

ELECTIONS COMMISSION

Meeting Minutes
February 13, 2013

ROLL CALL

PRESENT: Chair Michael Smith, Vice-Chair Erica Cosgrove, Commission Members Rolanda Pierre-Dixon and Leon Louie

ABSENT: Commission Member Linda Edgeworth (could not connect via teleconference)

STAFF: Investigators/Evaluators Joan Cassman and Steven Miller, Senior Deputy City Attorney Sandra Lee, Acting City Clerk Toni Taber and Deputy City Clerk Cecilia McDaniel

OTHER: Noelia Espinola, Court Reporter with Advantage Reporting Services

ORDER OF BUSINESS

I. CALL TO ORDER

The members of the San José Elections Commission convened at 5:40 p.m. in Room W-262 of City Hall, 200 E. Santa Clara Street, CA 95113.

II. ADOPTION OF THE AGENDA

Action: Upon a motion by Commissioner Rolanda Pierre-Dixon, and seconded by Commissioner Leon Louie, the Commission approved the adoption of the January 24, 2013 agenda. Vote (4-0-1; Commissioner Linda Edgeworth absent)

III. PUBLIC COMMENT – None

IV. CLOSED SESSION – None

V. APPROVAL OF MINUTES

A. October 30, 2012 – Special Meeting

Document Filed: Draft Elections Commission Minutes for the October 30, 2012 Special Meeting.

Discussion: The Commission reviewed the minutes.

Action: Upon a motion by Vice-Chair Cosgrove, and seconded by Commissioner Rolanda Pierre-Dixon, the Commission approved the meeting minutes from October 30, 2012. Vote (4-0-1; Commissioner Linda Edgeworth absent)

B. January 9, 2013 – Regular Meeting

Discussion: Chair Michael Smith informed the Commission that the draft meeting minutes from January 9, 2013 were not completed in time for posting.

Action: Per the request by Acting City Clerk Toni Taber, the approval of the January 9, 2013 meeting minutes are deferred to the next Elections Commission meeting, currently scheduled for March 13, 2013.

VI. REPORTS

- A. Chair – Chair Michael Smith acknowledged Vice-Chair Erica Cosgrove’s last meeting and thanked her for her service to the Elections Commission. Chair Smith also announced the results of the recent recruitment to fill the two vacancies on the Commission; Chair Michael Smith was reappointed and Chris Peacock was appointed to fill the other vacancy.
- B. City Attorney – None
- C. City Clerk – None
- D. Investigator/Evaluator – None

VII. ITEMS SCHEDULED FOR ACTION

- A. Continuation of hearings held on January 24, 2013 on the following related complaints:
 - 1. Complaint filed by John Daley on October 10, 2012 alleging violations of the San José Municipal Code by Jimmy Nguyen, candidate for Council District 8. (Independent Investigator/Evaluator)
 - 2. Complaint filed by Dennis Hawkins on October 26, 2012 alleging violations of the San José Municipal Code by Crema Coffee Co., et al. (Independent Investigator/Evaluator)
 - 3. Complaint filed by Dennis Hawkins on November 16, 2012 (and amended on December 7, 2012) alleging violations of the San José Municipal Code by Friends of Jimmy Nguyen, et al. (Independent Investigator/Evaluator)

Documents Filed: 1) Report Number 1 from Hanson Bridgett LLP dated January 3, 2013 regarding John Daley v. Jimmy Nguyen Complaint filed October 10, 2012; 2) Report Number 2 from Hanson Bridgett LLP dated January 3, 2013 regarding Dennis Hawkins v. Crema Coffee Company, et al. Complaint filed October 26, 2012; 3) Report Number 3 from Hanson Bridgett LLP dated January 3, 2012 regarding Dennis Hawkins v. Friends of Jimmy Nguyen, et al. Complaint filed December 7, 2012 (as amended); 4) Report Exhibits; 5) Report Appendix; 6) Response to Evaluators Report Number 1 from Richard Robinson, Attorney for Respondent Jimmy Nguyen, dated January 8, 2013; 7) Response and Objection to Report Number 3 from Tam Nguyen, Attorney for Respondents Tho Nguyentan and Thien L. Huynh dated January 8, 2013; 8) Supplemental to Report Number 3 from Hanson Bridgett LLP dated January 18, 2013 regarding Dennis Hawkins v. Friends of Jimmy Nguyen, et al. Complaint filed December 7, 2012 (as amended);

9) Memorandum from Richard Doyle, City Attorney, dated January 24, 2012 regarding Response to Evaluator Report No. 3 – Procedural Issues; 10) E-mail from Jimmy Nguyen dated September 15, 2012 thanking Tony Dinh, Tho Nguyentan, Duc Lam and Dung Tran for their help with the space; 11) Letter from Jimmy Nguyen dated February 11, 2013 to the San José Elections Commission; 12) Letter from Tho Nguyentan to the San José Elections Commission regarding ; 13) Letter from Thien Huynh dated February 8, 2013 to the Elections Commission regarding banner payment; 14) Letter from the San José Elections Commission dated January 31, 2013 to Jimmy Nguyen requesting additional information and presence at meeting; 15) Letter from the San José Elections Commission dated January 31, 2013 to Tho Nguyentan requesting additional information and presence at meeting; 16) Letter from the San José Elections Commission dated February 1, 2013 to Duc Lam requesting additional information and presence at meeting; 17) Letter from the San José Elections Commission dated February 1, 2013 to Dung Tran requesting additional information and presence at meeting; 18) Letter from Hanson Bridgett LLP dated February 6, 2013 to Dung Tran and Duc Lam requesting additional information and presence at meeting; 19) Response from Duc Lam and Dung Tran dated February 8, 2013 to the San José Elections Commission; 20) E-mail from Duc Lam dated September 22, 2012 requesting group to stop communications with Jimmy Nguyen; 21) E-mail from Duc Lam dated September 26, 2012 to group in Vietnamese; 22) Printed and digital pictures of Jimmy Nguyen submitted by Duc Lam; 23) Video clip of Jimmy Nguyen dated September 16, 2012 submitted by Duc Lam; and 24) Transcript of Hearings dated February 13, 2013, Reported by Noelia Espinola, CSR, License Number 8060, Advantage Reporting Services, No. 41408, pages 1 through 123.

Discussion: Chair Michael Smith summarized the hearing procedures and opened the public hearings. Chair Smith explained to the Commission and members of the public that this was the continued hearing of the three related complaints; the hearings were first heard by the Commission on January 24, 2013.

Chair Michael Smith informed the Commission and members of the public that Commission Leon Louie was absent on January 24, 2013, the initial hearing date of these complaints. Commissioner Leon Louie confirmed that he listened to the complete testimony made at the January 24, 2013 hearing and reviewed all of the evidence in the record; therefore, was allowed to participate in the continued hearings.

Chair Michael Smith introduced staff and identified which respondents and complainants were present. Chair Smith gave a briefing of the John Daley v. Jimmy Nguyen Complaint (Complaint 1), the Dennis Hawkins v. Crema Coffee Company, et al. Complaint (Complaint 2) and the Dennis Hawkins v. Friends of Jimmy Nguyen, et al. Complaint (Complaint 3).

Chair Michael Smith informed the parties to the Complaints and the members of the public that the Commission found, at the first hearing held on January 24, 2013, that there was sufficient evidence to establish that no violation occurred

relative to: Complaint 1, Issues 1, 2, 3 and 4B as well as Complaint 2. However, the Commission did not adopt a resolution on those findings at the last meeting so this will be done at this hearing. Chair Smith also advised that the Commission was unable to reach a conclusion relative to Complaint Number 1, Issue 4A and Complaint 3 so requested additional information be provided and attendance from certain respondents to the aforementioned complaints at this continued hearing date.

Respondents Duc Lam and Dung Tran submitted additional evidence into the record (listed as item nos. 20 through 23 under Documents Filed). The Commission deliberated and received clarification from Investigator/Evaluator Joan Cassman on certain issues. (See transcript for complete testimony.)

After being sworn in by Chair Michael Smith, testimony was presented by Respondent Duc Lam; Richard Robinson, Attorney for Respondent Jimmy Nguyen; Respondent Dung Tran; Respondent Tho Nguyentan; and Respondent Jimmy Nguyen. (See transcript for complete testimony.) The Commission and Investigator/Evaluator Joan Cassman responded to and asked question of those who testified. The Commission deliberated.

Action: Upon a motion by Chair Michael Smith, seconded by Commissioner Rolanda Pierre-Dixon, the Commission found that there is no violation by the respondents in Complaint 3 (Dennis Hawkins v. Friends of Jimmy Nguyen, et al.) with regard to establishing and filing the appropriate forms for an independent campaign committee. Vote (4-0-1; Commissioner Linda Edgeworth absent)

Action: Upon a motion by Chair Michael Smith, seconded by Commission Rolanda Pierre-Dixon, the Commission found that there is at least one violation by the Jimmy Nguyen campaign for Complaint 1, Issue 4A, with regard to failing to report contributions and receiving contributions in excess of the limit established by San José Municipal Code sections 12.06.120 and 12.06.910. Vote (4-0-1; Commissioner Linda Edgeworth absent)

Each Commissioner certified that he or she personally heard the testimony at the hearing and reviewed the entire evidence in the record.

Chair Smith	So certified
Vice-Chair Cosgrove	So certified
Commissioner Pierre-Dixon	So certified
Commissioner Louie	So certified
Commissioner Edgeworth	Absent

Action: Upon a motion by Chair Michael Smith, seconded by Commission Rolanda Pierre-Dixon, the Commission required that Jimmy Nguyen campaign committee file an amended Form 460 to report the expenditures that were made for the: office on White Road; the various campaign swag, including the sign outside the office; the expenses enumerated in the memos provided by Mr. Lam and Ms. Tran dated February 8, 2013; the expenses enumerated in the statement

from Mr. Tho Nguyentan received on February 13, 2013; and the amount expressed through testimony regarding the sign at the January 24, 2013 meeting. The Jimmy Nguyen campaign committee shall immediately return any excess contributions that are found to the contributor and shall pay the unpaid expenditure of \$320 for the newspaper advertisement. The aforementioned actions shall be made within 30 days of mailing of the City Clerk's notice. If corrective action is taken within this time frame, the violation will be deemed nullified. Vote (4-0-1; Commissioner Edgeworth absent)

Each Commissioner certified that he or she personally heard the testimony at the hearing and reviewed the entire evidence in the record.

Chair Smith	So certified
Vice-Chair Cosgrove	So certified
Commissioner Pierre-Dixon	So certified
Commissioner Louie	So certified
Commissioner Edgeworth	Absent

Action: Upon a motion by Commissioner Pierre-Dixon, seconded by Commissioner Louie Leon, the Commission directed the City Attorney to draft resolutions of the Commission's findings and penalties for Complaint 1 (John Daley v. Jimmy Nguyen), Complaint 2 (Dennis Hawkins v. Crema Coffee Co., et al.) and Complaint 3 (Dennis Hawkins v. Friends of Jimmy Nguyen, et al.) in their entirety and that the Commission authorized the Chair to approve and sign the resolutions. Vote (4-0-1; Commissioner Linda Edgeworth absent)

- B. Discussion and action on scheduling a Special Elections Commission meeting. (City Clerk)

Action: No action taken.

- C. Discussion and action on possible areas of concern found through compliance monitoring, cumulative results of investigations and Council referrals with regard to campaign and ethics regulations per 2012-13 work plan, including:

1. Identification and prioritization of areas of concern -

Document Filed: Memorandum from Acting City Clerk Toni J. Taber dated February 8, 2013 to the Elections Commission regarding updated potential items for discussion with respect to the changes to the Municipal Code.

Discussion: Acting City Clerk Toni Taber reviewed the memorandum with the Commission and informed the Commission of the revisions made from the last Elections Commission meeting. Chair Michel Smith requested that language identifying the Elections Commissions jurisdiction be added to the relevant sections of the San José Municipal Code.

Action: No action taken.

2. Approval of timeline for identifying and addressing areas of concern -

Document Filed: Draft schedule for identifying and addressing areas of concern authored by Chair Michael Smith.

Discussion: Chair Michael Smith explained the draft schedule for implantation of the San José Municipal Code Title 12 changes to the Commission. Chair Michael Smith suggested the prioritization of the issues be done after the Stakeholder Outreach meeting. The Commission discussed the schedule.

Action: Upon a motion by Vice-Chair, seconded by Commissioner Leon Louie, the Commission approved the schedule for identifying and addressing areas of concern as authored by Chair Michael Smith. Vote (4-0-1; Commissioner Linda Edgeworth absent)

3. Creation of an Elections Commission Sub-Committee -

Discussion: Chair Michael Smith explained the need for a Sub-Committee.

Action: Upon a motion by Chair Michael Smith, seconded by Vice-Chair Erica Cosgrove, the Commission elected Chair Michael Smith and Commissioner Pierre-Dixon to an Elections Commission Sub-Committee to work with staff to prepare for the Stakeholder Outreach with regards to the proposed changes to Title 12 of the San José Municipal Code. Vote (4-0-1; Commissioner Linda Edgeworth absent)

VIII. ITEMS SCHEDULED FOR INFORMATION OR DISCUSSION

- A. Status of compliance with Commission resolutions. (City Clerk)

Discussion: Acting City Clerk Toni Taber informed the Commission that the public statement regarding the conduct of the Silicon Valley Republican Women was not located. Chair Michael Smith suggested that a new statement could be issued and approved by the Elections Commission if needed.

- B. Status of proposed changes to the Gift Ordinance. (City Attorney)

Discussion: Senior Deputy City Attorney Sandra Lee informed the Commission that the City Attorney's Office is actively working on revisions to the Gift Ordinance. Attorney Lee and the Commission discussed possibly changing the City's Gift Ordinance to be more closely aligned with Fair Political Practices regulations.

