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APPEARANCES:

Franklin County Prosecutor's Office
By Mr. Nick A. Soulas, Jr.
First Assistant Prosecuting Attorney
Civil Division
373 South High Street, 13th Floor
Columbus, Ohio 43215

On behalf of the Board.

Isaac, Brant, Ledman & Teetor, LLP
By Mr. George B. Limbert
The Midland Building
250 East Broad Street, Suite 900
Columbus, Ohio 43215

On behalf of Mr. Michael S. Weinman

ALSO PRESENT:

Ms. Suzanne Brown,
Executive Assistant to the Board

Ms. Karen Cotton,
Operations Manager,
Franklin County Board of Elections

Mr. Jeffrey Mackey,
Petitions and Financial Filings Clerk,
Franklin County Board of Elections

Mr. Ben Piscitelli,
Public Information Officer,
Franklin County Board of Elections

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P R O C E E D I N G S

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DIRECTOR ANTHONY: Good afternoon,
everyone. We would like to call the Franklin County
Board of Elections meeting to order and I'll do the
roll call.

Kimberly Marinello?

BOARD MEMBER MARINELLO: Here.

DIRECTOR ANTHONY: Zachary Manifold?

BOARD MEMBER MANIFOLD: Here.

DIRECTOR ANTHONY: Douglas Priesse?

CHAIRMAN PREISSE: Here.

DIRECTOR ANTHONY: And Michael Colley?

BOARD MEMBER COLLEY: Here.

DIRECTOR ANTHONY: We are all accounted
for, sir.

The first item on the agenda is the
approval of the minutes for the December 5th and
December 16th meetings.

BOARD MEMBER MARINELLO: Mr. Chairman, I
move that the Board approve the minutes of the
December 5th and December 16th meetings of the
Franklin County Board of Elections.

1 DIRECTOR ANTHONY: Is there a second?

2 BOARD MEMBER COLLEY: Second.

3 DIRECTOR ANTHONY: All those in favor,
4 say aye.

5 BOARD MEMBERS: Aye.

6 DIRECTOR ANTHONY: All right. I will
7 pass it around.

8 The next item on the agenda would be the
9 withdrawal of candidates. In your -- in your packet
10 you have Exhibit A. And I will let Mr. --

11 MR. MACKEY: Mackey.

12 DIRECTOR ANTHONY: -- Mackey. Jeffrey
13 Mackey -- I had a mental block -- give a presentation
14 on the Exhibit A, please.

15 MR. MACKEY: Exhibit A is fairly
16 self-explanatory. The individuals submitted letters
17 withdrawing their candidacy. If you have any
18 questions on any of those listed there, I can field
19 those; otherwise, you can accept their withdrawal.

20 BOARD MEMBER COLLEY: Mr. Chairman, I
21 move that the Board accept the requests of the
22 electors listed on Exhibit A to withdraw as
23 candidates for the primary election, and that their
24 names shall not appear on the March 6th, 2012 primary

1 election ballot.

2 DIRECTOR ANTHONY: Is there a second?

3 BOARD MEMBER MANIFOLD: I'll second.

4 DIRECTOR ANTHONY: Okay. All those in
5 favor, say aye.

6 BOARD MEMBERS: Aye.

7 DIRECTOR ANTHONY: Opposed, same sign.

8 (No response.)

9 DIRECTOR ANTHONY: The motion carries.

10 The next item on the agenda, that would
11 be we have a number of appeals. Mr. Chairman, if we
12 can take them in order. We have a few folks that did
13 show up that did an appeal. So how do you want to do
14 it? There -- I know Mr. Dorian Wingard is here. I
15 believe -- is Bradley Smith here?

16 MR. SMITH: Yes.

17 DIRECTOR ANTHONY: Okay. Bradley Smith.

18 Patricia Powell?

19 MS. POWELL: Yes.

20 DIRECTOR ANTHONY: She's here. And
21 Michael Weinman. So they're all here.

22 CHAIRMAN PREISSE: Well, the -- the
23 issues are different in each of them, right? So we
24 should take them separately.

1 DIRECTOR ANTHONY: Yes, I'll take them
2 separately.

3 DEPUTY DIRECTOR WALCH: We have Wingard
4 first. It doesn't really matter that much. On our
5 agenda we have Wingard first.

6 MR. MACKEY: That makes sense.

7 DIRECTOR ANTHONY: We can start with
8 Mr. Wingard.

9 MR. MACKEY: The petition presented to
10 the Board by Mr. Wingard contained 12 signatures of
11 which we found four were valid. And the reason -- he
12 needed five signatures, so that is the reason that
13 you did not certify him at the last meeting. I have
14 a copy of his petition included there.

15 DIRECTOR ANTHONY: Everybody have a copy
16 of it?

17 CHAIRMAN PREISSE: This?

18 MR. MACKEY: Yeah. It's all
19 paper-clipped together there. That's Mr. Smith's.
20 Keep going back. There's his appeal letter and his
21 petition is behind that.

22 DIRECTOR ANTHONY: And on the back of it,
23 it has all of the ones that -- the ones with check
24 marks are the ones that we found to be valid and then

1 the others are the reasons why they weren't valid.

2 Can you tell them what the initials
3 beside each --

4 MR. MACKEY: I can.

5 DIRECTOR ANTHONY: -- line is?

6 MR. MACKEY: The NR's were individuals
7 that we found not to be registered or could not find,
8 so were not registered. There is one NG there; that
9 signature did not match the signature that we had on
10 file. The OP is wrong party, so it was either a
11 Republican or some other party. We also have a
12 couple of printed signatures which were disallowed.

13 CHAIRMAN PREISSE: And, let's see, you
14 need five good ones, right?

15 MR. MACKEY: You need five, yes.

16 CHAIRMAN PREISSE: And how many do we
17 have? The check means a good one, right?

18 MR. MACKEY: Yes. There are four of
19 those.

20 CHAIRMAN PREISSE: I see three.

21 MR. MACKEY: Line 4, 6, 7 --

22 CHAIRMAN PREISSE: Oh, I see. 6 was
23 hidden in there.

24 MR. MACKEY: -- and 12, yeah.

1 BOARD MEMBER MARINELLO: Is Mr. Wingard
2 here?

3 DIRECTOR ANTHONY: Yes, he is.

4 CHAIRMAN PREISSE: Mr. Wingard is here.

5 DIRECTOR ANTHONY: Yes.

6 CHAIRMAN PREISSE: Would you like to
7 address the Board, sir?

8 MR. WINGARD: Yes, sir.

9 DIRECTOR ANTHONY: We would like you to
10 be sworn in.

11 (Witness sworn.)

12 CHAIRMAN PREISSE: Okay. Sir, would you
13 like to talk to us about this?

14 MR. WINGARD: Yes, sir.

15 - - -

16 DORIAN WINGARD

17 being first duly sworn, as prescribed by law, was
18 examined and testified as follows:

19 DIRECT TESTIMONY

20 MR. WINGARD: The petitions that were
21 submitted, of the twelve total, four, obviously, were
22 accepted and approved. There are two that are listed
23 as printed signatures. Signature No. 12 that was
24 accepted is, by all intents and purposes, I guess you

1 could qualify that as a signature as well, so could
2 you line No. 8, I think it's Christie Stubbs.

3 The line No. 12, those signatures both
4 were at the same address, husband and wife, a couple.
5 I asked for the signature, that is how he signed his
6 name.

7 Page -- line No. 8, again, same type of
8 situation as 12, but it wasn't accepted.

9 CHAIRMAN PREISSE: The Board made these
10 determinations by comparing the signatures to --

11 DEPUTY DIRECTOR WALCH: What's on file.

12 Correct, Jeff?

13 MR. MACKEY: Correct.

14 CHAIRMAN PREISSE: Do we have those here?

15 MR. MACKEY: I don't have those here.

16 DIRECTOR ANTHONY: Would you like to see
17 them?

18 CHAIRMAN PREISSE: I think we should.

19 BOARD MEMBER MARINELLO: I'd like to see
20 Chrissy.

21 CHAIRMAN PREISSE: Why don't we --

22 BOARD MEMBER MARINELLO: Stop the --

23 CHAIRMAN PREISSE: Can we ask --

24 DIRECTOR ANTHONY: Yes.

1 CHAIRMAN PREISSE: -- for that material
2 to be gathered and pause in this situation and go on
3 to the next? Does that make sense?

