

**FRANKLIN COUNTY BOARD OF ELECTIONS
280 EAST BROAD STREET
COLUMBUS, OHIO 43215
(614) 462-3100**

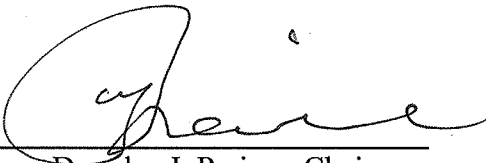
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3/6/10

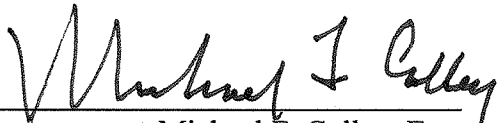
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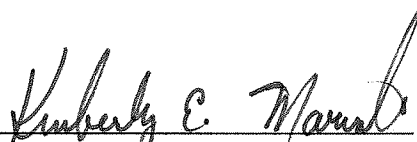
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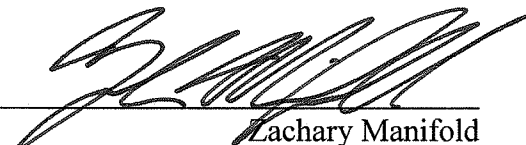
Douglas J. Preisse, Chairman



Michael F. Colley, Esq.

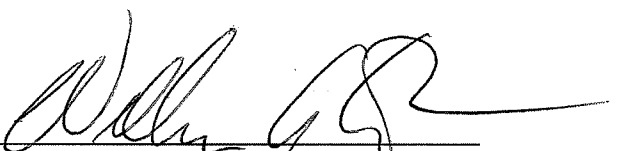


Kimberly E. Marinello



Zachary Manifold

ATTEST:



William A. Anthony, Jr., Director

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BEFORE THE
FRANKLIN COUNTY BOARD OF ELECTIONS

- - - - -

IN RE: :
Special Meeting :
 :

- - - - -

Proceedings before Chairman Douglas J.
Preisse, Board Members Michael F. Colley,
Kimberly E. Marinello, and Zachary E.
Manifold, and Deputy Director Matthew
Damschroder, taken at the Franklin County
Board of Elections, 280 East Broad Street,
Columbus, Ohio, on Saturday, March 6, 2010, at
9:11 o'clock a.m.

- - - - -

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1 APPEARANCES:

2 Mr. Anthony E. Palmer, Jr.
Assistant Prosecuting Attorney
Franklin County Prosecutor's Office
3 373 South High Street
4 13th Floor
Columbus, Ohio 43215

5 On behalf of the Board.

6 Chester, Willcox & Saxbe
7 65 East State Street
Columbus, Ohio 43215

8 By Mr. Donald C. Brey,
9 On behalf of Michael Duffey.
10 The Law Firm of Hayman & Kelley, LLC
3010 Hayden Road
11 Columbus, Ohio 43235

12 By Mr. Larry Hayman and
13 Ms. Megan C. Kelley,
On behalf of Protesters
Beardman and Graham.

14

15

16 ALSO PRESENT:

17 Mr. William A. Anthony, Jr.,
Director

18

19 Mr. Ben Piscitelli,
20 Media Relations
21 Judge Laurel A. Beatty
22
23
24

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1 -----

2 PROCEEDINGS

3 -----

4 MR. DAMSCHRODER: We'll call the
5 meeting of the Franklin County Board of
6 Elections to order.

7 Mr. Colley.

8 MR. COLLEY: Here.

9 MR. DAMSCHRODER: Mr. Preisse.

10 CHAIRMAN PREISSE: Here.

11 MR. DAMSCHRODER: Mr. Manifold.

12 MR. MANIFOLD: Here.

13 MR. DAMSCHRODER: Ms. Marinello.

14 MS. MARINELLO: Here.

15 MR. DAMSCHRODER: And all four
16 members are present.

17 This being the first meeting after
18 the new appointment of two board members, the
19 first order of business is to reorganize the
20 board, and the first step of that is to
21 appoint a temporary chairman. Is there a
22 motion?

23 MS. MARINELLO: I move that Douglas
24 J. Preisse be appointed temporary chairman for

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1 the purpose of reorganization.
 2 MR. MANIFOLD: And I'll second that.
 3 MR. DAMSCHRODER: All in favor, say
 4 aye.
 5 MEMBERS: Aye.
 6 MR. DAMSCHRODER: Opposed?
 7 All right. Mr. Chairman, Mr.
 8 Temporary Chairman, the next item is to
 9 adjourn into executive session to interview
 10 candidates.
 11 MR. MANIFOLD: I move that the board
 12 adjourn into executive session to interview
 13 candidates for Director or Deputy Director of
 14 the Board of Elections.
 15 MR. DAMSCHRODER: Is there a second?
 16 MS. MARINELLO: Second.
 17 MR. DAMSCHRODER: Do a roll call
 18 vote.
 19 Mr. Colley.
 20 MR. COLLEY: Yes.
 21 MR. DAMSCHRODER: Chairman Preisse.
 22 CHAIRMAN PREISSE: Yes.
 23 MR. DAMSCHRODER: Mr. Manifold.
 24 MR. MANIFOLD: Yes.

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1 MR. DAMSCHRODER: Ms. Marinello.
 2 MS. MARINELLO: Yes.
 3 MR. DAMSCHRODER: And we are in
 4 executive session.
 5 -----
 6 Thereupon, Executive Session was
 7 held from 9:14 o'clock a.m. to
 8 10:17 o'clock a.m.
 9 -----
 10 MR. DAMSCHRODER: Let's go back into
 11 public session. Is there a motion to
 12 reconvene?
 13 MR. MANIFOLD: I move that the board
 14 reconvene in public session and note for the
 15 record that no votes were taken nor decisions
 16 made during executive session.
 17 MS. MARINELLO: Second.
 18 MR. DAMSCHRODER: A roll call vote.
 19 Mr. Colley.
 20 MR. COLLEY: Yes.
 21 MR. DAMSCHRODER: Chairman Preisse.
 22 CHAIRMAN PREISSE: Yes.
 23 MR. DAMSCHRODER: Mr. Manifold.
 24 MR. MANIFOLD: Yes.

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1 MR. DAMSCHRODER: Ms. Marinello.
 2 MS. MARINELLO: Yes.
 3 MR. DAMSCHRODER: And we are back in
 4 public session of the reorganization phase of
 5 our meeting. Is there a motion for Director
 6 of the Franklin County Board of Elections?
 7 MS. MARINELLO: Mr. Chairman, I
 8 nominate William A. Anthony for the position
 9 of Director of Franklin County Board of
 10 Elections at the compensation rate of \$4,292
 11 per biweekly pay period.
 12 MR. DAMSCHRODER: Is there a second?
 13 MR. COLLEY: Yes.
 14 MR. DAMSCHRODER: We'll do a roll
 15 call vote.
 16 Mr. Colley.
 17 MR. COLLEY: Yes.
 18 MR. DAMSCHRODER: Mr. Preisse.
 19 CHAIRMAN PREISSE: Yes.
 20 MR. DAMSCHRODER: Mr. Manifold.
 21 MR. MANIFOLD: I'm going to abstain.
 22 MR. DAMSCHRODER: Ms. Marinello.
 23 MS. MARINELLO: Yes.
 24 MR. DAMSCHRODER: And the motion

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1 carries.
 2 Is there a nomination for the
 3 position of Deputy Director?
 4 CHAIRMAN PREISSE: I think you're
 5 going to do that one out of tradition,
 6 Michael.
 7 MR. COLLEY: I nominate Matthew M.
 8 Damschroder for the position of Deputy
 9 Director of the Franklin County Board of
 10 Elections at the compensation rate of \$4,292
 11 per biweekly pay period.
 12 MS. MARINELLO: Second.
 13 MR. DAMSCHRODER: We'll do a roll
 14 call vote.
 15 Mr. Colley.
 16 MR. COLLEY: Hmm...yes.
 17 (Laughter.)
 18 MR. DAMSCHRODER: Thank you.
 19 Mr. Manifold.
 20 MR. MANIFOLD: Yes.
 21 MR. DAMSCHRODER: Ms. Marinello.
 22 MS. MARINELLO: Yes.
 23 MR. DAMSCHRODER: And the motion
 24 carries. Is there a motion for permanent

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1 Chairman of the Board of Elections?
 2 MR. COLLEY: I nominate Douglas J.
 3 Preisse for the position of Chairman of the
 4 Franklin County Board of Elections.
 5 MR. MANIFOLD: I'll second that.
 6 MR. DAMSCHRODER: Mr. Colley.
 7 MR. COLLEY: Yes.
 8 MR. DAMSCHRODER: Mr. Preisse.
 9 CHAIRMAN PREISSE: Yes.
 10 MR. DAMSCHRODER: Mr. Manifold.
 11 MR. MANIFOLD: Yes.
 12 MR. DAMSCHRODER: Ms. Marinello.
 13 MS. MARINELLO: Yes.
 14 MR. DAMSCHRODER: And the motion
 15 carries.
 16 And the next is to reappoint all of
 17 the currently serving full-time clerks of the
 18 Board of Elections at their current hourly
 19 rate, which is Exhibit A in your brown
 20 folders.
 21 MR. MANIFOLD: I move that the board
 22 appoint the employees listed on Exhibit A as
 23 full-time clerks of the board and fix as their
 24 hourly compensation the rates listed with

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1 their respective names.
 2 MR. COLLEY: Second.
 3 MR. DAMSCHRODER: Mr. Colley.
 4 MR. COLLEY: Yes.
 5 MR. DAMSCHRODER: Mr. Preisse.
 6 CHAIRMAN PREISSE: Yes.
 7 MR. DAMSCHRODER: Mr. Manifold.
 8 MR. MANIFOLD: Yes.
 9 MR. DAMSCHRODER: Ms. Marinello.
 10 MS. MARINELLO: Yes.
 11 MR. DAMSCHRODER: All right. And
 12 why don't we take a moment to swear in the new
 13 Director and Deputy Director, since Judge
 14 Beatty is here for that purpose.
 15 -----
 16 Thereupon, William A. Anthony, Jr.,
 17 was sworn in, as follows:
 18 -----
 19 "I, William A. Anthony, Jr., do
 20 solemnly swear that I will support the
 21 Constitutions of the United States of America
 22 and the State of Ohio, that I will enforce the
 23 laws, protect and preserve the records and
 24 property pertaining to elections, and perform

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1 my duties as Director of the Franklin County
 2 Board of Elections to the best of my
 3 abilities."
 4 JUDGE BEATTY: Congratulations.
 5 MR. ANTHONY: Thank you so much.
 6 (Applause.)
 7 -----
 8 Thereupon, Matthew M. Damschroder was
 9 sworn in, as follows:
 10 -----
 11 "I, Matthew M. Damschroder, do
 12 solemnly swear that I will support the
 13 Constitutions of the United States of America
 14 and the State of Ohio, that I will enforce the
 15 laws, protect and preserve the records and
 16 property pertaining to elections, and perform
 17 my duties as Deputy Director of the Franklin
 18 County Board of Elections to the best of my
 19 abilities."
 20 JUDGE BEATTY: Congratulations.
 21 MR. DAMSCHRODER: Thank you.
 22 (Applause.)
 23 -----
 24 MR. DAMSCHRODER: The next item on

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1 the agenda is the certification of write-in
 2 candidates, which is Exhibit C in the packet.
 3 Karen, do you want to make a free
 4 presentation on that?
 5 MS. COTTON: Exhibit C of your
 6 packet represents those candidates who filed a
 7 timely declaration of write-in candidacy and
 8 were found to be registered electors at the
 9 given address that they presented on the
 10 application form and were residents of the
 11 jurisdictions that they sought to be a
 12 write-in candidate for.
 13 MR. DAMSCHRODER: Is there a motion
 14 to approve the write-in candidates?
 15 MR. MANIFOLD: I move that the list
 16 of electors appearing on Exhibit C be
 17 certified as valid write-in candidates for the
 18 May 4th, 2010 Primary Election.
 19 MR. DAMSCHRODER: Is there a second?
 20 MR. COLLEY: Yes.
 21 MR. DAMSCHRODER: All in favor, say
 22 aye.
 23 MEMBERS: Aye.
 24 MR. DAMSCHRODER: And there are

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<p>1 three candidates who filed declarations of 2 write-in who staff recommends be rejected. 3 Karen? 4 MS. COTTON: For the three 5 candidates who as we were doing the research 6 we discovered were not either part of the 7 jurisdiction they were seeking to run for or 8 of the wrong political party. We have 9 Jeremiah Arn; he was seeking to be a State 10 Representative candidate for the 21st 11 District. The full term commencing date was 12 incorrect on his application. He had the 13 November 2010 date for the date of the 14 election rather than the commencing date of 15 the term of office. 16 State Representative, 27th District, 17 we have Apostle Sumlin. On his declaration, 18 his address is different than that on the 19 declaration of candidacy, the address on file 20 with the Board of Elections. 21 And in County Central Committee 22 Ward 7, Robert Weind, he is of the wrong 23 political party, being that he voted in the 24 Democratic primary of 2008.</p>	<p>1 Thank you, Karen. Stay close. 2 ----- 3 MR. DAMSCHRODER: The next item on 4 the agenda is protest hearings. The first is 5 Beardman, et al., versus the Board of 6 Elections. This is challenging or protesting 7 the certification by the board of Michael 8 Duffey as a candidate for the 21st -- 9 Republican candidate for the 21st House 10 District. 11 When we first checked the petitions, 12 as is our normal practice, once we got to 55 13 valid signatures, which is more than the 14 minimum threshold for the staff review, we 15 stopped checking part-petitions, and there 16 were two additional part-petitions. 17 As is our normal course when we have 18 a protest staff who reviews all of the 19 part-petitions, it's the opinion of the staff 20 that there are 79 valid signatures appearing 21 on all of the part-petitions, which is more 22 than the 50 minimum, but counsel for the 23 protesters has several arguments to make that 24 may change the board on its position.</p>
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<p>1 MR. DAMSCHRODER: Any questions for 2 staff? 3 MR. MANIFOLD: On the first one, 4 what date did he put? 5 MS. COTTON: November 2010. 6 MR. MANIFOLD: Oh, okay. 7 MR. DAMSCHRODER: Is there a motion 8 on Exhibit D? 9 MR. COLLEY: Mr. Chairman, I move 10 that the list of electors appearing on 11 Exhibit D be deemed valid write-in candidates 12 for the May 4th, 2010 Primary Election. 13 MR. DAMSCHRODER: Deemed invalid. 14 MR. COLLEY: I'm sorry? 15 MR. DAMSCHRODER: Deemed invalid. 16 MR. COLLEY: Correction: Be deemed 17 invalid. 18 MR. DAMSCHRODER: Is there a second? 19 MR. MANIFOLD: I'll second that. 20 MR. DAMSCHRODER: All in favor, say 21 aye. 22 MEMBERS: Aye. 23 MR. DAMSCHRODER: And motion 24 carries.</p>	<p>1 So we'll call Megan Kelley, who is 2 counsel for protesters. Megan, or Mr. Hayman? 3 MR. HAYMAN: I'm Larry Hayman, 4 appearing before the board with respect to the 5 protesters. 6 MR. DAMSCHRODER: Before you start, 7 Mr. Chairman, for equity's sake, we'll 8 establish, as we have in the past, some basic 9 ground rules of allowing both sides ten 10 minutes for their presentation of arguments, 11 evidence, et cetera. After each of the 12 individual presentations, after Mr. Hayman's 13 presentation, the board can ask questions that 14 won't be charged against you for your time. 15 Afterwards, Mr. Brey, who is here on 16 behalf of Mr. Duffey, will have ten minutes, 17 same thing, and then we'll allow both sides 18 two minutes for rebuttal at the end before the 19 board votes, unless there's any objections 20 from board members. 21 CHAIRMAN PREISSE: I don't see any 22 objection, and we welcome you, Mr. Hayman, and 23 thank you; and thank you, Matthew, and 24 welcome, Bill, in another iteration of service</p>