IX. MEETING SCHEDULE AND AGENDA ITEMS

The next Regular Meeting is Wednesday, March 13, 2013 at 5:30 p.m.

- Stakeholder Outreach
- Hearing on new Complaint
- Compliance monitoring – Consideration of issues arising from prima facie review of campaign finance and other required disclosures per 2012-13 work plan
- Status of Commission resolutions
- Status of proposed changes to the Gift Ordinance


X. ADJOURNMENT

The meeting was adjourned at approximately 8:37 p.m.



MICHAEL SMITH, CHAIR

ATTEST:
ELECTIONS COMMISSION SECRETARY



TONI J. TABER, CMC
ACTING CITY CLERK

Attachment: Transcript of Hearings dated February 13, 2013, Reported by Noelia Espinola, CSR, License Number 8060, Advantage Reporting Services, No. 41408, pages 1 through 123.

REPORTER'S TRANSCRIPT OF
PROCEEDINGS

Taken on February 13, 2013

SAN JOSE ELECTIONS COMMISSION
SPECIAL MEETING

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CONDENSED TRANSCRIPT

Advantage Reporting

ARS

Services, LLC

1083 Lincoln Ave.
San Jose, CA 95125
Phone 408-920-0222
Fax 408-920-0188

REPORTER'S TRANSCRIPT OF PROCEEDINGS

<p>SAN JOSE ELECTIONS COMMISSION SPECIAL MEETING</p> <p>REPORTER'S TRANSCRIPT OF PROCEEDINGS</p> <p>Date: Wednesday, February 13, 2013</p> <p>Time: 5:40 p.m.</p> <p>Location: San Jose City Hall 200 E. Santa Clara Street City Hall Wing - Room W262 San Jose, CA 95113</p> <p>Reported By: Noelia Espinola, CSR License Number #8060</p> <p>#44591</p>	<p>Page 3</p> <p>1 2 INDEX OF WITNESSES 3 Page 4 5 DUC LAM 33 6 DUNG TRAN 45 7 THO NGUYENTAN 50 8 RICHARD ROBINSON 62 9 JIMMY NGUYEN 62 10 TERRY RILEY 79 11 12 --o0o-- 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>Page 2</p> <p>1 2 APPEARANCES 3 4 San Jose Elections MICHAEL SMITH, Chair Commission: ERICA COSGROVE, Vice-Chair 5 ROLANDA PIERRE-DIXON LEON LOUIE 6 7 8 Staff: SANDRA LEE, Deputy City Attorney 9 TONI TABER, Acting City Clerk 10 11 CECILIA McDANIEL, Deputy City Clerk 12 13 The Reporter: ADVANTAGE REPORTING SERVICES BY: NOELIA ESPINOLA, 14 CSR #8060 1083 Lincoln Avenue 15 San Jose, CA 95125 (408) 920-0222 16 17 18 --o0o-- 19 20 21 22 23 24 25</p>	<p>Page 4</p> <p>1 PROCEEDINGS 2 3 CHAIRPERSON SMITH: I'll call this to order. 4 Need a motion to adopt the agenda. 5 COMMISSIONER PIERRE-DIXON: I would move that 6 we adopt the agenda. This is Rolanda. 7 COMMISSIONER LOUIE: I second. 8 CHAIRPERSON SMITH: Thank you. 9 Okay. Any comments or discussion? 10 Okay. All in favor? 11 (Three Commissioners responded Aye.) 12 CHAIRPERSON SMITH: Any opposed? 13 No one opposed. It passes unanimously. I 14 forgot to say Aye, so it is unanimous. 15 Okay. Public comment. Is there anybody here 16 who would like to speak on anything that is not on 17 tonight's agenda? This is only for things not on the 18 agenda. Okay. 19 (Discussion off the written record.) 20 CHAIRPERSON SMITH: We'll do that when we get 21 to the hearing. 22 Okay. Next item is approval of minutes. We 23 got minutes from the October 30 special meeting. The 24 January minutes are showing again that they weren't 25 prepared on time, so we've only got the one.</p>

REPORTER'S TRANSCRIPT OF PROCEEDINGS

1 MS. TABER: We'd like to defer those to the
2 next meeting.
3 CHAIRPERSON SMITH: Okay. So we'll defer
4 January 9th to the next meeting. And hopefully
5 everybody has had a chance to review the October 30th.
6 Any comments or corrections or anything?
7 If not, somebody can give me a motion.
8 VICE-CHAIR COSGROVE: I move that we approve
9 the October minutes.
10 COMMISSIONER PIERRE-DIXON: I would second.
11 CHAIRPERSON SMITH: Okay. Thank you.
12 All in favor?
13 (All Commissioners responded Aye.)
14 CHAIRPERSON SMITH: Any opposed?
15 So that's unanimous. Among the four of us,
16 anyway. Commissioner Edgeworth is still not with us.
17 Okay. Reports. Just briefly, I think
18 everybody on the Commission knows that -- I should
19 mention -- this music is annoying me -- this is
20 Commissioner Cosgrove's last meeting. Her term --
21 actually, her term and my term both expire at the end
22 of this month. She chose not to reapply.
23 But I really want to thank you personally for
24 your good work, hard work, for the last -- I guess it's
25 been four years.

1 VICE-CHAIR COSGROVE: Four years.
2 CHAIRPERSON SMITH: Or did you have a partial
3 term before then?
4 VICE-CHAIR COSGROVE: Full term.
5 CHAIRPERSON SMITH: Full term of four years.
6 And we will certainly miss your contribution and you
7 personally.
8 VICE-CHAIR COSGROVE: Thank you. I'll miss
9 you all too.
10 CHAIRPERSON SMITH: And yesterday counsel
11 took action on appointments. I have applied for
12 reappointment, and I was reappointed. And Chris
13 Peacock, who is sitting back there, will, as of March
14 1st, be our new commissioner. He's, obviously,
15 observing tonight.
16 And that is all I've got. Anything else
17 before we get on to the hearing? City attorney or city
18 clerk?
19 MS. LEE: Nothing to report.
20 MS. TABER: You already reported what I was
21 going to report.
22 CHAIRPERSON SMITH: Okay. So we are into the
23 complaint. And let me get my materials here.
24 I got some stuff that I need to go through as
25 we get started. Okay. And we are -- and we are

1 recording on the record.
2 Okay. It is Wednesday, February 13th, 2013,
3 and this hearing of the City of San Jose Elections
4 Commission is being held in Room W-262 of the San Jose
5 City Hall. This is a continuation of a hearing held on
6 January 24th, 2013, for three interrelated complaints.
7 All members of the Commission are present except for
8 Commissioner Linda Edgeworth, who will, I think, be
9 joining us via teleconference.
10 Commissioner Leon Louie was absent at the
11 earlier hearing, but under the Commission's regulations
12 and procedures he is permitted to participate in these
13 deliberations if he has listened to a recording or read
14 the transcript of the testimony at the earlier hearing
15 and has reviewed all of the evidence in the record.
16 At this time I will ask Commissioner Louie to
17 confirm that he has met these requirements.
18 COMMISSIONER LOUIE: I have listened. I did
19 not receive a transcript, but I did listen to the
20 complete three and a half hours.
21 CHAIRPERSON SMITH: Okay. Thank you.
22 The three complaints being addressed in this
23 hearing are:
24 First, a complaint filed on October 10th,
25 2012, by John Daley alleging campaign violations by

1 Jimmy Nguyen. Specifically, the allegation is that
2 Jimmy Nguyen has violated city fundraising limits,
3 improperly received reimbursements for candidate filing
4 fees, received unreported in-kind donations and
5 established an unreported campaign headquarters and
6 unreported campaign committees.
7 Second is a complaint filed on October 26th,
8 2012, by Dennis Hawkins alleging that Crema Coffee
9 Company, LLC, Crema Coffee Fairmont and any related
10 entities and their owners, Dung Tran, Kim-Dzung Lam,
11 Ngoc-Dzung Lam and Duc Lam, have violated Title 12 of
12 the San Jose Municipal Code. Specifically, the
13 allegation is that the respondent potentially made
14 campaign contributions in excess of contribution limits
15 and failed to report non-monetary contributions.
16 Third is a complaint filed on November 16th,
17 2012, and amended on December 7th, 2012, by Dennis
18 Hawkins alleging that Friends of Jimmy, Friends of
19 Jimmy Nguyen, Friends of Evergreen for Public Safety,
20 Tho Nguyentan, John Le, Ban Van Vu, Huynh Luong Thien
21 and/or other unknown individuals or entities have
22 violated Section 12 of the San Jose Municipal Code.
23 Specifically, the allegation is that the respondents
24 formed an independent campaign without the necessary
25 campaign disclosure statements.

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1 This hearing is open to the public. It is
 2 being electronically recorded, and we have a court
 3 reporter with us to compile a transcript.
 4 At this time I would like to have John Daley
 5 and Dennis Hawkins, the complainants, identify
 6 themselves if they are here. And neither of the
 7 complainants is here.
 8 And I would also like to have the respondents
 9 and/or their representatives identify themselves, if
 10 they would.
 11 If we can start back with those who were
 12 named who are here. If you can identify yourselves.
 13 MS. TRAN: Dung Tran.
 14 CHAIRPERSON SMITH: Thank you.
 15 MR. NGUYENTAN: Tho Nguyentan.
 16 CHAIRPERSON SMITH: Thank you.
 17 MR. VU: Ban Vu.
 18 CHAIRPERSON SMITH: Okay. Thank you. And --
 19 MR. ROBINSON: Rich Robinson for Jimmy
 20 Nguyen. And Jimmy Nguyen is present here.
 21 CHAIRPERSON SMITH: Okay. Did I miss anyone?
 22 Okay. Thank you.
 23 I would also like to have city staff and
 24 representatives Hanson Bridgett -- representatives of
 25 Hanson Bridgett, the Commission's Independent

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1 Evaluator, please identify themselves for the record.
 2 MS. CASSMAN: Joan Cassman with Hanson
 3 Bridgett.
 4 MS. LEE: Sandra Lee, city attorney's office.
 5 MS. TABER: Toni Taber, acting city clerk.
 6 MS. McDANIEL: Cecilia McDaniel, city clerk's
 7 office.
 8 CHAIRPERSON SMITH: Thank you.
 9 Okay. After taking testimony and
 10 deliberating on the matter at the hearing held on
 11 January 24th, 2013, the Commission made findings on
 12 some issues raised in the three complaints but
 13 determined that it was necessary to schedule a further
 14 hearing to receive additional testimony and evidence in
 15 order to make a finding on other issues.
 16 Specifically, the Commission found that there
 17 is sufficient evidence to establish that no violation
 18 occurred relative to the following issues:
 19 Complaint Number 1, Issue Number 1, coupled
 20 with Complaint Number 2, both addressing the Crema
 21 Coffee contributions.
 22 Complaint Number 1, Issue Number 2,
 23 campaign's reimbursement to candidate of filing fee.
 24 Complaint Number 1, Issue Number 3, failure
 25 of the candidate to report in-kind contributions.

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1 Complaint Number 1, Issue 4(b), failure of
 2 candidate to report formation of campaign committee.
 3 And the only reason that we mention those
 4 tonight is we did not adopt a resolution on those
 5 findings at the last hearing. So, once we're done with
 6 everything else, at the end of this hearing, we will
 7 adopt a resolution that addresses those. But we won't
 8 mention those particular issues anymore until we get to
 9 the resolution.
 10 The Commission was unable to reach a
 11 conclusion relative to Complaint Number 1, Issue 4(a),
 12 coupled with Complaint Number 3 -- both addressing
 13 expenditures by a group in support of Jimmy Nguyen's
 14 candidacy -- and determined that additional information
 15 was needed from Respondents.
 16 Accordingly, the following requests were
 17 made:
 18 Jimmy Nguyen was requested to appear at this
 19 hearing to answer questions in relation to the
 20 complaints and to provide all e-mails or other
 21 communications sent to or received from any of the
 22 individuals involved with the group that was involved
 23 in opening, maintaining or operating the campaign
 24 office at 3230 South White Road.
 25 Tho Nguyentan was requested to appear at this

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1 hearing to answer additional questions in relation to
 2 the complaints and to provide a list of expenditures
 3 made by members of the group that was involved in
 4 opening, maintaining or operating the campaign office
 5 at 3230 South White Road.
 6 And Dung Tran and Duc Lam were requested to
 7 appear at this hearing to answer questions in relation
 8 to the complaints.
 9 The formal rules of evidence do not apply to
 10 this hearing, but all testimony will be under oath or
 11 affirmation. The complainants will be treated like any
 12 other witness in providing evidence. The Chair may
 13 compel the testimony of witnesses and may compel the
 14 production of relevant documents to the Evaluator by
 15 subpoena. The use of subpoena powers may be used as a
 16 last resort, after good faith efforts to acquire the
 17 relevant information have failed and upon a finding
 18 that the information or testimony is essential for a
 19 determination in the matter. Witnesses may be excluded
 20 at the discretion of the Commission. Commission
 21 members may ask questions of witnesses or the Evaluator
 22 when recognized by the Chair.
 23 Under the Commission's regulations and
 24 procedures, the respondents may submit a written
 25 response to the Report and Recommendations. The

