7 feeling. I'm hearing it, trying to, you know,
 8 generalize what's going on, but even in this
 9 situation, it's a little harder.
 10 MR. LAWLESS: And we -- it's not going
 11 to stay like this forever, obviously, I hope. Yes.
 12 MR. FINCHER: I can count. So I'm going
 13 to withdraw the motion as long as you are buying us
 14 all steaks, those steaks and drinks that you are
 15 talking about that after every meeting that we all
 16 attend in person on your tab, Mr. Chairman. I
 17 appreciate that offer and it's accepted. That's
 18 been recorded. So --
 19 MR. LAWLESS: That's a friendly
 20 amendment. I can't wait to see how Janet puts that
 21 down.
 22 MR. FINCHER: Seriously, I withdraw it.
 23 I disagree with this idea that we have to look at
 24 people to judge their voice and be here, but you
 25 know what, I'm going to lose my motion. That's

1 Ms. Krauss, for pointing that out.
 2 MR. LAWLESS: Is that better? Am I
 3 coming across now? I'm looking down at that whole
 4 mass in the corner over there. Nobody has flipped
 5 me off, so I guess --
 6 MR. YOUNG: Mr. Chair, if you lean into
 7 the microphone -- I think the mask --
 8 We appreciate that, Mr. Chair, and I
 9 think we are ready to move on.
 10 One item I failed to mention in my
 11 introduction, which was a terrible oversight on my
 12 part, I failed to mention that yesterday, I believe
 13 it was, the senate did confirm our two newest
 14 members as they're required to do by statute. So
 15 congratulations to Mr. Golden and Ms. Burcham-Dennis
 16 for your confirmation at the senate. I know we made
 17 sure that that went through, and so that's the last
 18 step for both of you. So glad to have you.
 19 (Applause.)
 20 MR. YOUNG: With that, Mr. Chair, we are
 21 ready to move to Item 3 on our agenda. This is the
 22 hearing to review the administrative law judge's
 23 initial order in the case of Tennessee Finance v.
 24 Jeremy Durham. That's Docket Number 38.01-5465473,
 25 Number C17-01.

1 I would mention to the Chair and I'm
2 going to ask Ms. Topping to go ahead and get those
3 folks out here that are going to be up here in front
4 of us, see who's here.

5 I did -- and I sent this to each one of
6 you -- get an e-mail from Mr. Durham -- not from his
7 counsel, but from Mr. Durham -- advising that he was
8 in a mediation today, he could not attend, and he
9 did request that we continue this hearing. I sent
10 that to his counsel, and quite honestly, I advised
11 his counsel I was very uncomfortable dealing with
12 his client without the counsel being there. I did
13 not respond to Mr. Durham. I sent his counsel
14 instead, told him he could make a motion to the
15 board, the board had the final decision on that. As
16 of this morning, I checked my e-mail, I have not
17 heard anything from his counsel, and as you know,
18 there's been no brief filed by Mr. Durham in this
19 case and you know the background on that. Mr.
20 Durham's counsel requested an extension, which this
21 court granted. Then the brief was filed.

22 So with that, I don't know if
23 Mr. Durham's counsel is here or not. I know the
24 Tennessee attorney general's office is here. And
25 I'm going to hand it back over to you, Mr. Chairman.

1 of Jeremy Durham; is that correct?

2 MR. YOUNG: I have not received a
3 request from his counsel. The only request I've
4 received is from Mr. Durham himself by e-mail
5 delivered on Saturday requesting that this matter be
6 continued. And I sent that to his counsel, and his
7 counsel did not respond.

8 MR. LAWLESS: And you have not received
9 the request from his counsel to withdraw as counsel
10 for Mr. Durham?

11 MR. YOUNG: That is correct.

12 MR. LAWLESS: And you have not received
13 a statement from Mr. Durham saying that he has
14 discharged his counsel?

15 MR. YOUNG: That's correct.

16 MR. LAWLESS: So according to the
17 records before this board, Mr. Durham is still
18 represented by his counsel?

19 MR. YOUNG: That is correct.

20 MR. LAWLESS: I'm going to ask the
21 representatives of the attorney general's office,
22 has your office received any request from
23 Mr. Durham, either officially or unofficially or
24 from his counsel, saying that he is no longer
25 representing Mr. Durham?

1 That's where we stand and I assume you need to deal
2 with Mr. Durham's request.

3 MR. LAWLESS: Well, in the first
4 instance, Mr. Director, would you please ask -- and
5 the one to go out in the hallway -- and announce
6 that this matter is now presently being considered
7 by the registry, and that being anybody representing
8 Mr. Durham is here or present or out in the outside,
9 if you would.

10 MR. YOUNG: Thank you, Mr. Chair and
11 Mr. Fincher.

12 MR. LAWLESS: Let it never be said that
13 we have not given the appropriate request.

14 MR. FINCHER: No, no, no. Good move.

15 MR. LAWLESS: Mr. Frizzell, did you just
16 do the honor of attempting to find somebody?

17 MR. FRIZZELL: There is no one here on
18 behalf of Mr. Durham today.

19 MR. LAWLESS: Okay. Maybe it's just me
20 and the mask.

21 MR. FINCHER: No one's ever accused you
22 of having a mousy voice.

23 MR. LAWLESS: I know. How's that.

24 Mr. Executive Director, you have not
25 received an official request from any representative

1 MS. GROOVER: We have not.

2 MR. LAWLESS: You are stuck with the
3 same problem I have.

4 MS. GROOVER: Can you hear me now?

5 MR. YOUNG: Please state your name.

6 See, I cheated. I'm already on the list from
7 previously and we suspended the rule, so I don't
8 have to be all totally stuffy up here.

9 MS. GROOVER: I'm Kelly Groover with the
10 Tennessee attorney general's office, and our office
11 has not received any notice or request from
12 Mr. Durham or his attorney.

13 MR. LAWLESS: Thank you. So we don't
14 have anything before us, do we, Mr. Executive
15 Director, on behalf of Mr. Durham?

16 MR. YOUNG: I leave it to the board how
17 they want to deal with his e-mail request.

18 MR. FINCHER: Mr. Chair?

19 MR. LAWLESS: Yes, sir.

20 MR. FINCHER: Hank Fincher. I move that
21 we deny the request for a continuance.

22 MR. LAWLESS: Is there a second?

23 MS. BURCHAM-DENNIS: Second.

24 MR. LAWLESS: I've got a second. Any
25 discussion?

1 All in favor -- let's do a roll call,
 2 please. Just -- Janet.
 3 MR. FINCHER: Aye.
 4 MS. JANET: Golden?
 5 MR. GOLDEN: Aye.
 6 MS. JANET: Haynes?
 7 MR. HAYNES: Aye.
 8 MS. JANET: Lawless?
 9 MR. LAWLESS: Aye.
 10 MS. JANET: Morton?
 11 MR. MORTON: Aye.
 12 MR. LAWLESS: The request is denied.
 13 We will now take up the matter of the
 14 hearing to review the administrative law judge's
 15 initial order and our reconsideration of Jeremy
 16 Durham matter, which is the docket number you
 17 previously stated. Mr. Executive Director.
 18 MR. YOUNG: Mr. Chair, at this point,
 19 I'll hand it over to the attorney general's office.
 20 They filed a brief in this matter, and certainly you
 21 can ask the attorney general's office anything you
 22 desire.
 23 The matter, just for background, the
 24 administrative law judge entered an initial order
 25 under the Uniform Administrative Procedures Act.

1 then no brief was filed. So nothing has been filed
 2 on behalf of Mr. Durham. You have the briefs from
 3 our office, and I'm happy to answer any questions
 4 you have about that brief.
 5 MR. LAWLESS: Did any members have any
 6 questions?
 7 MR. FINCHER: Yes, Mr. Chair, if I --
 8 MR. LAWLESS: And I'm going to defer,
 9 Mr. Fincher, frankly, because you -- he did such an
 10 amazing job last time we came through on this and
 11 it's a huge compliment to you, it's meant that way.
 12 It's not dumping on you.
 13 MR. FINCHER: Well, I'll do what I can.
 14 The -- and for the benefit of the members who
 15 weren't here and that happened, I was probably more
 16 of an advocate for Mr. Durham than certainly anyone
 17 else on the board, not that he deserved it, but
 18 because -- personally, but because everyone deserves
 19 a review and a defense, and I wanted to know what we
 20 were voting on and that we were making a sensible,
 21 rational, and consistent -- sorry -- sensible,
 22 rational, and consistent ruling against him and not
 23 ruling just because of the headlines or something
 24 like that. Not that anyone else on the board would
 25 have done that, but we were -- we spent a lot of

1 This board can deal with that order, either adopt
 2 it, change it, or do its own order as a final order.
 3 There are time requirements under the statute for
 4 this body to make a decision on that. But at this
 5 point, I think you are ready to hear from the
 6 attorney general's office.
 7 MR. LAWLESS: You have the floor.
 8 MS. GROOVER: Thank you.
 9 As you are all aware, this matter
 10 originally was before the registry. There was a
 11 hearing to determine whether or not to assess civil
 12 penalties against Mr. Durham for various violations
 13 of the Campaign Disclosure Act based on an audit
 14 done by the registry. The registry did assess
 15 penalties. Mr. Durham then requested a contested
 16 case hearing. That hearing was held last year in
 17 front of an administrative law judge. He issued an
 18 initial order, and then the registry voted to review
 19 that order, and that's why we are here now.
 20 The registry issued a briefing schedule
 21 for both parties, and under that schedule, the
 22 attorney general's office submitted its brief on
 23 January 17th. Mr. Durham did not file a brief in
 24 response. He had at one point requested an
 25 extension to file that brief, which was granted, but

1 time on this, more time than we've spent on any
 2 single matter that I have seen during my service on
 3 this board, analyzing it, and we went through it,
 4 and I think I said at the time words to the effect
 5 that Mr. Durham's violations were the most shocking,
 6 the most egregious, the most outrageous violations
 7 of campaign finance laws that had been seen outside
 8 of the context of a federal indictment in a federal
 9 courtroom, which, you know, is a different story,
 10 not what we deal with, but it was ludicrous.
 11 There's an old saying that pigs get fat and hogs get
 12 slaughtered, and he was -- he was neck deep in the
 13 trough and it was wrong, and so we busted him with a
 14 \$465,000 penalty, the highest this board had ever
 15 done. And the ALJ for reasons some -- kind of
 16 explain, but even after 25 plus years of practicing
 17 law and reading the opinion, he just -- he just did
 18 what he wanted to. He didn't -- and I don't know
 19 how much campaign finance the gentleman has, but it
 20 was very much at odds at what our deliberations
 21 resulted in.
 22 And so all that's prelude to let you
 23 know where I came from. I tested the theories and
 24 argument for lower penalties on certain points, and
 25 it probably would have been closer to a million

1 dollars in fines if -- but for what you were talking
 2 about, Mr. Chairman. Now that's said general.
 3 The -- the notice that we have issued
 4 has three separate parts, and I'm going to ask you
 5 to address them for our benefit since you're here
 6 today, and the briefing is good and thorough and
 7 well-written and -- but since we are here, I would
 8 like you to kind of summarize it so if anybody has
 9 any questions similar to our oral argument, they
 10 want to ask it. But the three topics are whether
 11 the initial order erred in conducting a de novo
 12 review of our rule. For -- I think there are some
 13 non-lawyers here. The difference between a de novo,
 14 a fresh, a brand-new review, and a deferential
 15 substantial evidence review.
 16 First, my understanding of the law is
 17 that the ALJ was supposed to review our -- our
 18 ruling as the board with deference to -- under a
 19 substantial material evidence standard. Is that
 20 correct?
 21 MS. GROOVER: So the Administrative
 22 Procedures Act does not mention there being a de
 23 novo standard. There's nothing in the act itself or
 24 any case law that puts that forward. However, the
 25 cases that speak to the standard of review when

1 framework for administrative decisions, we want our
 2 administrative and agencies like the registry to do
 3 their job, and once they've made a decision, we are
 4 going to look and make sure that it's not arbitrary
 5 or capricious or fraudulent or just without any
 6 evidentiary basis, but other than that, we're not
 7 going to de novo to review it to quibble over, well,
 8 they should have done this rather than that,
 9 correct?
 10 MS. GROOVER: Right. You're not
 11 second-guessing or replacing the judgment of the
 12 administrative agency.
 13 MR. FINCHER: And in this case, the ALJ
 14 applied a de novo standard expressly and
 15 second-guessed us fairly substantially, correct?
 16 MS. GROOVER: Correct.
 17 MR. FINCHER: And is it the attorney
 18 general's position in this matter and State of
 19 Tennessee's position in this matter that that was
 20 not correct?
 21 MS. GROOVER: Correct.
 22 MR. FINCHER: Okay. Regarding the
 23 second point of whether the initial order erred in
 24 placing the burden of proof on the registry to
 25 establish violations of the campaign finance law by

1 reviewing an administrative decision give a very
 2 limited scope of review of that decision. So
 3 there's just not anything to support legally this
 4 notion that it's a completely fresh review, and
 5 if -- indeed, if this were to go up to the chancery
 6 court or to the court of appeals, they would follow
 7 that very narrow review that's set forth in the
 8 statute, which provides, I believe, five reasons to
 9 overturn an administrative agency's decision.
 10 MR. FINCHER: Right. And for the
 11 benefit of the non-lawyer members of the board, my
 12 understanding is that on that review, it's to
 13 determine if there was evidence to support this
 14 board's decision, not the correctness of the
 15 decision or its accuracy, correct?
 16 MS. GROOVER: Correct. So a tribunal
 17 that is reviewing the decision of an administrative
 18 agency, they're looking to see if it is warranted in
 19 law and fact, so if there are facts there to support
 20 some sort of penalty or action, and they're not
 21 really supposed to disturb what that sanction itself
 22 is.
 23 MR. FINCHER: Right. And my reading of
 24 the cases indicates that the law adopted this and
 25 it's fairly common within the United States

1 the respondent, so the way I understand it is that
 2 we issue a show cause when we determine that there's
 3 reason to suspect that violations have occurred,
 4 such as the audit revealed all these problems. Is
 5 that your understanding as well?
 6 MS. GROOVER: Yes. So the registry
 7 issues a show cause, they give notice to the
 8 candidate and give them an opportunity to appear and
 9 be heard.
 10 MR. FINCHER: Okay. And then we
 11 determine whether or not there's been violations and
 12 what to -- how to issue civil penalties or
 13 assessments, correct?
 14 MS. GROOVER: Correct.
 15 MR. FINCHER: All right. And -- but I
 16 understand this ALJ said we didn't do that or --
 17 what -- I'm still trying to understand what he's
 18 saying we didn't do, because we found violations and
 19 we, you know, assessed penalties. What's your
 20 understanding or your reading of what the ALJ said?
 21 MS. GROOVER: Sure. So for the benefit
 22 of any of the members who weren't there during that
 23 proceeding, a show cause order was issued. Mr.
 24 Durham was provided an opportunity to either appear
 25 or to provide sworn testimony. Mr. Durham did not

1 appear, did not provide any sworn testimony. So
2 essentially no evidence that the registry could
3 consider was put before the registry at the time the
4 registry made its decision. So its decision was
5 based on the findings of the audit. So the registry
6 had its evidence in the audit, but Mr. Durham didn't
7 put anything forward that would be considered.

8 So, then, in front of the ALJ, we then
9 provided that same record of evidence of -- the
10 registry's evidence of the audit and affidavit for
11 Mr. Moeck about that audit and the procedures he
12 used. Mr. Durham had an opportunity to cross
13 examine Mr. Moeck if he wanted to. He had an
14 opportunity to then again put on evidence, and again
15 did not -- did not do so. The ALJ put the burden on
16 us to produce evidence, but at that point in time,
17 because Mr. Durham was the party seeking to change
18 the current state of affairs, according to the
19 regulations on the UAPA and relevant Supreme Court
20 case law, the party that is trying to change the
21 current state of affairs, they are the ones with the
22 burden of proof. So the ALJ erred in saying that we
23 were the ones with that burden.

24 MR. FINCHER: Okay. Mr. Spencer, if I
25 may, I'll yield to whoever wants to. I just was

1 cross examine the affiant. So we followed that
2 procedure. You know, under the rules and the law
3 regarding it -- the Administrative Procedures Act,
4 that affidavit was admissible to be considered, and
5 as far as the audit itself, you know, it's based on
6 records, public filings, and thi- -- you know, the
7 public filing is not matching with the bank records,
8 et cetera. So we are not talking about a person's
9 testimony. We are talking about public records and
10 other records.

11 MR. FINCHER: Did the respondent make
12 any evidentiary objections to that affidavit?

13 MS. GROOVER: I don't believe so. There
14 was no request to cross examine. I don't recall
15 there being any discussion at all of -- of that
16 affidavit or the reliability of it.

17 MR. FINCHER: So the ALJ essentially
18 determined that some of those findings that the
19 audit made were hearsay without an objection on the
20 table?

21 MS. GROOVER: Correct.

22 MR. FINCHER: Which there's no
23 authorization under the Uniform Administrative
24 Procedures Act to make such a finding, right?
25 That's --

1 rolling on.

2 MR. HAYNES: General, what is -- what is
3 your response to the findings of the ALJ that the
4 affidavit that was submitted by Mr. Moeck into
5 evidence and the record failed to, you know, meet
6 the standards of admissibility, required for him to
7 -- required for the registry to make the findings,
8 and you said that --

9 MR. LAWLESS: Mr. Haynes, if you would,
10 please -- you tend to be a soft speaker with a big
11 stick. I'm going to ask --

12 MR. HAYNES: Mr. -- okay. The ALJ said
13 that Mr. -- a lot of Mr. Moeck's findings with
14 regard to some of the expenses were based on
15 hearsay, presumptions, or otherwise unreliable.
16 What is your position?

17 MS. GROOVER: So to explain a little bit
18 about the affidavit, in typical court proceedings
19 evidence isn't submitted on affidavit; however, in
20 the Administrative Procedures Act, there is a
21 special process whereby a party can submit testimony
22 by affidavit. So this provides a process by which
23 you submit that affidavit to the opposing side a
24 certain number of days prior to the hearing so that
25 the other side has an opportunity to request to

1 MS. GROOVER: Well, as I said, there is
2 a -- under the Administrative Procedures Act, you
3 may submit testimony by affidavit, yes.

4 MR. FINCHER: And you can object and you
5 can -- he -- Mr. Durham had the right to subpoena --
6 Mr. Durham had the right to subpoena
7 witnesses, correct, under the UAPA?

8 MS. GROOVER: He could have put forward
9 his own witnesses and he could have cross examined
10 ours, yes.

11 MR. FINCHER: He could have brought up
12 any documentation that he said would have attacked
13 our findings, correct?

14 MS. GROOVER: Correct.

15 MR. FINCHER: And he didn't?

16 MS. GROOVER: He did not.

17 MR. FINCHER: He didn't submit an
18 affidavit?

19 MS. GROOVER: No.

20 MR. FINCHER: He didn't bring a witness?

21 MS. GROOVER: No.

22 MR. FINCHER: He didn't cross examine
23 our witnesses?

24 MS. GROOVER: No.

25 MR. FINCHER: He just sat there?

1 MS. GROOVER: He was not physically
2 present at the hearing.
3 MR. FINCHER: Wow. Okay. So -- okay.
4 And so the ALJ, after determining that we had the --
5 determined that we had the burden of coming forward
6 with proof, we being the registry and the state at
7 that point, to review our decision and the state
8 submitted affidavits with the detailed finding based
9 on our review of Mr. Durham's provided and
10 subpoenaed financial and campaign records, correct?
11 And that was presented to the ALJ?
12 MS. GROOVER: That's correct. So the
13 affidavit was submitted, the audit report was
14 submitted, and the working papers underlying the
15 audit report were submitted under seal, which was, I
16 believe, like three banker's boxes full of
17 materials. So we submitted very substantial records
18 supporting the audit and the findings of the audit.
19 MR. FINCHER: So what -- what I'm
20 missing -- and maybe this is why we are reviewing
21 it -- how exactly did we fail -- either your office
22 or this body fail to charge Mr. Durham and present
23 evidence of the charges per the judge's order? I
24 understand the state has a different position. I'm
25 trying to understand what the ALJ wrote, and I don't

1 authenticate it. But, of course, you can use
2 hearsay in administrative proceedings as long as
3 it's -- has addition of reliability, correct?
4 MS. GROOVER: Well, you know, it was all
5 under the affidavit. The affidavit was admissible
6 under the rules.
7 MR. FINCHER: Exactly.
8 MS. GROOVER: Yeah.
9 MR. FINCHER: Okay. The final point
10 that we're here on was whether the initial order
11 erred in whole or in part by reducing the civil
12 penalties levied against the respondent from 465,000
13 to 111,000. Now, I read the opinion, and is -- I
14 don't particularly want to get into a detailed
15 review of each allegation because we did that
16 already. We did that the first time we heard this.
17 But if anybody else wants to, feel free to follow
18 up. But, generally speaking, with this opinion, was
19 it -- is it the state's position that the ALJ
20 substituted his independent de novo judgment for
21 what this board had determined?
22 MS. GROOVER: Yes, that is correct.
23 MR. FINCHER: And he said that certain
24 things had not been proved where, in fact,
25 affidavits had been submitted for supporting the

1 get it from the opinion.
2 MS. GROOVER: I think there is confusion
3 on our end as well of what exactly that decision was
4 based on, yes.
5 MR. FINCHER: Is the state's position
6 that the registry, both at the hearing that we had
7 to initially decide it and at the review hearing in
8 front of the ALJ, that the charges were presented
9 and documented and supported?
10 MS. GROOVER: Correct.
11 MR. FINCHER: Okay. And they were not
12 rebutted? They didn't even attempt to rebut it in
13 any way?
14 MS. GROOVER: That's right.
15 MR. FINCHER: Okay. Three banker's
16 boxes full of documents?
17 MS. GROOVER: That's correct.
18 MR. FINCHER: Okay. And were those
19 records -- work papers all authenticated by the
20 affidavit of Mr. Moeck?
21 MS. GROOVER: I would have to review
22 that to see, but I believe so. They were, yes,
23 okay.
24 MR. FINCHER: And the subpoenas would
25 have had a custodian of records affidavit as well to

1 things that we found?
2 MS. GROOVER: Part of the issue was the
3 ALJ essentially stated that the registry had to
4 prove something that the registry, in fact, does not
5 have to prove, which is that there was some sort of
6 impropriety or some sort of bad behavior underlying
7 these failures to report. The Campaign Disclosure
8 Act is exactly that, it's a disclosure act. The
9 purpose behind it is to inform the public of how the
10 money is being spent, where the money is coming
11 from, et cetera. It's not an embezzlement charge,
12 it's not a fraud charge. There's no requirement
13 here to show there was something bad happening
14 underneath that failure to disclose. So the ALJ on
15 top of putting the burden of proof on us inserted
16 this extra prong essentially that the statute
17 doesn't actually require us to prove and lowered or
18 dismissed several of the penalties based on that.
19 MR. FINCHER: And it's the state's
20 position that this was in -- this was a legal error
21 by the administrative law judge --
22 MS. GROOVER: Yes.
23 MR. FINCHER: -- across the board?
24 Okay.
25 Mr. Chairman, I yield the floor.