<p style="text-align: right;">Page 18</p> <p>1 to the Board of Elections. 2 And Matt has outlined for us some, 3 we think, fair parameters. If from time to 4 time -- we just want to try to give all sides 5 an opportunity to present to the board, an 6 opportunity for the board for question and 7 answer, and then some follow-up from all 8 sides, but to put some parameters on this in 9 the interest of making some progress this 10 morning. 11 So, welcome, and please state your 12 name for the record; I'm not sure she caught 13 it. She did, okay. And you may proceed. 14 MR. HAYMAN: Thank you, Chairman and 15 members of the board. My name is Larry 16 Hayman. I'm here on behalf of protesters, 17 both Beardman and Graham, based on the protest 18 that was filed with this board on March 1st of 19 2010. We've also filed briefs in support of 20 that protest. 21 At the outset, we would like to 22 withdraw Protests 2 and 3 of that protest that 23 were based on the circulators of the petitions 24 addresses. But I will be making arguments</p>	<p style="text-align: right;">Page 20</p> <p>1 our second argument is based on the fact that 2 the Revised Code 3503.261 requires that the 3 statement of candidacy be signed by the 4 candidate prior to the circulation of any 5 petitions. 6 As the board can see, with respect 7 to Part-Petitions 524 and 527, the first 8 signature that appears on each one of those 9 petitions occurs on January 29th of 2010. 10 Now, the statement of candidacy wasn't signed 11 by the candidate until January 30th of 2010. 12 The inference being made is that they were 13 circulated prior to the statement of candidacy 14 being filled out and executed by Mr. Duffey. 15 3501.38 prohibits this. 16 At the very least, the signatures 17 appearing on those petitions on January 29th, 18 2010, should be disregarded by the board, 19 because at the very least, there's an 20 indication, at least, that those signatures 21 appeared before the statement of candidacy was 22 executed. 23 It's of particular note that the 24 only place that January 29th, 2010, appears is</p>
<p style="text-align: right;">Page 19</p> <p>1 with respect to the rest of the protests that 2 are outlined in -- protests which can be found 3 in our brief at Exhibit A. 4 With respect to our first argument, 5 we believe that Part-Petitions 517, 526 should 6 be invalidated because they have different 7 full term commencement dates than the rest of 8 the part-petitions. 9 Revised Code 3103.07 requires that 10 the Secretary of State prescribe the substance 11 of the forms, but it also provides that a 12 candidate has an obligation to accurately fill 13 out the information contained in the form. 14 In particular, Part-Petitions 517 15 and 526 state that the full term that the 16 State Representative would be commencing would 17 occur on January 3rd of 2011, whereas the rest 18 of the part-petitions state that the full term 19 would be commencing on January 1st of 2011. 20 We believe that this error could mislead 21 voters, especially unaffiliated voters, who 22 voted or who signed the petitions in the 23 Republican primary. 24 Moving on to our second argument,</p>	<p style="text-align: right;">Page 21</p> <p>1 the very first signature block on each one of 2 those part-petitions. And again I'm referring 3 to Part-Petitions 524 and 527. 4 At the very least, the circulator 5 herself provided a petition to the board -- 6 well, Mr. Duffey's counsel did, saying that, 7 yes, that is inaccurate. So again, we believe 8 that the part-petition, the entire 9 part-petition should be disqualified for that 10 reason. 11 Our third basis for requesting a 12 disqualification of signatures is based on -- 13 and this is throughout; this doesn't have to 14 do with any particular one part-petition, but 15 it has to do with Part-Petitions 517 through 16 527. 17 Revised Code 3501.011 basically 18 provides that a signature can be whatever you 19 want it to be. It has to be in cursive, but 20 if what you use in your normal business 21 affairs is a printed name, that's fine, but at 22 the very least that what you use on a 23 part-petition in support of a candidacy has to 24 match that of the voter rolls.</p>

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1 Some of the challenged signatures,
 2 we believe, do not match at all that were
 3 validated by the board, as well as shorthand
 4 names were used, different middle initials
 5 were used, et cetera.
 6 So we believe that 3501.011 requires
 7 it needs to exactly match. And in fact, a
 8 case by the 10th District Court of Appeals six
 9 years ago made clear in Van Auken versus
 10 Blackwell that the General Assembly was clear
 11 when it put the tasks on the Board of
 12 Educations to compare those signatures that
 13 appear on the petitions to the voter
 14 registration cards.
 15 Now, moving on to our second
 16 argument with respect to signatures and
 17 addresses, similarly, the plain language of
 18 3501.38(C) requires that the voting address
 19 given on the petition shall be the address
 20 appearing on the registration records at the
 21 Board of Elections.
 22 Our basic challenge here is that the
 23 addresses are incomplete, because, for
 24 example, they don't include Drive, they don't

Page 23

1 include Street, they don't include Avenue.
 2 Again, in the Van Auken case, the 10th
 3 District Court of Appeals upheld boards
 4 invalidating petitions and signatures for
 5 variations on addresses that result from
 6 misspelling, voter error, transposition of
 7 numbers, et cetera.
 8 As the board can see and as we've
 9 attached to our petition -- or our brief,
 10 excuse me, this is no trivial concern. In
 11 Worthington alone, there exists a Middlebury
 12 Court, a Middlebury Drive, et cetera. We
 13 believe that the statute requires strict
 14 compliance.
 15 In conclusion, we would ask that the
 16 board invalidate the part-petitions we've
 17 requested and the signatures that we've
 18 requested. Thank you.
 19 MR. DAMSCHRODER: Any questions for
 20 Mr. Hayman?
 21 CHAIRMAN PREISSE: Yes, Mr. Hayman?
 22 MR. HAYMAN: I thought we were
 23 holding the questions till the end.
 24 CHAIRMAN PREISSE: As stated, we

Page 24

1 will do them now, but we'll be flexible. But
 2 let's ask the board if anyone has any
 3 questions at this time. Or we can hear the
 4 other side and then have you both available.
 5 Okay. At this moment, we don't have
 6 any questions.
 7 MR. HAYMAN: Great, thank you.
 8 CHAIRMAN PREISSE: And I think we
 9 have representation from --
 10 MR. DAMSCHRODER: Mr. Brey.
 11 CHAIRMAN PREISSE: -- Mr. Duffey's
 12 side of things. Welcome, and please state
 13 your name.
 14 MR. BREY: I thank you, Mr.
 15 Chairman, members of the Board of Elections.
 16 My name is Donald Brey, and I'm a legal
 17 counsel to the candidate, Michael Duffey,
 18 whose petitions are the subject of this
 19 protest.
 20 We do appreciate the fact that two
 21 of the five counts, if you want to call them,
 22 have been withdrawn.
 23 The first issue is the incorrect
 24 term commencement date on Part-Petitions 517

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1 and 526. And before I get into that, the
 2 statute we're talking about is Revised Code
 3 3513.07.
 4 Revised Code 3513.07 prescribes what
 5 the form of a petition and a declaration of
 6 candidacy is supposed to be like; and what it
 7 says is, it's supposed to be substantially as
 8 follows. And that "substantially" language
 9 means that a substantial compliance is
 10 sufficient. We don't have a rule where you
 11 have to cross every T and dot every I. Nobody
 12 is deceived or nobody is defrauded or there's
 13 no illegality involved.
 14 There were numerous Supreme Court
 15 cases that have said exactly that, and we cite
 16 them in our briefs. And one of the things
 17 this board has done is, this board has
 18 correctly decided that when people use an
 19 incorrect date of a term commencing, it's not
 20 going to throw the petitions out.
 21 And one of the reasons is, if you
 22 take a look at Part-Petitions 517 and 526,
 23 you'll notice that those were the
 24 part-petitions that were printed off of this

<p style="text-align: right;">Page 26</p> <p>1 Board of Elections Web site, which 2 automatically put the date of January 3rd, 3 2011, in there. 4 In fact, the other ones were printed 5 out and then whited out and then handwritten 6 in, the January 1, 2011 commencement date, 7 which is the date that Ohio's Constitution, 8 Article 2, Section 2 prescribes, the 1st day 9 of January. 10 But this commission has already 11 decided, and properly decided, that having 12 that kind of mistake in a petition, which 13 mistake was used in every single petition 14 which used this board's Web site to determine 15 the date, is not a substantial variance. It's 16 substantial compliance. 17 And it's not only this board that's 18 said that; the Ohio Supreme Court has said 19 that, and said repeatedly. In a 1981 case of 20 Hill versus Cuyahoga County, where someone put 21 in the wrong primary date, the board threw 22 them off, the Ohio Supreme Court granted the 23 mandamus to the board and forced the board to 24 put that person back on the ballot.</p>	<p style="text-align: right;">Page 28</p> <p>1 but his presentation had the right numbers. 2 We're talking about Part-Petitions 3 524 and 527. In Part-Petition 524, the first 4 line did write in 1-29, at least on my copy. 5 That was then crossed out and 1-30 was put in 6 there. So I don't think even that one 7 signature ought to be knocked out, because 8 it's clear what the date was. They wrote down 9 the wrong date, 1-29, and then they crossed 10 that out and the right date was written in, 11 1-30. 12 In Part-Petition 527, the first line 13 also had the wrong date, January 29. We have 14 an affidavit that we've filed with you from 15 the circulator, Sara Molski, saying that the 16 part-petition was not circulated before 17 January 30, and all the part-petitions that 18 she circulated have the declaration of 19 candidacy date filled out. 20 In any event, there is no authority 21 for throwing out the whole part-petitions for 22 that kind of mistake, even if this board were 23 to choose to knock out the first signature in 24 Part-Petition 527, which, naturally enough,</p>
<p style="text-align: right;">Page 27</p> <p>1 In Phillips versus Lorain Board of 2 Education, 2001, the Ohio Supreme Court upheld 3 a Board of Elections commission decision that 4 put on the ballot somebody who had the wrong 5 term ending date. 6 And the protest is not really making 7 an argument, but the fact that these two 8 petitions are a little different than the 9 other is problematic; and it's good that 10 they're not, because the Ohio Supreme Court 20 11 years ago in Beck versus Casey granted a 12 mandamus against this very board forcing them 13 to put back on the ballot someone they threw 14 off because they had a different declarations 15 of candidacies on different part-petitions. 16 So both the precedent of this Board 17 of Elections properly interpreting the 18 substantial compliance language of 3513.07 and 19 the decision of the Supreme Court being that 20 that's just a nonissue. 21 Secondly, protester claims that 22 there are two part-petitions that must have 23 been circulated before the declaration of 24 candidacy, and the brief has the wrong numbers</p>	<p style="text-align: right;">Page 29</p> <p>1 since I represent the respondent, I'm saying 2 you shouldn't do that. 3 The third argument is item 5 on the 4 protest letter, which is what I call the 5 kitchen sink allegations. In other words, 6 there are all sorts of things that are wrong 7 with these signatures, and by my count, there 8 are 22 signatures that protester says should 9 be thrown out because they have an 10 insufficient date. They have an insufficient 11 date, and he used examples, and I'll use them, 12 too. 13 That instead of saying you live at 14 20 -- well, somebody said they lived at 28 15 West Stafford but didn't say they lived at 28 16 West Stafford Avenue. Or that somebody lived 17 at 6929 Perry but didn't say they lived at 18 6929 Perry Drive, or "Dr." And that is, I 19 would submit, utter nonsense. It's 20 substantial compliance. 21 The board staff had no problems 22 finding out where those people lived, and 23 that's the purpose of putting an address on 24 it, so you can check the name with the</p>