4 DIRECTOR ANTHONY: Yes.

5 MR. MACKEY: Line 8 and line 11?

6 CHAIRMAN PREISSE: Well, let's not go on
7 a wild goose chase. Let's decide what we think --

8 MR. MACKEY: Those were the two that were
9 printed --

10 CHAIRMAN PREISSE: Mr. Wingard, right?

11 MR. WINGARD: Right.

12 CHAIRMAN PREISSE: -- is saying --

13 DIRECTOR ANTHONY: Line 8.

14 CHAIRMAN PREISSE: -- he's calling our
15 attention to 8 --

16 MR. WINGARD: 8, Mr. Chairman, 8 and line
17 11.

18 CHAIRMAN PREISSE: 11. NR is not
19 registered. NG is what?

20 MR. MACKEY: Not genuine.

21 CHAIRMAN PREISSE: What?

22 MR. WINGARD: Not what?

23 MR. MACKEY: Not genuine. It did not
24 match the signature we had on file.

1 CHAIRMAN PREISSE: So that's another one.
2 Why don't we look at 2, as well, then.

3 MR. MACKEY: Okay.

4 DEPUTY DIRECTOR WALCH: 2, 8, and 11.

5 MR. MACKEY: 2, 8, 11.

6 CHAIRMAN PREISSE: 9 has NRN.

7 DIRECTOR ANTHONY: Karen, hold on for a
8 minute. Let's make sure we got all of them.

9 Which ones did you want?

10 CHAIRMAN PREISSE: Well, I mean, you're
11 questioning two that appear to be printed and the
12 signatures, but I'm just suggesting that rather than
13 go back and forth and back and forth, there's one
14 here that's not genuine, why don't we look at that,
15 too. And then there's one here, Karen, this is
16 PSNNR, that means just not registered, right? So
17 that's not worth looking at, right, is that correct?

18 MS. COTTON: Right.

19 CHAIRMAN PREISSE: As it relates to the
20 signature on line 9.

21 DIRECTOR ANTHONY: 9.

22 MS. COTTON: The green markings was my
23 trying to go back and find the -- after the original
24 person had checked the petition, trying to find one

1 additional signature.

2 CHAIRMAN PREISSE: I see.

3 DIRECTOR ANTHONY: So, Mr. Chair, are we
4 good on line 2, 8, and 11?

5 CHAIRMAN PREISSE: Makes sense to me.

6 MS. COTTON: Okay. I'll be right back.

7 DIRECTOR ANTHONY: Thank you.

8 MR. WINGARD: Thank you.

9 CHAIRMAN PREISSE: Why don't we pause
10 because I don't know how long this is going to take.

11 MR. MACKEY: It should only take a couple
12 minutes.

13 MR. WINGARD: I can have a seat and wait.

14 DIRECTOR ANTHONY: All right. Thank you.

15 MR. WINGARD: Sure.

16 DEPUTY DIRECTOR WALCH: We should move
17 on.

18 DIRECTOR ANTHONY: The next one, then,
19 would be Bradley Smith, right?

20 MR. MACKEY: Correct.

21 CHAIRMAN PREISSE: We have --

22 DIRECTOR ANTHONY: Whichever way you want
23 to do it. Does that work?

24 CHAIRMAN PREISSE: Sure.

1 DIRECTOR ANTHONY: Okay.

2 MR. MACKEY: I have attached Mr. Smith's
3 petitions there, as well. The first one, part
4 petition 738 was not signed, the declaration of
5 candidacy. And the part petition 737, the legal
6 sized-one was not a signature, it was a printed
7 signature.

8 Per R.C. 3513.09, the petition required,
9 filed by a candidate, petition papers, declaration of
10 candidacy so signed -- signed, shall be copied on
11 each other separate petition paper. This is the
12 section of code that we cite to communicate that that
13 has to be signed before you circulate it.

14 CHAIRMAN PREISSE: Is that over here on
15 this?

16 MR. MACKEY: Yup.

17 DIRECTOR ANTHONY: So the first petition,
18 he didn't sign the -- the petition of the 738, he
19 didn't sign the circulator, right?

20 MR. MACKEY: Both of them were in
21 reference to the declaration of candidacy.

22 DIRECTOR ANTHONY: Oh, okay.

23 MR. MACKEY: His signature on the second
24 one was not his signature on file, it was a printed

1 signature. But even if we counted that one, the
2 first one, not having the signature doesn't leave him
3 enough signatures anyway.

4 DIRECTOR ANTHONY: So even if we accepted
5 the second one, he still wouldn't have enough valid
6 signatures, and by statute we cannot accept the first
7 one because he didn't sign the -- he didn't sign the
8 name of candidate on there.

9 CHAIRMAN PREISSE: And Mr. Smith is here?

10 MR. SMITH: Yes.

11 CHAIRMAN PREISSE: Would you like to --

12 MR. SMITH: Yes.

13 CHAIRMAN PREISSE: -- address the Board,
14 please. Yeah, come on up.

15 MR. SMITH: Sorry, I didn't know it was
16 such a big meeting or I would have put a suit on.

17 CHAIRMAN PREISSE: You're the only one
18 here with any sense not wearing a tie.

19 (Laughter.)

20 DIRECTOR ANTHONY: You need to be sworn
21 in.

22 - - -

23 BRADLEY SMITH

24 being first duly sworn, as prescribed by law, was

1 examined and testified as follows:

2 DIRECT TESTIMONY

3 MR. SMITH: Don't I determine what my
4 signature is? I did both of them myself and I kind
5 of just continued on with one of the forms because
6 there's not enough space for me to get all 25
7 signatures on one form. Does that make sense? It's
8 turned in as a couple.

9 But I went two-and-a-half days in the
10 rain, knocking on doors, so they all came from me.
11 And I was nervous, I was running here almost three
12 o'clock to get the papers turned in on the last day.
13 I'll be a good guy if you want me to work with the
14 State. I understand there's rules. So hopefully I
15 did it right.

16 CHAIRMAN PREISSE: Okay. Any questions
17 for Mr. Smith?

18 DIRECTOR ANTHONY: If you looked at the
19 first one, 738, by not signing his name where it says
20 "Signature of Candidate," I believe that -- and we
21 have legal here -- that's a fatal flaw and there's no
22 way you can be able to accept this document, the
23 first document, at all.

24 CHAIRMAN PREISSE: You've got to have how

1 many valid signatures?

2 MR. MACKEY: Twenty-five --

3 CHAIRMAN PREISSE: Twenty-five.

4 MR. MACKEY: -- for a minor party
5 candidate.

6 DIRECTOR ANTHONY: Then on the second
7 one, he wouldn't have enough valid signatures anyway.

8 CHAIRMAN PREISSE: The point you're
9 making is it is insufficient --

10 DIRECTOR ANTHONY: You don't have 25.

11 CHAIRMAN PREISSE: Is that the point
12 you're making?

13 DIRECTOR ANTHONY: I'm making, I think,
14 two points. One is we cannot accept 738 because it's
15 not signed, so this whole petition we can't accept
16 it. So we can't accept this part petition.

17 The second petition, No. 737, if we even
18 accept this as his signature and not as a printed, he
19 still would not have enough valid signatures.

20 CHAIRMAN PREISSE: That was the point
21 that I thought you were going to make.

22 Nick, you want to say anything as to
23 the -- the unfortunate fact is, Mr. Smith, from time
24 to time when this circumstance occurs, and it

1 sometimes does here, I can say that I both sympathize
2 and empathize because I did this once, too.

3 MR. SMITH: Absolutely.

4 CHAIRMAN PREISSE: And in a rush, helping
5 other people and other things at one busy election
6 year, failed to sign my own, and I didn't get to run,
7 and I came back two years later. And I fear,
8 momentarily, that may be your future.

9 And I'm asking Counsel --

10 MR. SOULAS: As the Board well knows, the
11 failure to sign the declaration of candidacy
12 invalidates the entire part petition. There's no
13 question about that under state law. So, at the very
14 least, again without mentioning 737 --

15 MR. SMITH: I had them both together.

16 MR. SOULAS: -- each part petition needs
17 to contain the declaration of candidacy, and signed
18 and dated.

19 MR. SMITH: Okay. So we're good here?
20 I'm not going to go on and I'm done?

21 BOARD MEMBER MANIFOLD: Yeah, you're
22 done.

23 MR. SMITH: That is part of why I think
24 our country is where it is. Thank you, guys.

1 CHAIRMAN PREISSE: We appreciate your
2 presence here.

3 DEPUTY DIRECTOR WALCH: We need a motion
4 to deny.

5 MR. MACKEY: Actually, we don't.

6 DEPUTY DIRECTOR WALCH: Oh, we don't need
7 to do anything?

8 CHAIRMAN PREISSE: Yeah, we did deny him.

9 MR. MACKEY: He's already denied.

10 DIRECTOR ANTHONY: The next person would
11 be Patricia Howell -- I mean, Powell. I'm sorry.

12 MR. MACKEY: Ms. Powell's petition was
13 dated December 7th per her declaration of candidacy,
14 so we did not validate the first four signatures on
15 her petition because they were collected prior to
16 that being dated. We have received additional
17 information from the Secretary of State on that,
18 which is included here.