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<p style="text-align: center;">Page 13</p> <p>1 response may contain legal arguments, a summary of 2 evidence and any mitigating or exculpatory information. 3 The respondents must deliver the response and eight 4 copies to the City Clerk 24 hours in advance of the 5 Commission hearing, if possible. The respondents may 6 appear before the Commission personally or be 7 represented by counsel or any other person. 8 As of now, we've received the following 9 responses: 10 Richard Robinson submitted a written response 11 on behalf of Jimmy Nguyen, who is the respondent for 12 the first complaint, on January 8th, 2013. 13 Tam Nguyen submitted a written response on 14 behalf of Tho Nguyentan and Thien Luong Huynh, who are 15 respondents for the third complaint, on January 8th, 16 2013, and a supplemental response on January 23rd, 17 2013. 18 Those were all part of the record last time. 19 Since that time we've received three additional 20 responses or statements: Duc Lam and Dung Tran 21 submitted a written response on February 8th, 2013; 22 Jimmy Nguyen submitted a written response on 23 February 11, 2013; and Tho Nguyentan submitted a 24 written response on February 13th, 2013. 25 Do all the Commissioners and Staff have</p>	<p style="text-align: center;">Page 15</p> <p>1 arguments from the complainants nor other parties have 2 been received. Would the complainants or anyone else 3 like to submit a brief or written argument at this 4 time? 5 Yes? 6 MR. LAM: I want to submit this. 7 CHAIRPERSON SMITH: Oh, okay. Okay. 8 MR. LAM: I make copies. 9 CHAIRPERSON SMITH: How many copies do we 10 have? 11 MS. TRAN: We're missing a few. 12 MS. McDANIEL: Is that the same as those or 13 no? 14 MS. TRAN: Yes. 15 MS. McDANIEL: Okay. Perfect. 16 CHAIRPERSON SMITH: These are all the same? 17 COMMISSIONER PIERRE-DIXON: Yes, uh-huh. 18 CHAIRPERSON SMITH: Oh, okay. 19 MR. LAM: Excuse me. I have -- I also have a 20 DVD with a video on it. 21 CHAIRPERSON SMITH: Oh, okay. 22 MS. TABER: I think she either signed on or 23 it disconnected, because she hadn't signed on. 24 MS. McDANIEL: Shall I try again or no? 25 MS. TABER: No. Once the hearing starts, if</p>
<p style="text-align: center;">Page 14</p> <p>1 copies of these documents? 2 COMMISSIONER PIERRE-DIXON: Yes. 3 CHAIRPERSON SMITH: Have the complainants -- 4 well, the complainants aren't here. They are supposed 5 to receive copies also, and I believe they did receive 6 them by e-mail. Is that right? 7 MS. McDANIEL: Say it again. 8 CHAIRPERSON SMITH: Have the complainants, 9 Mr. Daley and Mr. Hawkins, received copies of these 10 responses? 11 MS. McDANIEL: We sent a letter to everyone 12 telling them to go ahead and keep checking the web site 13 and we'll post everything, because we knew we were 14 getting it so late that we wouldn't be able to get it 15 to them on time. 16 CHAIRPERSON SMITH: Thank you. 17 And do the respondents have any additional 18 written response at this time? 19 Okay. The complainant or any other 20 interested person may also submit a brief or written 21 argument 24 hours before the Commission convenes to 22 hear the complaint, if possible. The brief or written 23 arguments must be simultaneously provided to the 24 respondents. 25 As of this time, no briefs or written</p>	<p style="text-align: center;">Page 16</p> <p>1 she's not on, she can't join. 2 CHAIRPERSON SMITH: That's true. 3 MS. McDANIEL: Oh, okay. 4 CHAIRPERSON SMITH: Okay. So I can dispense 5 with this? 6 MS. TABER: Yeah. 7 MR. ROBINSON: Can we have copies of whatever 8 they're -- 9 CHAIRPERSON SMITH: Yeah, can we get copies 10 made? 11 MS. McDANIEL: This was the same. 12 CHAIRPERSON SMITH: Okay. These are all 13 pictures. Okay. This is the -- 14 COMMISSIONER PIERRE-DIXON: DVD. 15 MR. LAM: DVD of the pictures and also the 16 video. 17 CHAIRPERSON SMITH: Okay. There's a video. 18 What do we do with a video? Toni, we have a video on 19 DVD. 20 MS. TABER: Let me see. Let me see if I can 21 play it, and I can turn my computer. 22 CHAIRPERSON SMITH: Okay. So we have -- and 23 we're getting copies of this material for the others 24 that were here. 25 Okay. Let me get back to where I was. Okay.</p>

REPORTER'S TRANSCRIPT OF PROCEEDINGS

1 We will now proceed to consider the remaining issue,
 2 which is -- excuse me -- Complaint Number 1,
 3 Issue 4(a), coupled with Complaint Number 3, both
 4 addressing expenditures by the group -- what will be
 5 referred to as the "group."
 6 The Commission's regulations and procedures
 7 allow for the Independent Evaluator to present the
 8 Report and Recommendations. At this time I will ask
 9 Joan Cassman from the Hanson Bridgett law firm to
 10 briefly summarize the Reports relating to Complaint 1,
 11 Issue 4(a), and Complaint 3.
 12 The reason I'm doing this is because it's
 13 been three weeks since we were all together, and I
 14 think to briefly refresh is appropriate. And maybe
 15 this would be a good time also -- because I think it's
 16 going to be important -- if you can summarize the
 17 matter -- the definition of "coordination" for us. I
 18 think that's going to be important.
 19 MS. CASSMAN: Sure. Thank you.
 20 So we are -- we are left with needing to
 21 resolve one issue in the Daley complaint, as our Chair
 22 has described. And that is the allegation that the
 23 Jimmy Nguyen campaign failed to report expenditures
 24 associated with a campaign office. That was the
 25 allegation, at least.

1 And then there was -- as a result of
 2 investigation of that particular allegation early on --
 3 this is back in October and November -- it did come to
 4 our attention that there was a group of people who were
 5 avidly supporting Jimmy Nguyen, who looked like they
 6 were working in concert in some fashion and who had
 7 come forward to support the opening of the office.
 8 And it was -- we were peeling an onion at
 9 that point. We were finding out that there was a
 10 person, Mr. Tho Nguyentan, who had written the check
 11 for the rent for this office space on South White Road.
 12 There was June Tran, who had made utilities available.
 13 And other people were -- we were learning had been
 14 involved either in helping to defray costs and pay the
 15 actual bills for the utilities or who were supporting
 16 Mr. Nguyentan in reimbursing him for the \$990 lease.
 17 So we were starting to see that there were people
 18 that -- that seemed to be working in concert.
 19 So we -- we realized that we had an office
 20 now which was supported by a group, and the office had
 21 a series of costs that one would reasonably incur in
 22 running an office. There were utilities. We knew
 23 about that. We had pictures of the office that showed
 24 us that there were a lot of materials in the office.
 25 There were tables set up. There were T-shirts. And

1 there were just -- there were other accessories. And
 2 it wasn't clear to us who was responsible for making
 3 these payments.
 4 And the most important, then, issue was, was
 5 there any connection with the campaign. And that's
 6 really why we're here.
 7 And I think we have found -- we have gotten
 8 some very helpful additional information, which I have
 9 read. Didn't have time, since they came in this week,
 10 to give you a report, as required -- it's required,
 11 whenever we submit a report, to be three business days
 12 before your hearing so it could be disbursed to
 13 everyone. And the timing of our receipt of the
 14 statements certainly didn't allow us that. But I have
 15 reviewed them. And I thought that if you would like, I
 16 could -- I could give you at least my take on --
 17 CHAIRPERSON SMITH: We would very much
 18 appreciate that.
 19 MS. CASSMAN: -- what -- on what I was
 20 reading.
 21 So, fundamentally, we have a series of
 22 expenditures. And they were expenditures that appeared
 23 to be for the benefit of the Jimmy Nguyen campaign, and
 24 they appeared to be for the purpose of influencing
 25 others to vote for Jimmy Nguyen. I mean, so they

1 definitely are expenditures. The issue is, are they
 2 campaign expenditures. And if they're campaign
 3 expenditures, we must find that these expenditures were
 4 made at the behest of the candidate.
 5 And -- so let me just review with you what
 6 the FPPC regulations say is -- constitutes making an
 7 expenditure at the behest of the candidate. And there
 8 is no clear definition. It's a little bit like the
 9 U.S. Supreme Court's definition of "pornography." You
 10 know it when you see it. So there is a little bit of
 11 feel as to what is at the behest.
 12 But what the FPP regulations do tell us is
 13 that there are certain presumptions that you can make.
 14 Now, presumptions can be rebutted, but that there are
 15 certain presumptions that if it's made at the behest,
 16 it's made under the control or at the direction of, in
 17 cooperation, consultation, coordination or concert with
 18 the candidate and the presumption -- you can reach
 19 those conclusions, that there is coordination and
 20 consultation, if you assume certain presumptions and
 21 that the contribution was made at the behest of the
 22 candidate if it was based on information about the
 23 candidate's -- the candidate's campaign needs or plans
 24 provided to the expending person by the candidate for
 25 the committee or if the communication replicates,

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1 reproduces, republishes, disseminates, in whole or in
 2 substantial part, communications that are designed,
 3 produced and paid for and distributed by the candidate.
 4 So what we have here is kind of two ways
 5 of -- two possible avenues to find the presumption that
 6 it's based on information that the people making the
 7 expenditure draw from or get from the candidate. So
 8 there has to be communications with the candidate for
 9 that to occur, obviously. And then if -- if what is
 10 expended is producing communications and materials that
 11 basically replicate materials that the campaign is
 12 putting out.
 13 So that -- that's the presumption. And then
 14 it can be rebutted if you find evidence in the record
 15 which makes you feel that even though you could
 16 probably reach this presumption, there is some evidence
 17 that might draw another conclusion. So I -- that is
 18 just about as clear as I can be with what "made at the
 19 behest" is.
 20 But, with that, let me move on to kind of my
 21 just overall view of what we have received. And I
 22 will -- I will start with the first letter that was
 23 received from Mr. Lam and Ms. Tran.
 24 This -- this submittal provides a lot of
 25 information that we were unable to get initially. And

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1 I -- I have to say that it kind of illuminates in some
 2 ways and fills holes or gaps that we felt had been in
 3 our initial investigation and that had precluded us
 4 from being able to reach certain conclusions at our
 5 January 24th meeting. Our feeling is that the e-mails
 6 that have been provided as exhibits to this submittal
 7 clearly show that Jimmy Nguyen was involved with the
 8 expenditures that are listed -- that were -- that we
 9 knew about early on but that we didn't understand how
 10 they had come about and who was responsible for them.
 11 And I'm talking about tote bags and pens and T-shirts.
 12 And I -- I think it's clear from the evidence that the
 13 candidate was involved and knew about and, in some
 14 cases, directed these expenditures.
 15 CHAIRPERSON SMITH: You didn't mention the
 16 office.
 17 MS. CASSMAN: Well, okay. And that --
 18 CHAIRPERSON SMITH: We're getting to that.
 19 MS. CASSMAN: I'm going to get to the office.
 20 So -- and the office is -- was also included,
 21 obviously, in this.
 22 But there was another woman, it appears, who
 23 was kind of a go-between, Ms. Phan, who had come to our
 24 attention in our initial investigation, in the latter
 25 stages of it. And we weren't quite sure of her

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1 involvement, but it appears that she was a go-between,
 2 that she seemed to be a major communication liaison as
 3 between the candidate and some of the other members of
 4 the group, if you will.
 5 And it's our feeling that these e-mails show
 6 that the candidate knew about and perhaps was involved
 7 with helping find space for an office as early as
 8 September 11. A lease was not signed until
 9 September 15th. And the opening of the office was
 10 September 23rd. So this provides us with a little bit
 11 of earlier evidence, what we had -- we had evidence
 12 that Mr. Nguyentan had signed a lease for this office
 13 space on September 15th. These e-mails show some
 14 activity four days or so before the signing of the
 15 lease, and there is indication that the candidate was
 16 aware, at a minimum. And even an indication that he
 17 was involved, at some point, looking at space himself.
 18 So, based on the legal standard I just
 19 discussed with you, we -- we conclude that these
 20 expenditures that are the subject of the response from
 21 June Tran and Duc Lam should be considered made at the
 22 behest of the candidate. And, you know, we're always
 23 open to other evidence. I know that there were efforts
 24 upon the campaign to represent that these were not
 25 campaign expenses and to distance the candidate. But I

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1 think that some of this earlier history shows that
 2 those statements may have been too little too late.
 3 And sometimes it's hard to unring the bell, that for
 4 better or worse, there has been consultation,
 5 coordination, occurring of knowledge as between this
 6 group and the candidate before expenditures were
 7 actually made, before the lease was signed and a rent
 8 check was paid, before the paraphernalia we talked
 9 about were actually purchased.
 10 So -- so the conclusion does not necessarily
 11 end this inquiry. The -- the next question is whether
 12 these expenditures were reimbursed by the campaign.
 13 And that's unclear. It's really -- it's not clear to
 14 us what happened, if -- there does appear to have been
 15 a reimbursement of \$2,957, we think. And the campaign
 16 may be able to clarify that those were expenses
 17 associated with the banquet. But there are expenses
 18 shown in the Lam/Tran response for which I haven't seen
 19 any evidence of reimbursement. So that is an issue
 20 that maybe we can clarify.
 21 And -- and then once we look at whether or
 22 not they've been reimbursed, then I think there is an
 23 issue as to whether any of these contributions
 24 represent excess contributions.
 25 And finally we looked at the issue as to