<p style="text-align: right;">Page 30</p> <p>1 address, particularly if some people write 2 kind of messy. Some people do, including 3 yours truly. 4 But having said that, they just 5 misread the law. Certainly, that's never been 6 the practice of this commission to say 7 signatures -- just because they don't put 8 "Dr." or "Ave." or "Rd." after the specific 9 address that they put down there. And if that 10 were to become, you know -- unless the Supreme 11 Court knocked it down, you guys are going to 12 have an awful lot more protest work to do, 13 because I've never seen a petition that hasn't 14 had that kind of a shortening of the address 15 without putting Road or Drive or Avenue after 16 it. 17 And second argument under the 18 kitchen sink arguments is, there are 19 incomplete signatures. Now, what are they 20 talking about here? 21 We have somebody who wrote Ken and 22 his last name rather than Kenneth and his last 23 name. Or someone who wrote -- John Jolley 24 signed his name John Jolley, but they say it</p>	<p style="text-align: right;">Page 32</p> <p>1 in a more formal fashion ought to be tossed 2 out. It has to match, which is to say you've 3 got to be able to tell it's the same signature 4 as the person who signed. The staff has 5 checked that, they've been able to tell that, 6 and it did. 7 I would also suggest that, just for 8 the record, because I do represent the 9 respondent, every one of the signatures that 10 your staff tossed out I think ought to be put 11 back on. But having said that, even if you 12 don't do that, we've clearly got 50, and for 13 that reason I would ask that the protest be 14 denied. 15 Does the board have any questions? 16 MR. MANIFOLD: Yeah, I do. Because, 17 you know, I was kind of involved when there 18 was this big debate, I think it was around the 19 first of the year, where the generated board 20 petitions had 1-3-2011, and I think they were 21 getting a lot of counsel that it should be 22 1-1-2011. 23 And I think what the former Director 24 came back to us with, because we had a lot of</p>
<p style="text-align: right;">Page 31</p> <p>1 should be thrown out because he didn't sign 2 his name John David Jolley. Or there's a 3 couple cases where Michael J. somebody signed 4 his name M.J. 5 Those are their signatures. If you 6 sign a check that way, they're going to cash 7 them. And those signatures, those 8 shortenings, you can compare with the 9 signatures on file, as your staff has and done 10 a thorough job of it, and you can know exactly 11 who signed it because it matches. It's the 12 same signature. There's no question about 13 that. 14 And to say that if I signed my name 15 Don Brey to a signature rather than Donald 16 Brey, or even if I sign Donald Brey but don't 17 sign it Donald C. Brey, my signature should be 18 thrown out, is, I would suggest, contrary to 19 the traditions of this board, because the 20 traditions of this board are not to make 21 stupid rules and apply them that way. 22 And it would be a stupid rule to 23 apply that anybody who signs their name other 24 than the exact letters that they have signed</p>	<p style="text-align: right;">Page 33</p> <p>1 candidates that actually had this same 2 occurrence, that had different ones, and we 3 had multiple candidates, I think actually went 4 back out -- threw out the petitions and went 5 out and got other ones. 6 Because, essentially, what they were 7 told by the Director, the former Director was 8 that you could do 1-1 of 11 or you could do 9 1-3 of 11, but that you really shouldn't be 10 able to turn in petitions that some were 1-1 11 and some were 1-3, just to those being 12 completely different dates. And I believe 13 that's what the board was saying. 14 MR. DAMSCHRODER: At the board 15 meeting, I think it was January 25th, the 16 board passed a resolution saying -- I don't 17 have it here in front of me so I don't have 18 the exact text, but we could get it if the 19 board wants it reread into the record, but 20 basically that it would accept either dates 21 for full term commencing, and if the board is 22 persuaded by the argument that all the 23 part-petitions should have the same date even 24 if it's the incorrect date, then I think the</p>

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1 board should probably go back and reevaluate
 2 all of the petitions for all of the candidates
 3 in that category to be sure that we didn't
 4 allow some under one standard and disallow
 5 others under a different standards.
 6 Because in our review yesterday, two
 7 candidates that might interest you, Nancy
 8 Garland and Marion Harris, both submitted
 9 part-petitions with two different dates.
 10 MR. BREY: And if I may address two
 11 points.
 12 One, the protester has not made an
 13 argument about the inconsistency, only about
 14 the incorrectness of the two of them.
 15 And secondly, although I can't speak
 16 for them, I think that if such an argument had
 17 been made, it would be invalid, because the
 18 Ohio Supreme Court reversed this Board of
 19 Elections in 1990 when it threw off the ballot
 20 someone because they had different forms of
 21 the declaration of candidacy on different
 22 part-petitions. The Ohio Supreme Court said
 23 that was an abuse of discretion by this board
 24 for doing that.

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1 And so, although I do agree that
 2 they are different, you can read the dates,
 3 the Ohio Supreme Court has already spoken on
 4 that issue.
 5 MR. MANIFOLD: It was a resolution
 6 at the January meeting?
 7 MR. DAMSCHRODER: Yeah, January
 8 25th.
 9 MR. MANIFOLD: Was it discussed of
 10 having different -- what to do of different
 11 ones, or was it just discussed that we'll take
 12 1-3 or we'll take 1-1, we just won't take
 13 both?
 14 MR. DAMSCHRODER: My recollection,
 15 and I can go print it off real quick if the
 16 board wants, is that we would take either
 17 date. I don't think there was discussion or
 18 anything in the resolution that said we would
 19 take one or the other.
 20 So long as it was consistent across
 21 all the part-petitions, we just said that we
 22 would take either the correct, constitutional
 23 date or the incorrect, board-generated date
 24 that was derived from the statute for when the

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1 General Assembly convenes.
 2 MR. MANIFOLD: Okay. And I have
 3 another question, too. I notice that you guys
 4 got affidavits from a lot of these folks. Oh,
 5 wait, okay, so you did get one from the ones
 6 that have been dated the 29th? Or did you get
 7 -- hang on, let me look.
 8 MR. BREY: Many of the affidavits
 9 are irrelevant, because they relate to issues
 10 that have been withdrawn of the circulators.
 11 So I think three of the 40
 12 circulators' affidavits are irrelevant, and
 13 the one that remains relevant, at least from
 14 our point of view, is Sara Molski. She is the
 15 one who had signed the petition -- or it was
 16 the circulated petition on 527, and that's the
 17 only one where the incorrect date had not been
 18 corrected. The other one, the incorrect date
 19 had been corrected on the face of the
 20 part-petition.
 21 MR. DAMSCHRODER: And, Mr. Manifold,
 22 in deriving the staff count of 79, the staff
 23 recommendation of 79 valid signatures, the
 24 staff excluded the two signatures that appear

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1 to be dated 1-29, the day before the
 2 declaration of candidacy was executed.
 3 MR. MANIFOLD: Okay.
 4 CHAIRMAN PREISSE: Any other
 5 questions for Mr. Brey before we ask Mr.
 6 Hayman if he wishes to offer any follow-up or
 7 response to these questions or that statement?
 8 MR. DAMSCHRODER: So we'll do a
 9 two-minute rebuttal from both sides.
 10 MR. HAYMAN: Thank you. Mr. Brey
 11 may consider our argument utter nonsense, but
 12 we submit that that's what the Revised Code
 13 requires with respect to signatures.
 14 I think it's notable that on each
 15 one of the affidavits of voters that Mr. Brey
 16 submitted to this board, each of them signed
 17 their names consistent with the signature
 18 that's on file with the Board of Elections.
 19 They also have no problem in those affidavits
 20 filling out their entire and complete address,
 21 and I would like to bring that to the board's
 22 attention.
 23 Also, with respect to Sara Molski
 24 and her affidavit and circulation of her

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1 part-petition, I think it's notable that she
 2 signed the petition, at least being aware and
 3 reviewing the fact that the first signature on
 4 that petition was signed prior to -- at least
 5 as she says in her affidavit, it was
 6 unintentional, but, you know, we believe that
 7 the evidence shows that it was circulated
 8 prior to the execution of the statement of
 9 candidacy.
 10 Does the board have any questions?
 11 CHAIRMAN PREISSE: I don't. Any
 12 other members want a moment to look at it?
 13 MR. MANIFOLD: Yeah, give me a
 14 moment.
 15 CHAIRMAN PREISSE: Okay. We'll
 16 allow the members another moment or two to
 17 digest this.
 18 (Pause in proceedings.)
 19 MR. MANIFOLD: So, given that Ms.
 20 Molski signed this affidavit saying that the
 21 date is wrong, that the person signed it
 22 wrong, why would this board throw out this
 23 entire petition based off the fact that one
 24 person signed the wrong date?

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1 MR. HAYMAN: Because it's
 2 inconsistent with the circulator's statement
 3 that she signed. The circulator's statement
 4 that she signed said that she witnessed each
 5 and every signature and presumably that that
 6 signature is valid and the person lives at
 7 that address and it's on the date that they
 8 signed.
 9 MR. MANIFOLD: I mean, my question
 10 would be, what is she supposed to do with that
 11 petition when you take around a petition --
 12 because I've done petitions before; what she's
 13 supposed to do when she hands it to somebody
 14 and they do sign the wrong date? I mean,
 15 should she just go get a new petition, or, you
 16 know, should she continue on thinking, okay,
 17 that one will be invalidated but the other
 18 ones --
 19 MR. HAYMAN: We would submit she
 20 should tell the signer of the part-petition to
 21 correct the date, and again, what she's
 22 signing at the end is that she witnessed that
 23 signature being made and presumably that they
 24 put the correct information down.

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1 MR. MANIFOLD: All right.
 2 CHAIRMAN PREISSE: If there's no
 3 other questions, we'll let Mr. Brey take his
 4 final two, should he wish to take it.
 5 MR. HAYMAN: Thank you, Chairman.
 6 CHAIRMAN PREISSE: Thank you, Mr.
 7 Hayman.
 8 MR. BREY: Very briefly and only in
 9 response to his rebuttal. Revised Code
 10 3501.011, which we've cited in our brief, says
 11 a legal mark is good enough. A legal mark can
 12 be Don Brey rather than Donald Brey.
 13 And secondly, Sara Molski's
 14 statement on the certification that she
 15 witnessed folks on the part-petition, there's
 16 nothing in what she swore that says and they
 17 signed it on the date they wrote down.
 18 Thank you.
 19 CHAIRMAN PREISSE: Questions?
 20 Okay. We thank you both for your
 21 learned expressions of opinions.
 22 MR. DAMSCHRODER: Any more questions
 23 or discussion?
 24 MR. MANIFOLD: Even if this board

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1 were to reject 517 and 526 for being two
 2 different dates, that one was 1-3 and the
 3 other set was 1-1, the person still -- it's
 4 only, I think -- how many signatures is on it?
 5 Fifteen.
 6 CHAIRMAN PREISSE: You mean if we
 7 were to reject the whole petition or merely
 8 the two signatures in question?
 9 MR. MANIFOLD: No, I mean from the
 10 petition where the candidacy is a different
 11 date, even if we were to reject those two full
 12 petitions, there's 15, and they're sitting at
 13 79, right?
 14 MR. DAMSCHRODER: Correct.
 15 MR. MANIFOLD: So that would only be
 16 64, by my math, right?
 17 MR. DAMSCHRODER: Correct. And the
 18 board would be applying a different standard
 19 to this set of petitions than it had
 20 previously applied to other petitions.
 21 MR. MANIFOLD: And how did we handle
 22 the signature -- I see that we went back
 23 through and kind of checked them again. I
 24 know one was printed. Was that not counted?

<p>Page 42</p> <p>1 The second time? 2 MR. DAMSCHRODER: Karen, do you 3 remember which one that was off the top of 4 your head? 5 MS. COTTON: I have a report that I 6 can look at. 7 MR. DAMSCHRODER: That would be 8 great. 9 (Pause in proceedings.) 10 MS. COTTON: We had two printed 11 signatures, both of them were on petition 12 number 522, page 1, lines 6 and 7, Marcia 13 Trakus and Jerry Kneubel. We had two 14 signatures where the dates were either 15 incorrect or invalid dates. We had one 16 signature in pencil and 12 signatures of 17 persons of the opposite political party, and 18 79 total. 19 MR. DAMSCHRODER: And, Mr. Manifold, 20 I think to the specific of your question, on 21 Part-Petition 522, line 7, at the initial 22 review -- and, Karen, correct me if I'm wrong 23 -- but at the initial review, as evidenced by 24 the red check mark on that part-petition, the</p>	<p>Page 44</p> <p>1 definitely changed, so I did in fact include a 2 newer registration or signature for you to 3 look at. 4 MR. MANIFOLD: I'd hate to have 5 people compare mine to how I originally 6 signed. 7 CHAIRMAN PREISSE: Ten years ago, 8 right. 9 MS. COTTON: I registered 39 years 10 ago and it's quite different. 11 MR. MANIFOLD: So my question, being 12 new to the board, is, even if I did have 13 concerns about a couple of these petitions, if 14 even throwing those out still equaled 50 so we 15 would essentially accept the motion to 16 certify, right? 17 MR. DAMSCHRODER: Correct. What 18 we've historically done in a situation like 19 this where there's sufficient additional valid 20 signatures, if the board wanted to whittle 21 that away, if it still didn't resolve the 22 overall certification being changed, the board 23 didn't take individual votes on each of the 24 signatures and just did a motion to either</p>
<p>Page 43</p> <p>1 first review of staff was that that printed 2 signature was counted. 3 In the rereview of all the 4 part-petitions in preparation for this 5 hearing, staff changed that determination from 6 a valid signature to a print and then made it 7 invalid. 8 MR. MANIFOLD: Okay. 9 MS. COTTON: What part-petition 10 again? 11 MR. DAMSCHRODER: That was 522, 12 line 7. 13 MS. COTTON: That's correct. It had 14 initially been validated, and I found when I 15 rechecked the petition that it was a print and 16 coded it as such. 17 In the other packet of information, 18 you have copies of the petitions and copies of 19 the signatures we have on file. In some 20 cases, I went to the signature poll book file 21 that is attached to each of the voters' 22 records and got a new signature, because some 23 of those individuals had registered 25, 30, 40 24 years ago and their registrations had</p>	<p>Page 45</p> <p>1 overturn or uphold its previous certification. 2 But if, when we start throwing out 3 whole part-petitions, the number gets down to 4 the valid, that's when the board usually 5 starts taking up or down votes on the 6 individual signature lines. 7 MR. MANIFOLD: Okay. You know, I 8 went through these last night, went through 9 these signatures, and I tended to think that 10 most of these signatures were pretty close. 11 Some things might be a little different, but 12 you can see it tends to be the first letter of 13 the first and last name, that you can kind of 14 tell that somebody, you know, curved their M, 15 or, you know, it might not match perfectly, 16 but I thought most of these signatures were 17 close. 18 I definitely do have concerns about 19 the two that were dated 1-3 and that the other 20 one is 1-1, but given that that doesn't get us 21 close enough, I think I wouldn't have a 22 problem certifying. I could make a motion. 23 CHAIRMAN PREISSE: Okay. Any other 24 questions of Karen or other observations from</p>

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1 members? Okay.
 2 MR. COLLEY: Mr. Chairman, I move
 3 that the board uphold its unanimous decision
 4 of February 25, 2010, to certify Mike Duffey
 5 to the ballot as a candidate for the
 6 Republican nomination as State Representative,
 7 21st House District.
 8 MS. MARINELLO: Second.
 9 MR. DAMSCHRODER: All in favor say
 10 aye.
 11 MEMBERS: Aye.
 12 MR. DAMSCHRODER: Opposed? Motion
 13 carries.
 14 -----
 15 MR. DAMSCHRODER: The next item is
 16 the Constitution Party of Ohio versus Board of
 17 Elections that filed a protest against the
 18 candidacy of Chris Macisco, who filed a
 19 nominating petition to be a candidate for the
 20 Constitution Party nomination for Member of
 21 Congress, 15th Congressional District.
 22 Mr. Owens.
 23 MR. OWENS: Good morning. Thank
 24 you.