19 CHAIRMAN PREISSE: You say what?

20 MR. MACKEY: We have received additional
21 information from the Secretary of State that I have
22 included there from Betsy Schuster over at the
23 Secretary of State's office.

24 CHAIRMAN PREISSE: Where -- where are you

1 looking?

2 MR. MACKEY: It was a separate piece of
3 paper. It was behind the ones with all the Revised
4 Code stuff on it.

5 CHAIRMAN PREISSE: Oh, here.

6 MR. MACKEY: Yup. And it would be up to
7 the Board to decide if they had actually signed their
8 petition prior to circulating the petition
9 irregardless of what the date ends up being in the
10 declaration of candidacy.

11 DIRECTOR ANTHONY: Now, we've asked our
12 legal, the prosecutor's office, to give us an
13 interpretation of Mrs. Schuster's letter. In her
14 letter she states that just because a person does not
15 put the date on the -- on the petition, does not make
16 it a fatal flaw. But she also goes on to say that
17 the Board will have to determine if a signature was
18 on there prior to the circulation of the petition,
19 and if the candidate swears that to be the case, then
20 I guess we're, you know, they're swearing under oath
21 that they signed the petition prior to it being
22 circulated, and we're able to take that person on his
23 word, knowing that if the person falsified a document
24 that it's a \$1,000 fine and --

1 MR. SOULAS: It's a fifth-degree felony.

2 DIRECTOR ANTHONY: Yes, fifth-degree
3 felony if they perjure themselves.

4 So you can see the letter Mrs. Powell
5 wrote. She said that she signed this document prior
6 to it being circulated and that the date was placed
7 on it after she brought it into the office. And
8 she's here, she can be sworn in, and testify to what
9 happened.

10 - - -

11 PATRICIA POWELL

12 being first duly sworn, as prescribed by law, was
13 examined and testified as follows:

14 DIRECT TESTIMONY

15 MS. POWELL: The only thing, I don't
16 usually make excuses because I don't believe in them,
17 but when I came in the day that I filed, I've never
18 been late before, and I was late. I had signed the
19 petition, but I had not dated it.

20 And I was standing there getting ready to
21 date the petition, and I said, wow, what date am I
22 supposed to put on it, and somebody said the
23 7th which was the date that I was there. I forgot
24 and I didn't realize that -- I knew, you know, that

1 the other -- it was supposed to be the date of the
2 first signature.

3 And I was rushing, basically, is what it
4 was all about, and I just put down the 7th, the day
5 that I came in. That's my only excuse. I, you know,
6 I was under a little stress being late. I don't like
7 to be late for anything. So that's all I can say.

8 CHAIRMAN PREISSE: Anybody, any of the
9 Board members have any questions of Ms. Powell?

10 MS. POWELL: I'm sorry. I didn't hear
11 you.

12 CHAIRMAN PREISSE: I'm asking my fellow
13 Board members if anyone has any questions for you.

14 BOARD MEMBER MARINELLO: I can see how it
15 can happen when you get your petition ready before
16 you circulate and sign it, and then you check it over
17 and say, oh, I didn't put a date on it, and somebody
18 gives you the incorrect information.

19 DIRECTOR ANTHONY: So what happens here,
20 the Board would have to vote to put her on because it
21 was already denied. If you accept her under-oath
22 statement that she signed it and then circulated it
23 and came to the office and then put the date on it
24 when she was turning the petition in, then we need to

1 take a vote and I would need a motion.

2 BOARD MEMBER MARINELLO: Mr. Chairman, I
 3 make a motion that the Board certify the March 6,
 4 2012 primary election ballot of Patricia Powell for
 5 Democratic County Central Committee from Columbus
 6 Ward 27.

7 DIRECTOR ANTHONY: Is there a second?

8 BOARD MEMBER MANIFOLD: I'll second.

9 DIRECTOR ANTHONY: All those in favor,
 10 say aye.

11 BOARD MEMBER MARINELLO: Aye.

12 BOARD MEMBER MANIFOLD: Aye.

13 CHAIRMAN PREISSE: I'm going to abstain.

14 DIRECTOR ANTHONY: I need a roll call
 15 vote.

16 Kimberly Marinello?

17 BOARD MEMBER MARINELLO: Yes.

18 DIRECTOR ANTHONY: Zachary Manifold?

19 BOARD MEMBER MANIFOLD: Yes.

20 DIRECTOR ANTHONY: Douglas Priesse?

21 CHAIRMAN PREISSE: I'm going to abstain.

22 DIRECTOR ANTHONY: Michael Colley?

23 (Private discussion between Chairman
 24 Priesse and Board Member Colley.)

1 CHAIRMAN PREISSE: What is the -- if the
2 Board votes to -- if there are two abstentions, then
3 two votes carry; is that correct? I think that's
4 correct.

5 DIRECTOR ANTHONY: Is that correct?

6 MR. SOULAS: You know, that's a question
7 I'm not prepared to answer, Mr. Priesse. I don't
8 know the answer to that off the top of my head.

9 CHAIRMAN PREISSE: I think if there's one
10 abstention, the vote carries two versus one, right?

11 MR. SOULAS: Correct.

12 CHAIRMAN PREISSE: If there's two
13 abstentions, what is the effect of that on the
14 proceedings? Is that --

15 MR. SOULAS: Off the top of my head, I
16 can't speak to it.

17 CHAIRMAN PREISSE: I should have
18 forewarned you with that question, but I didn't
19 anticipate this event a little earlier.

20 Do you know the answer to that?

21 MR. MACKEY: I do not.

22 CHAIRMAN PREISSE: Okay. Let's resume
23 the roll call.

24 MR. SOULAS: Mr. Priesse, I want to get

1 you an answer. And, ordinarily, under Robert's
2 Rules, it would pass. There are certain provisions,
3 however, and that's what I'm looking up. With the
4 Board of Elections, certain votes have to be by a
5 majority of the Board, not necessarily a quorum, and
6 that's what I want to verify here.

7 CHAIRMAN PREISSE: It's like hiring. I
8 think we have to have a --

9 MR. SOULAS: That's an example, correct,
10 for the director and deputy director requirements.

11 CHAIRMAN PREISSE: Now, if we have a two
12 to one and an abstention, that's a pass. That's a
13 passing vote, right?

14 MR. SOULAS: That's my understanding
15 ordinarily. And, again, it would not be, for
16 example, for the director and deputy director
17 position.

18 CHAIRMAN PREISSE: Right.

19 MR. SOULAS: And I just want to verify.
20 Ordinarily, for most bodies, that would be the case,
21 but I want to verify and give you the best answer
22 that I can is that for this particular vote that that
23 would suffice, if that makes sense.

24 DIRECTOR ANTHONY: Take a vote again or

1 do you want to wait?

2 CHAIRMAN PREISSE: I think we put in the
3 yes, yes, abstain, no, which I think is a passing
4 vote. Is that your understanding?

5 DEPUTY DIRECTOR WALCH: Unless there's
6 something specific about this case that needs three
7 affirmative votes, which I'm not familiar with, I
8 don't know for sure, I think two to one passes. But
9 under normal circumstances, I think --

10 MR. SOULAS: Yeah, I'm not finding
11 anything to the contrary.

12 CHAIRMAN PREISSE: All right. So maybe
13 proceed, Mr. Director --

14 DIRECTOR ANTHONY: Then we will do a roll
15 call vote on the motion. Everyone knows what the
16 motion is? Do we need to replay the motion?

17 (No response.)

18 DIRECTOR ANTHONY: All right.
19 Kimberly Marinello?

20 BOARD MEMBER MARINELLO: Yes.

21 DIRECTOR ANTHONY: Zachary Manifold?

22 BOARD MEMBER MANIFOLD: Yes.

23 DIRECTOR ANTHONY: Douglas Preisse?

24 CHAIRMAN PREISSE: I'm going to abstain.

1 DIRECTOR ANTHONY: And Michael Colley?

2 BOARD MEMBER COLLEY: No.

3 DIRECTOR ANTHONY: All right. So we got
4 two affirmative votes, so the motion passes.

5 CHAIRMAN PREISSE: That's my belief.

6 DIRECTOR ANTHONY: Okay. Motion carries.

7 BOARD MEMBER MARINELLO: Congratulations.

8 DIRECTOR ANTHONY: Thank you, ma'am.

9 MS. POWELL: Thank you.

10 CHAIRMAN PREISSE: Thanks for being here.

11 DIRECTOR ANTHONY: The next item on the
12 -- the next individual is Mr. Weinman, Michael
13 Weinman.

14 CHAIRMAN PREISSE: Should we revert to
15 the first case? We have -- is that when we had the
16 signatures --

17 DIRECTOR ANTHONY: No, we don't.

18 CHAIRMAN PREISSE: Oh, we don't yet?

19 DIRECTOR ANTHONY: No. I'm going to go
20 back to that after Mr. Weinman.

21 CHAIRMAN PREISSE: Okay.

22 THE COURT REPORTER: I'm going to swear
23 you in.

24 (Witness sworn.)