1 MR. LAWLESS: Are there -- you've got
2 that look on your face.

3 MR. HAYNES: No, I think I -- I will
4 yield the floor.

5 MR. LAWLESS: Okay. Mr. Golden.

6 MR. GOLDEN: I think -- now it's my turn
7 for my microphone.

8 MR. LAWLESS: You took my mike, so maybe
9 it's it and not me.

10 MR. GOLDEN: I think the filings speak
11 for themselves pretty loudly. As someone who didn't
12 participate originally and quite frankly is just
13 bringing, you know, fresh eyes to it, it appears to
14 me that the body that met on this, the
15 administrative -- the commission that met on this
16 almost bent over backwards to try and view it in as
17 positive as light as possible, and did just that.
18 And assessing a penalty of one-sixth of what you
19 could have settled -- could have assessed seems, you
20 know, that you have -- that you treated as well as
21 you could, but still being charged by the
22 legislature to do the work, you know, I -- I
23 completely agree with where you originally came down
24 and I'm at a loss as to why the ALJ substituted his
25 judgment for the -- this body that has so much

1 experience in these cases and then substituted the
2 standard -- not just the standard of review, but the
3 burden of proof. It's just -- you know, as someone
4 who's practiced law for a fairly long time, I -- and
5 I might say in a number of administrative settings,
6 in a number of states, at the state, federal, and
7 international -- I've never seen such lack of
8 deference to an administrative body and was
9 surprised. So I -- you know, I think -- I think
10 fairness has been brought here, and, quite frankly,
11 think if -- and this is just -- you know, if we
12 don't stand for insisting that deference be given to
13 this body, it's going to cripple this body going
14 forward fulfilling its purpose.

15 MR. LAWLESS: And, Paige, and I want to
16 remind you one thing, I believe this particular
17 hearing was the first time that Commissioner Haynes
18 was on this body and became a party defendant -- I
19 think the lead party defendant as this matter moved
20 forward, so I -- I caution you as you question or
21 make comments, ma'am.

22 MS. BURCHAM-DENNIS: You know how to put
23 it out there, don't you?

24 I'm just really not as familiar with
25 everything, so I wasn't -- I came on midstream on

1 this, but I think it speaks for itself. As someone
2 that's the only non-attorney on this panel, I am
3 disappointed in the ALJ's decision, but I think this
4 is a no-brainer. We have to stand up for ourselves.

5 MR. FINCHER: He's not a lawyer too.

6 MS. BURCHAM-DENNIS: Oh, sorry.

7 MR. LAWLESS: We have two people that
8 have common sense and then you've got four lawyers.

9 MS. BURCHAM-DENNIS: I don't feel so bad
10 now.

11 MR. FINCHER: He looks so distinguished.

12 MR. MORTON: I really don't think that I
13 could add anything or detract anything that's been
14 said, both from you. But I have nothing further --
15 further to add.

16 MR. LAWLESS: Okay.

17 MR. FINCHER: So does the state wish to
18 add or say anything at this point?

19 MS. GROOVER: No.

20 MR. FINCHER: Mr. Chairman, I would move
21 that we reject the --

22 MR. LAWLESS: I was actually going to
23 make a few comments and I have a few questions for
24 the general, if I can. I knew I was sitting back
25 and waiting. I was just trying to -- and I do want

1 to say this much lest anybody have a question: I
2 asked Mr. Fincher, and Mr. Fincher did it the last
3 time. He may be sitting on the other side of the
4 political divide on this particular one. He went --
5 bent over backwards not to allow that to interject
6 itself in any of our deliberations the first time
7 through, or this time actually. And -- and I can't
8 disagree with anything that you have said or
9 anything that has gone through in the proceedings
10 involving Mr. Durham.

11 But with that said, let me at least say
12 this, and this is addressed to the general: This is
13 probably like a hot Supreme Court hearing, so you
14 are fortunate in that respect. It's good
15 experience. I know the lady sitting behind you has
16 done that a number of times. But with that being
17 said, do we have the authority to revisit any of our
18 previous findings?

19 MS. GROOVER: You could, yes.

20 MR. LAWLESS: Okay. So if we wanted
21 to -- and there is some question as to some of the
22 claims or deductions. Say for the dues to the
23 Tennessee Bar Association that we looked at and
24 discussed in the previous hearing, we could reopen
25 that portion of it?

1 MS. GROOVER: You could, yes.
 2 MR. LAWLESS: Okay. The hearing that we
 3 had was based on an official audit that was properly
 4 in form and fashion; is that correct?
 5 MS. GROOVER: Correct.
 6 MR. LAWLESS: And all the information in
 7 that audit that the auditor of this registry was
 8 from information supplied either by subpoena,
 9 through force, or volunteered by Mr. Durham or his
 10 representatives?
 11 MS. GROOVER: That's correct.
 12 MR. LAWLESS: Okay. So that everything
 13 that we acted on was provided by Mr. Durham?
 14 MS. GROOVER: Correct.
 15 MR. LAWLESS: And the findings were
 16 based on those facts?
 17 MS. GROOVER: Correct.
 18 MR. LAWLESS: Was there any finding by
 19 the ALJ that there were any irregularities in the
 20 conduct of the registry?
 21 MS. GROOVER: I don't believe so, no.
 22 MR. LAWLESS: In your review, as with
 23 any attorney, when you reviewed the actions of the
 24 registry -- and this was done in -- three years ago,
 25 '17, yeah -- did you notice any irregularities on

1 administrative agencies because the registry has the
 2 statute requiring that there be a hearing prior to
 3 assessing a civil penalty, whereas with other
 4 administrative agencies, typically they're just
 5 issuing a letter assessing a penalty and there's not
 6 a hearing. So usually the contested case hearing is
 7 the first time that any proof is being put on.
 8 So --
 9 MR. LAWLESS: They already had one bite
 10 at the apple?
 11 MS. GROOVER: Right.
 12 MR. LAWLESS: And that is a little
 13 unusual --
 14 MS. GROOVER: Yes.
 15 MR. LAWLESS: -- so this is -- it's not
 16 like trial by surprise? This is not going into
 17 general sessions court and going?
 18 MS. GROOVER: Right.
 19 MR. LAWLESS: Has there been any claims
 20 of bias made by Mr. Durham?
 21 MS. GROOVER: Not that I can recall, no.
 22 MR. LAWLESS: Was there any claims of
 23 bias by his counsel?
 24 MS. GROOVER: Not that I recall, no.
 25 MR. LAWLESS: So everything appeared --

1 the part of this body?
 2 MS. GROOVER: No.
 3 MR. LAWLESS: And had you seen those,
 4 you would have been ethically required to have
 5 addressed these at the ALJ level?
 6 MS. GROOVER: Yes.
 7 MR. LAWLESS: And you did not see any,
 8 so you didn't have to?
 9 MS. GROOVER: No, the audit was done
 10 according to state statute.
 11 MR. LAWLESS: Did at any point in time
 12 Mr. Durham allege, claim, or plead any
 13 constitutional defense, Fifth Amendment, what have
 14 you, to any of the information that was supplied?
 15 MS. GROOVER: So part of the reason
 16 provided for there not being any evidence submitted
 17 and for Mr. Durham not appearing was based on a
 18 Fifth Amendment objection.
 19 MR. LAWLESS: Okay. And so the matter
 20 was basically brought before the ALJ on the record?
 21 MS. GROOVER: Yes.
 22 MR. LAWLESS: And is that a standard of
 23 regular review before administrative body?
 24 MS. GROOVER: So this is a little
 25 different with the registry than with other

1 or at least in the opinion of the attorney general's
 2 office and at least some of those of us up here,
 3 that this was regular form, properly constituted,
 4 properly undertaken, properly reviewed upon
 5 information and evidence provided by Mr. Durham?
 6 MS. GROOVER: That's correct.
 7 MR. LAWLESS: I'll yield. Does anybody
 8 have any additional questions at this point in time?
 9 Yes, Mr. Fincher.
 10 MR. FINCHER: Thank you, Mr. Chair.
 11 Your questioning raised another point to me.
 12 So Mr. Durham exercised his Fifth
 13 Amendment privilege at the ALJ proceeding to not
 14 appear, correct?
 15 MS. GROOVER: Correct.
 16 MR. FINCHER: This entire proceeding is
 17 a civil proceeding, correct?
 18 MS. GROOVER: That's correct.
 19 MR. FINCHER: And under prevailing
 20 Fifth Amendment juris prudence, if someone exercises
 21 their Fifth Amendment privilege in a civil case,
 22 then it is entirely proper for the finder of fact to
 23 draw an adverse inference from that exercise,
 24 correct?
 25 MS. GROOVER: That is correct.

1 MR. FINCHER: What that means is they
2 can say in a civil case, which they cannot do in a
3 criminal case, you didn't testify, so you must be
4 guilty of at least some of it, right?

5 MS. GROOVER: Correct.

6 MR. FINCHER: Okay. All right. And the
7 ALJ didn't do that?

8 MS. GROOVER: He did not.

9 MR. FINCHER: Okay. Ready for a motion,
10 Mr. Chairman, or does anybody else want to speak?

11 MR. MORTON: I have a question.

12 MR. LAWLESS: Well, are you calling a
13 question or --

14 MR. MORTON: I have a question.

15 MR. LAWLESS: Okay, good. Please,
16 Mr. Morton.

17 MR. MORTON: At the ALJ hearing, did Mr.
18 Durham or his lawyer question any specific part of
19 our findings, or did he just question the findings
20 as a whole?

21 MS. GROOVER: There were questions as to
22 the process and the scope of the audit, and then
23 there were also questions of whether the penalties
24 were excessive under Eighth Amendment law.

25 MR. MORTON: Specifically to each one of

1 them or as a whole?

2 MS. GROOVER: As a whole.

3 MR. MORTON: I see. So he just said "I
4 don't agree with anything" is basically what he
5 said?

6 MS. GROOVER: Basically that the penalty
7 as a whole was too high.

8 MR. MORTON: As a whole?

9 MS. GROOVER: As a whole.

10 MR. MORTON: Thank you.

11 MR. FINCHER: Mr. Chairman, I would like
12 to hear from the executive director if he has
13 anything to add or remarks or any questions for the
14 general.

15 MR. YOUNG: Thank you, Mr. Fincher.

16 At this point, assuming there are no
17 more questions by the registry board, the registry
18 needs to decide what it wants to do with the initial
19 order, and that would become a final order that this
20 board needs to issue in writing. Under the Uniform
21 Procedures Act, unless you allow the submission of
22 proposed findings by the parties, which it sounds
23 like you're not going to do, the board has 90 days
24 after the hearing, this hearing today, to enter that
25 final order. So we have 90 days to do it.

1 I would suggest that we need a written
2 final order to be prepared regarding what this does
3 today to take into account all the legal arguments
4 that have been made, and I would be happy to work
5 with you to submit such an order for your
6 consideration and approval at the end of the day. I
7 offered to do that for you and the board, Mr.
8 Fincher. But we need to get it done within 90 days
9 after this hearing.

10 So with that, I'm at the will of the
11 registry board how you want to proceed.

12 MR. LAWLESS: Before we proceed to any
13 votes or any further discussions, I am going to
14 request -- and we want to make this basically on a
15 role basis -- are there any members of the registry
16 that wish to disclose if there are any conflicts, if
17 they have any -- we're just going through that
18 little spiel that I should have done at the
19 beginning, and my secretary used to remind me when
20 we did this on our judicial things --

21 MR. GOLDEN: When I sat by you.

22 MR. LAWLESS: We are distancing now.
23 But if there are any members that feel that they
24 cannot act at this particular time in this matter,
25 if they perceive that they have a conflict that they

1 would like to draw the attention of the registry to
2 and we can discuss it and see if it is a
3 disqualifying one, and at that point I'm going to
4 start at the left end of the hallway down there. Do
5 you feel that you have any conflicts to our acting
6 in this matter?

7 MS. BURCHAM-DENNIS: I'm a personal
8 friend of Mr. Durham's sister, but I do not feel
9 that that would be a conflict.

10 MR. LAWLESS: Aside from being a party
11 in a lawsuit, Paz?

12 MR. HAYNES: Other than that, I know of
13 no conflicts.

14 MR. GOLDEN: I know of no conflicts.

15 MR. FINCHER: I don't know if I was
16 named or not in the lawsuit, so I --

17 MR. LAWLESS: I think you got left out.

18 MR. FINCHER: I would rather be lucky
19 than good, so no conflicts. I've never seen the
20 guy.

21 MR. MORTON: I have no conflicts.

22 MR. LAWLESS: And I have absolutely no
23 conflicts in this matter.

24 So at that point, we are at a position
25 where we will be taking a -- do you wish to say

1 something? You've got that look on your face like
2 you --

3 Okay. We are going to take a -- I need
4 a motion.

5 MR. HAYNES: Mr. Chair, one question.
6 General, if we are named as adverse
7 parties in a lawsuit involving the respondent, does
8 that pose a conflict of interest with regard to
9 this?

10 MS. GROOVER: No.

11 MR. LAWLESS: As I understand it, we
12 were named in our capacity as a commissioner, not as
13 an individual. Is that --

14 MR. HAYNES: Okay.

15 MR. LAWLESS: I keep looking over there
16 because we get sued -- as I understand it, we get
17 sued all the time, and he has gotten used to seeing
18 the names, probably can sign or spell them better
19 than most people can, including ourselves, so --
20 over the years. And I know Mr. Fincher's always
21 getting picked on.

22 So at this point, we don't have a
23 motion. I am going to be willing to accept a motion
24 at this point in time. Mr. Fincher?

25 MR. FINCHER: Yes. Mr. Chairman, I

1 would frame the motion like this: I would move that
2 we reject the ALJ's initial order, that we direct
3 the executive director with assistance of the staff
4 to prepare -- draft written findings for us to
5 consider, review, and approve at the next meeting.

6 MR. LAWLESS: I have a motion. Do I
7 have a second?

8 MR. FINCHER: I second.

9 MR. MORTON: I second.

10 MR. LAWLESS: I have several seconds.

11 Janet.

12 MS. JANET: Dennis?

13 MS. BURCHAM-DENNIS: Aye.

14 MS. JANET: Fincher?

15 MR. FINCHER: Aye.

16 MS. JANET: Golden?

17 MR. GOLDEN: Aye.

18 MS. JANET: Haynes?

19 MR. HAYNES: Aye.

20 MS. JANET: Lawless?

21 MR. LAWLESS: Aye.

22 MS. JANET: Morton?

23 MR. MORTON: Aye.

24 MR. LAWLESS: Okay.

25 MR. YOUNG: Mr. Chair, we are through

1 with Number 3. I appreciate the attorney general's
2 office attendance on this matter.

3 MR. LAWLESS: I would like to compliment
4 the attorney general's office for the hard work. I
5 mean, you guys did a heck of a job. I really,
6 really do want to compliment you. You comported
7 yourself very well today. Thank you.

8 MR. YOUNG: Thank you, Mr. Chair.

9 MR. LAWLESS: Can we take a five-minute
10 break?

11 MR. YOUNG: I was going to suggest the
12 same thing.

13 (Off the record discussion.)

14 MR. YOUNG: But we will -- I will ask
15 Ms. Topping to get the next folks in the room for
16 us. This will be the review of the audit and the
17 Casada account. Mr. Casada will be the first
18 presenter. Mr. Casada.

19 With that, we are in a five-minute
20 break. Thank you, Mr. Chair.

21 (Brief recess.)

22 MR. LAWLESS: Mr. Secretary, do we have
23 a quorum?

24 MR. YOUNG: We have a quorum.

25 MR. LAWLESS: Executive director.

1 MR. YOUNG: Thank you very much,
2 Mr. Chair. We are back in session with a quorum,
3 and we are on the fourth agenda item on your
4 schedule, our review of the audits of Representative
5 of the Casada campaign account, which is his CASPAC
6 account, which is his leadership account. Mr. Moeck
7 is at the table. He has prepared these audits and
8 he is ready to present on the findings of those
9 audits.

10 Mr. Chair, I hand it back to you.

11 MR. LAWLESS: You performed the audit;
12 is that correct?

13 MR. MOECK: That's correct. I don't
14 know if this is on.

15 MR. LAWLESS: Mine wasn't. So I'll just
16 put mine back on.

17 MR. MOECK: Now, yeah. Yes, I performed
18 the audit.

19 MR. LAWLESS: You have performed the
20 audit, and the information that you performed the
21 audit from was supplied by Representative Casada
22 and/or his designated person, correct?

23 MR. MOECK: That's correct. I will --

24 MR. LAWLESS: Have you completed the
25 audit?

1 MR. MOECK: I have completed the audit.

2 MR. LAWLESS: In regular form and
3 fashion like you do every other time?

4 MR. MOECK: They are exactly the way we
5 always do the audits with only an exception that the
6 board is the one that requested this, so there were
7 subpoenas issued, which is not a normal audit
8 procedure for our normal, random audits.

9 MR. LAWLESS: Thank you. Please
10 proceed.

11 MR. MOECK: All right. Since you gave
12 me some time, the first thing I'll do is just in
13 case she didn't get my name, my name is Jay, my last
14 name is Moeck. It's spelled M-O-E-C-K. Pronounce
15 it like that O is not there.

16 I'm the director of audit for the Bureau
17 of Ethics and Campaign Finance. I am your main
18 auditor for the registry as well. And as he
19 mentioned, we did perform an audit for Casada
20 campaign. It was a very specified audit. It was
21 requested by the board itself, the registry board.
22 It was supposed to cover from the period of
23 January 1, 2018, through June 30, 2019, and that is
24 what we did.

25 Into the mike. Some people can't hear

1 campaign, there were corrective actions completed.
2 Those actions were completed before we issued the
3 report, so we were able to put those corrections
4 into the report itself. Those corrections correct
5 every possible thing that he could correct on the
6 report itself. Those are disclosure-type
7 corrections to make them meet the statute, okay.
8 There are certain things like a receipt. I can't,
9 you know, have him recreate a receipt, I don't want
10 him to recreate a receipt, doesn't correct the
11 disclosures.

12 You will notice that that doesn't exist
13 in the CASPAC audit. Our candidate and his
14 treasurer also controls that particular pack. They
15 started to do those corrections prior to the
16 completion of the audit report, but were not able to
17 complete those until last night. I have not been
18 able to verify those completions, but he has made
19 the attempt to do that, and I will after this
20 meeting in the next week verify that he's made
21 those -- completed all the corrections that we
22 requested.

23 But what he has done and did this
24 morning is he's verified that all the transfers that
25 would be required between his campaign and his pack

1 me. Sorry, I'm used to looking at you -- like you
2 said, it's weird seeing everybody spread out.

3 When we do an audit, as he pointed out,
4 we do make a request of the candidate and his
5 treasurer to find all records. In this case,
6 Representative Casada and his treasurer provided all
7 the records that we needed; however, you all also
8 gave us the authority at the beginning of it to
9 subpoena bank records, so we did go ahead and
10 subpoena those records to confirm that the data that
11 he gave us was complete, but it appears that all of
12 the records, like I said, that we needed were
13 provided by the representative and the treasurer.
14 They also were very helpful with any kind of
15 questions or follow-ups we needed throughout the
16 process.

17 We then developed the two audit reports
18 you have, and we are going to request that you
19 approve these reports to be sufficient for your
20 needs -- at least the audit staff is. They do
21 contain some findings where we have noted violations
22 or possible violations of the statute for your
23 consideration for possible action.

24 I will add one more thing. You will
25 notice in the Casada audit that you got for the

1 and himself and his pack and his campaign have been
2 completed. So I've seen the checks, the transfers
3 are done, and that puts all the funds back in the
4 appropriate places. I will add that to the stuff
5 that you actually already have. That part has been
6 completed.

7 Your next task after that would be to
8 decide whether you want to do anything, and I'm here
9 to answer any questions you may have on the audit
10 report, and Representative Casada is also here, I
11 believe, to answer any questions that you may have,
12 and so is his treasurer if you would happen to have
13 any questions or need some additional guidance.

14 MR. LAWLESS: Are any members of the --
15 Hank.

16 MR. FINCHER: Sure. I was just going to
17 ask Mr. Moeck a couple of questions.

18 MR. LAWLESS: Yeah, please do, and, Jay,
19 I'm going to have you, after you get finished and we
20 have the other representatives, just stay close.
21 You are not free to go.

22 MR. MOECK: I understand. I will be
23 right behind you.

24 MR. LAWLESS: All right.

25 MR. FINCHER: So Mr. Moeck, the way I

1 understand it is the representative and his
2 accountant and everybody have been cooperative with
3 the registry?

4 MR. MOECK: Very cooperative.

5 MR. FINCHER: Excellent. And they have
6 corrected what they can correct with -- absent a
7 time machine, right?

8 MR. MOECK: They have corrected what
9 they can correct on the campaign. I cannot verify
10 that all the CASPAC is corrected. They have
11 submitted reports last night that supposedly would
12 have done that, but I have not reviewed them to say
13 yes, those corrections were made. But based on
14 their compliance for everything else, it would seem
15 reasonable those will probably be correct.