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1 MR. DAMSCHRODER: It will be the
 2 same for this section, we'll give you ten
 3 minutes for your presentation, then we'll ask
 4 questions from the board, and then if Mr.
 5 Macisco goes here, give him ten minutes and go
 6 from there.
 7 MR. OWENS: Okay. Thank you very
 8 much. We're here on --
 9 MR. DAMSCHRODER: Would you state
 10 your name for the record, please.
 11 MR. OWENS: Oh, I'm sorry. Robert
 12 Owens for the Constitution Party of Ohio and
 13 then also individually as a member of the
 14 Constitution Party of Ohio.
 15 We have here perhaps a slightly
 16 unusual twist to an issue that you probably
 17 see fairly often but perhaps not with this
 18 twist. So I guess in keeping with the
 19 slightly unusual nature of this, I mainly have
 20 a question for the board on just a procedural
 21 issue.
 22 I understand at one point there was
 23 a misspelling of Mr. Macisco's name. I don't
 24 believe I saw him here in the room today, and

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1 I wanted to make sure that from a procedural
 2 standpoint there was adequate notice and the
 3 board felt comfortable going forward at this
 4 time.
 5 I'm certainly willing to proceed,
 6 although, I guess, having not seen Mr. Macisco
 7 here, I just wanted to make sure that the
 8 board felt there was a fair opportunity for
 9 him to get notice of the hearing.
 10 MR. DAMSCHRODER: Mr. Macisco did
 11 receive notice, both by electronic
 12 communication and by certified letter. Those
 13 did go certified, didn't they, Suzanne?
 14 MR. OWENS: Yeah, I received a
 15 certified.
 16 MR. DAMSCHRODER: All right, good.
 17 MR. OWENS: I just wanted to make
 18 sure; since I didn't see anybody here for him
 19 today, I just wanted to make sure.
 20 MR. DAMSCHRODER: I know he was
 21 aware of it, because he called yesterday, made
 22 a public records request for the bylaws of the
 23 Constitution Party, so I know he was aware of
 24 the meeting.

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1 MR. OWENS: Okay, very good.
 2 MR. DAMSCHRODER: Thank you.
 3 MR. OWENS: We do, seemingly, have a
 4 unique case, because this is the first time in
 5 a long time that we've had a third party that
 6 has gained ballot access in Ohio. And the
 7 Constitution Party has yet to hold a primary
 8 allowing people to affiliate with it.
 9 I personally have standing to bring
 10 on this protest both as a member of the Ohio
 11 Constitution Party, as chairman of the
 12 Constitution Party, and then on behalf of the
 13 state controlling committee pursuant to the
 14 organizational plan and bylaws that have been
 15 filed with the Secretary of State.
 16 Now, Ohio Revised Code Section
 17 3513.191 speaks to the disqualification of a
 18 candidate for party primary if a person has
 19 voted as a member of a different political
 20 party at any primary election within the
 21 current year and the immediately preceding two
 22 calendar years.
 23 However, I would note that Section
 24 3517.013 provides an exception for persons

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1 desiring to become candidates of a new
 2 political party in the first four years after
 3 that party's formation.
 4 Regardless, the clear intent of the
 5 Ohio Legislature is to prevent members of one
 6 political party from raiding another political
 7 party and trying to act as spoilers. And we
 8 believe that's exactly what's going on with
 9 the instance of Mr. Macisco.
 10 In Lipid versus Cipolloni (ph.), a
 11 1971 case, I have a cite here, as 337F Supp.
 12 1405, the case law suggests that there is a
 13 specific purpose for a protest hearing, which
 14 is to prevent the raiding of one political
 15 party by members of another political party.
 16 And again, that's the purpose then for our
 17 protest.
 18 Likewise, longstanding case law, and
 19 I cite to State ex rel. Boose versus
 20 Chicarelli (ph.), a 1954 case cited at 97 Ohio
 21 App. 43, notes that once you have affiliated
 22 with one political party, you must take some
 23 affirmative action if you're going to file a
 24 petition to run in a partisan primary for a

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1 different political party before you are
 2 considered in conformity with Chapter 3513 of
 3 the Ohio Revised Code.
 4 Now, obviously, since there hasn't
 5 been a primary, there isn't the ability to
 6 affiliate by voting in a primary in that
 7 process, but the case law is just talking
 8 about some affirmative action. You've got to
 9 do something to affiliate or become a member
 10 of or something along those lines before you
 11 can enter the primary for a different
 12 political party.
 13 Now, Mr. Macisco has filed petitions
 14 stating on the petition itself that he was a
 15 member of the Constitution Party of Ohio at
 16 the time that he signed those petitions for
 17 candidacy in the Constitution Party of Ohio
 18 primary for the U.S. Representative in the
 19 15th Congressional District.
 20 I would note that under Article 4 of
 21 the organizational plan and bylaws of the
 22 Constitution Party of Ohio, which hopefully
 23 you all have a copy of, which were filed with
 24 the Secretary of State on February 3rd, 2010,

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1 and this is notable because this was a matter
 2 of public record, this was filed and opened
 3 for everybody to see before any of Mr.
 4 Macisco's petitions were circulated or signed
 5 or in any way even begun.
 6 So, certainly, there was adequate
 7 notice by public record with the Secretary of
 8 State as prescribed under Ohio law. And it
 9 indicates in there membership with the
 10 Constitution Party is defined as follows.
 11 Quote: Membership of the party
 12 shall exist of all persons who are registered
 13 voters under the laws of the State of Ohio who
 14 have done one of two things: They've declared
 15 on their registration their affiliation with
 16 the party; and/or, second thing, and it's just
 17 one or the other, made application with the
 18 party and paid such dues that are prescribed
 19 by the state chairman or State Central
 20 Committee. The state chairman or State
 21 Central Committee or Executive Committee may,
 22 by resolution, impose such other requirements
 23 as they may from time to time deem appropriate
 24 for membership in the party.

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1 And I would note on that aspect here
 2 that there's a Web site, I mean, a very
 3 easy-to-find CPofOhio.org, there is a
 4 membership form that you can download right
 5 from the Web site. And in fact on the
 6 national party Web site, same way, you know,
 7 we don't really care if you join national
 8 party, state party, I mean just some
 9 affirmative action needs to be taken.
 10 On the national party, if you're a
 11 veteran of the Armed Services, we waive all
 12 dues. I mean, there aren't even any dues paid
 13 that are necessary.
 14 Now, prior to signing and
 15 circulating Mr. Macisco's declaration of
 16 candidacy, he did not comply with the relevant
 17 portion of our party bylaws to become a member
 18 of the Constitution Party of Ohio. He did not
 19 submit a membership application. He did not
 20 pay dues. He did not fill out any candidate
 21 questionnaire. In fact, he did nothing.
 22 Mr. Macisco failed to take any
 23 affirmative action of any kind to change his
 24 party affiliation or membership from the

<p>Page 54</p> <p>1 Republican Party to the Constitution Party. 2 Now, it should be further noted that 3 Mr. Macisco is not only affiliated with the 4 Republican Party, but he previously served on 5 the Franklin County Republican Central 6 Committee and worked with elected party 7 members as an aide to Senator Bill Harris and 8 as chairman for the Buckeyes for Bush at Ohio 9 State University. 10 Mr. Macisco is listed as a fan of 11 former Senator Steve Stivers on Facebook and a 12 friend of Steve Stivers on Plaxo, which is 13 similar to LinkedIn; you might be familiar 14 with some of those Web sites. 15 This is notable because Mr. Stivers 16 is running for the exact same political office 17 as a Republican that Mr. Macisco is seeking to 18 run for through the Constitution Party. 19 Through my official role as chairman 20 of the Constitution Party, I've investigated 21 to see if he has ever contacted the national 22 party and that he has not in any way ever 23 contacted anybody at the national party; 24 likewise, he has never contacted in any way,</p>	<p>Page 56</p> <p>1 of Ohio. 2 MR. DAMSCHRODER: Mr. Owens, you 3 have two minutes remaining. 4 MR. OWENS: Certainly. 5 After having this telephone 6 discussion, I personally placed a -- we did 7 have a conversation, we met in person, and he 8 stated that his only reason to run for office 9 in our party is because he believed that, 10 quote, if you're going to represent a 11 congressional district, you should live in 12 that congressional district, referencing his 13 primary competitor and declared Constitution 14 Party candidate for Congress in the 15th 15 District, Mr. David Ryan. He made the same 16 statement over the phone and again in person. 17 Now, at that meeting, it 18 became clear to me that Mr. Macisco is 19 completely unfamiliar with our party platform, 20 had no solid plan for running for office, had 21 no clear goals or aspiration for running a 22 campaign or holding the office of U.S. 23 Representative. 24 And again, I gave him several</p>
<p>Page 55</p> <p>1 shape or form anybody from the state party, 2 the Constitution Party of Ohio. 3 Mr. Macisco has never filled out a 4 membership application for the national 5 Constitution Party or the Constitution Party 6 of Ohio. 7 And in fact, after we received 8 notice that Mr. Macisco had filled out a 9 petition to become a candidate for primary for 10 the Constitution Party of Ohio, I made several 11 calls and e-mails and such to get in contact 12 with him. We talked over the phone. I asked 13 him to fill out a membership application or a 14 candidate questionnaire. I was even willing 15 to waive dues or any of it. 16 I mean, you know, we understand that 17 former Republicans who want to be pro-life and 18 pro-Second Amendment and feel abandoned to a 19 certain degree by the Republican Party might 20 seek and find a home in the Constitution Party 21 of Ohio, but in each of these cases, Mr. 22 Macisco refused to cooperate, refused to 23 pledge any allegiance or affiliation or 24 anything with regard to the Constitution Party</p>	<p>Page 57</p> <p>1 opportunities to even become, after the fact, 2 a member of the Constitution Party of Ohio, 3 and I don't necessarily know that still would 4 have qualified to comport with the law, but, 5 you know, our goal is to be as flexible as 6 possible, and he refused every single 7 opportunity to make any affirmative act to 8 say, yes, I agree with your party platform, I 9 agree with your principles, I agree with you, 10 really, in any way, shape or form. 11 It is our contention that Mr. 12 Macisco's candidacy is an attempt by the 13 Republican Party to raid the Constitution 14 Party for the express benefit of the 15 Republican Party candidate for the same 16 office, former Senator Steve Stivers. 17 Thank you. I have nothing further. 18 MR. DAMSCHRODER: Any questions? 19 CHAIRMAN PREISSE: Questions from 20 the board? 21 I'll just make an observation; I'm 22 not sure it's a question. 23 As you discuss your desire for 24 candidates to be in compliance with your</p>

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1 party's bylaws, I can speak for the Republican
 2 Party and suspect that these guys can speak
 3 for the local Democratic Party, and suggest
 4 that we'd appreciate that, too.
 5 I kind of turn to our counsel and
 6 staff when I reflect that we're called upon
 7 here not often, if ever, to judge the
 8 compliance of candidates to their particular
 9 party's bylaws, but to the laws of Ohio and
 10 occasionally the nation as it relates to their
 11 access to the ballot and the appropriateness
 12 of that.
 13 There's no question that I share
 14 your observation. You are making it in one
 15 case, and I expand that, there seem to be a
 16 proliferation of candidates, particularly in
 17 the Green Party, Constitution Party, the
 18 Libertarian Party, who have taken the
 19 opportunity to access the ballot given recent
 20 relaxations of the ability to do that; and I
 21 reflect that I see some traditionally
 22 pre-parties and Democrats running as Greens
 23 and others, and, yes, Republicans running in
 24 Constitution, Libertarian spots.

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1 You, yourself, have just suggested
 2 that you welcome that, the Constitution Party
 3 as a home for those who may -- I hope not too
 4 many --
 5 (Laughter.)
 6 CHAIRMAN PREISSE: -- choose to
 7 abandon the Republican Party. Please invite
 8 the Democrats to do the same thing.
 9 I appreciate your frustrations and I
 10 share some of them, but I also kind of fall
 11 back on the fact that we sit here to judge
 12 matters of election law and not necessarily
 13 the -- and I think, actually, necessarily not,
 14 the application of your party's bylaws.
 15 MR. OWENS: And I offer that only
 16 for this express reason. For the Republicans
 17 and Democrats, there is a process by which
 18 under existing Ohio law you can take a look at
 19 past votes in primaries to determine
 20 affiliation, and so it's a very easy
 21 cut-and-dry sort of focus: Did you vote in a
 22 primary election for a different party in the
 23 last, you know, two cycles? And Ohio law
 24 becomes very clear in that regard.

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1 This is slightly unusual simply
 2 because for the Constitution Party, for the
 3 Green Party, for the Libertarian Party, for, I
 4 believe, even the Socialist Party, there has
 5 not been any opportunity in the past to
 6 affiliate or take that type of affirmative
 7 action.
 8 And so when we go back and we look
 9 at the case law, and I cited to a 19 -- it was
 10 actually a 1954 case, I guess that's how far
 11 you've got to go back before you can find
 12 other parties on the ballot; what it comes
 13 down to is that there's got to be some
 14 affirmative action; there's got to be some
 15 aspect.
 16 And I can tell on you behalf of
 17 every other single one of our members, on
 18 behalf of every single one of our other
 19 candidates, they've done something to take an
 20 affirmative action before filing for candidacy
 21 to say, yes, I actually believe in the
 22 principles that you stand for, I understand
 23 your platform, I understand where you're
 24 coming from.