1 (Greetings exchanged in Greek between
2 Chairman Priesse and Mr. Limbert.)

3 CHAIRMAN PREISSE: She's not going to get
4 that.

5 THE COURT REPORTER: I'm not going to get
6 that.

7 (Laughter.)

8 CHAIRMAN PREISSE: But welcome. Please
9 introduce yourselves.

10 MR. LIMBERT: George Limbert with the law
11 firm of Isaac, Brant, Ledman, and Teetor; standing
12 here today on behalf of Mark Weaver and representing
13 Michael Samuel Weinman.

14 MR. WEINMAN: I'm Michael Samuel Weinman.

15 CHAIRMAN PREISSE: Okay. And you wish to
16 make a statement to the Board, Mike?

17 MR. LIMBERT: He does. And, initially, I
18 would just like to sort of point out a couple things
19 and kind of introduce our arguments, as well, if the
20 Board will permit.

21 CHAIRMAN PREISSE: Sure.

22 MR. LIMBERT: Mr. Weinman, as you can
23 obviously see in his appeal letter, dated the
24 petition after the signatures were filed or

1 signatures were obtained. However, he substantially
2 complied with the documents, with the petition, and
3 the declaration of candidacy.

4 He went door to door in his neighborhood,
5 met his neighbors, his neighbors who knew him, asked
6 for their signatures, explained to them what
7 candidacy he was running for, what position he was
8 running for. They were well aware of it. Those who
9 were not eligible to sign, those who did not sign,
10 did not. Those who did not want to sign, did not.
11 Those who were eligible, did sign, and indeed they
12 were well aware, and Mr. Weinman will definitely
13 speak to that.

14 The standard of review in these types of
15 cases in our mind and what we will submit to your
16 Board is that the standard is determined based on
17 whether or not a failure to sign a document would
18 substantially mislead the individuals who were
19 signing, the signers. In this case, we believe that
20 Mr. Weinman's explanation substantially complied with
21 what the declaration of candidacy looked to provide.

22 We would also submit that the foregoing
23 is very similar to Supreme Court precedent. The
24 Supreme Court has ruled similar in similar

1 circumstances in favor of these types of issues with
2 respect to mandamus actions. Furthermore, I'd like
3 to just read a quote from the State ex rel. Green
4 versus Casey case. This is actually a dissent, in
5 part, by Justice Douglas, discussing writs that he
6 would have granted. "We should be encouraging
7 interested citizens to participate in the political
8 process. We should not use inappropriate
9 technicalities to prohibit or discourage those who
10 choose to be of service."

11 I'm going to now turn it over to
12 Mr. Weinman to discuss substantially what occurred in
13 his obtaining the signatures.

14 - - -

15 MICHAEL S. WEINMAN

16 being first duly sworn, as prescribed by law, was
17 examined and testified as follows:

18 DIRECT TESTIMONY

19 MR. WEINMAN: Mr. Chairman, Members of
20 the Board, thank you for hearing my appeal today.

21 Just real briefly. It was after dinner
22 on Monday night. I slapped the petition on a
23 clipboard, and my wife and two daughters went out in
24 our street, right there on Springs Drive, and hit my

1 neighbors' houses.

2 All those that were registered
3 Republicans, you know, I specifically explained
4 exactly what this was for and what I, you know, what
5 my intentions were. It was actually kind of a
6 nice -- it was actually kind of nice getting out and
7 talking to my neighbors again. I hadn't seen them
8 since trick-or-treating when I took the girls around.

9 So we, you know, went house to house
10 there and got ten signatures. I spent some nice
11 quality time with my neighbors. They understood what
12 I was doing and why I was doing it and they signed
13 it.

14 You know, the very next day --
15 unfortunately, it was raining that night, you know,
16 which surprisingly didn't bother my daughters. They
17 loved jumping in all the puddles. So the next day is
18 when I signed it and dated it. I -- the thing was
19 soaking wet, so I waited until it dried. So then I
20 ran it in here that day. So that's basically, in a
21 nutshell, what happened. I'd be happy to answer any
22 questions you may have.

23 CHAIRMAN PREISSE: I'm going to ask for a
24 recess for a second. Is that all right?

1 DIRECTOR ANTHONY: Yes.

2 (Recess taken.)

3 CHAIRMAN PREISSE: Jeff had provided us
4 with recent communication from the Secretary of
5 State's office personnel there which speaks to the
6 question of whether a declaration of candidacy may or
7 may not have been dated prior to the circulation of
8 the petition.

9 We -- Michael, I think -- well, I'm quite
10 sure I heard you say, a few minutes ago, in your
11 excellent recitation of your engaging in the process
12 in circulating the petition that then you went home
13 and then, the next day, signed and dated the petition
14 and turned it in.

15 MR. WEINMAN: That's correct,
16 Mr. Chairman.

17 CHAIRMAN PREISSE: And I think that's
18 what the transcript will show.

19 My understanding of what the Secretary of
20 State has opined upon here is that if a candidate, a
21 prospective candidate is able to come in and convince
22 the Board that he or she signed it, the declaration
23 of candidacy, and subsequently circulated it, that
24 the Board can choose to be convinced that that's

1 indeed what happened. It does not -- we do not have
2 before us, other than the law which tells us at this
3 point the candidate has to have signed -- signed and
4 dated, but certainly signed the declaration of
5 candidacy prior to circulation. And you've told us
6 here today, and we can reread it if you want, that's
7 not what -- that's not what happened. You signed it
8 afterward.

9 MR. WEINMAN: Mr. Chairman, if I may?

10 CHAIRMAN PREISSE: Sure.

11 MR. WEINMAN: I made sure, you know, I --
12 there was nothing to mislead any of the petition
13 signers. I was very straightforward, I was very
14 honest with what my intent was, so I doubt, very
15 highly doubt that any of them had any idea that, you
16 know, I was being misleading or, you know, saying it
17 was for one office and it wasn't. They understood
18 what it was for, you know, if that has any bearing on
19 the Board's decision. You know, these are people I
20 have to live with, you know, for the next 20-odd
21 years, so the last thing I would ever want to do is
22 lie to them.

23 CHAIRMAN PREISSE: You know, I believe
24 everything you say here today. Unfortunately, I

1 believe the part that compels me to come to the
2 conclusion that's going to likely place you, I think,
3 depending on what the other Board members do, in the
4 same position I was in, perhaps ironically, for the
5 very same position some years ago, when I
6 incompletely filled out my petition for the
7 Republican State Central Committee and was ruled off
8 the ballot and came back two years later.

9 There's no question that you engaged this
10 process, in my mind, in an upstanding, respectful
11 way, but we have the facts, I think, before us as we
12 have them, so that's all I have to say.

13 This piece here that the Deputy Director
14 is pointing out that our counsel typically advises
15 against invalidating unless the Board determines that
16 the prospective candidate did not sign the candidate
17 statement -- statement of candidacy before
18 circulating the petition.

19 Any of the Board members have any
20 questions?

21 BOARD MEMBER MANIFOLD: I would just say
22 that, unfortunately, we run into this every -- every
23 time we have a filing. There's always a handful of
24 circumstances where it's out of our hands. Clearly,

1 the Revised Code states that you have to sign it
2 before anybody places their signature on it. It
3 happens every -- a couple times every year it
4 happens.

5 DIRECTOR ANTHONY: So, excuse me, is the
6 will of the Board to deny the appeal?

7 CHAIRMAN PREISSE: We would -- we don't
8 have to vote on it, do we?

9 DIRECTOR ANTHONY: Nope. Is there a
10 motion to -- if there's no motion to approve, then it
11 stands denied.

12 DEPUTY DIRECTOR WALCH: It stands denied
13 if there's no motion to approve.

14 CHAIRMAN PREISSE: I regret this
15 personally, and I'm, again, sympathetic and
16 empathetic. I'd love to state for the record: I've
17 asked you to run for office before and I hope to do
18 it again. Thank you.