16 MR. FINCHER: Okay. All right. So --
17 and those would have been reporting errors and
18 violations that you identified in your report?

19 MR. MOECK: Generally what you're
20 talking about is like if we said something wasn't
21 itemized, he's gone back and itemized it. If a
22 category is misreported, he's gone back and reported
23 it. As I mentioned, he also showed me several
24 checks this morning, so in the case you've got one
25 issue where you have a campaign expense that

1 pur- -- generally what we're talking about is the
2 purpose, right, the purpose is on the disclosure,
3 that's what those receipts and invoices tell me,
4 that it really is for the purpose they said. He
5 originally didn't submit any of those. In fact,
6 that was brought to the attention of the board back
7 in November. Because of that, we instituted a
8 process to rebuild all his receipts. To do that,
9 basically we contact Representative Casada and say,
10 "Hey, we think your advertising firms can probably
11 give you this information, we think the hotels can
12 probably give you this information," and so we
13 identify as many expenditures that we think you
14 could possibly go and get a receipt fairly easily,
15 unlike a McDonald's or a Wal-Mart or a Target where
16 you may be able to get a receipt, but you're
17 probably not going to be able to get it without a
18 subpoena and several months and months of effort to
19 get it from them.

20 And so he went through that process. He
21 was able to rebuild a good chunk of it because most
22 of his expenditures are advertising. These would be
23 the leftovers. You'll notice a lot of them are
24 food, a lot of them are small dollars, like I said,
25 from businesses it's hard to recover those from, and

1 occurred -- or pack expense that has occurred in the
2 campaign account, he has not only fixed the
3 disclosure to show the expense in the right report,
4 but he has also transferred that fund from the one
5 campaign account over to the pack account. So I can
6 verify that all the money is in the right place
7 based on those checks this morning.

8 MR. FINCHER: That's important.

9 So what was unable to be fixed from
10 the -- I guess let's start first with the campaign
11 account for Representative Casada, because that's
12 going to be a shorter list, I think.

13 MR. MOECK: Sure. So the things you
14 really can't correct that the audit usually finds is
15 your receipts. So in the Casada audit, that's going
16 to be Finding Number 6 in your packets there that
17 you would have had. It's the very last finding.
18 You will see there's about \$5,000 in unsupported
19 records.

20 So in the case of Representative Casada,
21 both for the campaign and the pack, the original
22 submission of records did not have any receipts for
23 any invoices. The reason we want those receipts and
24 invoices, they're going to tell us that what he said
25 the expense is for is actually for that expense, the

1 so there's really not a whole lot he can do at this
2 point except come up here and tell you face to face
3 "Yes, my expenditures are what I said they're for."

4 MR. FINCHER: Okay. So what I'm hearing
5 is that part of the cooperation was you said, hey,
6 go get your receipts that you can get, and they got
7 -- they obtained --

8 MR. MOECK: Yes.

9 MR. FINCHER: -- most of them? Do you
10 know roughly how much is unaccounted for at this
11 point?

12 MR. MOECK: That's it. So that's the
13 other thing different about this audit. So I should
14 be very specific. This audit is a little bit
15 different than all the other audits we do, very much
16 like the Durham audit was different. When you board
17 request an audit, we are not sampling your -- their
18 transactions. This is more like an investigation.
19 We just don't use the term "investigation." So this
20 thing tells you every transaction that he incurred
21 from January 1st through the 19th of July. This is
22 everything.

23 MR. FINCHER: Okay.

24 MR. MOECK: The only thing we wouldn't
25 know is things that are completely off-book and, you

1 know, could not get any kind of record for. This is
2 based on the campaign accounts, all right, based on
3 banking statements. So when I tell you there's
4 5,000 missing in receipts, that's it, that's all of
5 it.

6 MR. FINCHER: Okay. So after all the
7 review and all the receipts, the only thing that's
8 not documented is 5,212.50, and it appears to be
9 like the food entries that you --

10 MR. MOECK: Yeah, it -- you're really
11 talking mostly food. There's a few in there where
12 he's attempted to get stuff too and there's been
13 some problems trying to get it from the vendor and
14 different sort of information coming from the
15 vendor, but for the most part, it's food. And,
16 also, some of those food we can sort of tell you is
17 okay anyway because it's when he's traveled. So
18 like if I know he had a travel expense to go to New
19 Orleans for a conference, well, there's obviously
20 going to be food around that. Well, it's probably
21 because he's there at the conference. I don't have
22 a receipt yet, it's on that list, but it's probably
23 food from this conference.

24 MR. FINCHER: And for context's sake,
25 this was a speaker's campaign account. I would say

1 he would generate more cash than I did -- or not
2 cash, sorry -- more campaign -- campaign
3 contributions and expenditures than --

4 MR. LAWLESS: Flip of tongue, Hank.

5 MR. FINCHER: -- my lowly --
6 representative. What money are we talking about
7 coming in now, because five grand would be a big
8 chunk for a Putnam County representative account,
9 but we're probably not in Williamson County's
10 speaker's account. What was --

11 MR. MOECK: Sure. And so, generally,
12 the portion of the audit report that -- we don't
13 send you all the complete audit report. There's
14 some general information that's at the front.
15 Generally, we give you information by election.
16 That way when it hits the Web, you can sort of
17 compare and contrast, which is what you're trying to
18 do, right? Because we did a full-year audit -- or
19 half of a full-year audit, 2018 election, and doing
20 2019 is a --

21 MR. FINCHER: New cycle.

22 MR. MOECK: It's a current cycle
23 election. We were --

24 MR. LAWLESS: Hank, could you be more
25 into the microphone? They are recording it.

1 MR. FINCHER: Thank you.

2 MR. MOECK: We were careful not to just
3 put 2019 data in here. So I can only tell you 2018.
4 In 2018, his receipts were 171,000, a little above
5 that. His expenditures were in the neighborhood of
6 about 50,000, short of that.

7 MR. FINCHER: Okay.

8 MR. MOECK: That is on the -- in the
9 audits that I do. I mean, you will see everything
10 from nothing -- some of our judges don't have to
11 spend any money, they -- to like you said a
12 speaker's account, tenant account. He is going to
13 be on the higher end of the total value of his
14 campaign. He's not quite the largest, because we
15 are doing gubernatorial audits and they will dwarf
16 this by far.

17 MR. FINCHER: So he had 174,000 in, and
18 we're down to \$5,200 in lunch account and
19 receipts --

20 MR. MOECK: Yes, it's a small
21 percentage.

22 MR. FINCHER: Well done. I don't have
23 any further questions on this. On the
24 representative account, I -- I will follow up with
25 the pack account, but I yield the floor to anybody

1 with questions.

2 MR. MOECK: I figured you'd want to --
3 even though you requested them together we did the
4 audits separate. We treated each one as a separate
5 entity. We tried to act like it would be done if it
6 was just a campaign audit or just a pack audit.
7 Even though they are interrelated, these are
8 separate things as far as the audit team is
9 concerned.

10 MR. LAWLESS: Understand. Commissioner
11 Golden.

12 MR. GOLDEN: Yeah. First off, thank you
13 for all your work on this.

14 Just two quick questions: One, you
15 indicated other than the receipts that absent time
16 travel -- I like the way you framed that -- we can't
17 do anything about, but as a percentage basis, it's
18 fairly low and there's logic, you know, to missing
19 receipts. Missing receipts at a conference doesn't
20 really raise a concern except you're still missing
21 them.

22 MR. MOECK: Yes.

23 MR. GOLDEN: So I understand that,
24 but -- and so everything else is fixed, but the
25 question I have is, is the root cause of all this

1 fixed? So if something is deposited into the wrong
2 account or something doesn't hit the ledgers it
3 should or something doesn't get disclosed, you can
4 arrange all that, but something caused that. Unless
5 you fix the cause of all that, next year we are
6 just, you know, kind of here. So what's your
7 feeling on root cause and --

8 MR. MOECK: Sure. So I'm going to -- I
9 know you have some auditing background and there's
10 probably other people here that has some auditing
11 background. One of the things that is not in
12 campaign finance statute is there are no internal
13 controls that are mandated into a campaign, okay.
14 And the root causes of these appear to be internal
15 control-related. So that being said, intermixing
16 your -- so you will notice there's transactions that
17 happened in the pack, happened in the campaign, and
18 happened personally, right. He's spending money out
19 of each and he's trying to make sure that he keeps
20 things separate. The more you interplay those,
21 which he does not do a lot, but does some, it
22 increases the possibility of having some of the type
23 of errors he has, okay. And because I can't mandate
24 that, hey, you have to keep everything separate
25 because that's not in campaign finance law, I can't

1 properly if you can concur with what's in the
2 report." And like I said, he's appeared to be
3 trying to do that.

4 MR. GOLDEN: And I applaud the registry.
5 Executive Director, I know part of your mission is
6 to increase education, right, because it's a lot
7 better to have a fence at the top of the cliff than
8 ambulances at the bottom, but, you know, education
9 around the importance of internal controls around
10 financial reporting, I mean, I'm not shocked at all
11 that that's what you assign the root cause to,
12 because that's always the root cause, right, almost
13 always the root cause.

14 MR. MOECK: Almost always the root
15 cause.

16 MR. GOLDEN: The other is probably not
17 this, right?

18 MR. MOECK: I believe there was a
19 discussion earlier of intent. We do not deal with
20 intent.

21 MR. GOLDEN: Right. So another data
22 point, right?

23 MR. YOUNG: You are correct, Mr. Golden.
24 Education is extremely important. Our director of
25 audit is absolutely correct. We use this as an edu-

1 really say, "Hey, yeah, this is the root cause and,
2 yes, he's changed that." I can tell you he's fixed
3 some of that problem by moving the money into the
4 right accounts and appears to understand that that's
5 going to be important in the future to keep things
6 separate, but it's really a question of
7 Representative Casada when you bring him forward.
8 So I will defer and let you ask him directly if he
9 thinks he's changed those kind of internal controls.

10 I can tell you all my candidates, save
11 one or two, when they complete the audit, they
12 always come up to me and go, "Hey, I've learned so
13 much on how to do these and how they help." One of
14 my things that I think is really important -- it's
15 also why we recommend every time these are issued,
16 whether there's a binding or not, that they be put
17 on the Web, is how much they've learned, how much
18 they know how to do to go forward, that it's part of
19 the audit, that it -- my job is not just to give you
20 an enforcement provision. It is to help them to be
21 able to comply. That's why we helped him recover
22 receipts, we identified stuff for him to help them
23 do, and we write the correction letter for him at
24 the end and say, "Hey, here's how you can correct it
25 and make it match the way it needs to be reported

1 -- these audits are an education. If there's any
2 time we have an informal conversation we're trying
3 to educate folks, we're trying to push more
4 information out into the Web, have more conferences
5 so folks know more about it.

6 There is -- and I told Representative
7 Casada this, I've told others this: It's important
8 to document everything you're doing, the statute
9 requires it, and we are going to be looking for
10 those documents when we come in on the audit or any
11 other questions.

12 There are also -- I think those are two
13 important points in this is a gray area. Our
14 director of audit and I have these questions all the
15 time about some of the language in the statute.
16 It's a broad definition of campaign contribution,
17 and they are defining what is and what is not a
18 contribution, what is and is not independent
19 expenditure. Those are -- sometimes you get into
20 some gray areas there, and hopefully, by having
21 these discussions and define what our expectations
22 are, or your expectations are.

23 MR. GOLDEN: Thanks. One more question.
24 How much time did you spend on all this? I mean, it
25 seemed pretty laborious just reading it.

1 MR. MOECK: So the audit was
2 obviously -- we did a preliminary memo back in
3 November. At the preliminary memo, we had just
4 received most of the records for Representative
5 Casada. I believe it was requested in August. Is
6 that right, Janet? Do you remember what month it
7 was requested?

8 MS. JANET: That's about right.

9 MR. MOECK: I have basically -- these
10 two audits have been the main audits that I've been
11 working on since then. Now, this is not the
12 exclusive thing that I do. As he mentioned, there's
13 a lot of answering questions, we review every file
14 that comes -- every campaign finance report that is
15 filed in our office goes through a review. I do
16 some of that, my auditor does some of that. This
17 has been most of my time since then is to do these
18 two audits with very few exceptions. So that goes
19 into the fact that it does do every transaction.

20 Now, there's also some delays. It's
21 sort of what we tried to explain when the audit was
22 requested, there is a delay when we subpoena a bank.
23 It's usually going to take us a month to at least
24 two months to get it from the bank once we issue the
25 subpoena. Usually takes about a week to make sure

1 that if you would have had it, would have made this
2 more efficient for you?

3 MR. MOECK: So the big problem with
4 electronics so far in campaign finance is,
5 obviously, all the data that we get from our side is
6 electronic, it's up there on the Web, I can pull all
7 the data and plug it in. Most of the stuff on the
8 candidate's side and the records coming in is not.
9 And I don't know how that would ever get processed
10 in a way that -- currently processed in a way that
11 we could, you know, like merge it together and, you
12 know, do quicker -- quicker reviews with it. I've
13 used automated work papers before when we -- when I
14 worked for the comptroller's office. Both sides in
15 that case were automated. What we get from the bank
16 or whatever and what we get from the state is
17 automated, so you can merge it together in a
18 database and do it fairly quickly.

19 The other issue that we run into is,
20 yes, I can take a bank statement, I can scan it in,
21 and I can convert it using automated work papers or
22 automated --

23 MR. GOLDEN: OCRs.

24 MR. MOECK: Yeah, yeah. It's -- there's
25 programs out there that will do it. It's a little

1 we wrote the subpoenas right -- we don't subpoena a
2 whole lot, that's not our big thing -- and to get
3 all the information to make sure we're sending the
4 subpoena to the right place.

5 It takes time for our candidates to
6 respond. We're not their only issue. They have
7 some very important things to do currently,
8 especially while they're in session. So we do try
9 to be considerate of their time and we tend to give
10 them about a month or so to respond to a lot of
11 stuff. Can be as short as two weeks.

12 That's also why you've got a problem
13 sort of with the CASPAC, right. He was made aware
14 of the final audit report, the CASPAC, about
15 mid-month, maybe a little bit before mid-month last
16 month, and we have been working pretty consistently,
17 from what I can tell, to try to get corrections in.
18 So he's pretty much on schedule, probably about a
19 week behind what we would have normally seen in a
20 correction time, but for two audits at once, he's
21 the first one that's had to do that. He is doing
22 pretty good.

23 MR. GOLDEN: And then final quick
24 question: Are there any electronic tools that if
25 you had to do this over, we found this time machine,

1 expensive for the process that we have right now to
2 be buying that kind of stuff for a hundred dollar
3 audit. It might work for Representative Casada, or
4 I'm doing an audit of Billy or Carl Dean, but these
5 small audits, it's just way too expensive, way too
6 much, for what little it is.

7 MR. GOLDEN: Thank you.

8 MR. LAWLESS: Any other commissioner?
9 Thank you. We will come back to you.

10 Before we go to Representative Casada
11 and his -- I'm going to assume you're --

12 MR. FINCHER: I did have questions about
13 the CASPAC audit for him unless you were going to --

14 MR. LAWLESS: I was going to bring him
15 back up for CASPAC. I was going to knock one out
16 and then come back and do the other one, if that's
17 okay.

18 MR. FINCHER: That's fine.

19 MR. LAWLESS: One is fairly clean and we
20 have other questions on the other one.

21 MR. FINCHER: Yeah.

22 MR. LAWLESS: And before we go forward,
23 to the commissioners, does anyone wish to disclose
24 any information or any conflicts that they may feel
25 that they need to bring to the attention of either

1 the other commissioners or the public at large in
2 dealing with Representative Casada on his personal
3 audit? And I'm going to start down --

4 MS. BURCHAM-DENNIS: No.

5 MR. LAWLESS: -- Paige --

6 MS. BURCHAM-DENNIS: No.

7 MR. HAYNES: Representative Casada and I
8 have a friend in common, but I don't think that I
9 have a conflict.

10 MR. GOLDEN: No conflicts.

11 MR. FINCHER: It's almost to the point
12 of personal privilege here, Mr. Chairman. Glen and
13 I battled mightily and argued mightily on the floor
14 of the house and would laugh mightily in the
15 hallways after we were done. The closest thing to
16 conflict that I have, though, is that I am deeply
17 indebted to him. He was the chairman of the
18 republican caucus when they sent me home to Putnam
19 County, and my life has been beautiful since then.
20 Thank you, Dan. Thank you.

21 So with that said, Mr. Chairman, there's
22 no legal conflict here that would prohibit me from
23 hearing this matter.

24 REP. CASADA: And, Mr. Chairman, if I
25 can -- an addendum -- usually on those floor

1 debates, I came out on the short end, but, you
2 know --

3 MR. FINCHER: He did. That's why I got
4 sent home.

5 MR. MORTON: I have no conflict.

6 MR. LAWLESS: And I, of course -- I had
7 no problem with this. I've known Representative
8 Casada for a long, long time, I consider him a
9 friend, but would it have in this respect any
10 problems whatsoever? None.

11 Okay. Now, you're open for questions as
12 to your personal campaign account first. And I'm
13 going to allow the -- I'm going to again defer to --
14 and, Hank, I'm not picking on you today, but I'm
15 letting you be the lead because you're here and it's
16 such a joy to see you.

17 MR. FINCHER: Always a pleasure to see
18 you, Mr. Chairman, especially behind a mask.

19 MR. LAWLESS: Thank you.

20 MR. FINCHER: I asked Mr. Moeck the
21 questions about the audit, but Representative
22 Casada, if you've got a statement to make or
23 anything you want to say to us -- I don't have any
24 further questions about it, but if you want to
25 explain the remaining items or whatever, just --

1 REPRESENTATIVE CASADA: And first I've
2 got to thank Jay. He is a topnotch fellow. We've
3 become best -- BFFs on the internet, communicating
4 back and forth on all this, and he's been a great
5 help. He's patient and he does a good job for the
6 State of Tennessee, so we all owe him that thanks.

7 I think Bill mentioned this has been a
8 learning process. I've got to be honest with you
9 guys, I -- what do they say in the courtroom?
10 Ignorance of the law is not an excuse, but I was
11 just under the impression if it's under \$100, I
12 didn't need a receipt. And it has led to a whole
13 host of problems, which since about October or
14 November, I now keep itemized receipts on
15 everything. And so if this ever happens again, I'm
16 ready for you, Jay.

17 MR. MOECK: All right.

18 REPRESENTATIVE CASADA: Number 2, the --
19 so what have I done from this point on? Number 1,
20 obviously, everything is -- receipts are kept.
21 Number 2, for many years I kept -- I had three
22 personal accounts, the CASPAC account and the bank
23 account at the same bank, and that just -- that just
24 was a whole host of problems within itself, just
25 things getting put in the wrong account when I went

1 to the bank to make deposits, and it exhibited
2 itself in this audit. So since then, I've -- CASPAC
3 has become a business account at the same bank. I
4 kept the same bank, it's become a business account,
5 so it keeps it separate from our personal, and at
6 the bank I'm at, it's kind of like a firewall, but
7 it's personal versus business. And then the
8 campaign account I moved to another bank. And so
9 I've got these -- these barriers now that didn't
10 exist a year ago. And so that has come a long way.

11 And the other thing is it just seemed
12 logical to me if a check got deposited to the wrong
13 account, I'd just go online and move it. And Jim
14 fussed at me, Jim Ludy is my accountant, and he's
15 fussed at me, and after the third time, I no longer
16 do that, but that has led to a whole host of mixups
17 in -- in the record.

18 So just ignorance -- mistakes out of
19 ignorance, and I -- they no longer exist.

20 MR. FINCHER: And Mr. Chair -- thank
21 you. Chairman, anything?

22 MR. LAWLESS: No, I'm just hanging out.
23 (Inaudible cross-talk.)

24 MR. FINCHER: I should say this. When
25 the --

1 MR. LAWLESS: Hank, would you just give
2 them one second?

3 MR. FINCHER: Somebody forgot to mute
4 the phone.

5 MR. LAWLESS: Really don't need to have
6 someone breathing in the phone. You might want to
7 make an announcement on the phone.

8 (Inaudible cross-talking.)

9 MR. FRIZZELL: Can all the callers on
10 the line please mute their phones?

11 MR. LAWLESS: Okay. It worked. Thank
12 you, Lance.

13 MR. FINCHER: So I want to go back to
14 the -- to why we issued this. There were a lot of
15 reports in the news media, some things that were
16 very -- looked very questionable, and -- and we
17 just -- we had concerns and that's why we convened
18 this audit. And I've got to say this, having served
19 the legislature and filed these reports, it's a heck
20 of a lot harder than it probably seems to us sitting
21 here in the nice air-conditioned room how, you
22 know -- well, you missed this and you missed that,
23 we -- you know, \$5,000 may seem to be a big deal and
24 it's 5,000, but there's an element here of this --
25 of our body, and when there's an audit, it's just

1 explaining to do, but, again, it's -- we got here
2 through this process. I know the audit was not a
3 joy, I know it took a lot of time and expense for
4 both you gentlemen and probably the whole team of
5 people to pull all this stuff together, but
6 cooperation and openness is -- is key, and I thank
7 you for that. That was the right move and it's
8 appreciated.

9 REPRESENTATIVE CASADA: Thank you, Hank.

10 MR. FINCHER: With that, Mr. Chairman.
11 I move forward to whoever has any more questions --

12 MR. LAWLESS: Before we go any further,
13 just for informational purposes, we have not
14 accepted the audit yet. I'm going to wait to accept
15 it or vote for acceptance by the registry until
16 after we get finished with our questions, and then
17 we'll -- we've already gotten them up here -- and
18 I'm getting a look by my predecessor chair that I
19 probably should have done that before, but at least
20 I remembered the other part of it this time. We'll
21 work our way down, and then I will accept a motion
22 after we get finished with the remaining questions
23 on that side, and then probably, Mr. Golden, I'm
24 going to let you make the request at that time. Let
25 me go down to Mr. Golden.