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1 And so if we don't have at least
 2 some affirmative action taken on behalf of
 3 somebody, what we're essentially saying is,
 4 hey, any time that there is a new party, they
 5 can be raided whole hog and there's absolutely
 6 no way for there to be any party discipline
 7 whatsoever.
 8 And so that's where the litmus test
 9 of that affirmative action comes in. And what
 10 I would say here is, at least on behalf of our
 11 party, it's a pretty low threshold.
 12 I mean, even if somebody would have
 13 said, hey, you know what? I really believe in
 14 your principles. You know, I might even be
 15 willing to -- you know, our party bylaws are a
 16 little bit more rigid than that, but, I mean,
 17 we got nothing, I mean absolutely nothing from
 18 Mr. Macisco whatsoever.
 19 I mean, there has been no action at
 20 all for him to indicate. For all we know,
 21 he's, you know, a far left Socialist Marxist.
 22 I assume that's probably not the case, because
 23 he was previously a member of the Republican
 24 Central Committee, but, you know, without some

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1 affirmative action, we just have absolutely no
 2 way to just be completely overrun and have our
 3 party killed. And I don't think that's the
 4 intent of the Ohio Legislature.
 5 I think the Ohio Legislature, when
 6 they wrote these laws, specifically tried to
 7 make sure that there would be at least some
 8 degree of party discipline to keep, you know,
 9 as the case law suggests, members of one party
 10 from raiding a new party.
 11 CHAIRMAN PREISSE: Any comments from
 12 the staff or our counsel here on any of these
 13 matters?
 14 MR. DAMSCHRODER: I think, Mr.
 15 Chairman, your comments from a minute ago are
 16 on point, that as Mr. Anthony and I earlier
 17 swore to uphold the laws of the Constitution
 18 of the State of Ohio and the United States,
 19 there was no mention of political party
 20 bylaws.
 21 And I'd also note that I think at
 22 this point in time, we're kind of in a little
 23 bit of a No Man's Land, if you will, with
 24 federal courts having struck down most of the

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1 laws governing minor political party ballot
 2 access, and all we have really to operate on
 3 is a two- or three-page directive from the
 4 Secretary of State that doesn't, as far as I
 5 am aware, with the exception of requiring or
 6 asking the minor political parties to file
 7 rules and bylaws with the Secretary of State
 8 or the counties where they're going to
 9 organize, that there's no guidelines from the
 10 Secretary of State in terms of additional
 11 requirements for ballot access outside of the
 12 minimum number of valid signatures required,
 13 and that any one candidate or signer can be
 14 from any political party based on the 2008
 15 primary election party affiliation.
 16 MR. OWENS: And again, I did cite to
 17 that, and specifically, at 3517.013, there's a
 18 specific exception written in for new parties.
 19 But, I mean, understand that the exception
 20 there is to specifically provide that, hey, if
 21 you've been a member of another party and
 22 there's a new party started, well, we're not
 23 going to exclude you from being able to
 24 participate in this new party.

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1 Because in Ohio, there isn't a
 2 process like there is in many other states
 3 where you can just go down to the Board of
 4 Elections and say I want to change my voter
 5 registration, you know, any odd Tuesday,
 6 Thursday, you know, whatever. The only time
 7 you can do that is in a party primary, and, of
 8 course, if there's no past party primary, then
 9 in that eventuality, we're in, you know, sort
 10 of a quandary, because how is it that you're
 11 going to then determine who's eligible and
 12 who's not?
 13 And I think that's where we then
 14 turn to the case law to say, all right, well,
 15 you know, in those kinds of situations, what
 16 have the courts had to say when they've looked
 17 at that? And what the courts have said
 18 expressly is that there needs to be some
 19 affirmative action. I mean, it can pretty
 20 much be just about darn anything that's an
 21 affirmative action, and in this case Mr.
 22 Macisco did nothing.
 23 MR. DAMSCHRODER: Does the act, in
 24 your opinion, of filing a declaration of

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1 candidacy on a nominating petition saying "I
 2 am a member of the Constitution Party"
 3 constitute an affirmative action under state
 4 law?
 5 MR. OWENS: I don't believe it does,
 6 and here's why.
 7 When you are signing that petition,
 8 you are signing, hey, this is already the
 9 case. When you sign it -- and in fact, I
 10 mean, you sign it saying, you know, under
 11 penalty of a fifth-degree felony, that that is
 12 already the case at the time that you're
 13 executing it.
 14 And so I think if it's an instance
 15 where you're on the phone and you sort of say
 16 to some party officer, "Hey, you know what? I
 17 believe in what you guys are doing," and an
 18 instant later you sign the petition, arguably
 19 that's good. All right? And if that had been
 20 the case, we wouldn't be here today.
 21 Because at least at that point we
 22 don't have the situation in which we have, you
 23 know, a candidate who is on our party ticket
 24 going out and talking about how -- let's have,

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1 you know, a nationalized health care, and
 2 let's nationalize the banks and let's
 3 nationalize the energy industry, when our
 4 party platform is the complete opposite of all
 5 of those things.
 6 So there's got to be some
 7 affirmative action. Even, I think, arguably,
 8 if it's a split second before that petition is
 9 signed.
 10 MR. DAMSCHRODER: Just from a staff
 11 perspective, I think there is a good
 12 comparison in terms of unaffiliated candidates
 13 filing a declaration of candidacy or even
 14 being a circulator where they're stating on
 15 that part-petition that they are a Republican
 16 or a Democrat filing for office, declaring for
 17 candidacy or circulating a statement, even
 18 though their clear voting history with the
 19 Board of Elections shows that they're
 20 unaffiliated, and because that's the construct
 21 of state law, that an unaffiliated person can
 22 file as a member of either political party or
 23 sign as a circulator or sign as an elector,
 24 similar to the construction with the Secretary

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1 of State and the reference from Mr. Owens to
 2 state law that in situations like this for
 3 minor parties, anybody of either political
 4 party or unaffiliated can be a candidate or
 5 sign.
 6 So I think in staff's opinion, the
 7 act of signing that declaration under penalty
 8 of election falsification, saying, "I am," in
 9 this case, Mr. Macisco, "a member of the
 10 Constitution Party of Ohio," is the
 11 affirmative step required, and that staff
 12 recommendation again would be that the board
 13 should not oppose a superstatutory requirement
 14 of some kind of declaration to party officers
 15 or contribution or a questionnaire or whatever
 16 in order to have ballot access outside of the
 17 laws of the state of Ohio.
 18 MR. OWENS: If I can just make one
 19 comment to that. If Mr. Macisco had been an
 20 unaffiliated voter before he tried to become a
 21 candidate for the Constitution Party --
 22 MR. DAMSCHRODER: Which he presently
 23 is.
 24 MR. OWENS: Well, he voted in the

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1 Republican primary in 2008. If that had been
 2 the case --
 3 MR. DAMSCHRODER: He did not.
 4 MR. OWENS: I'm sorry, what now?
 5 MR. DAMSCHRODER: He did not cast a
 6 ballot in the '08 primary election.
 7 MR. OWENS: Okay. Well, and even
 8 beyond that, he was a member of the Central
 9 Committee of the Republican Party prior to
 10 that, since he has established even by running
 11 for office and being an elected officeholder
 12 for the Republican Party his affiliation with
 13 the Republican Party, that is what then
 14 requires under Ohio law and under past case
 15 precedent that there be some affirmative
 16 action before that is signed.
 17 MR. DAMSCHRODER: It says no vote.
 18 MR. MANIFOLD: So essentially, it's
 19 after you miss one --
 20 MR. DAMSCHRODER: Party affiliation
 21 based on --
 22 MR. MANIFOLD: -- primary, you are
 23 unaffiliated.
 24 MR. DAMSCHRODER: Exactly, the last

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1 two calendar years.
 2 MR. MANIFOLD: So he's technically
 3 unaffiliated, by our records.
 4 MR. DAMSCHRODER: Correct.
 5 CHAIRMAN PREISSE: Well, it's an
 6 interesting quandary that you as a party
 7 chairman find yourself in and one we've shared
 8 from time to time: Welcoming everybody except
 9 who we don't want to.
 10 And on one hand, you're asking us to
 11 exclude -- to join you in attempting to
 12 exclude a candidate, while you've stated that
 13 your goal is to remain as flexible as
 14 possible. You're entering a new phase, I
 15 think, as a party based on some recent
 16 decisions and progress from your standpoint,
 17 and you're also facing some of the challenges.
 18 So I'm sympathetic, but I still want
 19 to get back to the fact that we've got a -- if
 20 we were to exclude Democrats from running as
 21 Republicans, and vice versa, the history is
 22 populated with not only partisans but elected
 23 officials who from time to time switch parties
 24 back and forth; don't know that this is the

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1 case, but I would hesitate to set a precedent.
 2 MR. OWENS: Again, there they do
 3 some affirmative action.
 4 CHAIRMAN PREISSE: Yeah, we're from
 5 time to time presented with this issue, too,
 6 and I think ultimately in a lot of cases,
 7 affirmative action is state of mind.
 8 And I also was about to make the
 9 comment that Matthew made, that the filing of
 10 the declaration of candidacy certainly strikes
 11 me as some form of affirmative statement and
 12 action, late in the timing, your preferred
 13 timing, as it may be.
 14 Are there any questions for our
 15 guest, or comments?
 16 Okay. We appreciate your presence
 17 here very much. You make an articulate
 18 presentation.
 19 MR. OWENS: Thank you very much.
 20 MR. DAMSCHRODER: Is there a motion
 21 on this protest?
 22 MS. MARINELLO: Mr. Chairman, I move
 23 that the board uphold its unanimous decision
 24 of February 25th, 2010, to certify Chris

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1 Macisco to the ballot as a candidate for the
 2 Constitution Party nomination for Member of
 3 Congress, 15th district.
 4 MR. DAMSCHRODER: Is there a second?
 5 MR. COLLEY: Second.
 6 MR. DAMSCHRODER: All in favor, say
 7 aye.
 8 MEMBERS: Aye.
 9 MR. DAMSCHRODER: Any opposed?
 10 Motion carries.
 11 CHAIRMAN PREISSE: Can I ask for a
 12 two-minute recess for personal reasons?
 13 MR. DAMSCHRODER: Indeed.
 14 (Recess taken.)
 15 -----
 16 MR. DAMSCHRODER: We'll convene back
 17 on the record after the recess, and the next
 18 item is Zukowski versus Board of Elections I.
 19 This is a protest filed by Mr. Zukowski
 20 against the board for its certification of Pat
 21 Tiberi for the Republican nomination for
 22 Member of Congress, 12th District, under the
 23 grounds that it violates the State
 24 Constitution that enacted term limits back in

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1 1992 or '4.
 2 Mr. Zukowski.
 3 (Portions of the following
 4 presentation were deemed inaudible by the
 5 transcriber due to Mr. Zukowski's heavy
 6 accent.)
 7 MR. ZUKOWSKI: My name is Andrew
 8 Zukowski. I am candidate to the United States
 9 Congress for the 12th Congressional District,
 10 Ohio. Good morning, Chairman and members of
 11 the board.
 12 CHAIRMAN PREISSE: Yes, good
 13 morning.
 14 MR. ZUKOWSKI: I have constitutional
 15 responsibility and obligation to the
 16 Constitution of Ohio to protect people,
 17 Ohioans, against violators of these rights.
 18 Ohio Constitution, Article 5,
 19 elective franchise, section 08, term limits:
 20 No person shall hold the office of the United
 21 States Senator from Ohio for a period longer
 22 than two successive terms of six years. No
 23 person shall hold the office of United States
 24 Representative from Ohio for a period longer

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1 than four consecutive terms of two years.
 2 Terms shall be considered successive unless
 3 separated by a period of four or more years.
 4 Only terms beginning on or after January 1st,
 5 1993, shall be considered in determining an
 6 individual's eligibility to hold office.
 7 Adopted November 5th, 1992.
 8 Violations stand since March 2000.
 9 Pat Tiberi is in the United States
 10 House Representative since 2001. He doesn't
 11 know what is Constitution of the United
 12 States, and as long-term Representative from
 13 12th District, Ohio, intentionally violate
 14 Constitution of Ohio.
 15 But he's not single. There is more
 16 champion in violation these rights since 2000.
 17 Pat Tiberi violates since 2008. One term.
 18 Right now he run second term, over limit.
 19 But my protest was to the Secretary
 20 of State, because other champion as Kucinich,
 21 Kaptur, Brunner, Bochtess (ph.) and others
 22 violate, as I said, since 2000. And it is
 23 incredible that previous Secretary of State
 24 Blackwell totally is unlawful practice to

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1 violate Constitution of the State of Ohio.
 2 This is same, too, for present
 3 Secretary of State Jennifer Brunner. She
 4 support the violation last election.
 5 And my request is to remove this
 6 present House Representative from primary
 7 election held on May 4th. I would ask this is
 8 more responsibility of Secretary of State,
 9 remove her right away. These people from the
 10 Representation of State of Ohio on the
 11 Capitol, because we cannot tolerate dishonest
 12 who want to be named honorable. This is same
 13 disgrace and scandal.
 14 And please remove these guys,
 15 probably six or seven, because Franklin County
 16 is Tiberi. Brunner is second. Kucinich,
 17 nine. Kaptur, ten. (Inaudible), one. And
 18 other is 16.
 19 This is enough.
 20 CHAIRMAN PREISSE: Any questions
 21 from the board, or comments?
 22 MR. DAMSCHRODER: I'd remind the
 23 board that in 1995, United States Supreme
 24 Court struck down the state's authority to

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1 enact laws or Constitutional amendments that
 2 impose stricter guidelines on candidates for
 3 federal office than those prescribed in the
 4 United States Constitution.
 5 CHAIRMAN PREISSE: Okay.
 6 MR. ZUKOWSKI: But this is not true,
 7 because nobody would restrict the Constitution
 8 of Ohio without approval of General Assembly.
 9 CHAIRMAN PREISSE: Well, we exist
 10 under the federal laws, too, and the Supreme
 11 Court is our court of the land, and they
 12 struck down our term limit laws.
 13 MR. ZUKOWSKI: But (Inaudible) is
 14 located in Washington, and regard this guy
 15 which are in Washington as a Representative.
 16 But each state violate. They don't care. But
 17 state representative has not put people in
 18 Washington, the Capitol, because they violate
 19 Ohio law, not United States. This is here in
 20 Ohio. And (Inaudible) since 2000.
 21 CHAIRMAN PREISSE: You have made
 22 your case, sir.
 23 Any other questions or comments?
 24 MR. ZUKOWSKI: And please don't talk