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<p style="text-align: center;">Page 25</p> <p>1 whether these expenditures were reported. And I -- our 2 conclusion is these expenditures have not been 3 reported. 4 So, you know, it also is -- I think that 5 there is some questions raised about whether we still 6 have a full accounting. I think we have plenty. But 7 the e-mails raise the issue as to the telephonic 8 services, and it's not clear who paid for them and how 9 they were provided to the space. So that is one 10 expenditure or cost to support the office which still 11 is up in the air. The e-mail exchanges represent that 12 the group, certain members of the group, were looking 13 into it and then they were advised that Jimmy was going 14 to take care of it. So I don't know where those ended 15 up. We don't have any conclusory information on that 16 score. 17 So, in our view, I think that we have 18 evidence sufficient to find that there were 19 expenditures made at the behest of this campaign and 20 that it is likely we have violations of the municipal 21 code and failure to report contributions. And -- or 22 failure to report expenditures. And to the extent that 23 these are contributions, there is the issue of whether 24 these contributions are excess. 25 They seem to be coming primarily from one</p>	<p style="text-align: center;">Page 27</p> <p>1 and his name also is Mr. Nguyen, Trung Nguyen. He is a 2 professional translator. He is not certified. And so 3 we want the record to reflect that the certification is 4 incorrect to the extent it references Trung Nguyen as a 5 certified translator. He was not. 6 Putting that aside, we want to also point out 7 that the two instances where they felt there was not 8 proper translation -- one had been a "gathering of the 9 law department." And Ms. Tran said what was intended 10 was a "law school reunion." So that was wrong. And 11 then the other was -- the translator we had used had 12 translated the term as an "invitation," and we are told 13 in the response by Lam and Tran that what was intended 14 was "invitation card." So I don't think either is 15 substantive or in any way would change the basis of our 16 report or any conclusions that one might reach from 17 that initial report. But I did want -- I did want to 18 raise that. 19 The Lam/Tran statement also took issue with 20 the fact that their daughter -- I'm not sure how to 21 pronounce this right -- Dzung-Ngoc Lam was mentioned 22 and named as a respondent in the second complaint, and 23 yet they felt that was not appropriate because, in 24 fact, she had not made a contribution. And I wanted to 25 clarify that the reason we had -- and appropriately</p>
<p style="text-align: center;">Page 26</p> <p>1 source, and that's June Tran. And we know from 2 Complaint Number 2 that June has given as much as she 3 can under the code already. As the sole owner of Crema 4 Coffee, she contributed 500; as an individual, she 5 contributed five. So that's also, I think, an issue we 6 need to wrap over. 7 I wanted to just mention a couple of other 8 issues raised in the Lam/Tran response. And one was 9 they pointed out what they felt were two terms in the 10 translation of e-mails we had provided in our initial 11 report that they felt were not correctly translated. 12 And we followed up on that. They're saying -- it turns 13 out they are right, that the person who did the 14 translation was not certified by the American 15 Translators Association. And apparently the ATA right 16 now is not certifying anyone in the Vietnamese language 17 because there's a lack of accredited exam or some 18 technical issue and that the way you become accredited 19 is to pay a professional fee. 20 Nevertheless, we -- what we did was hire 21 the -- a company that, for a business, provides 22 translations. And it was the company that gave us a 23 certification. And the company fell on their sword and 24 said, We're very, very sorry. Because when they looked 25 into it, this fellow who they had used many times --</p>	<p style="text-align: center;">Page 28</p> <p>1 so -- included this third daughter as a respondent was 2 because she is a part owner, a partner/owner, of the 3 Crema Coffee Fairmont. 4 So we needed to sort out -- given what we 5 knew about the two Crema Coffee businesses making 6 contributions and what we found out through the 7 Secretary of State and other sources about the 8 ownership of those two businesses, we need to -- we 9 chose and felt it was appropriate to name everyone. It 10 is true -- and I will state for the record -- that 11 Dzung-Ngoc Lam did not make a contribution and is not 12 found in any way to have violated the Code. And I 13 think that will be made clear once the Commission takes 14 its final action on Complaint Number 2. 15 So I just wanted to make that clear. There 16 was -- we were following the system in doing what we 17 needed to do in investigating based on the information 18 we had. 19 So that -- one more editorial note, if I 20 might. And this -- the statement from Lam and Tran 21 also seems to indicate that they're very disillusioned 22 with participation in the election process and 23 democracy in this country and that they're -- they 24 think this process is regrettable. 25 And I -- I have to say that I feel, having</p>

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1 firsthand tried to negotiate -- to investigate and
 2 uncover the information we finally have and learning
 3 what I did learn along the way, that these
 4 protestations are somewhat disingenuous. We feel --
 5 and I think it was listed in the first report -- Report
 6 Number 3 but our initial report on this. We feel that
 7 there are many indications that June Tran is rather
 8 sophisticated and has a pretty good knowledge of the
 9 Municipal Code requirements and regulations regarding
 10 elections. When my partner Steve talked with her, she
 11 used the term "maxed out." She actually said, with
 12 respect to Crema Coffee, she knew she had maxed out and
 13 wanted to continue to support Jimmy in some other
 14 fashion. There was some knowledge -- there is a
 15 record that she has made contributions also to the
 16 independent committee established by the POA for Jimmy.
 17 And I -- I think, if you pierce some of this
 18 information, there is an indication that she knows more
 19 than I think she's letting on and that it is not a
 20 matter of simply ignorance of the law. It was a matter
 21 of trying, hoping that she could find a way to do what
 22 she felt she needed to do.
 23 So I just wanted to offer that up because I
 24 had the benefit of living with some of this information
 25 and talking to these people.

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1 Let me now go to the Jimmy Nguyen letter,
 2 which really doesn't provide us with much additional
 3 information. And I will say that I feel we had asked
 4 the candidate for all e-mails, e-mail communications
 5 with the group, and he had provided us with e-mails he
 6 had received and he had told us that he didn't open
 7 them or read them. And I think, based on what we have
 8 seen now, there is reason to question whether that was
 9 true. And -- and that might be something the
 10 Commission may want to inquire about. We have -- Jimmy
 11 is here.
 12 And I -- I think the statement kind of makes
 13 vague generalities about the unfortunate situation he
 14 was in, and our initial report reflected that. He's
 15 running for office, and he wants to support those who
 16 are supporting him. But, at the same time, there are
 17 rules, and one must find a way to navigate those rules
 18 and yet encourage others to support him, as they will.
 19 But if it's going to be on an independent basis, there
 20 really has to be a firewall. I don't think there was a
 21 firewall here.
 22 Let's see. I just think that the
 23 communications make it clear that the expenditures do
 24 meet the legal presumption that we're grappling with
 25 here as to whether they were made at the behest of the

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1 candidate.
 2 And then, finally, there was a response
 3 received today from Mr. Nguyentan. And there is no new
 4 information in this response, either. But we do have,
 5 I think, confirmation of what we had uncovered before,
 6 that he did write the initial check for the rent, the
 7 \$990. And he does again clarify that he did offer
 8 in-kind contributions to the campaign that he estimates
 9 to be of about \$200 value, printing materials from his
 10 own office for the flyer and for the invitations to the
 11 banquet.
 12 So I can stop there for the moment. I'm
 13 wondering whether we should wait for me to offer up any
 14 conclusions or recommendations beyond what I've told
 15 you, that I think that we have enough here to find that
 16 most of these expenditures, if not all, should probably
 17 be treated as campaign expenditures. But, at the same
 18 time, I'm feeling that there is an indication that
 19 there are individuals here who made contributions in
 20 excess of the allowable limit in the Municipal Code.
 21 So I don't think we have just one violation or violator
 22 in the room. I think we may have several.
 23 CHAIRPERSON SMITH: Okay.
 24 MS. CASSMAN: I could go further. I'm just
 25 wondering if you want to first collect --

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1 CHAIRPERSON SMITH: I think it would probably
 2 be good to hear from the various respondents and then
 3 get back to you. Okay. Thank you.
 4 Okay. At this point -- I want to call upon
 5 the respondents or their representatives to come
 6 forward and present any written or oral response. And
 7 I'm going to do it in a preferred order. I think, for
 8 efficiency's sake, I'm going to ask either Duc Lam or
 9 Dung Tran or both -- maybe one of you come first. I
 10 don't know. Both of you want to speak or just one of
 11 you speak for the two?
 12 MS. TRAN: Duc will speak.
 13 CHAIRPERSON SMITH: He can grab a chair here
 14 and come speak.
 15 MS. TABER: I have his video ready.
 16 CHAIRPERSON SMITH: Okay. And then we
 17 have -- we have the video available if you want.
 18 You can -- take one of these chairs and bring
 19 it up to the table, if you would, so you're near the
 20 microphone.
 21 And, at some point, if you want to refer to
 22 the video, you know, we can turn to it.
 23 And I swore him in last time. I don't think
 24 I need to do it again. Or do I? It's a continuation
 25 of a previous hearing.

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1 MS. LEE: I would suggest swearing him in
 2 again.
 3 CHAIRPERSON SMITH: Okay. So if you would
 4 raise your right hand.
 5
 6 DUC LAM,
 7 being first duly sworn by the Chairperson to tell the
 8 truth, the whole truth and nothing but the truth,
 9 testified as follows:
 10
 11 CHAIRPERSON SMITH: Please state your name.
 12 MR. LAM: Duc Lam.
 13 CHAIRPERSON SMITH: Thank you. If you would,
 14 be seated. Or if you want to stand. Whichever you're
 15 most comfortable with.
 16 MR. LAM: First thing I would like to say,
 17 thank you for past days, these hearings.
 18 COMMISSIONER PIERRE-DIXON: Please speak up.
 19 MR. LAM: Rolanda Pierre-Dixon, Michael
 20 Smith, Erica, Dr. Erica. Toni Taber. Cassman.
 21 Miller is not here.
 22 So I would like to go very quickly.
 23 CHAIRPERSON SMITH: Okay.
 24 MR. LAM: What we have -- and I think I put
 25 addition. And I believe all of you already review what

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1 I submitted.
 2 CHAIRPERSON SMITH: Right.
 3 MR. LAM: One thing is, on September 16,
 4 which I submit the paper, we did saw Jimmy Nguyen in
 5 the office. And he picks up his lawn sign, and he
 6 placed on the window glass. Window glass. So that is
 7 in that office, the 16th.
 8 And I -- I also have my -- where is my --
 9 excuse me. I tried to download it to show it to you,
 10 but I could not. So I just have very small section
 11 here.
 12 CHAIRPERSON SMITH: Is this different than
 13 what --
 14 MR. LAM: This is different one, yes. This
 15 one is showing that -- Cassman talk about
 16 collaboration, cooperation, something like that, but
 17 there is something for distribution here.
 18 MS. CASSMAN: What?
 19 MR. LAM: Distribution.
 20 CHAIRPERSON SMITH: Distribution?
 21 MR. LAM: Yes. So I show you a little bit of
 22 this.
 23 COMMISSIONER PIERRE-DIXON: If you could
 24 describe for us what it shows, that would help.
 25 MR. LAM: Yeah, it describe -- also,

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1 September 16 we at Crema Coffee. We usually have a
 2 meeting. We not meet -- we never meet at the office.
 3 We usually meet at Crema Coffee. And Jimmy Nguyen
 4 come -- he come -- during that time we put inside
 5 invitation for banquet, October 7 banquet. We put our
 6 flyer, flyer you see before. We put in envelope. We
 7 send to invite people come. And Jimmy also come there
 8 and also help us to put it in. So does he --
 9 distribution information come.
 10 COMMISSIONER PIERRE-DIXON: Okay.
 11 MR. LAM: So that's what it is. Here
 12 picture.
 13 (Video played.)
 14 MR. LAM: That's Jimmy Nguyen. See, he
 15 distribute -- sorry. He distribute. Here, here.
 16 Envelope.
 17 COMMISSIONER PIERRE-DIXON: Okay.
 18 MR. LAM: See.
 19 CHAIRPERSON SMITH: These are campaign
 20 materials that were produced by -- who produced these?
 21 MR. LAM: Mr. Tho.
 22 CHAIRPERSON SMITH: Who?
 23 MS. CASSMAN: Mr. Nguyentan.
 24 CHAIRPERSON SMITH: Who produced it?
 25 MR. LAM: Mr. Tho.

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1 CHAIRPERSON SMITH: Okay. This was the \$200
 2 that we talked about?
 3 MR. NGUYENTAN: Yes.
 4 MR. LAM: This is flyers. Look.
 5 MS. McDANIEL: For my purposes, for my file,
 6 evidence, do we get a copy of that or -- I'm trying to
 7 be clear for the record.
 8 (Video played.)
 9 MR. LAM: September 16.
 10 MR. ROBINSON: September 16th. Do we have an
 11 authentication? Do we know exactly when this is and
 12 why this is? I'm trying to figure out --
 13 CHAIRPERSON SMITH: Just a second. I'll ask
 14 the questions, because we really shouldn't have
 15 audience members asking questions.
 16 Yeah, how do we authenticate that that was
 17 September 16th?
 18 MR. LAM: Oh, because the video will say.
 19 And --
 20 CHAIRPERSON SMITH: The metadata on the file?
 21 MR. LAM: Yeah.
 22 CHAIRPERSON SMITH: Okay. And I believe that
 23 the clerk said that she'll -- because you showed this,
 24 she'll need a copy of that file for the record. Along
 25 with the DVD.