1 inherent in the process, kind of like a court of
2 appeals reviewing a trial case, and an appellant
3 judge in Nashville who I clerked for who shall
4 remain nameless, Gil Merritt, told me that the
5 appellate court's job a lot of time is to review the
6 battle after the battle is over and to come down
7 from the hills and shoot the wounded. That's --
8 that's the job -- and that becomes our job, to look
9 at all these things.

10 Well, I've made it my practice to bring
11 my experience and -- in the legislature being on the
12 other side of this process, to -- to bring that
13 perspective in here. And I got to tell you,
14 brother, I was not expecting this to be as good as
15 it is, and I am -- I wasn't kidding a minute ago
16 when I said good job. Yeah, there's sloppy stuff,
17 yeah, there's mistakes, but the key for me -- the
18 key for me has always been what kind of mistake is
19 it. Is it somebody trying to hide something or do
20 something wrong as in the previous matter we
21 discussed, or is it somebody who just is busy? And
22 lord knows you were busy.

23 REPRESENTATIVE CASADA: Yeah.

24 MR. FINCHER: So I -- I mean, I -- the
25 pack -- we've got some questions, a little bit more

1 MR. GOLDEN: Sure. You addressed my
2 internal controls question, and I share the
3 sentiment. I used -- part of my career, I ran a
4 Fortune 500 company for a couple of years, and, you
5 know, when you do a wall-to-wall, 100 percent
6 testing, it's rare not to find something. And my
7 reflection is the same given the -- I mean,
8 obviously, if your recordkeeping had been better,
9 this would have gone faster, but hindsight is 20/20,
10 and typically what I like to look for is good
11 heart/empty head type stuff and just what's in front
12 of in your personal life just looked like, you
13 know -- you've explained --

14 REPRESENTATIVE CASADA: Yeah.

15 MR. LAWLESS: Paz?

16 MR. HAYNES: No questions. They've
17 already been answered.

18 MR. LAWLESS: Paige?

19 MS. BURCHAM-DENNIS: Yes. So the -- hi.
20 The only question that I have --

21 (Phone ringing.)

22 MS. BURCHAM-DENNIS: The only question
23 that I had for you, when Mr. Moeck mentioned that
24 the pack expenses -- the other expenses from the
25 campaign account, the personal account, bank

1 account, those transfers were presented to him this
 2 morning, or were they done this morning?
 3 REPRESENTATIVE CASADA: They were done
 4 last night, right, Jim?
 5 MS. BURCHAM-DENNIS: Okay.
 6 REPRESENTATIVE CASADA: Yeah. On the
 7 CASPAC, yeah.
 8 MS. BURCHAM-DENNIS: And I'll refer
 9 back. I know this is separate, but you've had a
 10 chance to review those, Mr. Moeck?
 11 MR. MOECK: Yes. I have had a chance --
 12 MS. BURCHAM-DENNIS: -- last night or
 13 this morning?
 14 MR. MOECK: What they're talking about,
 15 or what you're asking about is the checks
 16 themselves.
 17 MS. BURCHAM-DENNIS: Yes.
 18 MR. MOECK: So there's only about four
 19 or five transactions that they actually have to
 20 transfer money from one place to another. I don't
 21 know that all the checks were done yesterday. I saw
 22 the checks this morning prior to the board meeting.
 23 They asked could they just bring them here to this
 24 meeting for that, so I was expecting to see them --
 25 MS. BURCHAM-DENNIS: So you just

1 a motion to approve?
 2 MR. MORTON: I make a motion that we
 3 approve -- accept and approve this audit.
 4 MS. BURCHAM-DENNIS: Second.
 5 MR. LAWLESS: And I have a second.
 6 MR. MORTON: For the campaign audit.
 7 MR. LAWLESS: Yeah, the campaign audit,
 8 not the pack.
 9 Any discussion? I don't think I have to
 10 do a roll on that.
 11 All in favor?
 12 (Chorus of ayes.)
 13 MR. LAWLESS: Opposed?
 14 Seeing none.
 15 Now, back to the -- we will now address
 16 the audit on the pack account. Please begin.
 17 MR. MOECK: The only additional thing
 18 you probably need to know on the pack account is
 19 along with the other records that he was able to
 20 give me today, in the very first finding that we
 21 wrote we said that he failed to report \$1,713.46 in
 22 contributions. The majority of that is a \$1,500
 23 in -- what we noted as an in-kind contribution by an
 24 advertising firm. Based on the information we had,
 25 which is basically an invoice, they had received

1 physically -- you've looked at them, okay.
 2 MR. MOECK: And so I could verify it. I
 3 didn't know if they would have the pack ones, but
 4 they did have the pack ones too, and so I can verify
 5 those by looking at it. I know enough about the
 6 audit to be able to say yes, they're correct.
 7 MS. BURCHAM-DENNIS: Okay. I
 8 understand. No problem.
 9 And I appreciate your willingness to go
 10 through all of this. I feel like you've been so
 11 cooperative. I agree with what Mr. Fincher said.
 12 What we've previously looked at right before you was
 13 a different scenario, and I appreciate your
 14 willingness to fix this and get it down to that.
 15 And I understand the depreciation on the \$5,200. I
 16 think that's -- while a great amount is still a
 17 small amount in my eyes. Thank you.
 18 MR. LAWLESS: Tom.
 19 MR. MORTON: I have no questions about
 20 this audit here.
 21 MR. LAWLESS: Okay. And I don't have
 22 any questions except that I will echo the exact same
 23 points that everybody -- that not all
 24 representatives in Williamson County are alike. So
 25 that being said, let us -- Tom, do you want to make

1 \$1,500 in polling service from a vendor that they
 2 were given free. Normally that would indicate an
 3 in-kind contribution. They have since gotten
 4 information from the vendor that says that that \$150
 5 was part of a package purchase of advertising. As
 6 part of a package of advertising, if they offer that
 7 same package to every person that walks through the
 8 door, that no longer makes that an in-kind
 9 contribution. That makes just a normal part of
 10 their stuff and included in the other expenses that
 11 he has reported. Based on that letter, we would
 12 revise that to say that that \$150 is not an
 13 unreported in-kind contribution.
 14 Now, again, like you said, this report
 15 was written last week. That data was brought to me
 16 today. So that is the difference. That's why you
 17 have a hundred -- 1,500 sorry -- \$1,500 difference,
 18 which I believe has been pointed out there's still
 19 very small transactions that makes that first
 20 finding small that we would not have normally even
 21 issued the finding. We would have removed that.
 22 One of the things if you at the full report you'll
 23 see is in the audit conclusions, we point out
 24 everything that we note that's in violation of the
 25 statute, regardless of value. We would move that up

1 into the audit conclusion and only show that he had
2 \$213.46 in unreported contributions, and that was so
3 small that we didn't think you needed a detailed
4 finding on it.

5 MR. LAWLESS: Any other comments on it?

6 MR. MOECK: No, but I'm glad to answer
7 any questions you have.

8 MR. FINCHER: Thanks, Jay. Okay. So
9 understand about Number 1. We still have 2 through
10 5.

11 MR. MOECK: Yep.

12 MR. FINCHER: Now, regarding the pack,
13 am I also understanding that we are -- the filings
14 that came in last night that they had been working
15 on for a month, they had had about 30 days or a
16 little less to work on it --

17 MR. MOECK: Little less, yeah.

18 MR. FINCHER: Little less than 30 days,
19 but they brought it in. The representation to you
20 in your spot check or whatever that you glanced at
21 it this morning indicates that, as with the
22 representative account, what could be fixed
23 reporting-wise has been fixed or --

24 MR. MOECK: So I, as your auditor, am
25 not going to tell you they've been fixed. Okay. I

1 MR. FINCHER: Certainly. So assume that
2 they -- those were all resolved for this --

3 MR. MOECK: For this purpose.

4 MR. FINCHER: We don't know.

5 MR. MOECK: Supposition, yeah, I got it.

6 MR. FINCHER: If they were all resolved,
7 what's left?

8 MR. MOECK: It will be the same issue as
9 with the campaign. The one thing he can't correct
10 is the very last finding, the 299, Finding 5 of
11 transactions where there are not receipts.

12 Now, I will make one point here that is
13 different than the campaign. You also notice in
14 this that a good chunk of the transactions are food.
15 Tennessee campaign finance statute has been reported
16 and is -- somewhat has been stated has very few
17 restrictions on the way a pack spend its money. But
18 it does have one. And that is when it spends money
19 related to a candidate, there are provisions to how
20 much they can do, that's the campaign limits law,
21 and how it has to report, and that's whether it has
22 to be reported as in-kind or independent. You will
23 see something like that in Finding 3.

24 When we get very limited data, no
25 receipts, no records or beyond the check being

1 have been told by the representative that there was
2 a filing made last night for all of CASPAC. The way
3 the filing system works, when they start to work on
4 a report, I know it. You can go look at their
5 disclosures from -- the registry can -- to see that
6 a report has been started, and in this case prepared
7 to be amended. Those have been up there for about a
8 week. So I knew he had started. That's about the
9 time I sent him a complete correction letter to sit
10 there and help him detail out the corrections he
11 needs to make. Maybe two weeks, I think it's two
12 weeks that they've been sitting up there.
13 Yesterday, the last time I was on the system, they
14 had not been submitted. That would have been late
15 afternoon. Their indication is they have submitted
16 them. Based on what they've done in the campaign,
17 it's probably a pretty good guess that the
18 corrections have been made, but I can't officially
19 tell you they're done because I haven't reviewed
20 them.

21 MR. FINCHER: Okay. All right. So
22 that -- that's a potential issue, and the other
23 members, we discuss that I'm sure in a moment.

24 MR. MOECK: And you can also ask
25 Representative Casada about it as well.

1 dispersed, for food in a campaign account, well,
2 there's a pretty good guess that that food is
3 related to either a campaign worker going out and
4 going door to door and they're paying for their food
5 for the day, they're having a discussion with their
6 workers or with their staff and they're providing a
7 meal, they're having a campaign fundraiser where
8 food is presented, provided. There's very specific
9 things that make sense. When you get to the packs
10 and the packs do food, it's not as blatant that it's
11 campaign related or pack related. They sort of need
12 that extra documentation to show that that food is
13 more than just food, which is pointed out, I
14 believe, in that finding. So it's a little bit
15 different in that respect by looking at a pack.

16 The other thing you all need to be aware
17 of is although you've ruled before on some issues
18 related to Durham pack and have ruled on Durham --
19 or various other packs, this is the first audit
20 report of a pack that's been issued since 2006 when
21 you all started doing audits.

22 MR. FINCHER: So to recap, there's
23 \$99,625 that are unsupported by some receipt or
24 invoice but are still -- looks like they're listed
25 here --

1 MR. MOECK: Yeah, it's at the end.
 2 MR. FINCHER: Yes, sir. There's a bunch
 3 of them. Yeah.
 4 MR. LAWLESS: Looks like your credit
 5 card report, Hank.
 6 MR. FINCHER: Well, I look like I eat
 7 this much, but I'm not sure. It's different when
 8 you're the speaker and you've got to feed the
 9 masses, feed the troops.
 10 Okay. Okay. So we get a frame of the
 11 activity in this pack like we did with the
 12 legislative account. What are we looking at
 13 contributions over the appropriate timeframe?
 14 MR. MOECK: So for his, 2018 for the
 15 pack, their total receipts were 465,000, just a
 16 little over, their expenditures were 362,000, just a
 17 little over.
 18 MR. FINCHER: So 100,000 of that we
 19 don't have receipts for.
 20 MR. MOECK: And so I did say most of
 21 it's food. The other big chunk of it is payroll.
 22 And --
 23 MR. LAWLESS: Clarify payroll -- big
 24 chunk, please, when you say payroll. You said it
 25 was the other big chunk. I didn't mean to

1 card transaction to a restaurant. What I have for
 2 these campaign workers is I have a check to a
 3 campaign worker, but that's it. What else they did
 4 or whether they were really paid for worker -- to be
 5 a worker is undeterminable because there's no
 6 record. It's assumed that the disclosure is
 7 correct, right. And the audit is saying, hey, I
 8 can't tell you, I can't tell you anything beyond a
 9 check went to an individual in X amount, and there
 10 is no other record to support what that amount was
 11 for. And like I said, there's a chunk of food and
 12 there's a chunk of those in-kind independents, and
 13 they do sort of duplicate, so some of the ones you
 14 see down here in Finding 6 are some of the same
 15 people you see in Finding 3.
 16 MR. FINCHER: Do you have a breakdown --
 17 a rough idea of which is which? I think that's what
 18 --
 19 MR. MOECK: Pretty much everybody in
 20 Finding 3 is also listed in Finding 6. There
 21 wouldn't be -- there shouldn't be an exception.
 22 They would all be down be there.
 23 MR. FINCHER: So how much -- about how
 24 much in Finding --
 25 MR. MOECK: Six -- bottom of 5, sorry.

1 interrupt.
 2 MR. FINCHER: Totally fine.
 3 MR. MOECK: So that is also a little
 4 different than payroll for a campaign. Usually when
 5 you see payroll or -- what you'll usually see in our
 6 disclosures, when a campaign pays somebody for
 7 services like going door to door, canvassing,
 8 generally what you're going to see is campaign
 9 worker, or if they're just the treasurer back here,
 10 you might see treasurer, but a lot of the times
 11 you'll see campaign worker. The same with campaign
 12 managers, various different staff that they may
 13 hire. Now, you get into the gubernatorial-type
 14 accounts and you'll see everybody will detail out
 15 what everybody does. The bigger campaigns will sort
 16 of detail out different groups, but for the most
 17 part, you get campaign workers.
 18 In this case, when it comes from a pack,
 19 especially this pack, this pack didn't really pay
 20 very many people to work for that pack, right. What
 21 they're really doing is they're doing a bunch of
 22 in-kind and independent expenditures to pay staffers
 23 to work for other candidates. And so what you have
 24 -- it's very much like the food, right. So what I
 25 have is support for food is a -- a check or a debit

1 It's 5.
 2 MR. FINCHER: Okay. About how much in
 3 Finding 5 is payroll?
 4 MR. MOECK: I do not have that breakdown
 5 off the top of my head.
 6 MR. FINCHER: All right.
 7 MR. MOECK: I didn't do the calculation.
 8 MR. FINCHER: And did you do any
 9 independent inquiry into the people or the
 10 consulting firms or the places that are paid on
 11 here, what they were doing or anything like that? I
 12 wouldn't think that would be part of the audit, but
 13 maybe it is.
 14 MR. MOECK: So when we also made -- so
 15 this was just like the campaign account. When we
 16 originally asked for records, there were no receipts
 17 for anything. No invoices, no anything. In doing
 18 the audit, not only did we ask for the ones where we
 19 said, hey, you can go get advertising, we think you
 20 can get these, we pointed out every transaction that
 21 wasn't receipted to give them an opportunity to do
 22 what you are talking about. If they wanted to go
 23 and try to get them to provide some documentation to
 24 show that this is what it is, they could
 25 theoretically do that. But, no, as a process, we

1 don't count -- now, I recognize most of our vendors
2 that are advertising vendors, because they are
3 repeated, a lot of people use the same place, we
4 used to try to deal with campaign workers -- most
5 campaign workers, if I call them and say, "Hey, did
6 you work for them," they would tell me yes. I don't
7 know that it does you a whole lot more good for me
8 to have somebody tell me yes that has no incentive
9 to not say yes.

10 MR. FINCHER: Understood.

11 MR. HAYNES: Although you would catch
12 ghost employees that way.

13 MR. MOECK: You can, it is theoretically
14 possible, but, no, we do not. We do not contact all
15 the people -- the workers to ask them if they were
16 workers and how much they were paid.

17 What we do ask is whether they have --
18 the campaigns have filed their appropriate tax
19 documentation. Basically we ask for the 1099s.
20 Most of those guys will have to have 1099s issued.
21 I believe it's \$600 currently -- I'm not a tax
22 expert, but I believe it's \$600 in an annual period
23 for services, and these all complied. Last time I
24 talked to the IRS, campaigns are not exempt from the
25 1099.

1 would not remove them from Finding 3.

2 MR. LAWLESS: I'm just trying to make
3 sure I'm -- okay.

4 MR. MOECK: That's like any of them. If
5 suddenly they got me a receipt -- essentially that's
6 what happened with the \$1,500, right? They're
7 essentially giving me a record this morning for
8 something that's in my audit report that was issued
9 to you all a week -- you know, we give you summaries
10 a week in advance. Once we give the summary out,
11 the audit report does not change. Vote to make
12 me -- to have me change it.

13 MR. LAWLESS: You can't change it that
14 quickly. But then you're also -- if they're not
15 maintaining or they don't have the 1099 reports,
16 they've got a whole another group of people that
17 might want to look at it.

18 MR. MOECK: That's correct. My job is
19 not to say that they're violating tax law or any
20 other kind of law.

21 MR. LAWLESS: No, no, no, and you're not
22 trying to apply for anybody's bonus for snitching on
23 someone is what you're telling us --

24 MR. MOECK: Yes.

25 MR. FINCHER: Thank you, Mr. Chair. I

1 MR. LAWLESS: So just to make sure I
2 understand, what you're sort of saying is that you
3 had or you requested or you looked at the 1099
4 filings --

5 MR. MOECK: If they have them, we will
6 look at them. They do not have -- they did not
7 provide 1099 filings. You will have to ask them if
8 they have them. We asked for them.

9 MR. LAWLESS: Okay. We have not
10 received them yet.

11 MR. MOECK: We have not gotten any. So
12 the assumption is they don't have them.

13 MR. LAWLESS: No, I don't want to make
14 that negative assessment.

15 (Inaudible cross-talking.)

16 MR. LAWLESS: Okay. Thank you.

17 MR. MOECK: We asked. We didn't get.

18 That is why this says there's no documentation.

19 MR. LAWLESS: And if there was
20 documentation, then that finding would change
21 radically?

22 MR. MOECK: You would -- we would
23 radically change -- well, we'd take out -- if they
24 give us 1099 for any of the people that are on
25 there, that would remove them from that finding. It

1 do have some specific questions about some
2 expenditures here.

3 Food, hotel, we've talked about, I can
4 get some of this -- I can understand that, and
5 people working to go door to door, I get it, I've
6 campaigned. But if you'll look at -- there's not a
7 page number here, but what I'm looking at is under
8 the fifth finding -- and I'm saying this so you guys
9 get a heads-up before I ask you about it too. It
10 is -- it would be under the 2018 third quarter, that
11 page. It's the next to last page of the CASPAC.

12 MR. MOECK: Page 29 from that one you
13 have.

14 MR. FINCHER: Let me know when you get
15 there, because there's about -- if I was good at
16 math, I could have gone to medical school -- looks
17 like about 15 grand worth of expenses here that to
18 me --

19 MR. MOECK: I'm sorry, third quarter,
20 I'm there, but --

21 MR. FINCHER: Okay. 2018, third
22 quarter. If you look, there's two there under
23 Blacklist Consulting Group, correct? Do you see it?
24 It's about \$7,600 worth.

25 MR. LAWLESS: Microphone.

1 MR. FINCHER: Sorry.
 2 MR. LAWLESS: I don't mean to keep
 3 bothering --
 4 MR. FINCHER: No, you're fine.
 5 MR. MOECK: And here are the itemized --
 6 MR. FINCHER: Yeah.
 7 MR. MOECK: All right, yeah. I remember
 8 Consulting, so it's fine. Go on.
 9 MR. FINCHER: What -- do you know what
 10 the Blacklist Consulting Group is?
 11 MR. MOECK: You know, the supporting
 12 documentation provided this. Blacklist checks were
 13 not paid to Blacklist Consulting Group. They were
 14 paid to individuals, which is generally a problem
 15 for us, right, because we want to know that the
 16 money is really going where they say it's going. As
 17 such, we contacted the individuals that are listed
 18 on that check. They have indicated that it was
 19 Blacklist Consulting Group and that they were in
 20 some kind of process of moving from here to Michigan
 21 and did not currently have a registered name,
 22 Blacklist Consulting, which is why they had checks
 23 written to them. Okay?
 24 MR. FINCHER: Okay.
 25 MR. MOECK: That was their statement to

1 for the pack.
 2 MR. FINCHER: Yeah. On whose campaign?
 3 MR. MOECK: It's the pack, I think.
 4 MR. FINCHER: The pack doesn't campaign.
 5 Pack makes expenditures for candidates who are
 6 campaigning --
 7 MR. MOECK: They can do --
 8 MR. FINCHER: They can do issue ads
 9 and --
 10 MR. MOECK: They can do other kind of
 11 advertising and things. I be- -- I'm pretty sure
 12 with these two, they are pack-related activities, or
 13 were reported as pack-related activities. I mean,
 14 that's the whole point of not having the receipt,
 15 right?
 16 MR. FINCHER: Right.
 17 MR. MOECK: I really don't know what
 18 they did.
 19 MR. FINCHER: Right. So we've got --
 20 MR. MOECK: I have a statement that they
 21 did what he said they did -- what Representative
 22 Casada said they did, sorry. I shouldn't reference
 23 somebody --
 24 MR. FINCHER: Okay. I saw you pointing
 25 over your shoulder.