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1 about Supreme Court, because this is not true.
 2 This is not Ohio. If you have sent garbage,
 3 the garbage will be approved then. But we
 4 have sent honest people who knew what is
 5 Constitution and what our obligation to the
 6 Ohioans, not to the businesses in Ohio.
 7 CHAIRMAN PREISSE: Thank you for
 8 your statement. And we can proceed, I think,
 9 unless there is any discussion.
 10 MS. MARINELLO: Mr. Chairman, I move
 11 that the board uphold its unanimous decision
 12 of February 25, 2010, to certify Pat Tiberi to
 13 the ballot as a candidate for the Republican
 14 Party nomination for Member of Congress, 12th
 15 District.
 16 MR. COLLEY: Second.
 17 MR. DAMSCHRODER: All in favor, say
 18 aye.
 19 MEMBERS: Aye.
 20 MR. DAMSCHRODER: Any opposed?
 21 Motion carries.
 22 -----
 23 MR. DAMSCHRODER: The next item is
 24 Mr. Zukowski versus the Board of Elections

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1 part II, relative to the Board's certification
 2 of Susan Brown as a candidate for the
 3 Republican Party nomination for Judge of the
 4 Ohio Court of Appeals, 10th District.
 5 MR. ZUKOWSKI: Your decision is
 6 easy, should be your decision, because Tiberi
 7 is not present here. The same as this, Judge
 8 Brown. Please be serious. Because you have
 9 Ohio's people sending this kind of dishonest
 10 and dishonorable stuff.
 11 Regarding Judge Brown, the people of
 12 Ohio who have the needs for love and
 13 affection, enjoy family, happiness, the need
 14 for adequate health, housing, work,
 15 recreation, and moral, ethical value.
 16 This judge violate moral, ethical
 17 value and lack of knowledge of the law. She
 18 prove in my case, in the (Inaudible) in 2000
 19 when my family was put on the street in
 20 Gahanna, Ohio. She and two others plus other
 21 dishonest Judge Feiss (ph.) made conspiracy
 22 against my family.
 23 And this is strong protest against
 24 this judge, because she not only has lack of

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1 law, but she is this mother. She is a
 2 scorpion. She is really incompetent. That
 3 means she is dishonest and she cover this and
 4 she doesn't want you to visit her husband, two
 5 kids.
 6 And she -- it's not she, but I have
 7 to question to him or to you, that she knew
 8 Jack Coreman (ph.) who is administrator of
 9 this court, and Jack said to me in 1999,
 10 Andrew, you write appeal, but they don't care,
 11 they don't (Inaudible), they deny motion by
 12 motion, appeal by appeal, but this is not
 13 courage. This is clown place, not judges.
 14 They have lack of law. They just parade
 15 through the lands meetings against these
 16 businesses which were involved in my
 17 foreclosure fraud.
 18 And so far nobody care. And you
 19 too. Because I was (Inaudible) in 2000. And
 20 all the time (Inaudible), I was in Franklin
 21 County jail, (Inaudible) in prison. There is
 22 nothing to smile (Inaudible), because I never
 23 forget and never put aside this (Inaudible)
 24 stuff of Ohio 2000. Taft, Blackwell, Petro,

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1 Montgomery, and others, Davidson --
 2 CHAIRMAN PREISSE: Mr. Zukowski, can
 3 I ask you to focus on what your point,
 4 statement and request to the board is.
 5 MR. ZUKOWSKI: That I tell that if
 6 Judge Susan is not present here, there is not
 7 any way to continue with this (Inaudible)
 8 hearing. Because ounce for ounce is nothing.
 9 (Inaudible) against who I protest, she and he
 10 ignored the Constitution and the rights of the
 11 people --
 12 CHAIRMAN PREISSE: Mr. Zukowski --
 13 MR. ZUKOWSKI: -- for the honor and
 14 upright trial, because she doesn't know what
 15 is upright, what is impartial. She deny,
 16 deny, deny.
 17 CHAIRMAN PREISSE: Okay, I don't
 18 believe that the board has heard any statement
 19 from you as it relates to her candidacy or
 20 access to the ballot --
 21 MR. ZUKOWSKI: No? You don't know?
 22 That's why I was on the street.
 23 CHAIRMAN PREISSE: So I'm asking --
 24 MR. ZUKOWSKI: Why I was --

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1 CHAIRMAN PREISSE: So I'm asking you
 2 if --
 3 MR. ZUKOWSKI: -- seven times.
 4 CHAIRMAN PREISSE: Just a moment.
 5 I'm asking you if you'd like to wrap up by
 6 making a concise, short statement about your
 7 request to the board today so that we may move
 8 on.
 9 How much time do we have?
 10 MR. DAMSCHRODER: Two minutes left.
 11 Mr. Zukowski, you have two minutes
 12 remaining.
 13 MR. ZUKOWSKI: The judge, Susan
 14 Brown, is ignorant. I was yesterday in the
 15 office on 24th Floor, the administrative
 16 office, for the appeal, but (Inaudible)
 17 approach one guy who didn't like me give the
 18 folders. I prepare these documents and leave
 19 on the (Inaudible) floor, and (Inaudible) she
 20 has to be in this room with her attorney, Dave
 21 Sharelle (ph.).
 22 But this courts don't care, because
 23 there is no law. She doesn't know what she's
 24 doing (Inaudible). The basic of federal

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1 jurisdiction of a case involving citizens of
 2 different states, or (Inaudible) citizen of
 3 state, and (Inaudible) anyone who is not
 4 citizen or national of the United States, such
 5 jurisdiction exists only in this amount of. I
 6 will have much more tomorrow, the 75,000. But
 7 they ignore, with the O'Brien, another
 8 prosecutor, the treasurer, and Richard Testa
 9 is gone.
 10 MR. DAMSCHRODER: Mr. Zukowski, your
 11 time is expired.
 12 MR. ZUKOWSKI: Please remove her
 13 from the ballot.
 14 CHAIRMAN PREISSE: Okay. Now, --
 15 MR. ZUKOWSKI: (Inaudible) and to
 16 the Constitution of the United States.
 17 CHAIRMAN PREISSE: Thank you.
 18 Any --
 19 MR. MANIFOLD: Yeah, I'll comment.
 20 I don't think it's this board's, in our realm,
 21 to judge what type of judge someone is and
 22 their --
 23 MS. MARINELLO: That's what the
 24 voters are for.

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1 MR. MANIFOLD: -- against, yeah,
 2 what voters are for it.
 3 MR. ZUKOWSKI: (Inaudible) in the
 4 court of appeal for (Inaudible) Ohioans.
 5 CHAIRMAN PREISSE: Okay, thank you,
 6 Mr. Zukowski. That concludes your opportunity
 7 to address the board.
 8 MR. MANIFOLD: I didn't hear
 9 anything that addressed the certification of
 10 this candidate.
 11 CHAIRMAN PREISSE: Right. I don't
 12 think we did.
 13 MR. DAMSCHRODER: Is there a motion?
 14 MS. MARINELLO: Yes. Mr. Chairman,
 15 I move that the board uphold its decision of
 16 February 25, 2010, to certify Susan Brown to
 17 the ballot as a candidate for the Republican
 18 Party nomination for Ohio Court of Appeals,
 19 10th District.
 20 CHAIRMAN PREISSE: How'd you like to
 21 second that for Susan Brown?
 22 MR. DAMSCHRODER: Is there a second?
 23 MR. COLLEY: Second.
 24 MR. DAMSCHRODER: All in favor, say

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1 aye.
 2 MEMBERS: Aye.
 3 MR. DAMSCHRODER: And motion
 4 carries.
 5 MR. ZUKOWSKI: (Inaudible.)
 6 CHAIRMAN PREISSE: We're going to
 7 move on now.
 8 MR. DAMSCHRODER: Next we go to the
 9 appeals.
 10 MR. ZUKOWSKI: (Inaudible.)
 11 CHAIRMAN PREISSE: Mr. Zukowski,
 12 thank you. You've had your opportunity to
 13 address the board, so we'd ask you to allow
 14 the next guest to make his or her case. Could
 15 we move on.
 16 -----
 17 MR. DAMSCHRODER: Mr. Sneider is
 18 the next appeal. In the board's review of Mr.
 19 Sneider's petition for the Republican
 20 nomination for State Representative for the
 21 19th District, the staff found there were only
 22 49 valid signatures, an insufficient number to
 23 be certified, and the board did not certify
 24 Mr. Sneider to the ballot.

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1 MR. SNEDECKER: Thank you. I'll
 2 promise to be brief to spare you from my raspy
 3 voice.
 4 There are two things I'd like to
 5 bring to your attention. On Form 997,
 6 signature number 6, it was declared invalid
 7 due to no date written. On a number of my
 8 signatures on 497, lines 4 and 10, as well as
 9 498, I believe, there were a couple signatures
 10 where the voter used tick marks to designate
 11 the information -- to use the information from
 12 the previous line, and those signatures were
 13 allowed.
 14 So I would ask the board to
 15 reconsider their decision on signature 6 on
 16 form 497 to allow the signature.
 17 The other one I'd like to bring to
 18 your attention is Form 497, signature number
 19 14. The signature was declared invalid due to
 20 the signature being printed.
 21 There were a number of signatures on
 22 497, 498, 495 and 496 that you could consider
 23 to be extremely illegible that were allowed
 24 that were counted towards my 49 signatures.

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1 On 495, 497 and 498, there were a number of
 2 signatures that were either almost completely
 3 printed or halfway in script or halfway
 4 printed that were allowed as valid signatures.
 5 So I would respectfully ask the
 6 board to reconsider their decision. Thank
 7 you.
 8 MR. DAMSCHRODER: We just received
 9 Mr. Sneider's set images list of the
 10 petitions last night, we just got it this
 11 morning, so I don't think Karen had the chance
 12 to make copies, so we'll have Karen make the
 13 presentation on staff recommendation and why
 14 we did what we did.
 15 Karen.
 16 MS. COTTON: On the initial review
 17 of Mr. Sneider's petition, it was found that
 18 there were 47 valid signatures. And so, as is
 19 the practice of the board, once an individual
 20 checks a petition and determines it to be
 21 invalid, we give it to a different person,
 22 different set of eyes, so that they can look
 23 at it, and it was rechecked.
 24 So on the second review, only 49

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<p>1 signatures were found to be valid. We've 2 gotten a little bit closer but not close 3 enough.</p> <p>4 As to the one signature with no 5 date, per the Ohio Revised Code, Section 6 3501.38, each signer shall place on a petition 7 after the signer's name the date of the 8 signing and the location of the signer's 9 voting address, including the street and 10 number if in a municipal corporation or rural 11 route number, post office address, or township 12 if outside the municipal corporation.</p> <p>13 So in fact, the signer in this one 14 case did not sign an address. He put OH -- 15 they put OH, I don't know whether it's a male 16 or female -- in that space, so he did not sign 17 the date.</p> <p>18 However, there were other instances 19 on the part-petitions where ditto marks were 20 accepted, and that is an accepted practice as 21 per the guidelines of the Secretary of State's 22 office. When they provide a statewide 23 petition to sign, they inform us that ditto 24 marks are acceptable. In this case, where the</p>	<p>1 a signature poll book on a table at a precinct 2 to in fact record their signatures.</p> <p>3 It is the board's contention that 4 Mr. Snedecker is at 49 valid signatures. As 5 required by law, he needs 50 valid signatures 6 to qualify for ballot access. So staff stands 7 behind their original finding that he does not 8 have enough valid signatures to qualify for 9 the ballot. If you'd like to look at 10 signatures, I can share those with you.</p> <p>11 MR. MANIFOLD: Are there a couple 12 that he's contesting, or are there certain 13 ones that are --</p> <p>14 MS. COTTON: He has multiple 15 signatures in his complaint, and I have copies 16 of all of them here. In the order of 17 document, the petition form as well as line 18 form. If you'd like to look at those, I'll 19 gladly share them.</p> <p>20 MR. DAMSCHRODER: Go ahead, Karen.</p> <p>21 CHAIRMAN PREISSE: Mr. Snedecker, 22 were you calling our attention in your oral 23 presentation to two signatures, or what was 24 your --</p>
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<p>1 Ohio is listed in the space for the date, 2 there were no ditto marks there.</p> <p>3 As for the signatures where we gave 4 credit where the signature partially looked to 5 be signed in cursive and partially printed, I 6 have in fact printed off of the signatures 7 that were brought to my attention on the 8 filing that was filed last evening by Mr. 9 Snedecker, and I have proof that the 10 signatures on file match very, very closely 11 what we have here on the part-petition.</p> <p>12 In some cases, the person on their 13 official registration document with the 14 Franklin County Board of Elections did sign 15 their name with a combination of cursive and 16 printing.</p> <p>17 We also take into account that 18 petitions are sometimes circulated on clip 19 boards or as loose documents stuck in 20 someone's pocket, and you may be asked to sign 21 a petition while someone is holding it on 22 their back, so we do make a few allowances in 23 that respect, because they don't necessarily 24 have the advantage of a nice, flat surface of</p>	<p>1 MR. SNEDECKER: There were a number 2 of signatures in my complaint, last night I 3 had listed them for you, that either the 4 signatory either partially printed them and 5 put some in cursive, or it was almost in print 6 and just very little cursive.</p> <p>7 But in my defense, I would say that 8 when I was collecting my signatures, it was 9 extremely snowy, and I think she just wanted 10 to sign it and go away.</p> <p>11 MR. COLLEY: You're seeking the snow 12 exemption?</p> <p>13 MR. SNEDECKER: Yes, please.</p> <p>14 CHAIRMAN PREISSE: Okay, we're going 15 to take a look here.</p> <p>16 (Discussion off the record.)</p> <p>17 MR. MANIFOLD: But you accepted all 18 of these?</p> <p>19 MS. COTTON: We accepted them all.</p> <p>20 MR. DAMSCHRODER: I think Mr. 21 Snedecker's contention is, because we did 22 accept them -- Mr. Snedecker, correct me if 23 I'm wrong; but because we accepted some that 24 were illegible, this other one that we</p>