19 MR. WEINMAN: Thank you.

20 MR. LIMBERT: Thank you.

21 DIRECTOR ANTHONY: The next item on the
22 agenda would be in your packet of information.

23 DEPUTY DIRECTOR WALCH: We have to go
24 back to the initial one.

1 DIRECTOR ANTHONY: Oh, I'm sorry, I
2 forgot all about that. Mr. Wingard.

3 CHAIRMAN PREISSE: Okay. We're back --

4 DEPUTY DIRECTOR WALCH: Back to the
5 signatures.

6 CHAIRMAN PREISSE: Which ones were those?
7 Shall we do this together or do you want to do it
8 separately?

9 DIRECTOR ANTHONY: Mr. Chair, I think
10 we -- let's go and look at line 2, first, and let's
11 go right down this. We had it as NG. As you can see
12 from the information received, that it looks nothing
13 like whatever that name is, so that one --

14 CHAIRMAN PREISSE: I concur with that.

15 DIRECTOR ANTHONY: It's up to you guys.

16 Do you have a copy of this, Mr. Wingard,
17 that I'm looking at, this right here?

18 MR. WINGARD: I have it.

19 DIRECTOR ANTHONY: Okay. So that's line
20 2. As you can see, there's no -- there's no -- it
21 doesn't look like it at all under any circumstances.

22 Line No. 8, on the next page, it's a --

23 DEPUTY DIRECTOR WALCH: You were actually
24 given another one for this, too, the longer version

1 of it.

2 BOARD MEMBER MARINELLO: Yeah.

3 DIRECTOR ANTHONY: Yeah. It's Christy
4 Stubbs, and as you can see from our voter file, how
5 she spells Christy, how she signs Christy, it doesn't
6 look like the Christy that's written here. Her last
7 name is Washington-Stubbs and we need another sheet
8 of paper to see how she signed Stubbs, and you see
9 the B's are different on that, so you can make a
10 determination on that one.

11 CHAIRMAN PREISSE: The fact is that it's
12 printed, that's the issue.

13 DIRECTOR ANTHONY: That's why we did not
14 accept it.

15 CHAIRMAN PREISSE: It's not that it might
16 be a different signature, but it is clearly printed
17 on the petition --

18 DIRECTOR ANTHONY: Right.

19 CHAIRMAN PREISSE: -- and the signature
20 is, of course, on file over here.

21 DIRECTOR ANTHONY: Right. And we have to
22 have the signature that is on file. It has to be a
23 signature, not a printed signature.

24 The next one is line 9 and line 11. Look

1 at line 11, that is Ted Hill, and look at how he's --
2 he's on file as Theodore Hill.

3 Then just as a comparison, we put line 12
4 on there, and line 12, as you can see, there is some
5 similarities which is why we counted line 12.

6 MR. MACKEY: Especially the last name
7 looks almost exactly the same.

8 DIRECTOR ANTHONY: What say ye, the
9 Board?

10 CHAIRMAN PREISSE: Okay.

11 BOARD MEMBER MANIFOLD: Unfortunately, we
12 run into these all the time. It's unfortunate that
13 we can't take a printed signature. It is what it is.
14 Sorry.

15 MR. WINGARD: Is that it?

16 CHAIRMAN PREISSE: I'm afraid that is it.
17 Thank you very much and come back and do it again.

18 MR. WINGARD: Thank you, sir. I
19 appreciate it.

20 MR. MACKEY: Exhibit -- skip Exhibit B.
21 Go ahead and skip Exhibit B. We'll go right to
22 Exhibit C. Exhibit B had Ms. Powell's petition to be
23 a write-in candidate for Central Committee on it, so
24 we don't need to do that anymore since we have

1 certified her to the ballot as a regular candidate.
2 So Exhibit C is the write-in candidates for
3 certification excluding Ms. Powell.

4 DIRECTOR ANTHONY: Okay. So these are
5 all the other ones --

6 MR. MACKEY: Correct.

7 DIRECTOR ANTHONY: -- that were turned in
8 for the -- for the write-in.

9 MR. MACKEY: Found by the staff to be
10 sufficient and valid.

11 CHAIRMAN PREISSE: These are -- are these
12 all, you said, again, we're looking at C.

13 MR. MACKEY: Yes.

14 CHAIRMAN PREISSE: These are all County
15 Central Committee?

16 MR. MACKEY: The first one is a State
17 Representative Candidate, Libertarian, for the
18 19th House District.

19 CHAIRMAN PREISSE: I see that, yeah.

20 MR. MACKEY: And then everything else is
21 County Central, yes.

22 DIRECTOR ANTHONY: Shall we separate the
23 state rep from the central committee or is that
24 necessary?

1 CHAIRMAN PREISSE: I don't --

2 DEPUTY DIRECTOR WALCH: We didn't -- we
 3 didn't separate them when we did the initial
 4 certification at the last meeting, so to keep it
 5 consistent we just kept it the same this time,
 6 correct?

7 MR. MACKEY: Yup.

8 DIRECTOR ANTHONY: So if the Board
 9 accepts all the write-ins, we would need a motion to
 10 that effect.

11 BOARD MEMBER MANIFOLD: Mr. Chairman, I
 12 move that the list of electors appearing on Exhibit C
 13 be certified as valid write-in candidates for the
 14 March 6, 2012 primary election.

15 DIRECTOR ANTHONY: Is there a second?

16 BOARD MEMBER COLLEY: Second.

17 DIRECTOR ANTHONY: All those in favor,
 18 say aye.

19 BOARD MEMBERS: Aye.

20 DIRECTOR ANTHONY: The motion carries.
 21 The next exhibit would be D, right?

22 MR. MACKEY: Correct.

23 DIRECTOR ANTHONY: And could you explain
 24 that?

1 MR. MACKEY: Exhibit D includes write-in
2 candidates that we are not recommending for
3 certification. The first three candidates, you see
4 there, submitted petitions to be write-in candidates
5 for the State Central Committee. The information we
6 have received from the Secretary of State, which is
7 behind Exhibit D, advises us that we should not
8 accept petitions for write-in candidates for the
9 State Central Committee because they can be appointed
10 by the State Central Committee after the election if
11 no one runs for a seat there.

12 DIRECTOR ANTHONY: And then Mark Kerns
13 turned his in late.

14 MR. MACKEY: And the fourth one there is
15 Mr. Kerns. His petition came in 47 minutes after the
16 filing deadline had passed.

17 CHAIRMAN PREISSE: Anyone have any
18 questions?

19 BOARD MEMBER MARINELLO: Mr. Chairman, I
20 move that the list of electors appearing on Exhibit D
21 be denied certification as write-in candidates for
22 the March 6th, 2012 primary election.

23 DIRECTOR ANTHONY: Is there a second?

24 BOARD MEMBER COLLEY: Second.

1 CHAIRMAN PREISSE: He seconded.

2 DIRECTOR ANTHONY: Second by Mr. Colley.

3 All those in favor, say aye.

4 BOARD MEMBERS: Aye.

5 DIRECTOR ANTHONY: Motion carries.

6 The next item on the agenda would be
7 Exhibit E.

8 DEPUTY DIRECTOR WALCH: We had sent a
9 notice, going back briefly to Exhibit D, we had sent
10 a notice to Mr. Kerns that it's likely that his
11 petition was going to be denied, but we offered him
12 an opportunity to come.

13 Is Mr. Kerns here today?

14 DIRECTOR ANTHONY: He's not here. I
15 looked in the audience.

16 MR. MACKEY: Okay.

17 DEPUTY DIRECTOR WALCH: We just want to
18 check and make sure.

19 DIRECTOR ANTHONY: I know Mr. Kerns, and
20 I knew he was not here.

21 DEPUTY DIRECTOR WALCH: Since we sent him
22 a notice, we wanted to check and make sure.

23 MR. MACKEY: Okay. So Exhibit E is our
24 congressional candidates who filed under the new

1 deadline. These petitions were found to be valid and
2 sufficient.

3 CHAIRMAN PREISSE: All right. Any
4 questions on that?

5 BOARD MEMBER MANIFOLD: Mr. Chairman, I
6 move that the Board certify the March 6th, 2012
7 primary election ballot of those congressional
8 candidates whose petitions, having been timely filed
9 on or before Friday, December 30th, 2011, were found
10 to be valid and sufficient, and the list of those
11 candidates submitted by the Director and reviewed by
12 the Board be attached to the record of these
13 proceedings as Exhibit E.