1 us.
 2 MR. FINCHER: The individuals on the
 3 check?
 4 MR. MOECK: On the check.
 5 MR. FINCHER: Okay.
 6 MR. MOECK: Through e-mail.
 7 Can I confirm any of that? No. I can
 8 confirm that Blacklist Consulting Group did not have
 9 a registrated presence on the secretary of state's
 10 website when I looked. That would have been in
 11 2020. And these people I do know live in Michigan.
 12 There is not a presence for Blacklist Consulting
 13 Group in Michigan at this time, although they
 14 indicate they are going to do that. All they can do
 15 at that point is confirm to me that they did
 16 advertising. We're sort of in the same boat again.
 17 I've just got a statement that's really no different
 18 than anything else. That is why they're on that
 19 list as not being supported because I can't confirm
 20 that it really was advertising. I can confirm that
 21 that couple did get the money and they claim they
 22 did advertising, but that's it. I don't have
 23 anything else.
 24 MR. FINCHER: Advertising for --
 25 MR. MOECK: For the pack. They did work

1 MR. MOECK: And that is why they're on
 2 the list.
 3 MR. LAWLESS: Remember, Mr. Fincher, we
 4 are making a record here, so someone wouldn't be
 5 able to see --
 6 MR. FINCHER: Correct, yeah.
 7 The better question is this: Do you
 8 feel satisfied based on what you've seen as the
 9 auditor that while there's not an invoice to support
 10 this, that these people did perform -- these people
 11 claim they've performed advertising services. Are
 12 you satisfied with it is my question, or is it
 13 something that ought to be done?
 14 MR. MOECK: I'm not satisfied with it
 15 because that's why it's in that finding as being an
 16 unsupported expense. I mean, I -- I have no
 17 indication beyond the fact that they got the money
 18 and the pack spent the money that that occurred.
 19 The only other thing I have to say what it is is
 20 what's on the disclosure to me.
 21 MR. FINCHER: Okay.
 22 MR. MOECK: Their statements are
 23 sufficient enough to be able to confirm that they
 24 did anything that they said at this point, which is
 25 the other reason why rebuilding receipts is not

1 really the ideal for doing this stuff. We do it and
2 we bill out for it and the board has sort of been
3 okay with it, but it leaves a lot of doubt when you
4 can't see the original document, like the original.

5 MR. FINCHER: And you had mentioned that
6 some vendors you see over and over, you're --

7 MR. MOECK: This is not one of the
8 vendors I knew, which is exactly why when I saw the
9 check going to an individual, I contacted the
10 individual to find out who are you and why does your
11 business not exist.

12 Now, just so you know, because it's
13 going to come up, it's going to come up in certain
14 other things that we're going to do today, in my
15 experience, there are people that are out there that
16 moonlight, moonlight being that they run their own
17 business out of their house, they do not register,
18 and they do a lot of different services. I know
19 there's accountants that do it. I know there's
20 advertising people that do it. There's PR firms
21 that do it. There's various different groups that
22 do those kind of things.

23 We mentioned enforcement. I am not here
24 to enforce tax law. I am not here to enforce
25 business law. I am here for campaign finance. So

1 whether that business exists or not is immaterial to
2 campaign finance. What it is material to is to
3 whether they're doing what they said they did,
4 right?

5 MR. FINCHER: Right. If it wasn't a
6 permitted expenditure, then, yeah, it would be a
7 problem. So --

8 MR. MOECK: That's correct. Right. But
9 as far as not having a business license or having a
10 business number, being registered --

11 MR. FINCHER: Yeah.

12 MR. MOECK: -- not my -- not -- not --

13 MR. FINCHER: Not --

14 MR. MOECK: Yeah, it's not within your
15 scope. You can reference.

16 MR. FINCHER: Okay. Same questions if
17 you look down under 2018, fourth quarter, 3 and 4,
18 Catalina Group. I think that's how it's pronounced.
19 It's \$3,500 there to them. I guess my first
20 question will be, is that a vendor with which you're
21 familiar?

22 MR. MOECK: No, it is not.

23 MR. FINCHER: Okay. And what can you
24 tell me -- what --

25 MR. MOECK: There is no additional in-

1 -- unlike that one, the check is to Catalina Group,
2 it appears the money went to Catalina Group, and
3 that they are a registered business, but beyond
4 that, we did not do any other additional thing
5 except ask them.

6 MR. FINCHER: Knowing the issue of it
7 being right now a cam- -- a permitted expense for
8 the pack?

9 MR. MOECK: Yeah, so that's not --
10 again, gets back to the fundamental issue with this
11 last finding, right, and on both of them, okay. All
12 I can tell you with all the transactions that are in
13 Finding 5 of the CASPAC ones and Finding 6 of
14 Casada's audit is that money went from the campaign
15 for pack, in this case pack, to the place that they
16 say it went to. And I can look them up on the Web
17 and say, yes, they're an advertising firm or they're
18 a consulting firm, but what that consulting firm or
19 advertising firm really did, I don't know because
20 there's no receipt, invoice, or other supporting
21 document to say, hey, these are the services we did,
22 these are the timeframes we did the service -- you
23 know, I'm going to go back to food a little bit too.
24 How much food was purchased? How many meals were
25 purchased? How many people were sitting at the

1 table? You know, that stuff is on the receipts. So
2 for me to make any real evaluation of the underlying
3 purpose, I can't do it without having that. I can
4 tell you they got the money, and you can make the --
5 you all can make that assumption that, hey, if it
6 went to McDonald's, it was for food, if it went to
7 the advertising firm, it was for advertising. I
8 can't. I'm not allowed to do that under my rules.
9 I have to tell you what I can tell you. I can tell
10 you they got the money.

11 MR. FINCHER: Understood. Okay. But
12 Catalina Group's an advertising firm?

13 MR. MOECK: I do not know off the top of
14 my head which one that was and what it was for.

15 MR. FINCHER: Okay. All right. And
16 then the last -- I think it's the last entry that I
17 have a question about, it's another consulting firm,
18 if you look at -- right over the other side of the
19 page, 2018 pre-general No. 5, Spry Strategies,
20 \$3,177.82.

21 MR. MOECK: Which one was it?

22 MR. FINCHER: Number 5 under 2018,
23 pre-general. It's in the second column.

24 MR. MOECK: Oh, the Spray?

25 MR. FINCHER: Okay. S-P-R-Y. Is it

1 Spray? Okay. Are you familiar with this vendor?
 2 MR. MOECK: I am familiar with them.
 3 MR. FINCHER: You are familiar, okay.
 4 What do they do?
 5 MR. MOECK: They do advertising in
 6 various forms. So if you actually look at his full
 7 disclosures, he pays them a lot, or pays them more
 8 than this, right, and paid multiple times, and I
 9 believe -- and so some vendors he used in both the
 10 campaign and he used with the pack, right, they did
 11 activities on both sides. They are one that I know
 12 that he got most of the receipts for. This is one
 13 transaction of their set that they could not --
 14 MR. FINCHER: Okay.
 15 MR. MOECK: -- provide.
 16 MR. FINCHER: Okay.
 17 MR. MOECK: Just to give you the same
 18 kind of reference, on 2019 mid-year, Number 25,
 19 Rightway Marketing is sort of the same thing. He
 20 provided a lot of them, but is missing one.
 21 MR. FINCHER: One, okay.
 22 MR. MOECK: Or missing that one. He's
 23 missing whatever's in this set, at least that is one
 24 of them.
 25 MR. FINCHER: Okay. So the -- so the

1 see if they were an entity --
 2 MR. MOECK: We looked at the year that
 3 they did the expenditure. So --
 4 MS. BURCHAM-DENNIS: When you identified
 5 that the individuals actually received the payment,
 6 it's listed under Blacklist. Were you able to talk
 7 to them about what services they provided for that?
 8 MR. MOECK: So like I said, the checks
 9 are written to individuals basically. Per the
 10 candidate's statement, it is the owner, right, the
 11 owner of the business.
 12 MS. BURCHAM-DENNIS: But you reached out
 13 to those individuals, right?
 14 MR. MOECK: Yes. We -- I e-mailed the
 15 individuals that were supposedly the owner of
 16 Blacklist Consulting Group. They're the ones that
 17 have indicated that, no, Blacklist didn't really
 18 exist, they were in transition to go from Tennessee
 19 to Michigan. They didn't really give me all the
 20 details as to why, but there's --
 21 MS. BURCHAM-DENNIS: Were they really
 22 cooperative? You say if you had to identify --
 23 MR. MOECK: To be honest, I was shocked
 24 they responded at all, because that's why we don't
 25 tend to do those kind of notices, because we don't

1 ones that we don't know about -- and I'll be asking
 2 the representative or his accountant, whoever to
 3 answer it -- will be about Blacklist Consulting and
 4 Catalina. The rest of them Spray, Spry, whatever,
 5 you are familiar with them, it's just a missing
 6 invoice rather than a mystery --
 7 MR. MOECK: A mystery vendor.
 8 MR. FINCHER: Okay. Mystery to us.
 9 MR. MOECK: I would qualify Catalina.
 10 It's not a mystery that they exist. Like I said, at
 11 the time when we do the audit, we would look them up
 12 and we try to figure out basically what they do.
 13 MR. FINCHER: Yeah.
 14 MR. MOECK: We don't want it to be just
 15 way off base, right. So like you said, a lot of
 16 them tend to be consulting firms. When it gets to
 17 be in a consulting firm, it's hard to tell what
 18 they're really doing.
 19 MR. FINCHER: Okay. Okay. Nothing
 20 further on this point. I yield the floor.
 21 MR. LAWLESS: Looking down the table --
 22 MS. BURCHAM-DENNIS: On Blacklist
 23 Consulting, I know you said that you did look at the
 24 secretary of state's office in Michigan too. Did
 25 you just look for that one year, or did you look to

1 tend to get any response. The same thing happens
 2 when we do the -- like we don't generally confirm
 3 contributions for the exact same reason. We get no
 4 response, so there's really no purpose for me to
 5 send a contribution. It's -- it was brought up
 6 earlier about the workers. The same thing either,
 7 we get no response, or they all just say "yeah,
 8 sure," and then when we ask dates and amounts, they
 9 have no clue and they don't give us anything. So we
 10 can't really confirm anything after the fact except,
 11 yes, whatever I tell them, they did.
 12 MS. BURCHAM-DENNIS: So at the time, you
 13 feel like they were Tennessee residents or acting or
 14 doing business out of Tennessee, but now they're in
 15 Michigan?
 16 MR. MOECK: They are now in Michigan.
 17 Or they -- at the time of the e-mail, they were in
 18 Michigan.
 19 MS. BURCHAM-DENNIS: Okay. Thank you
 20 very much.
 21 MR. LAWLESS: Anybody else?
 22 MR. MORTON: I do have one question. On
 23 your 2018 pre-general, there's Entry Number 9 about
 24 NJP Strategies. Do you see it?
 25 MR. MOECK: No.

1 MR. MORTON: Very last page of the
 2 submittal, next to the last page.
 3 MR. MOECK: Okay.
 4 MR. MORTON: 2018 --
 5 MR. LAWLESS: It's Number 9.
 6 MR. MORTON: Item 9, NJP Strategies.
 7 MR. LAWLESS: It was on 3/14/19. Do you
 8 see it, Jay? It's in 2019.
 9 (Inaudible cross-talk.)
 10 MR. MOECK: Yes. What about NJP?
 11 MR. MORTON: What in the world is that?
 12 They sell life insurance and stuff.
 13 MR. MOECK: Again --
 14 MR. LAWLESS: He might have needed it at
 15 that point in time.
 16 MR. MOECK: Well, you're making me want
 17 to go pull all my work papers that are sitting in
 18 the back, pull those out and look up exactly what
 19 NJP is. Go back through the process of what we do
 20 for audit. So generally what we do, right, is we
 21 have a disclosure that's been made by the candidate.
 22 We go look for the check. We see if the check is to
 23 the place that they disclosed and for the amount
 24 they disclosed. Then we go look for an invoice to
 25 see if it's for the purpose of what they said it was

1 column. 2018, fourth quarter, Number 7. It's
 2 \$2,500 to Freedom Strategies.
 3 MR. MOECK: Yeah.
 4 MR. FINCHER: Is this one where you know
 5 the vendor and it's a dropped invoice, or is this
 6 one where we don't know?
 7 MR. MOECK: I've heard of the vendor
 8 before.
 9 MR. FINCHER: Okay.
 10 MR. MOECK: It is not one that
 11 they're -- Right Way Strategies and S-P-R-Y
 12 Strategies, those are the two big ones that I
 13 remember from the audit that there's a lot of
 14 transactions from. I do not remember there being a
 15 bunch of transaction from Freedom.
 16 MR. FINCHER: Okay.
 17 MR. MOECK: If there is, you know,
 18 there's not more than two or three would be my
 19 guess. I'm usually pretty good about remembering
 20 that kind of stuff.
 21 MR. FINCHER: Sure. Okay. So this is
 22 just a dropped invoice from a known vendor?
 23 MR. MOECK: I have heard of the vendor
 24 and I have seen it on other disclosures.
 25 MR. FINCHER: Okay. Yeah, that was my

1 for -- invoice, receipt, whatever, other doc.
 2 If we don't find the receipt, we do an
 3 internet search to see if we can find the business
 4 and does it appear to be doing what they said they
 5 were doing, because if we can't find it, we can't
 6 see it at all, we are going to put more than just
 7 they didn't give us a receipt, okay.
 8 In this case, I don't remember. They
 9 are not somebody I recognize just off the top of my
 10 head. I don't know if they are a consulting group
 11 or whatever, but I can tell you this, and there's
 12 plenty of them out there, just because you know the
 13 name of the business that's outside of Tennessee or
 14 that is nationwide, some of these consulting groups,
 15 especially campaign consulting groups, are not
 16 registered as businesses and they name themselves
 17 whatever their initials are or whatever their group
 18 is or their managers are, and that may be what NJP
 19 or NJB stand for. But I don't know off the top of
 20 my head.
 21 MR. MORTON: Thank you.
 22 MR. LAWLESS: Any other questions? Yes,
 23 sir.
 24 MR. FINCHER: Sorry, Jay, I found one,
 25 and it's a similar inquiry. Same page, different

1 question. Okay. That's it for me.
 2 MR. LAWLESS: I guess we could say the
 3 exact same thing for Item Number 5 under the first
 4 quarter of 2018?
 5 MR. MOECK: Yes. I know who Rachel is.
 6 MR. LAWLESS: I think everybody at some
 7 point in time has bounced into that one --
 8 MR. MOECK: Yes, I know who they are.
 9 MR. LAWLESS: Are there any other
 10 questions from any of the members?
 11 Paz, you are looking this way.
 12 MR. HAYNES: No. No.
 13 MR. LAWLESS: All right. We will take a
 14 five-minute break at this point in time. So, guys,
 15 let's try to keep it as close to five minutes as we
 16 possibly can.
 17 (Brief recess.)
 18 MR. LAWLESS: We are back in session.
 19 Mr. Casada, it's your time -- and as I told you
 20 before, I was going to address and basically put you
 21 under oath so that you know that any testimony you
 22 provide to us today -- and I know that you -- I
 23 don't have to do this, but just for these purposes,
 24 any information, any questions, any responses that
 25 you provide are going to be made under the penalty

1 of perjury and you will purport yourself in that
 2 way.
 3 REPRESENTATIVE CASADA: I agree.
 4 MR. LAWLESS: Okay. And, Hank, do you
 5 want to start off again?
 6 MR. FINCHER: Yes.
 7 MR. LAWLESS: You've been starting off.
 8 We normally let you start this as a matter of course
 9 anyway, and it's not to entice you to come again,
 10 but --
 11 MR. FINCHER: I thought it was trying to
 12 run me off.
 13 MR. LAWLESS: Is yours working?
 14 MR. FINCHER: Yes. They changed it out.
 15 MR. LAWLESS: Thanks.
 16 MR. FINCHER: Representative Casada,
 17 thank you for that. And my questions are going to
 18 be limited to the items that I asked Jay about in
 19 the audit.
 20 Who is Blacklist Consulting Group, and
 21 what do they do for Casada?
 22 REPRESENTATIVE CASADA: Yes, and thank
 23 you, Hank, and, of course, y'all are doing your job
 24 and you've got to ask these questions because -- not
 25 only for me, but for the process. This is bigger

1 REPRESENTATIVE CASADA: This was twenty
 2 --
 3 MR. FINCHER: Republicans come out. I
 4 found that out in 2010, so, yeah.
 5 REPRESENTATIVE CASADA: I don't
 6 remember the geographical --
 7 MR. FINCHER: That's not a problem. To
 8 Newcastle, yeah. Used to not be that way.
 9 REPRESENTATIVE CASADA: My memory was
 10 geographical area, so it helped several.
 11 MR. FINCHER: All right. And Catalina
 12 Group, who is that and what do they do?
 13 REPRESENTATIVE CASADA: Catalina -- hold
 14 on just a minute. I've got a -- and, actually, the
 15 guy that helped me -- or the -- my assistant has --
 16 she may have -- yeah, actually got a receipt here
 17 from Catalina. I asked for a copy of it, so for
 18 whatever reason, I didn't reproduce it for Jay. It
 19 says -- I've got the two receipts. Hold on, bear
 20 with me. NPG, did work for them. Well, they didn't
 21 tell me. I can't remember what -- but I've got two
 22 receipts, and, Jay, if you want to see them real
 23 quick, they have been texted to me. There's
 24 Catalina. They're out of Santa Fe. That's one of
 25 them. Let me text my assistant real quick.

1 than today.
 2 MR. FINCHER: Yes.
 3 REPRESENTATIVE CASADA: And so thank you
 4 for -- and --
 5 Blacklist was a young lady that came
 6 into -- and actually stayed at a -- and did get out
 7 to vote. So she would -- and for the funds that we
 8 paid her, her job was to get Republicans out to
 9 vote. That was her job.
 10 MR. FINCHER: Okay. So she was doing
 11 GOTV for whom?
 12 REPRESENTATIVE CASADA: For -- I don't
 13 remember the specifics that -- and I'm not sure if
 14 it was for any specific candidate. I'll have to go
 15 back and talk to those that helped me on the race in
 16 '18 to see specifically who she helped, but I do
 17 remember that her primary job was to get voters out
 18 in a given area. That was her job.
 19 MR. FINCHER: Do you remember which
 20 area?
 21 REPRESENTATIVE CASADA: I don't. I
 22 don't.
 23 MR. FINCHER: Not east, middle, west,
 24 just some --
 25 MR. LAWLESS: Coastal.

1 So I can't answer right now exactly what
 2 they did, but it most likely was either polling or
 3 helped get out the vote, because CASPAC hired a lot
 4 of that, to get people out to vote, to do polling to
 5 see where -- what it looked like across the state.
 6 But let me see if I can find an exact answer here.
 7 But I do have two receipts from them.
 8 MR. FINCHER: Okay. So you have
 9 receipts and you suspect strongly that it's GOTV or
 10 polling?
 11 REPRESENTATIVE CASADA: Yeah, yeah,
 12 yeah.
 13 MR. FINCHER: All right. And those we
 14 covered -- Jay covered the other ones to my
 15 satisfaction under this -- under this topic. So I
 16 yield the floor to whomever is next.
 17 REPRESENTATIVE CASADA: Marketing, okay.
 18 Hank, I put them down as marketing, which means they
 19 went out and advertised independently for folks that
 20 were candidates.
 21 MR. FINCHER: All right.
 22 REPRESENTATIVE CASADA: Thank you, Jay.
 23 MR. LAWLESS: I'll continue working my
 24 way down the left side. Paige?
 25 MS. BURCHAM-DENNIS: He was able to

1 answer the questions that I had.
 2 MR. LAWLESS: Paz?
 3 REPRESENTATIVE CASADA: They did social
 4 media.
 5 MS. BURCHAM-DENNIS: With Blacklist.
 6 MR. HAYNES: Okay.
 7 REPRESENTATIVE CASADA: They did social
 8 media.
 9 MR. HAYNES: Okay. Representative
 10 Casada, how many employees does CASPAC have?
 11 REPRESENTATIVE CASADA: It varied
 12 because we would hire these young people that wanted
 13 to get involved in politics and we'd pay them to
 14 knock on doors. I would generate lists for them.
 15 They answered to me. I didn't -- too many
 16 candidates don't know what to do or how to do it and
 17 they tend to waste their time, so I make sure they
 18 -- that they worked directly and we'd give them walk
 19 lists or we'd give phone call lists and, you know --
 20 MR. HAYNES: I know it's hard to keep
 21 up. I see about maybe about half dozen.
 22 REPRESENTATIVE CASADA: That's what I
 23 would say, probably six at any given time. That's
 24 what I would come up with.
 25 MR. HAYNES: How many people actually

1 had debit or -- debit cards or check-writing
 2 authority?
 3 REPRESENTATIVE CASADA: None of them
 4 could write checks. I'm the only one that could
 5 write checks.
 6 MR. HAYNES: Okay. How many debit cards
 7 did you -- were issued?
 8 REPRESENTATIVE CASADA: I was the only
 9 one --
 10 MR. HAYNES: Okay.
 11 REPRESENTATIVE CASADA: -- that could do
 12 a debit card.
 13 MR. HAYNES: Okay. I think those are
 14 the questions I had. Just high level, what is your
 15 procurement process for CASPAC, how you would
 16 identify a vendor to use and then engage that
 17 vendor?
 18 REPRESENTATIVE CASADA: You know, they
 19 would come and pitch what they do. We called
 20 several at the beginning of the campaign season, and
 21 we sat -- I sat down with them one on one, and they
 22 would just give me prices and what they did and
 23 their experience and that kind of thing.
 24 MR. HAYNES: And you were the
 25 decision-maker?

1 REPRESENTATIVE CASADA: Yes, I was the
 2 decision-maker, yes, yes.
 3 MR. HAYNES: Thank you.
 4 MR. MORTON: I'll go back to the NJP
 5 Strategies.
 6 REPRESENTATIVE CASADA: That was a young
 7 man that did door-to-door phone calls for about
 8 three guys in upper east Tennessee. So it's a
 9 single person, and he just called his -- he called
 10 what he did NJP Strategies. But that's what he did
 11 for me was knock on doors and make phone calls for
 12 me, for a couple of guys.
 13 MR. MORTON: Okay.
 14 REPRESENTATIVE CASADA: And that's how
 15 he wanted his check written, and so, all right,
 16 that's how we did it.
 17 MR. MORTON: Okay. There's other firms
 18 like that too.
 19 REPRESENTATIVE CASADA: Okay. Yeah,
 20 this is a one-man operation.
 21 MR. MORTON: Okay. I gotcha.
 22 MR. LAWLESS: Glen, how hard -- or is
 23 there is a specific reason why you have elected not
 24 to allow a review by our auditor of the -- either
 25 the 1099s or the --

1 REPRESENTATIVE CASADA: I never --
 2 MR. LAWLESS: I'm sort of looking over
 3 your shoulder if you're wanting to know what I'm
 4 doing --
 5 REPRESENTATIVE CASADA: I have not
 6 issued the first 1099.
 7 MR. LAWLESS: Oh. Okay.
 8 REPRESENTATIVE CASADA: I didn't know I
 9 was supposed to.
 10 MR. LAWLESS: Okay. You've got until
 11 what, August? July? Well, some of these are from
 12 '18. We might just have to find that time machine.
 13 Okay. I'm sure you've got someone
 14 behind you that can help you figure that part of it
 15 out.
 16 MR. MORTON: There is a threshold on
 17 1099 that you have to meet before you or require
 18 them.
 19 MR. LAWLESS: Looking at these numbers,
 20 it's a pretty big bunch of them.
 21 REPRESENTATIVE CASADA: Yeah. I mean,
 22 quite honestly, it's -- it's state packet, it didn't
 23 cross -- I just thought, well, we're just hiring
 24 these young kids and I'm paying them, it's just --
 25 you know.