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1 MR. LAM: Yeah. And this -- and this one
 2 also, the one he put the date, he wearing yellow shirt
 3 with the tie. Exactly the same than the one --
 4 CHAIRPERSON SMITH: On that --
 5 COMMISSIONER PIERRE-DIXON: In the video.
 6 Okay.
 7 CHAIRPERSON SMITH: And it's in order.
 8 MR. LAM: And I want to go to -- very quickly
 9 to -- on September 23rd, at the office, Jimmy come --
 10 it's not like come and speak and go. He come; he hang
 11 around. He still, you know, be around. The pictures
 12 saw he went around.
 13 And at the end he go into the -- a room on
 14 the back with Mr. Tho. And Mr. Tho, you know, fix him
 15 and show him how to speak to camera so he can be
 16 recording. And I give you the video right there.
 17 CHAIRPERSON SMITH: Oh, that's this video.
 18 MS. TABER: I'll turn it so --
 19 MR. LAM: So this one he's -- that in his
 20 statement say he not produce it. Participated.
 21 COMMISSIONER PIERRE-DIXON: Participated in
 22 it.
 23 MS. TABER: You can skooch up if you want to
 24 see. Volume. Hold on. It's hard to do it backwards.
 25 And I always have this thing muted. I have to find the

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1 volume. Here it is. It's an old laptop.
 2 CHAIRPERSON SMITH: No sound.
 3 MS. TABER: There's no sound. I have it
 4 unmuted. And the volume is here. So I don't know if
 5 maybe it's just a bad video or because my computer is
 6 old.
 7 CHAIRPERSON SMITH: Well, we've got another
 8 computer. We can play it on that.
 9 MS. TABER: Sorry. I couldn't test the
 10 volume earlier.
 11 CHAIRPERSON SMITH: You've got it on there?
 12 MR. LAM: Yes.
 13 CHAIRPERSON SMITH: While you're getting it,
 14 was this --
 15 MR. LAM: I have additional.
 16 CHAIRPERSON SMITH: Is it in English or
 17 Vietnamese?
 18 MR. LAM: Vietnamese. You don't care -- you
 19 can hear. Do you want --
 20 MS. LEE: Can we show it on your computer?
 21 MR. LAM: Yeah, yeah.
 22 CHAIRPERSON SMITH: Yeah, why don't we go
 23 ahead. And maybe you can describe for us what it says
 24 since none of us on the Commission speak Vietnamese, I
 25 don't think.

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1 COMMISSIONER EDGEWORTH: I think she has
 2 translations already.
 3 CHAIRPERSON SMITH: There is English -- okay.
 4 So why don't you go ahead, since we've got it.
 5 MR. LAM: It's English. It's translation
 6 already in exhibits.
 7 CHAIRPERSON SMITH: Oh, okay. That was part
 8 of it.
 9 MR. LAM: Yeah.
 10 (Video playing.)
 11 MS. LEE: Can we bring it over here?
 12 MS. TABER: Bring it over here.
 13 (Video playing.)
 14 MR. LAM: I -- can I have water?
 15 CHAIRPERSON SMITH: Sure.
 16 MR. LAM: I go to banquet October 7. I --
 17 what I supplied there is addition, is -- you see the
 18 picture there. In their picture is showing campaign
 19 manager attending, Jimmy Nguyen attending.
 20 (Unintelligible).
 21 MR. ROBINSON: October 7th.
 22 MR. LAM: October 7th. Campaign.
 23 CHAIRPERSON SMITH: That's at the back of the
 24 package, I guess.
 25 MR. LAM: October 7. This campaign manager,

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1 Cary.
 2 COMMISSIONER PIERRE-DIXON: Oh, okay.
 3 MR. LAM: And this is June Tran.
 4 And this is the people, you know, sitting.
 5 You can see the -- the back -- see the sign in the back
 6 on there.
 7 And the next page is Tho and one emcee there.
 8 Tho Nguyen on stage there.
 9 There's Jimmy Nguyen. And you notify the
 10 badge on his shirt.
 11 MS. CASSMAN: The badge?
 12 MR. LAM: Yeah, on his shirt.
 13 MS. CASSMAN: Yeah.
 14 MR. LAM: And this one is produced by us, and
 15 we wear it. So this is -- this one from his office --
 16 I mean, not say his office. I said the White Road
 17 office. So, this one, he wear this. So what I'm
 18 saying is, he cannot say he doesn't know about it. He
 19 put on his shirt.
 20 I think that's all I have. If -- there's a
 21 couple of things about -- we all confused about
 22 September 12th. What happened September 12th? Where
 23 we are September 12th? September 12th, we are in San
 24 Francisco. We're not here. So Jimmy took me to San
 25 Francisco with Angela, Mike and my wife. And Rich also

10 (Pages 37 to 40)

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1 in San Francisco too. So we have -- after that, we
 2 have dinner. So then no discussion about office.
 3 So that date is not in the picture. Just not
 4 in the picture.
 5 COMMISSIONER PIERRE-DIXON: Okay.
 6 CHAIRPERSON SMITH: And also confusing -- to
 7 go back to October 30th, that law reunion. I have --
 8 also have picture in there. So that's --
 9 MS. CASSMAN: I saw that.
 10 MR. LAM: In that picture you see Jimmy
 11 Nguyen, Tho, Tho wife.
 12 So, if you think about it, every week we see
 13 each other. 12, 23, 30, 7. We always see. So --
 14 COMMISSIONER PIERRE-DIXON: So it was your
 15 understanding, then, at this time that you were working
 16 in concert with Jimmy in reference to the office?
 17 That's what you're telling me?
 18 MR. LAM: Yeah, also this letter from -- the
 19 letter, they push it out. Something -- they say, why
 20 we still respond in September 20th, when we see it. I
 21 not respond at all. I'm not -- even though -- I'm not
 22 sure we have this there. This letter, I send it out to
 23 Tho Nguyen and a couple of people. I say, Stop it.
 24 Don't send anything to Jimmy.
 25 I'm not sure you have this.

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1 CHAIRPERSON SMITH: I don't remember seeing
 2 that.
 3 MS. CASSMAN: I think it is in our
 4 reference --
 5 CHAIRPERSON SMITH: There's been so many.
 6 MR. LAM: Not in there?
 7 COMMISSIONER PIERRE-DIXON: I think it is.
 8 MS. CASSMAN: I think it is in there. I
 9 remember seeing -- well, I thought it went from Mai
 10 Phan.
 11 Did you send it or did Mai Phan send it?
 12 COMMISSIONER PIERRE-DIXON: From him on the
 13 21st.
 14 MR. LAM: From me. From me. I send it out.
 15 CHAIRPERSON SMITH: That was --
 16 September 20th is the date --
 17 MR. LAM: This is -- 21 I send it out.
 18 CHAIRPERSON SMITH: September 20 or 21 is
 19 when you said "Stop" and said -- stop. Okay.
 20 MR. LAM: Twenty-one is -- time out. The
 21 21st I send out. I said, You guys don't communicate
 22 with Jimmy. Okay? And Tho -- I believe he not said
 23 anything in his name in there.
 24 And suddenly the lady send it out, because
 25 she -- she broadcasting radio, so she didn't know.

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1 Maybe she make mistake. It's not -- you cannot say
 2 that. Unintentional.
 3 And also this -- this true that I receive the
 4 e-mails. And I saw Jimmy went in. I take it -- I know
 5 it. So I take this one out.
 6 See this -- this second one over here. Want
 7 to make copy of it.
 8 CHAIRPERSON SMITH: I have -- I have some
 9 questions, but I'll defer to the rest of you if you
 10 have questions before I jump in. Leon? No?
 11 COMMISSIONER PIERRE-DIXON: I just wanted to
 12 ask a little on the tape that we saw there.
 13 So this tape was made at the office? Was
 14 that made at the office?
 15 MR. LAM: That's right. 23rd.
 16 COMMISSIONER PIERRE-DIXON: All right. And
 17 was that distributed? How was that distributed out?
 18 MR. LAM: This one was put on YouTube.
 19 COMMISSIONER PIERRE-DIXON: Okay.
 20 MR. LAM: You can see it, YouTube video. You
 21 can see it.
 22 COMMISSIONER PIERRE-DIXON: Okay. And was
 23 there any cost associated with the production of that?
 24 MR. LAM: I don't know. But I don't think
 25 so.

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1 COMMISSIONER PIERRE-DIXON: Okay.
 2 MR. LAM: I did not distribute it.
 3 COMMISSIONER PIERRE-DIXON: Okay.
 4 CHAIRPERSON SMITH: Commissioner Cosgrove?
 5 VICE-CHAIR COSGROVE: I don't have any
 6 questions.
 7 CHAIRPERSON SMITH: I've got a couple.
 8 The sign -- I'm showing him -- this is from
 9 the 9-16 office. The sign on the window which you
 10 pointed out also shows at the banquet. And it's also a
 11 small version of what was on the candidate's shirt.
 12 Who produced that? Was that produced --
 13 MR. LAM: No, you see the sign is written in
 14 by Jimmy Nguyen.
 15 CHAIRPERSON SMITH: Okay. These were --
 16 MR. LAM: The little one.
 17 CHAIRPERSON SMITH: The little -- okay.
 18 MR. LAM: The little one by June.
 19 CHAIRPERSON SMITH: Okay. Okay. June did
 20 those. But who did the ones that are showing in the
 21 window at the office?
 22 MR. LAM: Him.
 23 MS. TRAN: That's the -- okay.
 24 CHAIRPERSON SMITH: Okay. Just a second. We
 25 need to -- why don't you come forward. You can both

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1 come up here.
 2 MR. LAM: Actually, she know more.
 3 CHAIRPERSON SMITH: Why don't you stay here.
 4 And why -- if you would come forward and state your
 5 name, and I'll swear you in.
 6 MS. TRAN: My name is June Tran.
 7
 8 DUNG TRAN,
 9 being first duly sworn by the Chairperson to tell the
 10 truth, the whole truth and nothing but the truth,
 11 testified as follows:
 12
 13 CHAIRPERSON SMITH: Thank you.
 14 Okay. Yeah, who produced the --
 15 MS. TRAN: I produced the button, shirt,
 16 totes and pen.
 17 And the 16th, that's a Sunday. That when
 18 we -- we were out of town from Friday to Sunday. We
 19 went camping in Sacramento. So, on our way back on
 20 Sunday, Mai Phan called me and say they don't have
 21 electricity. So Duc and I went and get the generator
 22 for them. And you can see in the picture there is a
 23 generator.
 24 And when we came in, all the signs were up.
 25 All -- all the material were there. And you can see

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1 still cc'ing me -- he still cc some to me. But we
 2 never respond anything.
 3 CHAIRPERSON SMITH: So you were not -- you
 4 were not reimbursed for those?
 5 MS. TRAN: Not yet.
 6 CHAIRPERSON SMITH: Okay. As I gathered from
 7 reading the response of the 8th I guess it was, it
 8 sounds like you produced some things that were not
 9 reimbursed, but you also produced -- or had produced
 10 some things that went to the campaign that were
 11 reimbursed.
 12 MS. TRAN: That's the dinner.
 13 CHAIRPERSON SMITH: Was it just for the
 14 dinner?
 15 MS. TRAN: Yes. That's for the dinner, yeah.
 16 CHAIRPERSON SMITH: Okay. And what about the
 17 other items that were at the campaign -- or at the
 18 office on White Road, the tote bags and T-shirts and --
 19 where did those come from?
 20 MS. TRAN: Those come from me. I help --
 21 yeah, I purchased those.
 22 CHAIRPERSON SMITH: Okay. And --
 23 MS. TRAN: And then I brought it over on the
 24 23rd, when we have the grand opening. I brought
 25 everything over.

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1 some of the picture that Jimmy actually putting up the
 2 sign.
 3 CHAIRPERSON SMITH: Oh, so the signs that
 4 were there, at least on the 16th, you did not produce?
 5 That was the campaign, as far as you know.
 6 MS. TRAN: No. But I produced the other
 7 items.
 8 CHAIRPERSON SMITH: Okay. And who -- who
 9 paid for those other items? Did they -- did you pay
 10 for them or did you get money from the campaign?
 11 MS. TRAN: For the button?
 12 CHAIRPERSON SMITH: For the button.
 13 MS. TRAN: The button, no. I ordered -- you
 14 know, I ordered them with collaboration. As you see on
 15 the e-mail with Angela, we discuss about it in
 16 consultation with Jimmy. Because he like the rectangle
 17 versus the round one.
 18 And during that time I know -- I can't
 19 remember. Angela or Jimmy did offer to reimburse for
 20 the item. But then right after we got the item, we
 21 were separated and there were no communication. You
 22 know, when I got the e-mail on the 20th -- you know,
 23 we -- we do respect Jimmy, and that's why Duc and I --
 24 we didn't send any more e-mail to him or respond any
 25 more e-mail. But, as you can see, the 21st, he is

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1 CHAIRPERSON SMITH: Okay. But -- and those
 2 were not reimbursed to you?
 3 MS. TRAN: No.
 4 CHAIRPERSON SMITH: Were those additionally
 5 produced in conjunction with --
 6 MS. TRAN: Yeah, with Jimmy -- yeah. With
 7 Jimmy and Angela.
 8 And, Joan, you saw the e-mail that we
 9 discussed about the totes and --
 10 MR. LAM: Work together and --
 11 MS. TRAN: Work together.
 12 CHAIRPERSON SMITH: Okay.
 13 MR. LAM: Everything she did
 14 (unintelligible) --
 15 MS. TRAN: Even when I donate money. I
 16 say -- Crema 1 would donate; Crema 2 would donate. Is
 17 that okay? Individual, my name. So I always ask and
 18 consult before I sign the check.
 19 CHAIRPERSON SMITH: And your response
 20 indicated that -- maybe I should ask the campaign this
 21 when they get up, either Jimmy or Rich get up here.
 22 But you identified Mai Phan or Phan (pronunciation),
 23 whichever it is, as the campaign manager.
 24 MS. TRAN: Oh, no, no.
 25 CHAIRPERSON SMITH: No? I thought -- I

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1 thought I read that in your response. Because I have
 2 not seen that.
 3 MS. TRAN: No. Cary Hughes.
 4 CHAIRPERSON SMITH: He was the campaign
 5 manager?
 6 MS. TRAN: Yes. But we --
 7 CHAIRPERSON SMITH: Okay. And what we're
 8 seeing indicated -- the Evaluator indicated that Mai
 9 was an intermediary of sorts. What was your
 10 involvement?
 11 MS. TRAN: So, after the 20th, the e-mail
 12 came out saying that they (unintelligible) with us. So
 13 Mai was in the middle. Mai was trying to -- well, she
 14 communicate through e-mail: Per Jimmy, please send out
 15 invitation to the council. Or, per Jimmy, cancel of
 16 AT&T -- or whatever Jimmy want, she would send out for
 17 Jimmy. So she's more the communication between the
 18 campaign with us.
 19 CHAIRPERSON SMITH: She was communicating
 20 between the campaign and you after the 20th of
 21 September?
 22 MS. TRAN: Yes, yes.
 23 CHAIRPERSON SMITH: Oh, okay.
 24 MS. TRAN: And we still go to dinner -- I
 25 mean, as you can see, almost every week we see each

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1 other. We go to fundraising. Most of our dinners is
 2 function -- fundraising dinner.
 3 CHAIRPERSON SMITH: Okay. If you could
 4 excuse me a second. I understand Mr. Nguyentan has to
 5 leave, and he would like to say something. So if I
 6 could just hold for a moment and let him make his
 7 statement. And then --
 8 MS. TRAN: You want me to go back?
 9 CHAIRPERSON SMITH: Oh, you can stay.
 10 And then we'll need to go through this again.
 11 Identify yourself.
 12 MR. NGUYENTAN: I am Tho Nguyentan. I say
 13 the truth today.
 14
 15 THO NGUYENTAN,
 16 being first duly sworn by the Chairperson to tell the
 17 truth, the whole truth and nothing but the truth,
 18 testified as follows:
 19
 20 CHAIRPERSON SMITH: Thank you.
 21 MR. NGUYENTAN: Okay. The first thing, I
 22 would like to thank all of you for this second hearing
 23 I attend here.
 24 But on my statement I want to note,
 25 everything I showed you you can -- all of you read it.