14 DIRECTOR ANTHONY: Is there a second?

15 BOARD MEMBER COLLEY: Second.

16 DIRECTOR ANTHONY: All those in favor,
17 say aye.

18 BOARD MEMBERS: Aye.

19 DIRECTOR ANTHONY: Motion carries.

20 The next is Exhibit F.

21 MR. MACKEY: Exhibit F contains two of
22 our congressional candidates who did not present
23 petitions including sufficient valid signatures.
24 They're both short by -- Jeff Brown was short by two,

1 and Mr. Applegate was short by eight.

2 CHAIRMAN PREISSE: I assume neither is
3 here? Okay.

4 DEPUTY DIRECTOR WALCH: We didn't know
5 until earlier today that these candidates were short.

6 CHAIRMAN PREISSE: All right.

7 DIRECTOR ANTHONY: So we need a motion --

8 CHAIRMAN PREISSE: To deny.

9 DIRECTOR ANTHONY: -- to deny.

10 CHAIRMAN PREISSE: I think we need the
11 motion to deny right there.

12 BOARD MEMBER COLLEY: Mr. Chairman, I
13 move the Board deny the certification of the
14 congressional candidates appearing on Exhibit F on
15 the basis that their declaration of candidacy was
16 either not timely filed or found by staff to be
17 invalid or insufficient.

18 DIRECTOR ANTHONY: Is there a second?

19 BOARD MEMBER MARINELLO: Second.

20 DIRECTOR ANTHONY: All those in favor,
21 say aye.

22 BOARD MEMBERS: Aye.

23 DIRECTOR ANTHONY: Motion carries.

24 The next one is Darius Mitchell.

1 MR. MACKEY: This petition was unique.
2 Usually our standards are fairly cut and dried.
3 However, at the bottom of this first petition we have
4 a circulator statement that indicates 21 signatures
5 were collected on this petition. There are 22 lines
6 with a signature in it. The final line of that
7 petition was incomplete, not completed. Taking it on
8 face value, that probably invalidates this petition.

9 However, looking at the following
10 petition, you can see that the same person who was
11 filling this one out is from Pickerington, a
12 neighboring county. So it is within the realm of at
13 least the imagination of the person checking this
14 petition that they realized that they were signing a
15 Franklin County petition and switched over and did
16 not thoroughly strike out the name on that last
17 petition.

18 We weren't prepared to invalidate that on
19 our -- on our -- we weren't prepared to invalidate
20 that. We thought we would let you take a look at it
21 and see what you thought. That is why he is
22 separated out into a special exhibit here.

23 DEPUTY DIRECTOR WALCH: We did consult
24 with Counsel on this one. I believe the prosecutor's

1 office did have an opinion on this one; is that
2 correct?

3 MR. SOULAS: Yes, we did. And,
4 unfortunately, for Mr. Mitchell there is case law in
5 point where if the circulator statement contains a
6 number less than the number of signatures that are on
7 the petition, that does invalidate that part
8 petition. And, you know, Mr. Mitchell had the
9 opportunity, the appropriate practice is to line
10 through it to delete it; unfortunately, that was not
11 done. And, under established case law, the part
12 petition is invalid.

13 MR. MACKEY: If that is the case, he will
14 not have sufficient valid signatures.

15 DIRECTOR ANTHONY: Is Mr. Darius Mitchell
16 here?

17 MR. MITCHELL: Yes, sir, I am.

18 (Witness sworn.)

19 MR. MITCHELL: Hi. How you doing.

20 CHAIRMAN PREISSE: Hi.

21 MR. MITCHELL: I'm sorry I came in with
22 my work uniform. I was called to work a little
23 later.

24 CHAIRMAN PREISSE: You look great, too.

1 MR. MITCHELL: Thank you.

2 CHAIRMAN PREISSE: Please tell us what
3 you would like to tell us.

4 - - -

5 DARIUS MITCHELL

6 being first duly sworn, as prescribed by law, was
7 examined and testified as follows:

8 DIRECT TESTIMONY

9 MR. MITCHELL: Well, I went out to
10 circulate the petition because I wanted to serve my
11 community. You know, I see a lot of young kids and
12 stuff in a lot, a lot of trouble, and I want to make
13 a positive influence on them.

14 I circulated the petition, and when the
15 young man, I didn't know where he was from, so when
16 he started signing it, he was like I'm from
17 Pickerington. So I stopped him and I was like, well,
18 I have to put this on a separate paper because you
19 have to have, each petition has to, everybody that
20 signs it has to be on a particular, has to -- every
21 county has to have a different petition. So he
22 stopped signing that paper and signed the one, the
23 next one next to it which is right beside it.

24 So when I came in, I didn't -- when I

1 wrote the number of how many signatures were on that
2 paper, I didn't count it, you know, the difference
3 between 22 and 21, I didn't count it because he
4 didn't finish, he didn't finish the 22 and he signed
5 a different, another petition once I realized he was
6 from Fairfield County.

7 I worked really hard to get these
8 petitions and I just hope you guys don't throw them
9 out over 21 and 22 because all the signatures are
10 legit and I worked very hard to get them and I need
11 them to get on the ballot and to serve my community.

12 CHAIRMAN PREISSE: Board members have any
13 questions or does anyone here?

14 Restate for us, would you, again, Nick --

15 MR. SOULAS: Yeah.

16 CHAIRMAN PREISSE: -- the law that
17 governs our decision-making in this case.

18 MR. SOULAS: Yeah. Specifically, the
19 most recent case that I found is the case of Rust
20 versus Lucas County Board of Elections, and it's
21 happened in other cases. Specifically, the facts in
22 Rust were the individual had -- the candidate had
23 circulated the petition and had determined that --
24 was aware that at least one signature was not valid,

1 on his own had determined that and elected not to
2 count it as part of the verification that says that
3 I, you know, I hereby certify that there are so many
4 signatures that are genuine and valid to the best of
5 my belief.

6 So the individual took it upon himself to
7 not count that one, thinking he was doing the right
8 thing, and the Supreme Court said that was not valid,
9 that does invalidate the entire part petition because
10 the appropriate method is to actually line through
11 the signature.

12 There have been other similar examples
13 including, I believe, Applegate, here in Franklin
14 County if I'm not mistaken, maybe a couple of years
15 ago, maybe three years ago, well it's 2012, maybe
16 four years ago, time is passing, but a very similar
17 situation where, again, I believe in that instance
18 Mr. Applegate tried to determine as best he could,
19 through our website or through other resources, which
20 signatures were valid, and attempted to only count
21 those that he knew were registered voters at the
22 proper address and, unfortunately, that's not the
23 procedure to follow.

24 BOARD MEMBER MARINELLO: So he should

1 have put 22 and then lined through it?

2 MR. SOULAS: 21 and line through it. 22
3 without lining it out, or 21 and lining it out.

4 BOARD MEMBER MARINELLO: Oh, he didn't
5 finish it.

6 DIRECTOR ANTHONY: The law is really
7 clear on that. I was on the Board for Mr. Applegate
8 and we had to follow the Revised Code. The Revised
9 Code said if you put -- the whole theory, if you
10 got -- if you put too many, more signatures than --
11 let me get this right. If there's 22 signatures and
12 you put 21, then we don't know which is the extra
13 signature. Had he put a higher number, 24 or
14 something, am I saying that right?

15 MR. SOULAS: You had it right the first
16 time. If you put down a number less than what is
17 actually contained --

18 BOARD MEMBER MARINELLO: Oh.

19 MR. SOULAS: -- you got two problems:
20 Number one, which one is, you know, are you saying is
21 not the valid and, number two, the public policy
22 concerns expressed by the Supreme Court is did
23 somebody add signatures after the circulator
24 statement was signed. We're not suggesting that

1 that's what happened here, but that's the public
2 policy that mandates the rejection of the part
3 petition.

4 MR. MITCHELL: Because the young man
5 signed it, as you all can see, the young man signed
6 the next petition right next to it. And, I mean, the
7 petition -- the signature wasn't complete and I
8 couldn't have added any other signatures because he's
9 the last signature on that paper; he is No. 22.

10 BOARD MEMBER MARINELLO: But if you're
11 saying you witnessed just 21, then we're saying which
12 one of these didn't you witness, you know?

13 MR. MITCHELL: Yeah, I mean, but --

14 BOARD MEMBER MARINELLO: I know.

15 MR. MITCHELL: I mean, everything is
16 legit and, you know.

17 BOARD MEMBER MARINELLO: I know.

18 MR. MITCHELL: You're going to throw it
19 out over 21 and 22? I mean --

20 BOARD MEMBER MARINELLO: I know.

21 MR. MITCHELL: -- it's your decision, but
22 I just hope -- you know, I did the right thing, I did
23 everything right.