1 MR. LAWLESS: Well, at least you have
 2 learned something, I hope.
 3 REPRESENTATIVE CASADA: Yes. Yes. Yes.
 4 MR. LAWLESS: You don't want to go
 5 through this again. Understood. Thank you.
 6 Any other questions from any of the
 7 commissioners?
 8 MR. FINCHER: None from me,
 9 Mr. Chairman.
 10 MR. LAWLESS: You're getting out of the
 11 chair. Now, I'm going to ask one thing. You did
 12 learn something? Painful experience?
 13 REPRESENTATIVE CASADA: Painful
 14 experience, but, yes, yes, yes, and yes.
 15 MR. LAWLESS: Thank you.
 16 REPRESENTATIVE CASADA: Thank you.
 17 MR. LAWLESS: Tom, are you going to make
 18 your motion on accepting and --
 19 MR. MORTON: Seems to be my job.
 20 MR. LAWLESS: We haven't gotten any
 21 other ones from you to move through like you
 22 normally do. So would you?
 23 MR. MORTON: I will. I make a motion
 24 that we accept and approve the Casada pack or the
 25 CASPAC audit.

1 apologize to the members.
 2 REPRESENTATIVE CASADA: There's none.
 3 MR. LAWLESS: Okay. Now we can go into
 4 discussion.
 5 MS. BURCHAM-DENNIS: When I look at the
 6 audit that I think is very thoroughly done and have
 7 listened to the testimony and take into
 8 consideration that on Finding Number 1, I think you
 9 really have to adjust that out. And this is on the
 10 individual, that there's four differing findings
 11 that we should assess penalty for, and that is my
 12 general feeling. I'm going to defer to you guys on
 13 what you think that penalty should be, but to me, I
 14 think there's four in the individual audit of
 15 Representative Casada that we should assess
 16 penalties for. That is my personal belief.
 17 MR. LAWLESS: Well, let me ask this: Is
 18 there a sense of the commission whether we want to
 19 take them 1 -- 1 through 6 or take them as a whole?
 20 And I think we need to take them individually
 21 personally.
 22 MS. BURCHAM-DENNIS: We can. We can
 23 take individually or as a group.
 24 MR. LAWLESS: Okay. Why don't we go
 25 individually and it may give a better sense. And

1 MR. LAWLESS: Do I have a second?
 2 MS. BURCHAM-DENNIS: Second.
 3 MR. GOLDEN: Second.
 4 MR. LAWLESS: I've got several seconds.
 5 All in favor, since this is not roll
 6 call, say aye.
 7 (Chorus of ayes.)
 8 MR. LAWLESS: Opposed?
 9 It's accepted.
 10 Okay. Now we go into the discussion of
 11 what we want to do. I'll bring up the end, and I'm
 12 going to start -- Paige, I'm going to start down
 13 with you. I'm not going to let Hank lead off on
 14 this one for a change.
 15 MS. BURCHAM-DENNIS: You know, I'm going
 16 to go back to the --
 17 MR. LAWLESS: Wait a minute. Can I -- I
 18 do -- I apologize to the members of the public in
 19 case I haven't done this, and I did need to do this.
 20 Are there any members of the public here -- ask you
 21 to check and see if there's anybody out in the
 22 hallway real quick -- that have or want to make any
 23 statements concerning what we've done involving
 24 Representative Casada and/or CASPAC? Hope not. I
 25 didn't see anybody, but I forgot to do that, and I

1 please just to make it a little easier and it might
 2 go a little quicker, when you get finished, just
 3 sort of look at the commissioner and say "Have at
 4 it" or what have you instead of being formal. We
 5 suspended the rule earlier.
 6 So, Paz, you're up.
 7 MR. HAYNES: Okay. Are we just dealing
 8 with --
 9 MR. LAWLESS: Just doing 1. We'll go
 10 through the first finding and we'll go there.
 11 MR. HAYNES: Okay. In my recent memory
 12 with regard to findings of this type and this amount
 13 as each individual audit of Representative Casada, I
 14 don't recall us taking enforcement action on levying
 15 penalties. The commissioners are free to refresh my
 16 recollection, but I would like to follow precedent
 17 for consistency's sake.
 18 So with regard to the individual
 19 candidate audit of Representative Casada, I -- in
 20 keeping with precedent, I don't think that we should
 21 take action on Item Number 1 at this time.
 22 MR. LAWLESS: David.
 23 MR. GOLDEN: I defer precedent if -- my
 24 recollection is going to be even worse than his,
 25 so --

1 MR. FINCHER: I'm going to speak a
 2 little more globally -- I know we're going to break
 3 these down individually -- just so you all know
 4 where I'm coming from. I see garden variety
 5 sloppiness in the campaign -- in Representative
 6 Casada's campaign account. I've got -- the pack
 7 should have been more responsible. I have more
 8 concerns about the pack. I will de- -- I agree with
 9 Paz's recollection. Usually if it's housekeeping
 10 areas like we have -- and I'm not taking away from
 11 anybody's concerns, and if somebody wants to make
 12 them known, I'll certainly listen to them and
 13 reconsider this, but normally if it's -- if they
 14 miss some receipts for things that are under \$100,
 15 which most of those seem to be on the campaign if I
 16 remember right, we have not taken punitive -- it's
 17 not punitive actions, we can't do that -- we haven't
 18 assessed a civil penalty, or at least it hasn't been
 19 a really big one. So -- but that's my general
 20 thought about the findings under the campaign and
 21 the pack.

22 MR. LAWLESS: Okay.

23 MR. MORTON: I agree that it appears as
 24 though if you net out CASPAC and the campaign, it
 25 seems to be just nothing more than a swapping of

1 MR. YOUNG: You're fine. I know I do
 2 not. Part of it is because this happened before I
 3 got here as executive director. So it would be
 4 before my time. But I think if you are looking at
 5 cost, it's really the cost of Jay's time, to a
 6 certain extent Derrick's time when he got there, to
 7 a certain extent a little bit of my time, not much,
 8 in dealing with it. So it's -- it's time and it's
 9 really our director of audit's time, so it's his
 10 salary, and as he mentioned, he has spent a great
 11 deal of time working on this audit. At the end of
 12 the day, it's the discretion of the board how you
 13 handle that --

14 MR. LAWLESS: That is such a cop-out,
 15 Mr. Young.

16 MR. YOUNG: Mr. Chair, and I defer to
 17 the board. But if you're asking how much expense,
 18 obviously there was a lot. He is our director of
 19 audit and it took a lot of his time.

20 MR. LAWLESS: I'll say this: I mean,
 21 I've never been the speaker, wouldn't want to be the
 22 speaker, wouldn't want to run for politics. I
 23 question the sanity of anybody that sometimes run
 24 for politics. Yeah. And I look down at Paz when I
 25 said that. And we do have two election

1 money error and sloppiness and that's all.

2 MR. LAWLESS: Lest everybody be shocked,
 3 Hank and I are actually on the same prayer book page
 4 on this one, except I do have -- I'm going to
 5 address the question to the executive director, or
 6 maybe more accurately probably to Lance, but that's
 7 neither here nor there. And in terms of precedent,
 8 sometimes the cost and expenses of the audit just in
 9 time and what have you, we have sometimes addressed
 10 and looked at if it's a clear situation. And we may
 11 not know. We may not be able to fold it on the
 12 personal campaign account as opposed to -- as with
 13 Hank, I've got some serious things that I want to
 14 hear from the representative on his pack.

15 But do we have any clue how much time or
 16 what you would have had to apportion -- I mean, we
 17 heard Jay say that we spent a lot of time -- he had
 18 two items that he said were killers, and this was
 19 the second of the killer. He got one more he's got
 20 to do, oh, by the way. We'll talk about that in
 21 executive session. But do you have any -- any sort
 22 of clue?

23 MR. YOUNG: My mike is getting fixed so
 24 I'll speak up.

25 MR. LAWLESS: Well, here --

1 commissioners that get to see the results of that.
 2 But it was a little sloppy. I don't think you will
 3 ever make those mistakes again. So if our whole
 4 purpose is to sort of fix it or educate it, I think
 5 we succeeded in our huge goal. I just don't like us
 6 to run a deficit, which is -- I'm one of those that
 7 I don't like to run negative number. Now, do we
 8 want to patch it into the other one, Hank? I'm
 9 going to -- that may be a better way to do it.

10 MR. FINCHER: I think the errors are
 11 more culpable and they're -- and when I -- when I
 12 say that, Representative, what you have done pales
 13 in comparison to our -- your co-representative who
 14 didn't grace us with his presence today. These
 15 are -- on Hank's level of culpability, this is down
 16 to accounting records and bookkeeping errors, and
 17 they don't appear to be intentional invasions of the
 18 campaign finance laws. However, they are
 19 violations, but I think the violations are more
 20 grave under the pack and the -- that the -- I tell
 21 you, the campaign account doesn't really -- doesn't
 22 bother me --

23 MR. LAWLESS: This is the kindler,
 24 gentler Hank coming out.

25 MR. FINCHER: Well, you know, I mean --

1 now, I'll tell you, and I'll tell Representative
2 Casada as well, I was not expecting it to be Is
3 dotted and Ts crossed like it is. So kudos, man.
4 And if it wasn't, I would be on you like a duck on a
5 June bug. But you're doing it right, and fair is
6 fair, and, you know, there are some mistakes here
7 that I don't think we can just wave our hands and
8 say go and sin no more, but from a culpability
9 standpoint, you know, I don't -- I don't see it. I
10 think it's more of a mistake that needs to be
11 slightly addressed rather than --

12 MR. LAWLESS: I've got two members that
13 want to talk. I'm going to let Paige go because she
14 had her hand up first.

15 MS. BURCHAM-DENNIS: I agree with Hank.
16 I certainly think that I was expecting it to -- in
17 the report to be a little bit sloppier, not saying
18 it's not sloppy, but I consider this to be
19 miniscule, especially on the personal side, not
20 necessarily on the pack. And I also worry and echo
21 what he said we can't necessarily slap you on the
22 hand. We have had lot of expenses incurred from
23 this, Jay and the audit department, you know, this
24 is the people's money here that's being used to do
25 this, and while there are some offenses, I think you

1 should be focused on versus 100 percent of Jay's
2 cost.

3 You know, I didn't show up to be nice or
4 mean, I showed up to be fair, and I just, you know,
5 applaud someone owning responsibility for something.
6 We don't always see that.

7 MR. LAWLESS: The general consensus --
8 and never having been a chairman of a committee in
9 the legislature, so I can't feel that cold wind
10 going one way or the other, but having sat here
11 enough, I would almost make a -- a suggestion,
12 because the chair doesn't make motions, but would
13 make a suggestion that we move forward and look more
14 seriously at assessment of civil penalties on the
15 pack matter versus the independent -- did I see your
16 hand raised, Mr. Fincher?

17 MR. FINCHER: Yes. Move to take no
18 action on the campaign audit, and then we will
19 discuss the pack.

20 MS. BURCHAM-DENNIS: Second.

21 MR. LAWLESS: Do I have a second?

22 MS. BURCHAM-DENNIS: Second.

23 MR. LAWLESS: I have a second. We do
24 have to do this on a roll, right, Janet?
25 (Inaudible cross-talk.)

1 have done a good job in justifying what those
2 mistakes are and where that money went, and we
3 certainly appreciate your cooperation.

4 REPRESENTATIVE CASADA: Thank you.

5 MR. LAWLESS: David.

6 MR. GOLDEN: Yeah, this is going to
7 sound like piling on. I just want -- I want people
8 to understand if they have messed up, they're just
9 so much better off owning it and fixing it versus
10 stiff-arming, not showing up, you know, obfuscating
11 it, being cute. I mean, Jay is going to find it.
12 You know, just own it.

13 And so I think there's huge mitigation
14 credit, Representative, for what you've done. It's
15 impressive you're here, it's impressive that you own
16 it.

17 I agree that there's been cost, but I
18 think there's a certain amount of cost that goes
19 into every audit and that if it were a hundred
20 percent clean audit, we wouldn't even be talking
21 about cost. So as we consider cost, I would
22 encourage us to look at the difference between a
23 clean audit and re- -- you know, reconstructing 49
24 bank records, you know, it's that extra cost, I
25 think, as we take into consideration that -- that we

1 MR. MORTON: Not on this.

2 MR. LAWLESS: No? Okay. Good. All in
3 favor?

4 (Chorus of ayes.)

5 MR. LAWLESS: Opposed?

6 Seeing none.

7 We now go to pack.

8 All right. I'm going to start in the
9 same general direction that I did last time. Paige,
10 ladies first.

11 MS. BURCHAM-DENNIS: Welcome back. Let
12 me get my ducks in a row here, sorry. A lot of
13 paperwork, Jay.

14 Okay. When I'm looking at this and
15 looking at the findings summary that Jay's so
16 thoroughly done on the board-requested audit, to me,
17 Number 1, as Jay mentioned, does not meet now.
18 We're only at \$213.46 after you take off the \$1,500
19 that was justified since it was a package offered by
20 the advertising company. So to me, Number 1 is, you
21 know, we can't find that as a finding problem now.
22 That's my feeling on Number 1.

23 Are you wanting to go individually,
24 Chairman?

25 MR. LAWLESS: If we could. Or if you

1 want to make a motion on that one --

2 MS. BURCHAM-DENNIS: Yeah, I make a
3 motion that --

4 MR. LAWLESS: That we take no action on
5 Finding 1 --

6 MS. BURCHAM-DENNIS: Finding 1 is not at
7 all from the audit as a problem out of the five.

8 MR. HAYNES: I'll second that motion.

9 MR. LAWLESS: And I've got that
10 seconded. So as to the first item on the audit, we
11 have a motion duly seconded to take no action.

12 All in favor?

13 (Chorus of ayes.)

14 MR. LAWLESS: Opposed?

15 Okay. So we knocked one out. Let's go
16 to the second one.

17 MS. BURCHAM-DENNIS: So I guess now --

18 MR. LAWLESS: You're leading on this
19 time.

20 MS. BURCHAM-DENNIS: When I'm looking at
21 Number 2, the \$733.43 in disbursements that incurred
22 and I look at the finding's detail that was laid
23 out, you know, this is a problem, and I feel that we
24 should assess a penalty here. To be really honest,
25 I feel 2 through 5, a penalty needs to be assessed.

1 expenses benefit.

2 On Number 5, I think we have merely 300
3 expenses that have yet to be reconciled and may
4 still be reconciled, but still caused the registry
5 to incur significant cost. So I agree with -- I
6 agree with Paige on that on 3 and 5.

7 MR. LAWLESS: David.

8 MR. GOLDEN: So if all that was in front
9 of us was 2 and 4, I think it would be a different
10 story, but it's not the only thing. Three and 5, I
11 agree with my colleague are the most egregious. I
12 think 2 and 4 falls into -- I mean, 2, you know,
13 failure to report disbursements, maybe it's the
14 amount that doesn't get quite as much, but it's
15 still a failure, but overall there's still the -- if
16 all the records were clean, this would have been a
17 very -- relatively simple audit. No audits are
18 simple, but as audits go, we would have spent a
19 whole lot less time on this reconstructing
20 everything. And so when you -- since 3 and 5 are
21 there, I would also pull in 2 and 4. I would assess
22 penalties, maybe greater ones, on 3 and 5.

23 MR. LAWLESS: You're up, Hank.

24 MR. FINCHER: Sure. I have general
25 agreement about 2 through 5. I agree with Paz that

1 MR. LAWLESS: I'm sorry?

2 MS. BURCHAM-DENNIS: Well, I feel on the
3 2, 3, 4, and 5, I feel that we should assess a
4 penalty. And I think we can look at our past
5 penalties that we have assessed to people and even
6 before that I was on this board and look at them as
7 the example of the amount that we should -- like
8 David said -- Mr. Golden said that we have to look
9 at, you know, the cost of doing business, but
10 necessarily we have cost periods, but I believe that
11 2 through 5 we should consider as a whole as putting
12 a penalty on. That's my personal feeling, Chairman.

13 MR. LAWLESS: Bob.

14 MR. HAYNES: I would feel that way on
15 Number 3 and Number 5; with regard to Number 3, in
16 terms of the reporting on in-kind and independent
17 expenses. I see no evidence of intent here, but the
18 accounting practice shows it, the accounting and the
19 audit show that -- how the expenses were improperly
20 allocated or inaccurately allocated to -- to
21 different candidates. Some were under-allocated,
22 some were over-allocated, and I believe that, you
23 know, regardless of intent, that that really does
24 hamper the public's need to know about -- about the
25 activities of political action committees and their

1 3 and 5 are the most troubling ones. They're
2 troubling in size and they're troubling in nature.

3 The failure to report -- even if it's
4 corrected later, the failure to report is an
5 evasion. Whether it's intentional or not, it's an
6 evasion of the reporting requirement, of the
7 disclosure requirement of the rules that are put in
8 place so that the public knows what's being spent on
9 political campaigns. Tennessee has, you know,
10 limited laws on -- of records access and campaign
11 finances and things like that, and the laws that we
12 have need to be observed. And the violation of them
13 -- again, intent matters to the amount of the
14 penalty and how harshly something is punished or
15 assessed, but it's -- anytime it's significantly
16 departed from, it's a failure to tell the public
17 what's going on, and to me, it's something that's
18 worthy of censure. And, again, I have told you
19 before that I don't feel like this is some
20 intentional evasion stuff. I think it's mostly just
21 you're campaigning, you're running a legislature,
22 you know, you've got all this stuff going on, sure,
23 but at the same time, there was nearly half a
24 million dollars coming into this pack in a year.
25 You could have hired some help, and should have, and

1 the -- it didn't have to be this way. And I think
2 that we can't -- now that it's here, now that we've
3 found it, now that it's there, and even though it's
4 been fixed, which is good, speaks to the absence of
5 malicious intent, it speaks well for you and owning
6 it like my colleague said. I think it's worthy of
7 some censure.

8 So I find 3 and 5 the most culpable.
9 I'm worried about them more than the other two. The
10 other two deserve something. I don't know if you --
11 if the chair entertain a motion for an amount or if
12 we are going down the road here and then coming back
13 to the end for numbers or what, but --

14 MR. LAWLESS: I was going to try to come
15 back for numbers after I got a feel. I'm looking
16 for that -- that wind, so to speak, which you have
17 so --

18 MR. FINCHER: Cool breeze. Cool breeze.
19 I think it's kind of -- yeah, it's --

20 MR. LAWLESS: I think I see which way
21 it's headed, but I just want to make sure where I
22 want to --

23 MR. FINCHER: Okay. I yield the floor
24 to Mr. Morton.

25 MR. MORTON: I too have problems with 3

1 and 5, but my biggest problem is how do you fix it?
2 I want to see how it's fixed. I do know that some
3 of this can't be fixed because of just the period of
4 time that's gone by. However, I've found absolutely
5 no pattern of intent at all in this whole thing. I
6 would hate to see what my campaign finance would
7 look like if I had to fill those things out.

8 MR. LAWLESS: I would love to see it.

9 MR. MORTON: I know you would.

10 But as far as penalty for 3 and 5, I'm
11 on the fence. I'm not sure. And I'll have to see
12 what the other members suggest to you.

13 MR. LAWLESS: And as with everybody else
14 and what I have heard, 2 and 4, not necessarily --
15 they are -- you did wrong, but you're not and,
16 honestly, I can't say we take no action because you
17 did do wrong, albeit even if civil penalty of \$100,
18 it's still an acknowledgment by this body that you
19 helped create, by the way, and I think it would be
20 an advocacy.

21 Three and 5, I think everyone up here
22 has got an issue. I've got a real -- I'm glad I'm
23 not the one that's going to look at the IRS when
24 they come knocking on your door and say "Why didn't
25 you file a whole bunch of 1099s on these people,"

1 because they're not going to be real happy with you.
2 So that in and of itself is going to be painful.
3 But I think 3 and 5 are significant. I think you
4 would acknowledge if -- if I was to say, "Glen, did
5 you screw up on 3 and 5," I honestly think you would
6 be truthful and say "Yes." Well, you'd be truthful
7 anyway, but I think you would agree with that.

8 So now, with permission, can someone
9 maybe come up with a de minimus number if -- unless
10 I'm totally off base, and, Hank, I'm now looking
11 down in your direction for 2 and 4. Oh, Paige.

12 MS. BURCHAM-DENNIS: Everyone looks at
13 me like what. You know, I think the general
14 consensus is that we assess a penalty for all four,
15 but the penalty differs for 2 and 4 and 3 and 5.

16 MR. LAWLESS: That's correct.

17 MS. BURCHAM-DENNIS: Does the board feel
18 that we could bulk the penalty together or that we
19 could come up with a solid number, or do they feel
20 that we should divide it out by each one for the
21 purpose --

22 MR. LAWLESS: Paige, in past, we've
23 always broken them out by individual, and I think
24 that's what we also did with -- we took no action on
25 -- so I think it might be better to lump more

1 egregious -- I think we do it by individuals done in
2 the past.

3 MS. BURCHAM-DENNIS: To me, it's harder
4 to -- I'm glad that everyone feels that there should
5 be a penalty assessed. To me, it's harder to put
6 the number on 2 and 4 than it is 3 and 5.

7 MR. LAWLESS: Exactly.

8 MS. BURCHAM-DENNIS: To me, 3 and 5, I
9 think, based upon what we have done previously,
10 these are each \$5,000 offenses. On 2 and 4, I don't
11 know where you put that number. That's my opinion.