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1 couldn't find was illegible should be counted
 2 and we just can't find it.
 3 MS. COTTON: The one that's in
 4 question is this one here, where it says Ohio.
 5 Now, if you'll notice this
 6 particular signature, it's extremely shaky.
 7 This individual was processed as deceased
 8 after we checked the petition on 3-2-10, so we
 9 took into account that there were differences
 10 in the signature because of health issues.
 11 497, 10, there is the signature we
 12 have.
 13 Katie Morrison is Kathy Morrison,
 14 and we counted that as a printed signature.
 15 This is the signature we have on file. This
 16 is the previous signature when she was under
 17 the other name.
 18 And 498, 13, it was originally not
 19 counted, and I counted it on my second review.
 20 And 17 is counted.
 21 (Discussion off the record.)
 22 MR. MANIFOLD: So the only one
 23 that's really contested is the OH one.
 24 MS. COTTON: Yes. And per Ohio

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1 Revised Code, it does require that the person
 2 sign and date the signing, or at least include
 3 ditto marks.
 4 MS. MARINELLO: It looks like they
 5 were out in the rain, though.
 6 CHAIRMAN PREISSE: No, it was snow.
 7 MS. COTTON: Well, we've had worse.
 8 We've had some turned in with marks on them
 9 where they've been dropped in snow. So this
 10 was not a good winter to circulate petitions.
 11 CHAIRMAN PREISSE: Any other
 12 comments or questions for Karen or Mr.
 13 Snedecker?
 14 I'd just like to thank you for being
 15 here today.
 16 Mr. Snedecker is school teacher and
 17 has, simultaneous to filing for the office,
 18 engaged the students in the electoral process
 19 and I think you're continuing to witness an
 20 educational process here.
 21 MR. SNEDECKER: Absolutely.
 22 CHAIRMAN PREISSE: I from time to
 23 time mention to folks, in what I think is
 24 about to be your position, that I have failed

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1 to file an accurate petition myself in the
 2 past for party office, so I know how it feels,
 3 and it's part of the educational process,
 4 which you'll take back to your classroom.
 5 MR. SNEDECKER: Absolutely.
 6 CHAIRMAN PREISSE: And we invite you
 7 to continue to engage the process for yourself
 8 and your students.
 9 MR. DAMSCHRODER: Is there a motion?
 10 MR. MANIFOLD: I move that the board
 11 uphold its unanimous decision on February
 12 25th, 2010, that determined that the
 13 nominating petition of Benjamin Snedecker,
 14 candidate for the Republican nomination for
 15 State Representative, 19th District, to be
 16 insufficient on the grounds that the
 17 nominating petition contained an insufficient
 18 number of valid signatures.
 19 MR. DAMSCHRODER: Is there a second?
 20 MR. COLLEY: Second.
 21 MR. DAMSCHRODER: All in favor, say
 22 aye.
 23 MEMBERS: Aye.
 24 MR. DAMSCHRODER: Opposed? The

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1 motion carries.
 2 -----
 3 MR. DAMSCHRODER: Mr. Taylor is not
 4 here, but we do have some other folks that are
 5 here for subsequent appeals, so let's drop
 6 down and take those, since they are present.
 7 The first being Mindy Lambert who is
 8 here. On the circulator statement portion of
 9 the petition, Ms. Lambert did not write in the
 10 number of signatures witnessed, and so the
 11 staff recommended and the board did not
 12 certify her to the ballot.
 13 Ms. Lambert.
 14 MS. LAMBERT: Hi. I appreciate the
 15 time that you're giving me, the opportunity to
 16 appeal this ruling on my petition for the
 17 Upper Arlington Ward 6.
 18 And I acknowledge that it was an
 19 oversight on my part. I guess I was
 20 concentrating so much on the signatures, and
 21 having listened to everyone before that, I see
 22 that is a very important part of it.
 23 And I can tell you that, except for
 24 signature number 4, all are registered as

<p style="text-align: right;">Page 94</p> <p>1 Republicans, and I did indeed witness the 2 signature of every single person. I went 3 personally to their houses. 4 And the other thing I'd like to 5 point out is that when I turned in my petition 6 on the day, February 18th, the clerk gave me a 7 receipt for the petitions and she was reading 8 it to me, and she said, now, this receipt says 9 that you have 15 signatures on your petition, 10 and I acknowledged that. 11 So while I did overlook that little 12 space, which is, I think, a first-timer's 13 mistake, I feel that everything else is 14 complete and I would like you to reconsider 15 your decision on my petition. Thank you. 16 MR. DAMSCHRODER: And regrettably, 17 as this board has seen many times before, that 18 the number has to be complete, that having a 19 number there is a strict compliance 20 requirement of the statute. 21 Courts have consistently lowered the 22 threshold from, as long as the number on the 23 line is greater than the number of signatures 24 appearing on the petition, that's even valid.</p>	<p style="text-align: right;">Page 96</p> <p>1 I mean, technically, as someone 2 applying at a Central Committee position, 3 which is a nonpaying position, I should be 4 able to write, "I, Mindy R. Lambert, 5 acknowledge the following signatures were 6 witnessed," and that should be plenty. So you 7 need to review the rules on this. 8 Because something as simple as 9 overlooking the number, and yet, I made sure 10 -- I mean, all the complaints before me were 11 about signatures, so that obviously is the big 12 point, and that was stressed to me to make 13 sure that those signatures are valid. I made 14 sure that at least five were legible, so I 15 think you need to -- 16 MS. MARINELLO: You're not the first 17 to bring this up. 18 MS. LAMBERT: What? 19 MS. MARINELLO: You're not the first 20 to complain about that. 21 MS. LAMBERT: I think it's becoming 22 more -- people are more aware of it now, so I 23 think you need to -- 24 MS. MARINELLO: But witnessing the</p>
<p style="text-align: right;">Page 95</p> <p>1 So if it says 15 and there's only two 2 signatures on the petition, that's a valid 3 statement. 4 But the standard, regrettably, in 5 this case is still that there has to be 6 something written on that line. 7 MR. MANIFOLD: This board has never 8 approved in the recent past, right, any 9 petition without it? 10 MR. DAMSCHRODER: It's our 11 understanding that that is outside of the 12 discretion of this board. That's not to say 13 that someone could challenge the board's 14 decision and take it to court and ask the 15 court to say that it's not a strict compliance 16 standard, but I think it's outside the board's 17 discretion to do so at this time. 18 MS. LAMBERT: Well, I think the 19 board should consider in the future not making 20 it so difficult for the little person to get 21 involved with the procedure. You know, a lot 22 of us are concerned out there, and this is a 23 first step into being more involved, and I 24 think you need to review how this is set up.</p>	<p style="text-align: right;">Page 97</p> <p>1 signatures is pretty important, too. 2 MS. LAMBERT: Well, and also 3 included in that, though, in the same 4 statement, even though I missed the number, it 5 does say that I witnessed the affixing of 6 every signature; that all signers were, to the 7 best of my knowledge and belief, qualified to 8 sign; and that every signature is, to the best 9 of my knowledge and belief, the signature of 10 the person who signed. So keep that in mind. 11 CHAIRMAN PREISSE: We appreciate 12 your -- 13 Any other comments or questions? 14 Appreciate your seeking to become 15 involved and taking that first step, as you 16 say. Again, I share your frustration. 17 MS. LAMBERT: And I will become more 18 involved to make sure that people understand 19 the process. 20 CHAIRMAN PREISSE: Yes, I think that 21 your example, and my previous, serves to 22 educate not only ourselves but our neighbors 23 and others who seek access through this, as 24 you said, simple process, which could be</p>

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1 simpler, but it's simple.
 2 MS. LAMBERT: It should be simpler.
 3 CHAIRMAN PREISSE: But is simple, as
 4 you say.
 5 MS. LAMBERT: Especially for
 6 something at the Central Committee level,
 7 where it should involve people in the
 8 neighborhood. And we should have choices to
 9 make; rather than going to these ballots in
 10 May and there's either one or zero choices to
 11 make, there should be at least two per, so
 12 that people can make a choice.
 13 CHAIRMAN PREISSE: Well, thank you
 14 very much for your time and your testimony.
 15 MS. LAMBERT: Sure.
 16 MR. DAMSCHRODER: Is there a motion?
 17 MR. MANIFOLD: I move that the board
 18 uphold its unanimous decision on February
 19 25th, 2010, that determined that the
 20 nominating petition of Mindy Lambert,
 21 candidate for Republican County Central
 22 Committee, Upper Arlington Ward 6, to be
 23 insufficient on the grounds that the
 24 circulator did not complete the circulator's

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1 statement by providing the number of
 2 signatures witnessed.
 3 MR. DAMSCHRODER: Is there a second?
 4 MR. COLLEY: Second.
 5 MR. DAMSCHRODER: All in favor, say
 6 aye.
 7 MEMBERS: Aye.
 8 MR. DAMSCHRODER: Any opposed? The
 9 motion carries.
 10 -----
 11 MR. DAMSCHRODER: Mr. Gill.
 12 Mr. Gill submitted a couple of
 13 part-petitions, and the signature of the
 14 circulator was not an original signature, it
 15 was photocopied on each of the part-petitions,
 16 so the staff's previous recommendation, or
 17 recommendation at the certification was to not
 18 certify him to the ballot.
 19 Mr. Gill.
 20 MR. GILL: First of all, I'd like to
 21 thank you all very much for your time in
 22 letting me speak.
 23 To start with, I actually received
 24 two letters from the board, both postmarked

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1 the same date, both declaring up front that
 2 you guys met at 4:00 p.m. on Thursday. The
 3 first letter verified my position on the
 4 ballot, and then a second letter I received
 5 said that I was rejected because "no original
 6 signatures on circulator's affidavits" is what
 7 it says.
 8 I apologize for my general
 9 ignorance in the nuances of the code, but I
 10 checked on the ORC, I couldn't find anything
 11 on circulator's affidavits, or on the Ohio
 12 Administrative Code. The closest I could find
 13 was 3513.09, saying that if the petition
 14 required for the declaration of candidacy
 15 consists of more than one paper, only one of
 16 such petition paper needs to be signed.
 17 I have also heard this from multiple
 18 people; one, Mr. Robert Bridges from the
 19 Franklin County Libertarian Party Central
 20 Committee, who verified to me this, and
 21 another, Mr. Christopher Morbitzer, who's on
 22 the Republican Party Central Committee in
 23 Franklin County.
 24 CHAIRMAN PREISSE: I don't think he

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1 is, but those people confirmed for you what?
 2 MR. GILL: That as long as you turn
 3 in one petition with the original signature,
 4 that photocopies were acceptable for the
 5 additional petition parts turned in.
 6 MR. DAMSCHRODER: Let me clarify
 7 that that's correct inasmuch as it relates to
 8 the signature of the candidate in the
 9 declaration of candidacy portion of the
 10 part-petition. The law and court decisions
 11 have not previously spoken to requiring only
 12 one of the signatures of the circulator to be
 13 original and then permitting photocopies of
 14 that for additional circulator statements.
 15 MR. GILL: I was the only circulator
 16 for this, so I witnessed all of it. I mean,
 17 I've got a valid signature on an original
 18 copy. I've heard that this has never actually
 19 come up before, so I'm not exactly sure what
 20 case to argue here. But the signatures were
 21 considered valid and all that stuff, so I
 22 signed it.
 23 But I suppose my argument is that I
 24 was told that this was acceptable, and to the

<p>Page 102</p> <p>1 best of my knowledge, I searched and didn't 2 find anything contradicting that in the Ohio 3 Revised Code, so that's my grounds for appeal. 4 CHAIRMAN PREISSE: Okay. Do we have 5 a response to that? 6 I'm not sure -- you were told it was 7 acceptable by two other candidates? 8 MR. GILL: Yes. 9 CHAIRMAN PREISSE: Okay. 10 MR. GILL: So, presumably, other 11 people have done this, and I'm not the first 12 to have. 13 MR. DAMSCHRODER: Karen, speaking 14 from your 30 years at the Board of Elections, 15 have we ever run into this before that you're 16 aware of? 17 MS. COTTON: In 30 years, I've not 18 seen it. In fact, in looking at Mr. Gill's 19 petitions, I don't find where any of the 20 circulator's statements on any of the 21 part-petitions is an original signature. I do 22 find an original signature on the declaration 23 of candidacy. Every circulator's affidavit, 24 however, is a copy, in my estimation, unless</p>	<p>Page 104</p> <p>1 shall sign the circulator's affidavit, not 2 make a copy of their signature, and insert a 3 number on each piece of paper. So that's why 4 the department made the recommendation that it 5 did. 6 As for Mr. Gill receiving two 7 letters, I admit that that was my error. I 8 told Mr. Gill that at the time that he called 9 me, and we have on our agenda for later today 10 an amendment to the minutes to correct that 11 error. 12 CHAIRMAN PREISSE: Okay. Any 13 questions? 14 MR. GILL: Am I allowed to look at 15 my petitions again? Because I am absolutely 16 confident that I signed an original for both 17 the first and second pages, so if I could look 18 at it, maybe I could -- 19 CHAIRMAN PREISSE: Yeah, I have no 20 problem with that. 21 (Pause in proceedings.) 22 MR. GILL: I apologize for the 23 delay. 24 MR. DAMSCHRODER: No, you're fine.</p>
<p>Page 103</p> <p>1 my eyes are very poor. 2 The only thing I can reference is 3 that Ohio Revised Code 3501.38, which is 4 included on the requirements document that we 5 give every candidate that comes in here to 6 pick up petitions, and we also provide it to 7 everyone who fills out a petition online with 8 us here at the Franklin County Board of 9 Elections, paragraph (E)(1): 10 On each petition paper, the 11 circulator shall indicate the number of 12 signatures contained on it and shall sign a 13 statement made under penalty of election 14 falsification that the circulator witnessed 15 the affixing of every signature; that all 16 signatures were, to the best of the 17 circulator's knowledge and belief, qualified 18 to sign; and that every signature is, to the 19 best of the circulator's knowledge and belief, 20 the signature of the person whose signature it 21 purports to be, or the attorney-in-fact, if 22 acting pursuant to Section 3501.382 of the 23 Revised Code. 24 So it does say that the circulator</p>	<p>Page 105</p> <p>1 CHAIRMAN PREISSE: That's all right. 2 We want to have you have your say. 3 (Discussion off the record.) 4 MR. GILL: I apparently can't 5 distinguish between them. Obviously, I had an 6 original signature in my possession; 7 otherwise, I wouldn't be able to make a copy 8 of it. I apparently made more copies than I 9 realized and omitted the original signature 10 for the back. 11 In regards to 3051.38, Section (E), 12 it does not specifically state that a 13 photocopied signature is invalid. I signed 14 the petition, an original, at some point in 15 time, obviously, and being the only person 16 involved in this, do obviously recognize and 17 affirm that I collected the signatures and 18 witnessed all of them. And I'd also be 19 willing to put that in another affidavit, if 20 necessary. 21 Additionally, Article 3513.07, which 22 defines the form of the candidacy, "The form 23 of the declaration the candidacy shall be 24 substantially as follows," which was argued</p>