24 CHAIRMAN PREISSE: Our decision is based

1 on what the law tells us we have to do.

2 MR. MITCHELL: I understand, sir.

3 CHAIRMAN PREISSE: You have been watching
4 today, there are some areas that are a little more
5 gray in more recent decisions or indications from the
6 Secretary of State, but the law that continues to
7 govern us and advise us is that while it's our
8 decision, we would be consciously deciding against
9 what we took an oath, swore an oath to decide to do.

10 I'm confident, I speak for the entire
11 Board and all of the staff and anybody in the room,
12 nobody thinks you purposefully did anything wrong or
13 had any intention other than to do what you were
14 attempting to do which was engage this sometimes
15 complicated process to get access to the ballot and
16 do some civic duty; none of that is in question at
17 all. Indeed, we all applaud your effort. But,
18 again, having been in the same position with a faulty
19 petition some years ago, I'm sympathetic.

20 DEPUTY DIRECTOR WALCH: Remember, we will
21 need a motion on it either way because this was not
22 contained in either of the other exhibits, it was
23 it's own special case, so we will need the Board to
24 make some kind of motion either way in placing him on

1 the ballot or denying him being placed on the ballot.

2 We do need a motion either way.

3 DIRECTOR ANTHONY: A motion to deny the
4 certification or a motion to accept it.

5 BOARD MEMBER MARINELLO: Mr. Chairman, I
6 move the Board deny the certification to the
7 March 6th primary election ballot of Mitchell --
8 Darius Mitchell.

9 DIRECTOR ANTHONY: Is there a second?

10 BOARD MEMBER MANIFOLD: Second.

11 BOARD MEMBER MARINELLO: Sorry.

12 DIRECTOR ANTHONY: All those in favor,
13 say aye.

14 BOARD MEMBERS: Aye.

15 DIRECTOR ANTHONY: Motion carries.

16 The next item would be -- what would be
17 the item we are on?

18 DEPUTY DIRECTOR WALCH: Absentee and
19 provisional voting hours.

20 DIRECTOR ANTHONY: Oh, okay. We're on
21 item number H. We haven't set our provisional hours
22 of operation for the March 6th election. Item H is
23 the staff's recommendation for the hours of
24 operation.

1 CHAIRMAN PREISSE: We're doing it here,
2 right?

3 DEPUTY DIRECTOR WALCH: That's correct.

4 DIRECTOR ANTHONY: Do you want me to go
5 through them so we --

6 CHAIRMAN PREISSE: Yeah, why not, so we
7 have them for the record.

8 DIRECTOR ANTHONY: -- have it for the
9 record.

10 The staff is recommending the following
11 hours for absentee voting here at Memorial Hall for
12 the absentee period: The dates are Tuesday,
13 January 31st through Thursday, March the 1st, Monday
14 through Friday, to be open from eight o'clock to five
15 o'clock. Friday, March the 2nd, to be open from
16 eight o'clock to six o'clock p.m.

17 And then we're looking at additional
18 hours to be Monday, February the 6th, which is the
19 last day of voter registration, to be open from five
20 o'clock a.m., that be should be a.m., to 9:00 o'clock
21 p.m. And then to be open one Saturday --

22 BOARD MEMBER MANIFOLD: It's 5:00 p.m.

23 DIRECTOR ANTHONY: Oh, I am sorry. Can
24 you strike that and make it p.m.?

1 And then be open one Saturday,
2 February 25th, from 8:00 a.m. to 12:00 p.m.

3 And then for the additional military
4 voting hours, we would be open that Monday, March the
5 5th, from eight o'clock to five o'clock p.m. And
6 Election Day, this is for military voting hours,
7 Election Day, Tuesday, March 6th, from 6:30 a.m. to
8 7:30 p.m.

9 Do you want to approve those first and
10 then move on to the provisional or we add them all in
11 there?

12 BOARD MEMBER MARINELLO: Just do them
13 all.

14 DIRECTOR ANTHONY: Okay. And then for
15 the provisional hours, we would be open Tuesday,
16 February 7th through Thursday, March the 1st, Monday
17 through Friday, from 8:00 a.m. to 5:00 p.m. On
18 Friday, March the 2nd, from 8:00 a.m. to 6:00 p.m.
19 Saturday, February the 25th, from 8:00 a.m. to 12
20 noon. And then Monday, March the 5th, from eight
21 o'clock a.m. to 5:00 p.m. And then Tuesday, March
22 the 6th, Election Day, 6:30 a.m. to 7:30 p.m. And we
23 would need a motion if the Board agrees to these
24 hours.

1 CHAIRMAN PREISSE: Those are
2 substantially similar to what we've done in the past.

3 DEPUTY DIRECTOR WALCH: That's right.

4 DIRECTOR ANTHONY: It's real similar to
5 what we had the last presidential election cycle,
6 except we had two Saturdays then and we have one
7 Saturday this time.

8 DEPUTY DIRECTOR WALCH: Just to be clear,
9 too, these are just for the primary election --

10 DIRECTOR ANTHONY: Yes.

11 DEPUTY DIRECTOR WALCH: -- on March 6th.

12 DIRECTOR ANTHONY: Yes. And they follow
13 the directive from the Secretary of State,
14 particularly with that Friday, March the 12th, the
15 last day of in-person voting, the Secretary of State
16 said we could stay open until 6:00 p.m. So on the
17 last day, we'll stay open until 6:00 p.m.

18 DEPUTY DIRECTOR WALCH: On March 2nd.

19 DIRECTOR ANTHONY: On March 2nd for
20 absentee voting, in-person absentee. And we will be
21 open President's Day, that's included in those dates,
22 and President's Day is February the 20th.

23 DEPUTY DIRECTOR WALCH: 20th.

24 CHAIRMAN PREISSE: Is that on here or is

1 that just sort --

2 DIRECTOR ANTHONY: No.

3 CHAIRMAN PREISSE: -- of an
4 administrative decision that you guys --

5 DIRECTOR ANTHONY: It's kind of implied
6 in there, but I just wanted to let everyone know that
7 there is a national holiday in there.

8 BOARD MEMBER MARINELLO: Mr. Chairman, I
9 move that the Board adopt the hours set forth in
10 Exhibit H as the times at which the Board will be
11 open at Memorial Hall to allow for absentee and
12 provisional voting for the March 6th, 2012 primary
13 election.

14 DIRECTOR ANTHONY: Is there a second?

15 BOARD MEMBER COLLEY: Second.

16 DIRECTOR ANTHONY: All those in favor,
17 say aye.

18 BOARD MEMBERS: Aye.

19 DIRECTOR ANTHONY: Motion carries.

20 And we will discuss President's Day, we
21 could probably do that now. In observance of
22 President's Day, which is February the 20th, the
23 Board is recommending that we stay open on that day
24 and that we allow our employees to take Friday,

1 May 25th, as their President's Day. And that they
2 also, the employees each be provided with eight hours
3 of comp time, because if they would have worked on
4 February 20th they would have received double time
5 and it would have been paid double time.

6 CHAIRMAN PREISSE: Well, they are going
7 to be working on February 20th.

8 DIRECTOR ANTHONY: Yes.

9 CHAIRMAN PREISSE: But they're not going
10 to be paid additional.

11 DIRECTOR ANTHONY: But they will get that
12 eight hours of comp time that they can use however
13 they want to use it and they will basically observe
14 President's Day on February 25th.

15 DEPUTY DIRECTOR WALCH: May 25th.

16 DIRECTOR ANTHONY: May 25th. Thanks,
17 Dana.

18 BOARD MEMBER MARINELLO: Mr. Chairman, I
19 move that the Board office remain open on President's
20 Day, Monday, February 20th, 2012, and that the Board
21 office instead close on Friday, May 25th, and that
22 the Board provide each employee working on Monday,
23 February 20th, 2012, eight additional hours of comp
24 time for working on a scheduled holiday.

1 DIRECTOR ANTHONY: Is there a second?

2 BOARD MEMBER COLLEY: Second.

3 DIRECTOR ANTHONY: All those in favor,
4 say aye.

5 BOARD MEMBERS: Aye.

6 DIRECTOR ANTHONY: Last, but not least,
7 we have to do -- due to the League of Women Voters'
8 lawsuit against the Secretary of State and the Board
9 of Elections, we have to submit an Election
10 Administration Plan.

11 We hired the services of Babbage Simmel
12 to come in and prepare that pamphlet. They worked
13 with us most of the year in preparing the plan. We
14 also had them make our plan pretty much a standard
15 operating procedure for the Board, so our plan is a
16 lot more exhaustive than what the LWV, League of
17 Women Voters, is requiring from us. But the Board
18 has to approve this plan.