12 MR. FINCHER: I move 250 each for 2 and
13 4.

14 MR. LAWLESS: All right. So we've
15 got --

16 MS. BURCHAM-DENNIS: Do we need to put
17 that in the form of a motion?

18 MR. LAWLESS: Yeah, but I'm going to
19 take -- if I have any sense, I've got \$250 --

20 MS. BURCHAM-DENNIS: For 2 and 4 --

21 MR. LAWLESS: -- for Items 2 and 4 on
22 the report. Do I have a second for that?

23 MS. BURCHAM-DENNIS: Second.

24 MR. LAWLESS: So you've got \$500 for
25 those two.

1 MS. BURCHAM-DENNIS: Each.
 2 MR. LAWLESS: Each. So 250 each, so it
 3 would be 500 total. Someone --
 4 MS. BURCHAM-DENNIS: Second.
 5 MR. LAWLESS: Okay. Well, I can't make
 6 the motion. That was your motion.
 7 MS. BURCHAM-DENNIS: Yeah. Oh, excuse
 8 me.
 9 MR. LAWLESS: We've got Hank's motion.
 10 Okay. So we've got -- and we do take roll. So for
 11 Items 2 and 4 on the findings, we have a motion to
 12 assess the civil penalty of \$250 for each individual
 13 one. Janet.
 14 MS. JANET: Dennis?
 15 MS. BURCHAM-DENNIS: Aye.
 16 MS. JANET: Fincher?
 17 MR. FINCHER: Aye.
 18 MS. JANET: Golden?
 19 MR. GOLDEN: Aye.
 20 MS. JANET: Haynes?
 21 MR. HAYNES: Aye.
 22 MS. JANET: Lawless?
 23 MR. LAWLESS: Aye.
 24 MS. JANET: Morton?
 25 MR. MORTON: Aye.

1 MS. BURCHAM-DENNIS: Aye.
 2 MS. JANET: Fincher?
 3 MR. MORTON: May I make one word?
 4 MR. LAWLESS: Yes, sir.
 5 MR. MORTON: I don't know whether we had
 6 any discussion on that motion yet, but I think the
 7 number -- the -- the amounts of the infractions that
 8 are -- that are being -- the amount of penalties for
 9 Items 3 and 5, I think, you know, if we somewhat
 10 fairly reflect the investment in time and resources
 11 that the registry has -- that the registry has spent
 12 in this audit, and so that's just my impression,
 13 because I know we talked about the cost of --
 14 MR. LAWLESS: Oh, yeah, I understand and
 15 I did look at it that way too. I think we -- I
 16 think you and I are on the exact same page on this
 17 one.
 18 MR. FINCHER: Okay. And I know that my
 19 colleague just didn't pull that number out of the
 20 air, but I thought that --
 21 MS. BURCHAM-DENNIS: Based upon --
 22 absolutely -- absolutely.
 23 MR. FINCHER: And, briefly,
 24 Mr. Chairman, my reasoning is a little bit
 25 different. I'm not looking at our costs. I'm

1 MR. FINCHER: And then I would --
 2 MS. BURCHAM-DENNIS: Do you want me to
 3 go back through --
 4 MR. FINCHER: I agree with your 5,000 as
 5 well on 3 and 5.
 6 MS. BURCHAM-DENNIS: So I make a motion
 7 that on 3 and 5, that we assess a penalty of \$5,000
 8 each to Mr. --
 9 MR. FINCHER: Second.
 10 MR. LAWLESS: Hank, can I ask to allow
 11 -- are you going to agree with this? I'm looking at
 12 Commissioner next to you. David, are you going to
 13 agree with that?
 14 MR. GOLDEN: Yes.
 15 MR. LAWLESS: Would you mind seconding
 16 it?
 17 MR. GOLDEN: I'll second.
 18 MR. LAWLESS: Okay. And the reason is
 19 to follow that old precedent that we --
 20 Okay. We have a motion made by Paige
 21 for assessing civil penalty on Item Number 3 and
 22 Number 5 on the audit of 5,000 each, duly seconded
 23 by Commissioner Golden. Janet, would you please
 24 call --
 25 MS. JANET: Dennis?

1 looking at the amount of -- of the volume, the sheer
 2 volume that came through and the numbers and just
 3 the totals, and we have, you know, \$120,000 of
 4 things that don't have support going the right
 5 place. Again, documented after the fact, it comes
 6 back in, you know, absence of culpability, but given
 7 the volume, to me, the 5,000, which in a -- for a
 8 house member's campaign account would be a huge
 9 imposition, I view it as a lighter, yet sufficiently
 10 serious assessment of the seriousness of the
 11 violation so that folks going forward know what's
 12 out here and can learn -- not just you, so everybody
 13 down there can learn, okay, these are the rules,
 14 this is what's going to happen. We need to -- if
 15 we've got \$500,000 coming through, we need to hire
 16 somebody to corral that. So that's my reasoning.
 17 MR. HAYNES: And, Mr. Fincher, I'd
 18 consider that to be a both and --
 19 MR. FINCHER: Yes.
 20 MR. HAYNES: -- proposition too. So I
 21 think that's a factor in my mind as well.
 22 MR. FINCHER: So it's -- yeah.
 23 MR. LAWLESS: Now, I have just been
 24 advised that we haven't actually issued a show
 25 cause, which is the mechanism that we would use to

1 do exactly what we are in the process of doing.
 2 That particular technicality, Representative Casada,
 3 can be waived by you only if you desire to come back
 4 and do this one more time. So if -- from a purely
 5 technical standpoint, you are entitled to that --
 6 what you've sat through all day, and I don't want
 7 that to be coercive for you to waive something that
 8 you don't feel like you should, and I don't want you
 9 to feel that at all. So if you want to deliberate
 10 with your consultant behind you, we will be more
 11 than willing to take a couple minutes for you to do
 12 that.

13 MR. MORTON: I don't believe that we can
 14 not do that. I think we have to have issue to show
 15 cause and then act on it.

16 (Discussion off the record.)

17 MS. BURCHAM-DENNIS: So, Chairman
 18 Lawless, because I was unaware that show cause has
 19 not been issued, should I withdraw?

20 MR. LAWLESS: That took care of that. I
 21 guess you're going to come back -- okay. Do I have
 22 a motion to issue a show cause and we get to sort of
 23 go through and do this again?

24 MS. BURCHAM-DENNIS: Yeah.

25 MR. LAWLESS: Okay. I have a motion to

1 show cause. Do I get a second?

2 MR. FINCHER: Second.

3 MR. LAWLESS: Yes, Hank, thank you for
 4 your second.

5 MR. FINCHER: I moved it. Yeah, I
 6 second, whatever.

7 MR. LAWLESS: That's an up and down --
 8 up or down.

9 All in favor?

10 (Chorus of ayes.)

11 MR. LAWLESS: So we are issuing a show
 12 cause. We will see -- we will add this to the July
 13 agenda. First item --

14 MR. YOUNG: And, Mr. Chair, just to make
 15 sure, it's only a show cause hearing on Items 2
 16 through 5?

17 MR. LAWLESS: Two through 5, right.

18 One, we're taking no action.

19 MR. YOUNG: We will issue that show
 20 cause, and I'm assuming it will be a very short
 21 hearing, Representative Casada, in July --

22 MR. LAWLESS: Real, real short. You
 23 guys will be out of session, won't you?

24 REPRESENTATIVE CASADA: Yes, I hope so.

25 MR. LAWLESS: If you are saying it's

1 going to be in session, we can make it a real long
 2 hearing.

3 All right. So we will issue a show
 4 cause. It will go out -- I think you'll have an
 5 idea of what's coming to pass.

6 REPRESENTATIVE CASADA: Okay. Yeah.
 7 Thank you all.

8 MS. BURCHAM-DENNIS: Thank you.

9 MR. LAWLESS: Thank you, Representative.

10 MR. YOUNG: We are down to the
 11 fifth item. This is a discussion of a review by
 12 audit staff of certain issues related to
 13 Representative Rick Staples' 2019 year-end campaign
 14 disclosure statement.

15 For the record, Mr. Chair, on this one,
 16 I do want to state how this came about just so you
 17 have it and will present on it. Basically, I as the
 18 director, heard much discussion about questions,
 19 both in the newspaper and elsewhere, regarding
 20 possible discrepancies in this year-end disclosure
 21 statement. Normally we wouldn't proceed without a
 22 written complaint and -- or a request for an audit,
 23 but because of the issues raised, I asked our audit
 24 committee to do an informal review of that -- that
 25 finance disclosure statement in cooperation with

1 Representative Staples and his -- he -- I think at
 2 that time -- correct me if I'm wrong, Director -- he
 3 hired Ms. Deborah Johnson, who is on the phone with
 4 us, as his treasurer to help us with that. And
 5 since that time, both he and his treasurer,
 6 particularly Ms. Johnson, have been extremely
 7 cooperative in working with us on this informal
 8 review. So I wanted to give you that background.

9 I'll also point out that in addition to
 10 hearing the results of our informal review, which
 11 our director of audit to talk about, we have
 12 received a letter from Representative Staples. We
 13 found a little over \$11,000 that was inappropriate
 14 expenditures from his campaign finance account.
 15 Most of them were related to this year-end
 16 statement, not all, but most. He is asking to pay
 17 that over time, and we are going to get him in the
 18 room.

19 UNIDENTIFIED SPEAKER: Are you ready for
 20 him?

21 MR. YOUNG: Yeah, we are ready for him.
 22 He'll be behind --

23 I wanted to give you that background so
 24 you had it. And Mr. Moss will go into more detail.
 25 Remember Ms. Johnson is on the phone.

1 Representative Staples has just entered the room.
2 So with that, Mr. Chair, I'll hand it back over to
3 you.

4 MR. LAWLESS: Thank you.

5 Representative, it's been a long
6 morning, or early afternoon. Thank you for showing
7 up.

8 Jay, if you will give the report.

9 Let me say one thing, and for the record
10 just correct statements. The registry does have for
11 the purposes of the public confidence in the system,
12 we have other instances even without a sworn
13 complaint or a written complaint -- now we require
14 sworn complaints, but of importance to the public as
15 a whole, we have the right to require an audit or a
16 review or what have you. This, because of some of
17 the items that were reported, some of them
18 correctly, some of them incorrectly, I won't say
19 false news or anything like that, I will just simply
20 say to clarify the records, we wanted to give the
21 representative an opportunity to set the record
22 straight, so to speak.

23 MR. YOUNG: And it's also, again, the
24 executive director, my intention when we have
25 something like this, we are going to take a look at

1 it, we're going to talk to the people involved, and
2 we're going to bring it to this board's attention,
3 which we are doing today.

4 MR. LAWLESS: Thank you.

5 MR. MOECK: So just to be very quick,
6 the treasurer was hired, I believe, a little before
7 this occurred. This was not a direct thing of the
8 treasurer that's been helping us, Deborah. Before
9 -- she was already working for him before he started
10 doing this. And so it wasn't necessarily directly
11 from this.

12 The other thing is -- so what we do is
13 we do a review, like I said before, of every report
14 that comes in. As you mentioned, during that review
15 we noticed some possible errors in his report. We
16 looked for very small common errors like leaving out
17 occupation and employer, something simple. We send
18 them notice about it. They respond to it. That's
19 what the first page is in the thing that you got.
20 Those were the requests that we made them to look at
21 and possibly correct. They corrected all of those
22 except for one, which was noticed that's a warranty
23 expense. That warranty expense appears on page 2,
24 which is the list of the 11,000 he talked about.

25 In doing our review, and like you said,

1 from various questions that we made with the
2 Representative Staples and his treasurer, they
3 identified \$11,000 -- a little over \$11,000 in
4 expenses that they have determined were probably
5 unallowable. We did not audit. This is basically
6 their statement of what's not allowable. And then
7 they had made a request of the board.

8 So what I'm going to do, I'm going to
9 stop there, because I think that's all that we have
10 to say, and let you have questions specifically for
11 me on what we did. I'll let him respond to his
12 request.

13 MR. LAWLESS: Representative, welcome to
14 the hot seat, sir.

15 REPRESENTATIVE STAPLES: Thank you, Mr.
16 Executive. Please remember I'm in the minority
17 party if I stay in the hot seat. And being that we
18 are in session in June, my wife -- I'm even more in
19 the hot seat. So please understand that first and
20 foremost. And --

21 MR. LAWLESS: At least you got a seat.

22 REPRESENTATIVE STAPLES: Well, true,
23 right. Still got to take out the trash.

24 I want to say I appreciate personally
25 being able to be here, and I really appreciate Doug

1 giving me direction on the location because I was
2 completely prepared to walk down the hill and
3 appear, but I needed to come to Franklin, so thank
4 you for that.

5 This is a great opportunity for me to
6 expound on a hard lesson that I learned. I've had
7 some successes as a legislator, I love what I do,
8 but I don't know everything. And we had some bad
9 documentation. And the narrative was being created,
10 unfortunately, through -- using your phrase from
11 before of me being unethical or untrustworthy,
12 almost criminal, and that is not who I am or has
13 ever been my intent. I'm blessed, and I don't mean
14 to make anybody uncomfortable by using religious
15 terminology, but I'm blessed that -- that Deborah
16 Johnson came to the forefront to help me because she
17 knows my heart and what my intent is, and she has
18 come in and has created beyond proper system for us
19 to be able to move forward to make sure issues like
20 this are caught and dealt with. Deborah is just --
21 she's really just saved my life. She's helped me,
22 because of the narrative that was being created and
23 because of my trusting that things were being taken
24 care of and documented properly, just concentrating
25 on other things, it was important to us that we go

1 through everything and if we felt like it was
2 unallowable, just be humble enough to come up with a
3 number, present it before this body, and pay it
4 back, because we're not trying to hide anything.
5 And I tell you the staff at the ethics commission
6 has been, 1, tolerant; 2, but very open on what we
7 needed to do, what we needed to correct. It's given
8 us a format to follow, and that's been extremely
9 helpful.

10 And so here going forward, we have a
11 firm foundation, and I want to -- I've gone around
12 and talked to people that have donated to my
13 campaign to make sure their confidence was still
14 there. One thing that did not get shared through
15 different mediums is that over the four and a half
16 years, I've come close to investing roughly around
17 forty something thousand dollars out of my campaign
18 into my community to -- for not-for-profits,
19 faith-based, and organizations. So my community is
20 important to me. I don't get this money,
21 quote/unquote, to kick it. That's never been my
22 intent, but we really needed cor- -- our
23 documentation, I want to make sure that I don't
24 appear nefarious, that we're trying to harm people
25 and be dishonest. So it's just best for us to say

1 a proposal for the repayment, as I understand it,
2 and you -- do we even have a formal action pending?

3 MR. MORTON: My question is can we force
4 that upon him?

5 MR. YOUNG: Basically, at this point in
6 time, I mean, he has asked for the registry board's
7 permission. The problem is we -- same one as the
8 last one. You'd have to --

9 MR. LAWLESS: The cart before the horse.

10 MR. YOUNG: -- show cause hearing. And
11 so what I would suggest is you issue a show cause
12 hearing for July and deal with these issues then. I
13 mean, the question is, are you going to -- unless
14 you don't want to. It's up to you. But the
15 question is, are you going to assess any civil
16 penalty as a result? Are you going to show cause
17 it? And then how he repays it might impact that
18 decision. Can you force him to repay it?

19 MR. MORTON: The word "force" was a --

20 MR. LAWLESS: Poor choice of words.

21 MR. YOUNG: How about "require"?

22 MR. LAWLESS: Could we issue a show
23 cause and have it held in abeyance for however long
24 it would have taken for -- I'm looking down that way
25 trying to come up with a way to see if that succeeds

1 there's \$11,000 here, let me pay that back, put that
2 in a campaign, and move forward with the stability
3 that created through leadership in the ethics
4 commission and through Deborah Johnson being way
5 smarter than me and knowing what I needed to do and
6 being a tough taskmaster. So between she and my
7 wife, I don't have any wiggle room and I'm getting
8 -- I'm towing a line and I'm grateful for that
9 because if you can learn a lesson from things you
10 didn't know that have caused you to make a mistake,
11 you are blessed when you're able to make correction
12 and move forward to be a better person, and for me
13 that means not only being a better person, but a
14 better leader, and actually a better servant to the
15 people that elected me. So this is a growing
16 process for me and I know that I've grown, and so
17 with that, I'll --

18 MR. LAWLESS: Besides having a
19 good-looking bow tie, which some of us appreciate,
20 some of my fellow members haven't quite figured out
21 how to tie --

22 REPRESENTATIVE STAPLES: It's the mark
23 of a Southern gentleman to wear a bow tie in the
24 summer.

25 MR. LAWLESS: I am going to -- you have

1 it. I think that gets us where we want to be --

2 MR. MORTON: Can also be, I believe --
3 well, in my estimation, we need to -- a show cause.

4 MR. LAWLESS: Do show cause.

5 MR. MORTON: Plus create a mechanism for
6 him to pay his campaign back since he's admitted --

7 MR. LAWLESS: Have the hearing set --

8 MR. MORTON: The reason I say that is

9 that if we could or he could come up with an
10 instrument vis-à-vis an accounts payable note for
11 him to pay; in other words, he lends himself -- he
12 lent himself \$11,000 out of his campaign. Now he's
13 got to pay it back. That needs to be a note, a
14 formal note, and I believe that that's --

15 MR. LAWLESS: He's going to have to be
16 real careful using campaign funds for that.

17 MR. MORTON: No. You can lend
18 yourself -- you can lend money out of your campaign,
19 but it has to be on -- like it was a bank, like you
20 were borrowing -- is that not correct, Bill?

21 MR. YOUNG: I want to look at it, Mr.
22 Morton, and my director of audit may have something
23 to say about it.

24 MR. LAWLESS: Hank, you wanted to say
25 something too?

1 MR. YOUNG: Go ahead.
 2 MR. FINCHER: Sure. Am I correct that
 3 the representative has essentially self-reported and
 4 said, hey, I've got a problem and I want to fix it?
 5 MR. LAWLESS: Yeah.
 6 MR. FINCHER: Right? So --
 7 MR. LAWLESS: He is getting killed with
 8 the press.
 9 MR. YOUNG: We began the review. It
 10 wasn't requested by Representative Staples that we
 11 begin this review. We began the review based on
 12 what we heard in the press --
 13 MR. FINCHER: Okay. Did the board --
 14 MR. YOUNG: Having said that, as soon as
 15 we began the review, Mr. -- Representative Staples
 16 and Ms. Johnson fully cooperated and worked with us
 17 and really they have agreed that this 11,000 plus
 18 money was inappropriately paid out of the campaign
 19 account.
 20 MR. FINCHER: Okay. And paid to -- I
 21 mean, is it -- what was it for?
 22 MS. BURCHAM-DENNIS: Was it paid to
 23 himself is my question?
 24 MR. FINCHER: Yeah, yeah.
 25 MR. LAWLESS: I think there's a

1 I'm going to just go with previously, right?
 2 MR. FINCHER: Yeah.
 3 MR. MOECK: They are correct, you can
 4 issue a show cause, you can issue civil penalties.
 5 Okay. There's nothing in the statute that talks
 6 about being able to repay expenses that are
 7 improper, right?
 8 MR. MORTON: That's right.
 9 MR. MOECK: What you've done in the past
 10 is as you see a violation, you can issue the show
 11 cause and ask them why. Then you can issue a civil
 12 penalty based on a violation. As part of those
 13 assessments and show causes, you have allowed -- the
 14 board has allowed in the past people to repay, and
 15 they have either reduced or removed a civil penalty.
 16 MR. FINCHER: That's right. I remember
 17 that now.
 18 MR. MOECK: That's what -- the issue
 19 we're really running into is he can tell you they
 20 did it wrong. You all have to determine whether
 21 there's a violation and whether you want a civil
 22 penalty, and then whether you want to agree to allow
 23 there to be less of a civil penalty or no civil
 24 penalty based on repayment.
 25 MR. FINCHER: Gotcha. How are you going

1 spreadsheet.
 2 MR. FINCHER: Okay, I'm sorry.
 3 MR. LAWLESS: It was in uses.
 4 MR. FINCHER: Okay. Impermissible uses,
 5 but was it most paid to others or to him?
 6 MR. MORTON: No, others.
 7 MR. FINCHER: Looks like it's others.
 8 MR. MOECK: Would you like me to answer
 9 that?
 10 MR. FINCHER: Sure. Since I asked it,
 11 the least I can do is let you answer it.
 12 MR. MOECK: Okay --
 13 MR. LAWLESS: Wait, wait, we can -- the
 14 rule, guys.
 15 MR. MOECK: If I'm correct, and you can
 16 confirm with Representative Staples, the majority of
 17 the expenditures that are food related are during
 18 session --
 19 MR. FINCHER: Okay.
 20 MR. MOECK: -- okay, which would
 21 technically be a violation of the statute. We
 22 didn't check that, but like I said, he can confirm
 23 that or deny it.
 24 Okay. As to what you all can do and
 25 what you can't do, and I'm not an attorney, so here

1 to pay this back?
 2 REPRESENTATIVE STAPLES: Thank you for
 3 asking me that, and to both of you just to know, I
 4 never paid myself anything. I definitely wouldn't
 5 have paid my- --
 6 (Inaudible cross-talk.)
 7 MR. LAWLESS: The spreadsheet speaks for
 8 itself.
 9 REPRESENTATIVE STAPLES: Yeah, I just --
 10 jumped out there, hell, no, I didn't do that, but --
 11 because that scared me to death. No.
 12 MR. LAWLESS: We understand now.
 13 REPRESENTATIVE STAPLES: Yeah, like no.
 14 But -- yeah, so with that total, eleven -- so I want
 15 to pay -- if I can start out paying it -- just pay
 16 it back, you know.
 17 MR. FINCHER: Okay --
 18 REPRESENTATIVE STAPLES: If I can do
 19 like \$500 a month to do that till we get close, and
 20 as I can throw more in there, I will, to get it --
 21 MR. LAWLESS: Now you know where the
 22 year was coming from. Does it make sense?
 23 MR. FINCHER: It does.
 24 (Inaudible cross-talk.)
 25 MS. BURCHAM-DENNIS: Going to Jay. I

1 think Jay --

2 MR. FINCHER: I was about to make a
3 motion, or if you've got something you need to say
4 --

5 MR. MOECK: Just so you know, the
6 payment isn't to us.

7 (Inaudible cross-talk.)