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1 earlier, that I believe that the copied
 2 signature would be valid for all intents and
 3 purposes, and that it's not sufficient grounds
 4 to completely disqualify the signatures
 5 collected, as everything else was considered
 6 valid; the only contention is a photocopied
 7 signature on the back of the sheets.
 8 CHAIRMAN PREISSE: Karen, do you
 9 have anything else to say to his further
 10 comments?
 11 MS. COTTON: No, sir.
 12 CHAIRMAN PREISSE: Anyone else?
 13 Thank you for making your
 14 presentation.
 15 MR. GILL: Thank you very much.
 16 CHAIRMAN PREISSE: And for your
 17 comments. But I think we've heard everything
 18 we need to hear on that.
 19 MR. MANIFOLD: I'd move that the
 20 board uphold its unanimous decision on
 21 February 25th, 2010, that determined that the
 22 nominating petition of Christopher Gill,
 23 candidate for the Libertarian Party nomination
 24 for State Representative, 23rd District, to be

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1 invalid on the grounds that the circulator's
 2 signature appearing on each of the
 3 part-petitions was a photocopied image of the
 4 circulator's signature rather than an
 5 original, wet signature.
 6 MR. DAMSCHRODER: Is there a second?
 7 MR. COLLEY: Second.
 8 MR. DAMSCHRODER: All in favor, say
 9 aye.
 10 MEMBERS: Aye.
 11 MR. DAMSCHRODER: Any opposed?
 12 Motion carries.
 13 CHAIRMAN PREISSE: I'm going to
 14 depart for previously scheduled travel plans,
 15 but the board can continue without me, and I
 16 think the suggestion has been made, Zach, that
 17 maybe you chair the rest of the proceedings.
 18 So thank you very much.
 19 (Chairman Preisse has exited the
 20 room.)
 21 -----
 22 MR. DAMSCHRODER: Let's jump back up
 23 to Michael Taylor. Mr. Taylor was
 24 disqualified from the ballot as a candidate

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1 for Republican County Central Committee for
 2 Columbus Ward 84 because he did not have
 3 enough valid signatures.
 4 Staff had disqualified two
 5 signatures on the grounds that our voter
 6 registration system showed them as being
 7 Democrats, but at Mr. Taylor's request we
 8 pulled the absentee ballot applications and ID
 9 envelopes from the 2008 primary election, and
 10 indeed the two signers, the two individuals
 11 had requested and voted Republican ballots.
 12 So the actual records reflect that
 13 they were indeed Republicans, the electronic
 14 records had them incorrectly coded as
 15 Democrats, so the staff's recommendation is
 16 that we overturn the previous decision and
 17 instead put Mr. Taylor on the ballot as a
 18 candidate.
 19 Any questions for staff?
 20 Is there a motion?
 21 MR. MANIFOLD: I move that the board
 22 reverse its decision of February 25th, 2010,
 23 and certify Michael Taylor to the May 4th,
 24 2010 primary election ballot as a candidate

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1 for Republic County Central Committee,
 2 Columbus Ward 84.
 3 MR. DAMSCHRODER: Is there a second?
 4 MR. COLLEY: Second.
 5 MR. DAMSCHRODER: All in favor, say
 6 aye.
 7 MEMBERS: Aye.
 8 MR. DAMSCHRODER: Motion carries.
 9 -----
 10 MR. DAMSCHRODER: The next item is
 11 Robert Wayne, who is an incumbent Republican
 12 Central Committee for Columbus Ward 74. He
 13 didn't sign his declaration of candidacy. He
 14 asked that the board -- he appealed the
 15 decision to the board and filed a declaration
 16 of write-in, which the board has already
 17 certified, so to some extent this request is
 18 superfluous, but we'll act on it anyway.
 19 MR. MANIFOLD: I move that the board
 20 uphold its unanimous decision of February
 21 25th, 2010, that determined the nominating
 22 petition of Robert Wayne, candidate for
 23 Republican County Central Committee, Columbus
 24 Ward 74, to be insufficient on the grounds

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1 that the circulator did not sign the
 2 circulator's statement.
 3 MR. COLLEY: Second.
 4 MR. DAMSCHRODER: All in favor, say
 5 aye.
 6 MEMBERS: Aye.
 7 MR. DAMSCHRODER: Motion carries.
 8 And I believe that concludes all of our
 9 protests and appeals.
 10 -----
 11 MR. DAMSCHRODER: The two items are
 12 relative to the board's procurement policy
 13 adopted in 2008, as I recall, or 2007.
 14 The first is, the board has
 15 previously opened a purchase order for Dancor
 16 to provide mailhouse services for the
 17 processing of our absentee ballot application
 18 mailing.
 19 As Dancor and a subcontractor,
 20 Executive Mailing Solutions, got into the
 21 project and started trying to sort the data,
 22 they decided that it was too big of a project
 23 for them to handle, and because it is the
 24 Board of Elections, that any error on their

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1 part would probably come back and negatively
 2 reflect upon them in the public eye, and so
 3 they wanted to have nothing to do with us, so
 4 they backed out of the project.
 5 We turned on a dime, went back to
 6 one of the other vendors who had submitted a
 7 bid, Vectra, and working with John Zigler, he
 8 used to be at Buckeye Printing and Mail, he's
 9 now at Vectra, and they're going to be able to
 10 do it under the bid threshold for \$25,000, so
 11 that's the good news; the mailing is going to
 12 go out. The bad news is, it probably won't be
 13 dropped until March the 18th.
 14 So we need to rescind our previous
 15 purchase order and open a new purchase order.
 16 MS. MARINELLO: I move that the
 17 board rescind the purchase order issued on
 18 February 25th, 2010, to Dancor for mailhousing
 19 services for the mailing of absentee ballot
 20 applications to active registered voters for
 21 the May 4th, 2010 primary election and
 22 instruct the fiscal officer to open a purchase
 23 order in the amount of \$25,000 to Vectra for
 24 the required mailhousing services.

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1 MR. DAMSCHRODER: Is there a second?
 2 MR. COLLEY: Second.
 3 MR. DAMSCHRODER: All in favor, say
 4 aye.
 5 MEMBERS: Aye.
 6 MR. DAMSCHRODER: Motion carries.
 7 -----
 8 MR. DAMSCHRODER: And the next one
 9 is to award a contract for ballot printing
 10 services both for absentee ballots and
 11 Election Day ballots that are used as
 12 provisionals and for 17-year-old voters.
 13 We did a bid. Both ES&S of Omaha,
 14 Nebraska, and Dayton Legal Blank of,
 15 coincidentally, Dayton, Ohio, submitted bids.
 16 ES&S was the lowest and best bid, at, I think,
 17 50 cents per two-page ballot for 100,000
 18 quantity and greater. Dayton Legal Blank was
 19 64 cents for an absentee ballot and 58 cents
 20 for an Election Day ballot, so ES&S is less.
 21 So staff recommendation would be to
 22 enter into a contract with and open a purchase
 23 order for ES&S in the amount of \$250,000 for
 24 ballot printing services.

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1 MR. MANIFOLD: I move that the board
 2 award the absentee and Election Day ballot
 3 printing contract to Elections Systems and
 4 Software and instruct the fiscal officer to
 5 open a purchase order to Elections System and
 6 Software in the amount of \$250,000 for the May
 7 4th, 2010 primary election.
 8 MR. DAMSCHRODER: Is there a second?
 9 MR. COLLEY: Second.
 10 MR. DAMSCHRODER: All in favor, say
 11 aye.
 12 MEMBERS: Aye.
 13 MR. DAMSCHRODER: The motion
 14 carries.
 15 The next is, as the board recalls,
 16 state law now says that the board has to vote
 17 in public session on the voting machine
 18 allocation for each Election Day.
 19 The staff recommendation, I believe
 20 labeled Exhibit D in the upper right-hand
 21 corner, what it does is, it sums the active
 22 voter registration for each precinct and then
 23 takes that sum and divides it by 175, for a
 24 one-machine-to-every-active-registered-voter

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<p>1 ratio, and then if there's any remainders, 2 even if it's 10.1, we round up to a full 3 machine. 4 So that is the staff recommendation 5 from Harold Fielder, our warehouse manager, 6 for voting machine allocation for the May 4, 7 2010 primary election. 8 MR. MANIFOLD: I move that the board 9 approve the staff recommendation for voting 10 machine assignments for the May 4, 2010 11 primary election contained in Exhibit D. 12 MR. DAMSCHRODER: Is there a second? 13 MR. COLLEY: Second. 14 MR. DAMSCHRODER: All in favor, say 15 aye. 16 MEMBERS: Aye. 17 MR. DAMSCHRODER: Any opposed? 18 Motion carries. 19 ----- 20 MR. DAMSCHRODER: Next, we have 21 three individuals that staff recommends we 22 refer to the prosecuting attorney's office for 23 additional investigation and possible criminal 24 prosecution.</p>	<p>1 manager of our poll workers precinct election 2 official improvement training program. 3 Ray Reiss is a part-time employee 4 who serves as a supervisor of our part-time 5 trainers, the training trainers. He sets the 6 schedule for all the trainers and, as I said, 7 acts as a supervisor. 8 We have done this in the past for 9 supervisors -- or seasonal employees who have 10 a supervisory role, and so she recommends that 11 his hourly rate be increased from \$10.17, I 12 think it is, to \$15.00 an hour effective 13 Monday. 14 Is there a motion? 15 MR. COLLEY: I move that the rate of 16 pay for seasonal employee Ray Reiss be 17 increased to \$15 per hour effective Monday, 18 March 8, 2010. 19 MS. MARINELLO: Second. 20 MR. DAMSCHRODER: All in favor, say 21 aye. 22 MEMBERS: Aye. 23 MR. DAMSCHRODER: Any opposed? 24 -----</p>
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<p>1 The first two appear to have 2 double-voted on the Election Day in 2008, once 3 in Franklin County absentee, the second on 4 Election Day in person at the polls in 5 Montgomery County. And the third person, it's 6 the staff belief, is engaged in election fraud 7 relative to circulating Let Ohio Vote 8 petitions in the most recent round of 9 petitioning. 10 Questions? 11 MS. MARINELLO: I move that the 12 board refer William Patrick Boggs, Alvin Glen 13 Jackson, and Bruce E. Hammonds to the Franklin 14 County Prosecuting Attorney for further 15 investigation and possible criminal 16 prosecution for violations of Title 35. 17 MR. DAMSCHRODER: Is there a second? 18 MR. COLLEY: Second. 19 MR. DAMSCHRODER: All in favor, say 20 aye. 21 MEMBERS: Aye. 22 ----- 23 MR. DAMSCHRODER: The next item is a 24 recommendation for Mary Hackett, who is the</p>	<p>1 MR. DAMSCHRODER: And last is the 2 amendment to the minutes of the February 25, 3 2010 meeting of the board that Karen 4 previously mentioned, to reflect that Mr. Gill 5 was not indeed certified to the ballot as 6 confirmed by today's motion. 7 MS. MARINELLO: I move that 8 Exhibit A to the minutes of the meeting of the 9 board held on February 25th, 2010, be amended 10 to reflect that Christopher Gill was not 11 certified by the board as a candidate for the 12 Libertarian Party nomination for the office 13 of State Representative, 23rd District. 14 MR. DAMSCHRODER: Is there a second? 15 MR. COLLEY: Second. 16 MR. DAMSCHRODER: All in favor, say 17 aye. 18 MEMBERS: Aye. 19 MR. DAMSCHRODER: Any opposed? 20 Motion carries. 21 ----- 22 MR. DAMSCHRODER: That concludes the 23 noticed portion of the agenda today. Any 24 questions, comments from the board before we</p>

1 have a motion to adjourn?
 2 MR. MANIFOLD: Thanks for getting me
 3 through my first, rather long but not painful
 4 meeting.
 5 MR. DAMSCHRODER: You did great.
 6 Is there a motion to adjourn?
 7 MS. MARINELLO: I so move.
 8 MR. DAMSCHRODER: Is there a
 9 second?
 10 MR. COLLEY: I'll second.
 11 MR. DAMSCHRODER: All in favor, say
 12 aye.
 13 MEMBERS: Aye.
 14 MR. DAMSCHRODER: Any opposed?
 15 We are adjourned.
 16 -----
 17 Thereupon, the proceedings were
 18 concluded at 12:34 o'clock p.m.
 19 -----
 20
 21
 22
 23
 24

1 CERTIFICATE
 2
 3 The undersigned do hereby certify that
 4 the foregoing proceedings were digitally
 5 recorded, electronically transmitted, and
 6 transcribed via audible playback, and that
 7 the foregoing transcript of such proceedings
 8 is a full, true and correct transcript of
 9 the proceedings as so recorded.
 10
 11 IN WITNESS WHEREOF, I have hereunto set
 12 my hand and affixed my seal of office at
 13 Columbus, Ohio, on this ____ day of
 14 _____, 2008.
 15
 16
 17
 18 _____
 JENNIFER L. KOONTZ
 Certified Digital Reporter
 Notary Public - State of Ohio.
 My commission expires July 10, 2013.
 19
 20
 21
 22
 23 _____
 DONNA J. BELLOUS
 Certified Digital Transcriber
 24