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1 And I only -- for myself, only do the total cost of
 2 money. I buy the pen and paper to help them. I wrote
 3 everything, the letter for him for English -- oh, no.
 4 For Vietnamese language and invite -- invitation and
 5 also the flyer to open -- the grand opening for the
 6 office and also for fundraising on October 7th.
 7 But I want to make sure here -- the first
 8 thing, that Mr. Robinson here, now I know him. Never I
 9 meet him. How come Cassman tell or report he meet me?
 10 He never meet me. I never know him. Even him I don't
 11 know too. You know, on the last hearing on January 31,
 12 he come -- I don't know who he is. And he told me --
 13 or he -- he introduced by himself. I am Mr. Robinson.
 14 That I don't know. But I want to make sure here,
 15 either -- all of you here, I never meet him. I never
 16 know him. I never see him. But this a lie to me.
 17 This very lie. I don't want that. Okay?
 18 The second thing, I want to know -- I
 19 cooperate with Ms. Cassman, through my lawyer, when I
 20 answered the six questions she -- she request me to
 21 answer in her letter. But on the report she told me I
 22 don't cooperate. This is not right. Okay? Even
 23 though, after December -- no, after December 3, right?
 24 I know that. Because, you know, this -- my lawyer, he
 25 talk something like that. He send you letter like

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1 that. But I cannot talk to you nothing. No more,
 2 right? But before that, after December 7th -- I
 3 remember that, right? -- Mr. Dennis Hawkins send
 4 amendment complaint, right? But you don't contact us.
 5 From that -- that point, that day, you never contacted
 6 us. How come you say no cooperation? I want to make
 7 sure everything like that. Okay?
 8 And also acting -- I answer, I -- I write on
 9 my statement. You know everything. That's -- I help
 10 Jimmy Nguyen because I think he is a good -- good
 11 people in my community. And also he show -- before he
 12 show many, many good -- many good things. We know
 13 that, and we introduce him to the Vietnamese community.
 14 I strongly support him. But I'm now very upset about
 15 him. Okay? Even though, during the time in the
 16 office, he never -- even I call him; he never answer
 17 me. I send him e-mail; he never answer me too. Only
 18 Angela.
 19 But sometime I very upset about Angela too.
 20 I send her the receipt for Thang Bom magazine, the
 21 whole thing, 420, but she don't pay. She say it not --
 22 not (unintelligible) regularly. But this not me.
 23 The first thing you read of this, the Ven Le
 24 (phonetic) before -- we have many group to support him.
 25 Not only me. Me, the friend (unintelligible) my

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1 friend. The other team before that, June and Duc Lam.
 2 And before that, the Ven Le and a lot of people there.
 3 That the reason, you know, on the receiving, Thang Bom,
 4 100 from the Ven Le. And 320 you see it, that the
 5 (unintelligible) from Jimmy. I do it but he pay
 6 anyway. It's like each week about \$48. That's not
 7 mine. Right? But only I receive -- I send to him.
 8 But Angela don't send it.
 9 He told me at the -- I remember on the
 10 November 6 election day, I come to restaurant -- I
 11 don't remember the name but very clear -- very, very
 12 near to the White office (unintelligible). And Angela
 13 come to -- I come to there, but I didn't see Jimmy
 14 there. After that, I see him come there. But he never
 15 come to my -- to White office. Angela told me, Okay.
 16 I want to talk to me. But, after that, she say he
 17 busy. He don't pay. But he send me e-mail and say he
 18 don't pay it.
 19 But that -- I think that's -- the Jimmy
 20 campaign have to pay it, for the Thang Bom. He still
 21 call me. Why? Okay? Because I don't have time right
 22 now. I only say like that.
 23 But I -- I say everything true. Okay?
 24 Before all of you. Before the jury and -- before him
 25 too. You never meet me. Why you say you meet me?

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1 Where?
 2 MR. ROBINSON: I did not say I met you.
 3 MR. NGUYENTAN: Oh, that mean in the report.
 4 That mean that maybe -- if you don't lie, Ms. Cassman
 5 and Mr. Miller lie to me. Okay? I want to say true
 6 like that, but on this -- I have no time. Any other
 7 thing you can send me e-mail.
 8 Okay. Thank you.
 9 CHAIRPERSON SMITH: Okay. Thank you. A
 10 couple -- if there is -- I have a couple of questions.
 11 Does anybody else?
 12 I guess, as far as the matter of cooperation,
 13 I -- just a comment. I personally was disappointed
 14 that you did not respond to our specific request at the
 15 last meeting, which was to give us the best accounting
 16 that you could of who had contributed on your -- at
 17 your behest, how much, when and for what purpose. And
 18 if it wasn't for the report that we got from Mr. Lam
 19 and Ms. Tran, we would be in a real problem here. And,
 20 in fact, I would be requesting -- I would be requesting
 21 that we issue a subpoena forcing you to provide that
 22 information. Because the fact is, you did not
 23 cooperate. You did not provide that information.
 24 MR. NGUYENTAN: Okay. Let me answer like
 25 that. So the first thing we -- even though we are

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1 the -- all the member in the -- not in the group,
 2 because all of us is friendly. As a friend only. When
 3 we help Jimmy, I don't -- I don't know who pay it.
 4 Until, you know, that hearing, I know the Huynh
 5 Thien -- Thien Huynh pay 300 for (unintelligible),
 6 Jimmy -- a friend of Jimmy Nguyen. But he -- he sent
 7 to -- you ready, right? And also the Ban Vu, he pay
 8 28. He told you. I -- oh, that's it. And only I know
 9 this. I tell you. I pay 990 by my check. But not me.
 10 From Dr. Vun, from Mr. (unintelligible) and from the --
 11 my wife. That means -- you know, I don't know who
 12 would pay. How come I can list it? I don't know that.
 13 CHAIRPERSON SMITH: Okay.
 14 MR. NGUYENTAN: Now, that's the reason -- I
 15 still send you all my notes, right? But if I don't
 16 know that, I cannot list them, right?
 17 CHAIRPERSON SMITH: I think you could have
 18 done -- explicitly said something to that effect in
 19 your letter. I viewed your letter as sort of defiant.
 20 But, be that as it may, two questions.
 21 MR. NGUYENTAN: Okay.
 22 CHAIRPERSON SMITH: First off, even if you
 23 didn't meet Mr. Robinson, I assume that you somehow got
 24 the word, as Mr. Lam did, that there was to be no -- to
 25 be no communication or coordination between your group

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1 and the campaign after September 20th, right? You did
 2 get that word somehow? Is that correct?
 3 MR. NGUYENTAN: Say again. Can you --
 4 CHAIRPERSON SMITH: You did -- through some
 5 means, you learned that you were to not coordinate with
 6 communication with the campaign --
 7 MR. NGUYENTAN: I don't know yet. I don't
 8 know yet. I only know, when I meet him, some people
 9 introduce me to him. And then after meet him sometime.
 10 I still very, you know, happy with him, to help and to
 11 support him. And then we'll have the -- some friend to
 12 help him like that.
 13 And, you know, that -- the idea to open the
 14 office not from me. From him. From Jimmy. He want
 15 to -- people help him to find the office, to run the
 16 campaign.
 17 But, after that, the June Tran call me. How
 18 come -- I can help. I called him my friend, Tony
 19 (unintelligible). He's the lender. He --
 20 CHAIRPERSON SMITH: Landlord.
 21 MR. NGUYENTAN: He is my landlord, my friend.
 22 And he help me to pay less. How much you can pay? I
 23 pay. That's it. Because, you know, the price like
 24 that, that is very, very less, right? You know that.
 25 But I say, Maybe 500. Okay. He said, Okay.

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1 Everything okay. But I -- but that's the reason I
 2 help -- I help him like that.
 3 And also, after that, I called. June Tran
 4 know that. And after that I don't know. Now the -- I
 5 call June to help me to open the utility. Because I
 6 live in Stockton. And I don't here -- and I am not
 7 even living here. And that mean that Dung Tran called
 8 me to help me with that.
 9 And when the bill come in --
 10 (unintelligible).
 11 You know, we're not here all the time. Only
 12 weekends. Sometime I come to the office, but sometime
 13 not. Mostly, I don't have -- I don't be there.
 14 You know, I -- but very, very hard for me
 15 when -- I don't pay nothing. I pay only that, like I
 16 said -- very true. I never lie to you. If I know, I
 17 list it on here.
 18 CHAIRPERSON SMITH: Okay. One last question.
 19 From me, anyway.
 20 MR. NGUYENTAN: Okay.
 21 CHAIRPERSON SMITH: Of the \$320 for the --
 22 MR. NGUYENTAN: Tung Tu (phonetic)?
 23 CHAIRPERSON SMITH: Yes. What was the three
 24 hundred -- what was that spent on? Was it --
 25 MR. NGUYENTAN: Because your -- we --

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1 because --
 2 CHAIRPERSON SMITH: What was the actual
 3 expenditure?
 4 MR. NGUYENTAN: Yeah. Because 100 for Ven
 5 Le, right? And, on the receipt, you want to know --
 6 CHAIRPERSON SMITH: And what was done with
 7 this? Was it to buy an ad somewhere or was it to print
 8 flyers?
 9 MR. NGUYENTAN: No. When we -- when you
 10 write out the Vietnamese language for the Tung Tu and
 11 newspaper in the community. You know, when we put them
 12 on the Thang Bom magazine every week. Okay? And each
 13 week pay \$40. We have eight weeks to pay it.
 14 CHAIRPERSON SMITH: This was to publish?
 15 MR. NGUYENTAN: Yeah, to publish. But --
 16 MS. TRAN: No, I don't think he understands
 17 the question. You're asking about --
 18 MR. NGUYENTAN: No, 320 --
 19 CHAIRPERSON SMITH: He listed \$320 --
 20 MR. NGUYENTAN: For Tung Tu, right? For Tung
 21 Tu.
 22 MS. TRAN: Tung Tu. You know, but you didn't
 23 put it.
 24 MR. NGUYENTAN: No, I -- Thang Bom magazine,
 25 320. He want (unintelligible) --

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1 CHAIRPERSON SMITH: You mentioned that 320.
 2 MR. NGUYENTAN: Yeah, 320 from the Thang Bom
 3 receive.
 4 CHAIRPERSON SMITH: Is that the --
 5 MR. NGUYENTAN: The Tung Tu.
 6 CHAIRPERSON SMITH: It was published in --
 7 maybe somebody can clarify that.
 8 MR. LAM: Also talk with Steven Miller about
 9 that. There is two item on that invoice. The first
 10 item belong to the previous banquet. It happened in
 11 September something. It's not paid yet.
 12 CHAIRPERSON SMITH: Okay.
 13 MR. LAM: And the second one is Tung Tu.
 14 MR. NGUYENTAN: Open letter.
 15 MR. LAM: That's what he read over there in
 16 Vietnamese.
 17 CHAIRPERSON SMITH: Right.
 18 MR. LAM: That's put on this -- on the paper.
 19 So that is --
 20 CHAIRPERSON SMITH: And that was the \$320?
 21 MR. NGUYENTAN: Yes.
 22 MS. CASSMAN: The advertisement expense?
 23 MR. NGUYENTAN: Yeah. You know, on the
 24 receipt you have the two items.
 25 MS. CASSMAN: An ad expense?