8 MR. LAWLESS: It's going back where it's
9 supposed to go.

10 MR. MORTON: That's the reason I was
11 trying to get him to interact with his campaign.

12 MR. FINCHER: I've got an easy solution.

13 MR. LAWLESS: It popped up. I'm open
14 for anything.

15 MR. YOUNG: What I would suggest,
16 members of the board, is that you do exactly in this
17 one what you did in Representative Casada. You
18 first set it for a show cause hearing based upon
19 what the board has found today, and then we deal
20 with it on July 8th. And we can certainly let
21 Representative Staples call in if he's unavailable,
22 or Ms. Johnson call in. I don't think it's going to
23 take a long time given that you've heard everything
24 here today. But I'm a little leery doing something
25 without first having a show cause hearing as appears

1 to be required by the statute to issue any civil
2 penalty.

3 MR. FINCHER: I totally understand.
4 What I was going to suggest -- I'm not -- deferring
5 to the board, but I want to throw out what I was
6 going to suggest. Let's defer this. Let's defer
7 it, not have the man have to deal with the show
8 cause, and not have the man have to deal with a
9 penalty and not have to deal with all that. Let's
10 defer action on it, let's keep an eye on it. Make
11 your payment back to your campaign as quick as you
12 can, and then -- and then we watch it and we see,
13 and then if we want to take action on it, we can.

14 These things -- sometimes those of us
15 who haven't served don't understand how a finding
16 of -- a penalty from a registry of finance can be
17 used by -- it makes you look dirty even if it's just
18 you were late on something. We know that we don't
19 mean it that way, but the smallest things can be
20 made to make somebody look bad, and this guy came
21 forward, Representative Staples came forward and
22 said, "Hey, man, I've screwed up and I want to pay
23 it back." We need to reward that kind of conduct by
24 as much deference as possible.

25 Now, if we need to formalize it, I defer

1 to the will of the body, obviously, I go along with
2 everybody, but my gut is to go and sin no more, pay
3 it back, and then as long as you get it back in
4 there, we just --

5 MR. LAWLESS: If I could, let's -- I
6 mean, obviously, the representative is getting a
7 feel for which -- what we're trying to do. What do
8 you want? What would be your best scenario? Do you
9 want this hanging over your head through a cycle,
10 which I hope, or do you want it -- I'm trying to
11 find a way -- if you had used the money to have a
12 big block party -- but you didn't. You used it for
13 the community. I mean, I looked at it and I talked
14 about it with some people and I've seen it, and you
15 got just literally killed in the paper.

16 REPRESENTATIVE STAPLES: Yes, I did.
17 I'm sorry. It tore me up.

18 MR. LAWLESS: And I'm not -- you
19 pillared is putting it mildly.

20 Okay. Now, that being said, I'm trying
21 to find a way -- if we issued a show cause and then
22 went away -- yes -- you know -- you see what I'm
23 trying to do.

24 MR. HAYNES: I do. And I agree with
25 that because -- if I misspoke earlier, what I mean

1 to say is these are -- these are unallowable
2 campaign expenditures. These are not -- you know,
3 these are not -- this does not constitute in my mind
4 abuse of funds or anything like that.

5 But I think procedurally what we've done
6 in a lot of show cause cases is to allow -- to allow
7 the campaign to submit a written statement -- a
8 written statement, you know, in lieu of an
9 appearance, and then maybe as part of that, a
10 proposal can be made in terms of repayment that we
11 can vote on and accept without Representative
12 Staples or Ms. Johnson having to be -- having to
13 come back in for another hearing, and that might
14 actually give Representative Staples and Ms. Johnson
15 a chance to build a statement for the record
16 themselves.

17 MR. LAWLESS: Of course, we can always
18 have the next hearing at Blackberry Farms and just
19 be down the road.

20 REPRESENTATIVE STAPLES: Don't bring
21 that up. My wife finds out -- she's been trying to
22 get to Blackberry Farms, and we definitely can't
23 afford that.

24 MR. LAWLESS: For 12 years, I've been
25 trying to get us there and I haven't succeeded yet,

1 so --

2 MR. GOLDEN: Seems like there's two
3 proposals that we've heard. Under either, this is
4 going to hang over him for a bit until he repays it
5 because that repayment is going to occur over time.
6 The one proposal is we issue a show cause, we figure
7 out a way where you don't have to appear, and we
8 just take care of it through official registry
9 action July, and then there's closure except for the
10 repayment. The other is not to issue a show cause,
11 to watch it, and if it gets repaid, assumedly we
12 continue to take no action. Those are the two
13 things, and I think, Tom, your question to him was
14 do you have a preference?

15 MR. LAWLESS: Yeah. Well, and, then,
16 the only other point I'm going to make for everybody
17 to just put in the back of your mind while we're
18 talking about this is are we interjecting ourselves
19 into the electoral process, which I don't
20 necessarily feel terribly comfortable with one way
21 or the other, although I know what the man did. So
22 it's that torn part of this job we've got. Yes,
23 sir.

24 MR. FINCHER: My concern is we issue a
25 show cause, Representative Staples, show cause for

1 say, if I may, just to the point, which there's been
2 some excellent points, so let me say this: I
3 arrived here because of poor documentation. So
4 understand that I'm at the will of this body first
5 and foremost. Whatever I prefer, I'm at the will of
6 this body because I yield to that, I submit to that,
7 period, because that's what got me here. So I have
8 no choice but to be respectful of that.

9 Just using what you are alluding to,
10 there was some action and a tool that -- that was
11 really abusive towards myself and my family, and it
12 was very difficult. And it's an election season.
13 So I don't want to offend anybody here. It would
14 help me and mine if we deferred it and you watch me
15 pay that money back, and if I don't do it as my word
16 stands, 1, that means my word ain't no good; 2, that
17 means I don't mean to pay it back and I ain't no
18 good, so I need to be gone, I need to be in trouble.
19 But I'm trying to give opportunity through this to
20 show my word's good and my intention is good to pay
21 that money back, so that's what I would hope for.
22 That would be easier for me, but it's not about
23 what's easy for me. It's about being yielding to
24 what this body decides. So that's what I'll do.
25 (Discussion off the record.)

1 campaign finance violations, when what we're trying
2 to do is give him a break, and we do that, I -- I --
3 I want the representative to tell me what he -- I
4 know what I want. I wouldn't want any show cause.
5 I wouldn't want a show cause.

6 MR. LAWLESS: He violated the law.

7 MR. FINCHER: Even with our best
8 intents, that's a bad --

9 MR. LAWLESS: We've got -- he violated
10 the law, he admits he violated the law, that's a
11 problem. But on the other side --

12 MR. FINCHER: He is self-employed.

13 MR. LAWLESS: There's no question -- and
14 I read some of those articles. Do you kick your dog
15 really?

16 REPRESENTATIVE STAPLES: Yeah, right.

17 MR. FINCHER: Think about what it will
18 be if we show cause it.

19 MR. LAWLESS: Well, I mean, it's no
20 worse than what they did in Memphis to basically
21 someone they didn't like the way he voted on too. I
22 mean, it just -- this is one of those --

23 MR. FINCHER: You asked him a question.

24 Let's --

25 REPRESENTATIVE STAPLES: I was going to

1 MR. LAWLESS: I'm going to make a motion
2 we defer -- I am going to make a motion this time
3 that we defer this matter --

4 MS. BURCHAM-DENNIS: July is our next
5 meeting.

6 MR. LAWLESS: July. I'm going to
7 request that we defer this matter for one month to
8 try to -- I may get my attorney general request that
9 Herbert wouldn't give me another time and maybe we
10 can come up with something.

11 (Inaudible cross-talk.)

12 MR. LAWLESS: I'm coming up with a way
13 that might succeed --

14 MR. GOLDEN: Mr. Chairman.

15 MR. LAWLESS: Yes, sir.

16 MR. GOLDEN: It's been a really
17 productive day and a long day, and it's clear --

18 MR. LAWLESS: I'm deferring to July.

19 MR. GOLDEN: It's clear we don't
20 necessarily know what we want to do. I move that we
21 table this and reengage the issue in July and maybe
22 get counsel to give us options.

23 MR. LAWLESS: We get to do that.

24 There's a motion on the table. Do I see a second?
25 I see a second.

1 All in favor, say aye.
 2 (Chorus of ayes.)
 3 MR. LAWLESS: Opposed? Negative.
 4 Do I have a -- we've got -- what do we
 5 have left on the agenda?
 6 MR. FINCHER: And, Mr. Chairman, would
 7 it be fair to say Representative Staples doesn't
 8 have to come back.
 9 MR. LAWLESS: Call in.
 10 MR. FINCHER: Okay.
 11 MR. LAWLESS: We'll have communication
 12 with him. He will --
 13 MR. FINCHER: Talk to --
 14 MR. YOUNG: I'll talk to you,
 15 Representative Staples, and let you know.
 16 MR. LAWLESS: Okay. Do we have any
 17 other -- this is the last main item other than I'd
 18 like an update on the Ketron audit, please.
 19 MR. MORTON: How about the complaint to
 20 enforce the open meeting act?
 21 MR. LAWLESS: I think -- get out of
 22 here.
 23 (Inaudible cross-talk.)
 24 MR. YOUNG: And thank you, Director, for
 25 all of your help on this one.

1 down on this end -- no, not you, Hank.
 2 MR. FINCHER: Thank you.
 3 MR. YOUNG: And we do worry about cost.
 4 If we can get a state office building that meets the
 5 COVID-19, then we don't have to pay.
 6 MR. FINCHER: I hate to be the fly in
 7 the ointment, but my staff advises that I have court
 8 scheduled on July 8th where -- I mean, I'll either
 9 not be here or we'll need find another time. So I
 10 can't get out of this. This is three different
 11 motions on three different cases that involve the
 12 same people.
 13 MR. LAWLESS: Making a lot of money.
 14 MR. FINCHER: Man, I hope so. Hadn't
 15 panned out that way yet, but maybe it will. So --
 16 MR. LAWLESS: That's what happens when
 17 you spend two months in Paris.
 18 MR. YOUNG: I'm at the will of the
 19 commission.
 20 MR. LAWLESS: We will figure that out.
 21 Hank, I'll be back to you.
 22 MR. FINCHER: Just circulate an e-mail
 23 or something about -- it's scheduling. We're not
 24 debating matters.
 25 MR. LAWLESS: That's regular business.

1 First, Mr. Chair, let me get us where we
 2 are going here on other business. First, we are
 3 meeting on July 8th unless I hear anyone saying that
 4 we're back on regular schedule, that's the first
 5 Wednesday of July, that will be our next meeting.
 6 So I assume that's okay with everyone. If not, we
 7 need to know so we set it at an appropriate time.
 8 MS. BURCHAM-DENNIS: That date is fine,
 9 but where are you thinking of having the meeting?
 10 MR. YOUNG: That will be determined
 11 because we do not know as of today whether the state
 12 buildings will be reopened by then. We are hopeful
 13 that we might be able to meet in either the senate
 14 or house chambers if they have it --
 15 MS. BURCHAM-DENNIS: With social
 16 distancing in place, I think, of course, naturally,
 17 we're going to have to have a larger meeting space
 18 than --
 19 MR. LAWLESS: I like the senate.
 20 MR. YOUNG: We will be using social
 21 distancing for our next meeting. It's just where --
 22 MS. BURCHAM-DENNIS: And I do think the
 23 senate chamber will make Tom feel more important.
 24 MR. LAWLESS: It's just I get to see you
 25 a little easier, and since you've got two old farts

1 We will figure it out.
 2 MR. YOUNG: We will figure it out.
 3 MR. FINCHER: Full compliance with all
 4 appropriate --
 5 MR. YOUNG: We will work with you.
 6 MR. LAWLESS: Okay. What else have we
 7 got besides I want an update on --
 8 MR. YOUNG: Your update. Our director
 9 of audit is sitting right there.
 10 MR. LAWLESS: Tell me the update on
 11 Ketron.
 12 MR. YOUNG: Before he answers, we
 13 provided with you the audit schedule, and I'm going
 14 to give the director of audit. He was out sick for
 15 three weeks, I mean really sick, which is what
 16 delayed some of the audit, what's got him behind on
 17 Ketron, and so -- and he's also got an issue, senior
 18 schedule, a lot of audits that he has to do. So
 19 with that, Jay, I'll hand it over to you to talk
 20 about Ketron.
 21 MR. LAWLESS: Where is the schedule?
 22 MR. MOECK: So very quickly, that
 23 schedule has one amendment to it. At the very
 24 bottom, you will see in 2018-2019, the Casada audit
 25 and the CASPAC audit, well, you just approved them,

1 so that's completed and approved.
 2 Ketron. We have been spending our
 3 time -- it's me, I'm the auditor. As you mentioned,
 4 we have another auditor. I don't think throwing him
 5 on Casada or Ketron was the way to go, so I am doing
 6 all the audits related to Casada and Ketron. So
 7 since I've been spending time on Casada, I am not
 8 working on Ketron. Ketron is in process. We do
 9 have the records. I have since started it. It will
 10 be several months most likely before it's available.
 11 The exact date I can't give you at this point in
 12 time.

13 MR. LAWLESS: But you've got all the
 14 records?

15 MR. MOECK: We have all the records, all
 16 the subpoena stuff and all the records that we --

17 MS. BURCHAM-DENNIS: You have all the
 18 records that we couldn't get that the TBI would --

19 MR. MOECK: So the records from the law
 20 enforcement have been provided. Now, does that mean
 21 I really have all the records? Until I get into it,
 22 I won't know.

23 MS. BURCHAM-DENNIS: Okay.

24 MR. MOECK: I assume there will be a
 25 rebuilding process very much like the one we just

1 did for Casada and CASPAC, because they did not have
 2 a bunch of receipts and they still don't have a
 3 bunch of receipts.

4 MR. LAWLESS: Okay.

5 MR. MOECK: Any more you want to know?

6 MR. LAWLESS: So you've got both Karl
 7 and Bill that you're in the middle of that's at some
 8 point in time too, huh?

9 MR. MOECK: I'm sorry? Yeah, so we --
 10 the governor's got the choice. They can use an
 11 outside firm or they can use us. They chose to use
 12 us. This is the first time that both of them have
 13 chosen to use us.

14 Just so you're a little more aware of
 15 what's going on, Karl Dean's audit's been already
 16 processed for the most part. I've got one section
 17 of the audit still to do. So when I get back to it,
 18 it will probably release fairly quickly.

19 Osborne, the one that's being done by
 20 our auditor, our new auditor, he has finished most
 21 of the test work. We're trying to clean that up.
 22 Hopefully, if you meet in July, it may be on there.
 23 I would guess it will be the August meeting.

24 And we have done nothing for Lee, but
 25 everybody else on there, no matter what the name is,

1 they have all submitted all their records, so I got
 2 a ton of records sitting in my office. So as soon
 3 as we can get to them, we do them.

4 MR. LAWLESS: So, again, just so I'm
 5 fully apprised of where we are on Ketron, you are --
 6 you think you've got everything in terms of the
 7 actual pieces of paper?

8 MR. MOECK: What we have is what they
 9 have. You know, this is -- it's very much like the
 10 audits you've already dealt with, right. We get
 11 what they have and we get what we can subpoena,
 12 which is bank records. Beyond that, I already know
 13 looking at it that there are not receipts or
 14 invoices to a good chunk of the expenditures. We
 15 already reported that to November, and, no, there
 16 wasn't any big change with the other records we got.

17 MR. LAWLESS: So it's the responsibility
 18 of the candidate to supply those records?

19 MR. MOECK: So we always start with the
 20 candidate, and we want the candidate --

21 MR. LAWLESS: And if they don't supply
 22 --

23 MR. MOECK: -- to give it first, and
 24 then we subpoena certain records if we have to, and
 25 we ask for you all to give us that permission to do

1 it. In this case, you subpoenaed the bank records
 2 up front of the campaign. We also tell you we don't
 3 subpoena additional records because we're not really
 4 sure what authority you have -- we don't think you
 5 have necessarily blanket authority to subpoena
 6 anything and everything under the sun. So we wait
 7 until we know there's activity in other accounts
 8 before we ask you to give additional subpoenas. You
 9 did that because we found activity in their credit
 10 card accounts and a -- in the business account. So
 11 those have been issued. Those kind of stuff we can
 12 do and already have, but like I said, I won't know
 13 what receipts are missing until I do individual test
 14 work.

15 MR. LAWLESS: I'm going to request that
 16 you put that about as high up on your list that you
 17 possibly can, Jay. I mean --

18 MR. MOECK: It is likely to be the fall.

19 MR. LAWLESS: October is what I've
 20 heard. Is that correct?

21 MR. MOECK: That's probably a reasonably
 22 fair assessment. Again, you just had me do two
 23 audits. It took December, January, February, March,
 24 April, May. I really didn't do a whole lot of it in
 25 May, but six months. Now you're asking me to do

1 three. They are a little smaller. As he pointed
2 out, being the speaker, the speaker has a little bit
3 more money, CASPAC has a little bit more money.
4 Most of what you are looking at in the senate
5 campaign for Ketron, we've done by the timeframe we
6 are looking at. There's not a whole lot of activity
7 in it. So it will be quick.

8 MR. LAWLESS: Well --

9 MR. MOECK: That's the process of audit.

10 MR. FINCHER: He's giving it all he got,
11 Captain. Give the guy a break. He's busting his
12 hump over here. Come on. You're too hard, Tom.

13 MR. LAWLESS: Well --

14 MR. FINCHER: I'm giving it all I got,
15 Captain.

16 MR. MOECK: We can get lucky. I can get
17 in there and find that it goes really fast.

18 MR. LAWLESS: Well, if they don't
19 supply -- the onus is on the candidate to provide
20 it, and if they don't provide it, it's a violation.

21 MR. MOECK: So the reason Casada --

22 MR. LAWLESS: That's how you're going to
23 find it.

24 MR. MOECK: No, the reason Casada was
25 done first, his records were there first, right. It

1 took a little longer to get some of the records from
2 Ketron. They also asked for a deferral, so -- and
3 some stuff, and the police department was definitely
4 not in any big hurry to give us anything until the
5 case resolved, and then they gave us the rest. So
6 it made more sense to do Casada first based on the
7 available data, and then now we'll do Ketron because
8 all the data is there. You're not the only one in a
9 hurry for it. They'd like it over too.

10 MR. LAWLESS: Trust me, I just want to.
11 I'm just going to ask you to do everything you can.
12 I mean, they're responsible to get you the stuff you
13 need. If they don't do it, you need to report back
14 to us in July if you will. Just give them a wish
15 list, just tell them A, B, C, D, and E.

16 MR. MOECK: That is why you got the
17 update in November that said that stuff wasn't
18 there. Now you're updated that everything
19 supposedly that is available that's out there is
20 there. Anything they get from this point forward
21 will be through a rebuilding process. That is also
22 what was told in the Casada audit. It's in the
23 upper part of the audit reports that you had that
24 said that, hey --

25 MR. LAWLESS: Okay. Let me just put it

1 this way: It needs to be your highest priority.
2 I'll just -- can you --

3 MR. MOECK: Ketron is next. Ketron is
4 absolutely the next thing. I start tomorrow morning
5 again.

6 MR. LAWLESS: Jay, listen to me. Ketron
7 is next. He's your highest priority. They have a
8 responsibility to get you the stuff you need. They
9 don't have the stuff to you, I want a report back,
10 next month, please.

11 MR. MOECK: Okay.

12 MR. LAWLESS: I mean, I'm done with it.
13 We've been messing with this -- I realize he's got
14 all the problems, but they've got great lawyers,
15 absolutely fantastic lawyers. They pull magic out.

16 MR. MOECK: Again, that's why I'm
17 telling you they've given me everything they
18 currently have.

19 MR. YOUNG: Mr. Chair, I think that the
20 issue is they have given us -- we have now gotten
21 everything -- I understand the director of audit
22 that we have everything. The question becomes
23 whether everything that should be there is actually
24 there, and if it's not there --

25 MR. LAWLESS: Assume it's not and we'll

1 just go forward from there.

2 MR. YOUNG: That's correct. And that's
3 been my instructions to our director of audit.

4 MR. LAWLESS: Thank you very, very much.
5 I appreciate that. That might get this one off
6 the -- I just want it gone. I think everybody up
7 here wants it done. So I think you understand the
8 desire if at all possible.

9 MR. MOECK: We have been keeping the
10 priority --

11 MR. LAWLESS: Put your red cape on
12 that's got the big S on the -- on your tights and
13 your spandex outfit and make it happen, please.
14 Okay.

15 MR. YOUNG: No further business,
16 Mr. Chair, or any other member.

17 MR. LAWLESS: What else have we got?

18 MR. FINCHER: We need to discuss the
19 open meeting suit --

20 MR. YOUNG: That is pending litigation,
21 so if we -- I would suggest it go into executive
22 session and we have attorney general's office here
23 to give us an update on that, and at this point in
24 time, we will cut the phone off, shut the door, and
25 go into executive session if that's all right.

1 MR. LAWLESS: Need to have a motion to
 2 go into executive session.
 3 MR. FINCHER: I would so move as long as
 4 we can have a five-minute break before we --
 5 MR. LAWLESS: We're taking a five-minute
 6 break.
 7 MR. YOUNG: Do you make the motion, Mr.
 8 Chair?
 9 MR. LAWLESS: You made the motion.
 10 MR. GOLDEN: Second.
 11 MR. LAWLESS: It was duly seconded by
 12 Paz -- David. That's it.
 13 All in favor, aye.
 14 (Chorus of ayes.)
 15 MR. LAWLESS: All opposed, no.
 16 MR. YOUNG: Five-minute break. Come
 17 back and talk.
 18 (WHEREUPON, the meeting was adjourned at 2:33 p.m.)
 19
 20
 21
 22
 23
 24
 25

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