19 And we also have, here in the audience,
20 David Wirick and Ed Jaeger, both from Babbage Simmel,
21 and they can, if you would like, they can come and
22 talk about all the work that we've put in preparing
23 this administration plan/standard operating
24 procedures.

1 MR. WIRICK: Chairman Preisse, Members of
2 the Board, this initiative that Bill's talked about
3 began about a year ago with discussions between
4 myself and Matt Damschroder. We finally began the
5 engagement in April. And, initially, we focused on
6 meeting the direct requirements of the Secretary of
7 State for an Election Administration Plan.

8 It later became clear that documenting
9 all of the processes of the Board, creating standard
10 operating procedures, providing a basis for
11 additional training, and a basis for knowledge
12 transfer from existing staff to new staff as staff
13 retire would be a document that would be useful to
14 the Board.

15 We got started in April or so. The
16 document that you have now, I think well exceeds the
17 minimum requirements of the Secretary of State.
18 Those minimum requirements actually became a bit of a
19 challenge last Friday when a new directive was issued
20 by the Secretary of State that really slimmed down
21 the requirements asked of boards of elections, but it
22 required an outline that wasn't in the format we had
23 been working on, which caused us to spend a fair
24 amount of time, over the past weekend, putting things

1 into a format that both met the current directive of
2 the Secretary of State and allowed us to submit the
3 information that you have in front of you. The
4 Secretary of State was very clear to say that boards
5 of elections could exceed the minimum requirement and
6 the minimum that was asked for.

7 So what you have here is a document that
8 produces a timeline of the activities leading up to
9 an election. And I apologize and I apologized to my
10 graphic artist, as well, it doesn't show in its full
11 glory. If we put it on one page and blow it up in
12 poster-size, it's really quite an interesting
13 document.

14 What we've got are section summaries that
15 provide the information that's requested by the
16 Secretary of State. We've got detailed analysis of
17 19 different processes engaged in by the Board of
18 Elections to put on an election, all the way from
19 maintenance in testing voting machines, voter
20 registration, challenge of the right to vote, the
21 processes that you engaged in this afternoon are also
22 included there. There's a glossary with definitions
23 of key terms and the forms that are related to an
24 election as well.

1 That document, as Bill indicated,
2 requires your approval for submission to the
3 Secretary of State by Friday. It has been reviewed,
4 the document, by the staff and the Executive
5 Director, and I think Mr. Walch has reviewed at least
6 parts of that document, although being that he's
7 relatively new, he probably hasn't had a chance to do
8 it all.

9 So that's where we are. We're quite
10 proud of the document. We think it provides good
11 documentation of all processes, how the Board of
12 Election works. I think if any person were to spend
13 any time with that document, they would clearly walk
14 away with the opinion that the processes here are
15 well thought-out and well managed and well followed.

16 Lastly, I'd just like to say it's been a
17 pleasure working with Bill and Nathan and, more
18 recently, Dana, and the staff of the Board. They are
19 highly competent, dedicated, and were very
20 cooperative and very patient with me as I tried to
21 document all these procedures. And there you have
22 it.

23 I'm prepared to answer any questions you
24 might have about the document you have in front of

1 you or the process we went through to get where we
2 are. I think this will be the benchmark document for
3 an Election Administration Plan for the remainder of
4 the state.

5 CHAIRMAN PREISSE: For the remaining
6 what?

7 MR. WIRICK: For the remainder of the
8 counties in the state of Ohio.

9 CHAIRMAN PREISSE: It's quite a lengthy
10 document.

11 Bill, you've been -- Dana hasn't been
12 here very long, though I'd be surprised if there's
13 anything in here he's not somewhat familiar with
14 based on his background, but do you want to make
15 comments on it?

16 DIRECTOR ANTHONY: This has been --
17 they've been really great to work with. I read
18 through the whole document at least a couple times
19 and it is well put together. I submitted the EAP
20 plan last year and we had something like
21 500-and-some-odd pages of mishmashed stuff that
22 Babbage Simmel, I'm sure will tell you, it was just a
23 lot of stuff all over the place.

24 And this document really streamlines it

1 and is really easy reading, it's really easy to
2 follow, it highlights what our procedures are and
3 highlights what rules and directives and laws that we
4 have to -- that we have to follow. And then it does
5 a step-by-step of how we do things. And then in a
6 lot of cases it does the schematics of the workflow
7 which I think is just great. And that timeline, if
8 you ever want to see it, Dana and I have it blown up
9 in our offices, 3-foot-long --

10 CHAIRMAN PREISSE: The cover document in
11 the front, is that what you're referencing?

12 DIRECTOR ANTHONY: Yeah, the first two
13 pages. We blew that timeline up so that you can see
14 it really well. And I cannot express enough how
15 grateful I am to the staff for having the patience
16 this busy year to take the time to work with David to
17 get this thing finished.

18 And it took a lot of time. He spent many
19 hours over here with our managers and other employees
20 picking their brains, making sure that what's in that
21 book makes sense, and it's a good book. And I do
22 agree that this -- we can share this as a standard
23 for other counties, and that was part of our impetus
24 of doing it is to be able to share it with other

1 counties.

2 You guys will all need to sign it. I got
3 to pass it around. If you approve it, you need to
4 sign this document. We would like for you to sign
5 the front page of one of the documents.

6 DEPUTY DIRECTOR WALCH: I got one right
7 here.

8 DIRECTOR ANTHONY: So sign the front page
9 of one of them by your name, and I also need you to
10 sign this document so we can submit it to the
11 Secretary of State's office.

12 MR. WIRICK: I should point out there is
13 one section of that document that is not a public
14 document. There is a security section in the
15 Election Administration Plan. There are two
16 documents attached there. One is a general document
17 which identifies the Secretary of State's security
18 requirements, and the other are the processes engaged
19 in by the Franklin County Board of Elections. That
20 has not been deemed to be a public document by the
21 Secretary of State, so we've made that notation in
22 there as well.

23 DIRECTOR ANTHONY: And we'll put this
24 document on our report, we're not going to try and

1 print a bunch of these, and we'll revise it yearly.

2 MR. WIRICK: And if there's any other
3 positive news we could relate, we came in
4 substantially under the budget that you authorized
5 for the project.

6 DIRECTOR ANTHONY: If there's no other
7 questions, we'll accept a motion.

8 BOARD MEMBER MARINELLO: Mr. Chairman, I
9 move the Board adopt the Election Administration Plan
10 developed by the BOE staff and that this plan be
11 submitted to the Ohio Secretary of State's office as
12 required by Directive 2011-47.

13 DIRECTOR ANTHONY: And I would like to
14 add to that motion the work that Babbage Simmel did
15 on this, if we could, to reflect that we worked
16 closely with them on that, if I may add that to the
17 motion.

18 BOARD MEMBER MARINELLO: Yes, you may.

19 DIRECTOR ANTHONY: Is there a second?

20 BOARD MEMBER MANIFOLD: I'll second.

21 DIRECTOR ANTHONY: All those in favor,
22 say aye.

23 BOARD MEMBERS: Aye.

24 DIRECTOR ANTHONY: I hereby sign it and I

1 will pass it around. Thank you.

2 CHAIRMAN PREISSE: Thank you.

3 DIRECTOR ANTHONY: That's it.

4 BOARD MEMBER MARINELLO: Mr. Chairman, if
5 I may --

6 DIRECTOR ANTHONY: Yes.

7 BOARD MEMBER MARINELLO: -- I would like
8 to hear the motion, all this talking about things,
9 we're not sure if we actually did the motion to
10 certify the write-in candidates to the ballot on
11 Exhibit C.

12 BOARD MEMBER MANIFOLD: I think I made
13 the motion.

14 (Record read.)

15 DEPUTY DIRECTOR WALCH: That's correct.

16 BOARD MEMBER MARINELLO: Okay.

17 DIRECTOR ANTHONY: Mr. Chairman, that's
18 all I have.

19 Motion to adjourn?

20 BOARD MEMBER MARINELLO: Mr. Chairman, I
21 move to adjourn.

22 DIRECTOR ANTHONY: Is there a second?

23 BOARD MEMBER COLLEY: Second.

24 CHAIRMAN PREISSE: It's seconded.

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DIRECTOR ANTHONY: All those in favor,
say aye.

BOARD MEMBERS: Aye.

DIRECTOR ANTHONY: We stand adjourned.

(Thereupon, the proceedings concluded at
4:41 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, January 4, 2012, and carefully compared with my original stenographic notes.

Carolyn M. Burke, Registered Professional Reporter, and Notary Public in and for the State of Ohio.

My commission expires July 17, 2013.

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