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1 MR. NGUYENTAN: The first item is 100.
 2 CHAIRPERSON SMITH: The \$100 was for the
 3 banquet and the 300 --
 4 MR. NGUYENTAN: No, no. 100 for all the
 5 banquet, September 8.
 6 CHAIRPERSON SMITH: Right.
 7 MR. NGUYENTAN: From the Ven Le. I -- you
 8 know, you see under there.
 9 The second item is the 320 for open letter.
 10 I mean, called the Tung Tu. Okay? Each week \$40. For
 11 eight weeks, two -- 320.
 12 CHAIRPERSON SMITH: And who requested that
 13 that be published?
 14 MR. NGUYENTAN: Me.
 15 CHAIRPERSON SMITH: And who paid --
 16 MR. NGUYENTAN: I put on Vietnamese community
 17 advertising.
 18 CHAIRPERSON SMITH: Is that the one that they
 19 then billed you and you said, No, send it to the
 20 campaign? Or did you pay it?
 21 MR. NGUYENTAN: Because I -- I not pay it
 22 that. I cannot do that. That the campaign paid.
 23 CHAIRPERSON SMITH: As far as you know, that
 24 one has not been paid?
 25 MR. NGUYENTAN: Yeah.

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<p style="text-align: center;">Page 61</p> <p>1 CHAIRPERSON SMITH: Okay. Now I understand. 2 MR. NGUYENTAN: No. 3 CHAIRPERSON SMITH: So somebody is getting -- 4 MR. NGUYENTAN: The (unintelligible), that 5 not paid yet too. 6 CHAIRPERSON SMITH: Okay. Any other 7 questions of Mr. Nguyentan before he has to leave? 8 COMMISSIONER PIERRE-DIXON: No. I think I 9 have it. 10 CHAIRPERSON SMITH: Okay. Thank you. 11 MR. NGUYENTAN: Okay. Thank you. 12 CHAIRPERSON SMITH: Now, any questions for 13 Mr. Lam and Ms. Tran? 14 COMMISSIONER PIERRE-DIXON: No. Thank you. 15 CHAIRPERSON SMITH: Okay. I have to say, I 16 really appreciate -- personally, I will say I really 17 appreciate the input that you gave us. There's been -- 18 in this whole thing there's been a lot of evasive 19 answers, non-answers. I wouldn't say anybody lied but 20 maybe partial answers. This was very helpful. 21 MS. TRAN: Thank you. 22 CHAIRPERSON SMITH: I'm glad you provided 23 this information to us. I really appreciate that. 24 MS. TRAN: Thank you. 25 CHAIRPERSON SMITH: Okay. Let me get back</p>	<p style="text-align: center;">Page 63</p> <p>1 MR. ROBINSON: Well, this has been very 2 enlightening and actually very helpful. And sometimes 3 noncommunication or the inability to communicate leads 4 to miscommunication, and that's what has happened here 5 in this particular venue. 6 And I would like to just start off by saying 7 that there were a couple of errors that were made in 8 the timing of all of this that we just need to go over. 9 One is the meeting that I had in my office which I 10 talked to Joan and Steven about. I wasn't exactly sure 11 who I met with and when I met them. It was never on my 12 calendar. So it actually happened after the 12th of 13 September. What day it was, I still do not know. But 14 it was after the 12th. Because the 12th, according to 15 these pictures, was a fundraiser for Mazie Hirono, out 16 of Hawaii, and we basically did that in San Francisco. 17 And there was no campaign business there for Jimmy 18 Nguyen. It was just a fundraiser for Mazie Hirono, as 19 Mr. Lam said. 20 Mr. Lam was one of the people, however, along 21 with June and a couple of others who I don't always 22 remember -- and I was very clear with Ms. Cassman that 23 I don't remember who all was there -- that we had a 24 meeting in our office at some point during this time. 25 And what happened was Jimmy called me during the day</p>
<p style="text-align: center;">Page 62</p> <p>1 to -- I think we are about -- okay. Which one of you 2 wants to speak first? 3 MR. ROBINSON: Well, we'll both come up, but 4 I'll speak first. This has been very enlightening. 5 It's going to be very helpful to give you a narrative 6 that makes sense now. 7 CHAIRPERSON SMITH: Okay. Identify yourself 8 and -- 9 MR. ROBINSON: Richard Robinson, and I'm 10 representing Jimmy Nguyen. Go ahead. Come up. 11 CHAIRPERSON SMITH: I'm sorry. I'll do you 12 both. 13 MR. ROBINSON: If you want to swear him in, 14 that's fine. 15 CHAIRPERSON SMITH: Okay. Even though he 16 said who you are, if you'll identify yourself. 17 MR. NGUYEN: Jimmy Nguyen. 18 19 RICHARD ROBINSON AND JIMMY NGUYEN, 20 being first duly sworn by the Chairperson to tell the 21 truth, the whole truth and nothing but the truth, 22 testified as follows: 23 24 CHAIRPERSON SMITH: Thank you. 25 Okay. Mr. Robinson?</p>	<p style="text-align: center;">Page 64</p> <p>1 and said, This community wants to rent an office. 2 And I said, We cannot rent the office. 3 He says, Well, you know, they'll pay for it. 4 I said, I understand they'll pay for it, but 5 that would be an illegal campaign contribution. We 6 can't accept an office nor do we have the funds to put 7 an office forward. Nor would we put an office forward 8 for all of those various reasons. 9 He goes, Well, you know, they really want to 10 do it. You know, I don't know what to do. 11 I said, It's my job to say no. It's my job, 12 as a consultant, to say no. So bring them into the 13 office and we'll have a meeting. 14 And that's what happened. We had a 15 meeting -- and I don't know what day it was, because 16 that's why the September 15th, 16th and all of those 17 dates where Jimmy was supposedly in this office or 18 whatever -- it may have been after the 15th that we had 19 this meeting. I don't know. 20 What I did tell Jimmy is that we were not 21 going to lease an office, and an office was not to be 22 utilized as a part of a campaign. I would tell the 23 community, whoever it was, that that was not possible 24 and they should not do it. 25 And I wish I could cross-examine, you know,</p>

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1 your witnesses, because I think they would come to you
2 and they would say, We had a meeting. Richard -- Rich
3 Robinson basically told us that the campaign would not
4 have anything to do with the office and that it would
5 be illegal for them to give us an office. It would be
6 illegal for us to coordinate with an office and for
7 them to go and -- you know, if they -- but then, as I
8 recall in the meeting, there was an assistant who said,
9 We're going to have an office. Our community wants an
10 office.

11 At that point I ended the meeting, and I
12 said, You'll have to get your own counsel. Now, this
13 is the key here, because that's when all communications
14 stopped.

15 Now, Mr. Nguyentan -- is it Nguyentan?

16 CHAIRPERSON SMITH: Uh-huh.

17 MR. ROBINSON: -- obviously got very upset in
18 his communication because he didn't understand why all
19 communication had to stop at that particular point,
20 between the 16th and the 20th or whenever this -- all
21 of this occurred. But at some point we made it clear
22 that the campaign would not -- would not -- would not
23 be an expenditure to the campaign to open a campaign
24 office.

25 Now, at this point I really need to help you

1 happen in the campaign. Jimmy's job as a candidate is
2 to listen and even agree or whatever to, you know --
3 but in terms of a campaign structure, it's the
4 consultant's job and it's the treasurer's job to make
5 the expenditures and make the tactical and strategic
6 decisions. And that's what happened. And now I
7 understand more fully exactly what happened in this
8 regard.

9 The reason the community was angry and
10 they're still angry at Jimmy is they still -- is
11 because they believed they were doing this on Jimmy's
12 behalf. I sincerely believe that now, after listening
13 to the testimony of this particular group. But they
14 were also aware at a certain point -- first in my
15 office and then followed up by the totality of the
16 evidence, if you take a look at the totality of the
17 evidence -- that they were not part of our campaign.

18 And that's where the miscommunication comes
19 from. Jimmy wanted to tell them what to do, and I told
20 them he could not. Jimmy wanted to tell them what not
21 to do, and I told him he could not. And he followed
22 that advice based on my counsel. And I said to him, We
23 would like to do that, but we're not in a position to
24 do that. Because telling them what not to do would be
25 a violation; telling them what to do would be a

1 understand how the campaign worked internally. Because
2 Jimmy's job as a candidate is not to make the strategic
3 and tactical decisions. There are a lot of people who
4 give new candidates advice on what to do and how to do
5 it. In his previous campaign he didn't have a
6 professional consultant. He had a group of people who
7 helped him, and many of the same people that we're
8 talking about today. But, at the same time, when he
9 hired professional help, he asked me to advise him on
10 what to do and how to do it.

11 And so that's what sort of happened in this
12 time period. So when they left my office at whatever
13 date that was, they understood. And we were consistent
14 with not communicating with that group and not helping
15 with that office as a campaign.

16 I don't have Angela here, but I can tell you
17 that -- and I've read the e-mails -- she has now moved
18 to Hawaii, by the way. So it's been hard to get ahold
19 of her. But I do want to talk to her. There were
20 never any pens or pencils or anything like that
21 ordered.

22 Now, there was obviously a discussion of some
23 sort on an e-mail, as there was discussion about a
24 brochure, as there was a lot of other discussions
25 before this meeting took place, about what should

1 violation.

2 Further complicating matters -- and I just
3 want to say this for the record, and I think the
4 testimony bears it out -- is we don't know who all was
5 involved in this committee. Jimmy doesn't know who all
6 was involved with this committee. He has some
7 understanding of the people that he worked with before,
8 and he certainly had some e-mails back and forth
9 with -- I think it was June or Mr. Nguyentan or
10 whoever, but we don't know who all was part of the
11 committee.

12 We actually worked with Mai Phan pretty
13 closely. We were pretty clear. In my estimation, I
14 did not believe or know or suspect that she was part of
15 any other committee. I just assumed that she was
16 helping our campaign. So if she was part of the
17 committee, we certainly didn't know it. And because
18 there was no record or anything else on file, we
19 have -- you know, we don't know. I did not know.

20 VICE-CHAIR COSGROVE: I'm sorry. Can I ask a
21 question there?

22 MR. ROBINSON: Sure.

23 VICE-CHAIR COSGROVE: Who did you think Mai
24 Phan was?

25 MR. ROBINSON: Mai Phan? She was helping

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1 Angela with the fundraisers is my understanding.
2 VICE-CHAIR COSGROVE: As a volunteer?
3 MR. ROBINSON: As a volunteer, yes. But not
4 as an agent of the campaign. She certainly wasn't a
5 paid agent of the campaign, and she wasn't a
6 decision-maker in the campaign. So, you know, from our
7 perspective, I don't know what the connection there was
8 or whatever.

9 So what I'm trying to say is that that's what
10 we did as a campaign. Jimmy is here -- you have a copy
11 of his statement. And you can certainly ask him any
12 questions, and I'm sure he would be able to answer any
13 questions you may have.

14 I want to thank the investigators here. I
15 think they have done a tremendously professional job
16 here, moving forward. They -- you know, we -- and I
17 want them to know this, you know, from my point of
18 view. We gave them all that we had, and we cooperated
19 as fully and as much as we knew at the time. Now that
20 we have a full story and a full picture of what has
21 happened, I believe that you have all of the evidence
22 before you to make a dispositive decision regarding
23 this particular case.

24 But I just want you to know, from a campaign
25 point of view, that there was no request by Jimmy for

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1 follow that path, it was too late. That's my
2 impression at the moment. I could be convinced
3 otherwise.

4 The other thing is -- and I guess I would
5 direct this more to Jimmy Nguyen. I was disappointed,
6 as I was with Mr. Nguyentan, that you did not really
7 respond to our specific requests to you, which was,
8 number one, to show up tonight and answer questions;
9 but, number two, to provide us with copies of all
10 e-mails, either from you to the group or from the group
11 to you. We know there were some that you have not
12 provided because we got them from the group. We got
13 one of them last week from Mr. Tam Nguyen, and we got
14 some others that were in Mr. Lam and Ms. Tran's
15 transmittal. But we've got nothing from you. So we
16 don't know if there is others or not. And I guess I'm
17 disappointed that you didn't follow our request.

18 MR. ROBINSON: I'll let Jimmy speak to that.
19 But from the first point, in terms of coordination, I
20 think that you need to take a look at the totality,
21 again, of the evidence that has been provided to you in
22 terms of whether or not there was coordination. And
23 it's difficult. You guys got -- campaign law is
24 difficult. And you all know that.

25 And I think you need to look at some of what

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1 any of this to occur, that the structure of the
2 campaign would not allow that to occur. And if there
3 were mistakes made -- and I'm sure that there certainly
4 were -- that they were certainly inadvertent and not --
5 not intentional.

6 And, last, if you look at the totality of the
7 evidence -- and I say this from the e-mails that were
8 sent and the communications that were given and the
9 fact that this community is still angry that Jimmy
10 would not communicate with them after a certain
11 point -- that there was a clear separation between
12 Jimmy's campaign and their efforts. And I think that's
13 what you need to conclude at the end of the day.

14 CHAIRPERSON SMITH: An observation. You
15 mentioned a very important -- three or four very
16 important words, "at a certain point." Quite honestly,
17 what I've heard so far tonight and what I've read -- it
18 sounds to me like -- that by the time on September 20th
19 or thereabouts, when you told the members of the group
20 that they could not be associated with the campaign,
21 that it was like closing the barn door after the horse
22 had already escaped, that there was a fair amount of
23 coordination before that time, having an office and/or
24 other things, and that although you did what you needed
25 to do and from that point on the campaign tried to

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1 the intentions of the individuals involved were and
2 what they were trying to accomplish at the time, not
3 simply -- you know, certainly, we -- we told the
4 investigators that previous to a certain point in time,
5 the meeting in my office -- and, again, I can't tell
6 you what time that was. But previous to the meeting in
7 our office, that there had been communications. We --
8 we knew about the flyers. We knew about the e-mails
9 between the flyers -- between Jimmy and whoever.

10 And we also told you that the process that we
11 used for expenditures was a direct one, that no
12 expenditures were made without Angela's authorization.
13 And so those expenditures were never made. And so that
14 in itself is evidence to show that there was no
15 coordination by the campaign to the extent that we did
16 not approve the expenditures.

17 If you ask any of these individuals who
18 previously testified, did you ever have authorization
19 from Jimmy, Angela or Rich, who are the only people to
20 do it -- or even Cary, who was a campaign manager, paid
21 campaign manager -- did you have authorization for
22 these expenditures, they will tell you no, they did
23 not.

24 CHAIRPERSON SMITH: I think there is another
25 question. Maybe I should defer this, though, to

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1 Mr. Nguyen. But I think there was also a statement
 2 made -- I think I got my facts right -- in the response
 3 from Mr. Lam or Ms. Tran that Jimmy picked up the key
 4 for the office on White Road, and his mother returned
 5 it to the landlord. That would seem, to me, to be a
 6 very strong indication of involvement in that office,
 7 if they had the key to the office -- if the candidate
 8 and his mother had a key to the office. But I'll --
 9 maybe we should --

10 MR. ROBINSON: Yeah, why don't you ask Jimmy
 11 those questions. Because there are some -- actually,
 12 some very cogent answers for those, and I know them.

13 CHAIRPERSON SMITH: Okay. So, Mr. Nguyen,
 14 perhaps you can respond to the question about the
 15 e-mails and about the keys.

16 MR. ROBINSON: Just one question before we go
 17 ahead. I know that Jimmy has given you a statement. I
 18 don't think there's any reason to read it into the
 19 record, but would you like him to read it?

20 CHAIRPERSON SMITH: He doesn't need to. It's
 21 part of the record, the document.

22 MR. ROBINSON: Okay. I just want to make
 23 that clear.

24 CHAIRPERSON SMITH: We've all read it.

25 MR. ROBINSON: All right. Thank you.

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1 CHAIRPERSON SMITH: Okay. Go ahead.

2 MR. NGUYEN: Initially, with the keys, I
 3 thought we were going to have an office. After talking
 4 to Rich, no, we didn't have an office.

5 As far as my mother, she is also an
 6 overzealous mother and supporter. She did what she
 7 wanted to. It didn't really matter what I said to her.
 8 As a son, as a candidate, as an attorney, it didn't
 9 matter. She wanted to help me that way. So she helped
 10 out with these people.

11 CHAIRPERSON SMITH: Was she part of your
 12 campaign, officially, in any capacity, other than as a
 13 volunteer? Was she a member of the group and of your
 14 campaign?

15 MR. NGUYEN: What does that mean?

16 CHAIRPERSON SMITH: I don't know what it
 17 means, exactly, to be a member of the campaign.

18 MR. ROBINSON: Let me answer that. No, she
 19 was not. In fact, there were requests -- there were
 20 requests by reporters for him to interview his mother.
 21 And we said, Mother is not part of the campaign.

22 CHAIRPERSON SMITH: Okay. Are you -- are you
 23 the one who picked up the key?

24 MR. NGUYEN: Yes, I was.

25 CHAIRPERSON SMITH: Okay. And with regard to

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1 the e-mails that you were requested to bring tonight.

2 MR. NGUYEN: I don't have it anymore. After
 3 some period of time, I delete them. You clean out your
 4 e-mail box, as I do too. I didn't expect to have -- to
 5 produce any e-mails at this point. I thought the
 6 campaign, after November 6th, was behind me. I was
 7 still receiving a lot of e-mails. As someone who
 8 lost -- you know, sometimes you just want to leave the
 9 past behind you.

10 CHAIRPERSON SMITH: Okay. So, basically,
 11 your statement is you didn't provide the e-mail
 12 requests because you didn't have them anymore.

13 MR. NGUYEN: Yes.

14 CHAIRPERSON SMITH: Okay. Other than -- any
 15 other statements that you would like to make, other
 16 than the written statement, before other people ask
 17 questions?

18 MR. NGUYEN: Well, I'll take your questions
 19 first.

20 COMMISSIONER PIERRE-DIXON: I think my main
 21 concern was this e-mail that involved you thanking them
 22 for the space. So I needed to understand what that was
 23 all about, in your mind.

24 MR. NGUYEN: You have to show deference to
 25 people. I mean, I'm sure you understand. Especially

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1 in the Vietnamese community, culture, you have to
 2 respect your elders. I was a junior. Again, it didn't
 3 matter if I was a son, an attorney or a candidate. I
 4 was still a junior. So, as you can see, it's a very
 5 sensitive issue. For a person who is a junior to an
 6 elder and not listened or respect them would be very
 7 offensive. I was in a very difficult position. I
 8 thought at least thanking the person for his efforts
 9 would alleviate some of the frustration or animosity
 10 that I may have offended the person.

11 MR. ROBINSON: And it was actually the -- and
 12 just to chime in here. It was me who offended the
 13 person for saying no. Again, Jimmy was really
 14 apologizing for my actions and the campaign's actions.

15 COMMISSIONER PIERRE-DIXON: Well, I think
 16 this is where the miscommunication came in. You're
 17 very clear on what needs to be done under the law, but
 18 Jimmy is not being clear.

19 MR. ROBINSON: Correct.

20 COMMISSIONER PIERRE-DIXON: And, therefore,
 21 the participants of this group were not sure what was
 22 even going on. You come to the office, thank them for
 23 the space. Make a speech there. Make a tape there.
 24 They're thinking they're working for you. Then they
 25 get upset later on when they're calling and they can't

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1 get to you. They can only get to Angela.
 2 So I think this is part of the problem.
 3 Whether you're a junior or not, you're a licensed
 4 attorney. You know what the law is. And it was
 5 incumbent upon you to make sure that members of the
 6 public did not end up hurt in this situation because of
 7 their trying to assist you.
 8 That's all I have.
 9 MR. ROBINSON: And let me just say, in
 10 defense of Jimmy on this particular point, election law
 11 is not his specialty.
 12 COMMISSIONER PIERRE-DIXON: That's right.
 13 MR. ROBINSON: And, ultimately, he was
 14 following the advice of his consultant while, at the
 15 same time, trying to run a campaign. And it's a
 16 balancing act. And I think some folks should have a
 17 little bit of empathy for a candidate that has to go
 18 through that particular process.
 19 COMMISSIONER PIERRE-DIXON: We do.
 20 MR. ROBINSON: Thank you.
 21 CHAIRPERSON SMITH: Other questions?
 22 VICE-CHAIR COSGROVE: I don't have any
 23 questions.
 24 CHAIRPERSON SMITH: Okay. Do you have
 25 anything else you want to share?

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1 MR. NGUYEN: I want to close with
 2 emphasizing, as a first-time candidate and somebody who
 3 is learning on the go, it was a very thin line I had to
 4 walk along the way, in a very short time period. The
 5 pressures are there. If any of you have ever run for
 6 office, you are dealing with this looming deadline. In
 7 this case, November 6th. There is only so much a
 8 person can do in a day. Go and talk to voters.
 9 Prepare for debates. Talk to reporters. The pressure
 10 was there.
 11 And then all -- in this case, you have people
 12 who really want to help you. But sometimes you can't
 13 talk to them for various laws. What do you do? Very
 14 frustrating and stressful and all that. Here we are in
 15 February. The election was over November 6th.
 16 CHAIRPERSON SMITH: Okay. Thank you.
 17 MR. ROBINSON: Thank you.
 18 Okay. Is there anyone else in the audience
 19 who would like to speak to the Commission on this
 20 matter?
 21 Mr. Riley, do you want to come forward?
 22 You've got to stand up, identify yourself, raise your
 23 hand.
 24 MR. RILEY: Terry Riley, former Chair of this
 25 Commission.

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1 TERRY RILEY,
 2 being first duly sworn by the Chairperson to tell the
 3 truth, the whole truth and nothing but the truth,
 4 testified as follows:
 5
 6 CHAIRPERSON SMITH: Okay.
 7 MR. RILEY: So, as former Chair of the
 8 Commission, I'm always interested in what you guys got
 9 on your plate, if you will. And, you know, when I saw
 10 a complaint against Crema, I thought, Good Lord. You
 11 know, what could June have done? You know, I've been
 12 going to Crema for -- and I've known them for years.
 13 It's always like my second office. Did she give away
 14 too much coffee? Anytime we need coffee in the
 15 community, it's done. 250 people at the Rose Garden.
 16 She doesn't even ask for our 501(c)(3) I.D. to put on
 17 our taxes. It's just, you know, take, take, take.
 18 She's very generous in that way. And then I come and I
 19 see, you know, all of this. Good Lord.
 20 Campaigns are fun. People get excited. They
 21 want to help. They give money. Someone in their
 22 community, you know, wants to do these things. And
 23 this is what these people wanted to do. We've all been
 24 there. You give them money because they need money.
 25 And then you find out that you gave them too

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1 much money, so you say, Well, how else can I help? Oh,
 2 you need some help here doing this? Okay. I'll do it.
 3 You need a banquet set up? I'll do that. I'll give
 4 you -- I'll pay for it. Here, you take care of it.
 5 Buttons, these type of things. This is what you do.
 6 This is what people do to get excited about the
 7 campaign.
 8 I do have to speak to what Cassman mentioned
 9 about June and their insistence that, you know, they're
 10 kind of disappointed in the democratic process. Using
 11 the term "maxed out," using these sorts of -- we all
 12 like to think we know all of these terms. I'm sure
 13 someone in the campaign said, June, you've maxed out.
 14 Okay. Well what -- you've given too much money. You
 15 can't give any money now. Well, just like I think I
 16 know about the stock market because I know -- you know,
 17 know a few phrases.
 18 But, you know, she has said to me that after
 19 this process -- because I read about it, and I said,
 20 June, what the heck is going on? Right? It's very
 21 disheartening. You know, and they just feel like they
 22 don't want to get into the democratic process. And
 23 that's sort of the sad thing when I see a candidate
 24 here that, you know, geez, was this all really worth
 25 it?

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1 The one thing that I really appreciate from
 2 the Commission is I see that you've put on your
 3 calendar the potential for some community outreach to
 4 develop a multi-language community outreach program
 5 addressing the basics of campaign finance for these
 6 types of communities or other emerging communities. So
 7 I appreciate that.

8 CHAIRPERSON SMITH: Thank you.
 9 Anyone else?

10 Okay. I guess I'll return to -- before we go
 11 into a Commission discussion on this, I'll return to
 12 our Evaluator if you have any additional --

13 MS. CASSMAN: Well, there is one piece of
 14 information that is, I think, still missing. And that
 15 is the telephonic services to the campaign.

16 CHAIRPERSON SMITH: I was going to ask that
 17 and I forgot.

18 MS. CASSMAN: And I'm wondering if you could
 19 ask questions as to who provided that and how much did
 20 it cost.

21 CHAIRPERSON SMITH: Yes.

22 MS. CASSMAN: And was it reported.

23 CHAIRPERSON SMITH: Could Ms. Tran or Mr. Lam
 24 come forward and tell us what you know about the
 25 telephone service that was provided and who paid for it

1 story, I think, is far more interesting than the facts
 2 that we have uncovered here. Because, you know, it's
 3 hard to just look at the evidence and say, yes, there
 4 was a violation when you know that probably people in
 5 their hearts didn't intend or want to violate the law.
 6 That doesn't mean, though, that there were no
 7 violations.

8 I think that what did happen -- and our Chair
 9 and the others of the Commission who have been
 10 questioning -- I mean, I think that things were in
 11 motion at the time that Rich started to lay down the
 12 law and tried to explain what could and couldn't
 13 happen. I fully understand this is complex. And if
 14 you're a brand new, first-time candidate, it's a whole
 15 new world. And your hope is that you get elected, and
 16 you're trying to accomplish that goal. And you're
 17 listening to your consultants but kind of wishing that
 18 you could still please the people who want to support
 19 you. So I -- I recognize that tension.

20 However -- I mean, it does seem to me that we
 21 have a list of expenditures that Jimmy was involved
 22 with deciding whether they should be purchased, what
 23 they would look like, square or round. You know, how
 24 the logo was going to look. What the flyers were going
 25 to say. A lot of things were in motion prior to the

1 and -- et cetera.

2 MS. TRAN: Okay. Originally, I -- do I have
 3 to raise -- originally, I help call AT&T and set up
 4 15 -- I mean, at the time, Mai -- I work closely with
 5 Mai, and she told me to order 15 lines so they can do
 6 phone banking. But then on the 18th she sent me an
 7 e-mail, said Jimmy cancel and Jimmy will take care of
 8 it. But I don't think Jimmy ever install any phones.
 9 So I know I cancelled it. And because of the situation
 10 that we can't communicate with him, so it's like I -- I
 11 don't even come there because -- the intention, the
 12 office for Jimmy, so I don't come there. So there were
 13 no phone that I installed. And I don't think Jimmy did
 14 either. And I know people probably use cell phones
 15 nowadays.

16 CHAIRPERSON SMITH: Okay. Thank you.
 17 Let me ask the question: Is there anyone
 18 here who knows if there were phones in that office and,
 19 if so, can you come forward and answer a question or
 20 two about it?

21 Okay. So I guess it appears that maybe there
 22 weren't any phones other than people's cell phones,
 23 unless somebody here knows. Nobody is volunteering.

24 Okay. Back to you.

25 MS. CASSMAN: Well, you know, the human

1 time that -- I think that there were good faith efforts
 2 to then establish a firewall.

3 So it's an unusual case. Because the totes,
 4 the pens, the T-shirts, the things that were
 5 distributed at the banquet -- which was clearly a
 6 campaign event -- were all paid for by this group or at
 7 least by June and were distributed.

8 Now, after the fact there was an e-mail from
 9 Angela, from our treasurer, Angela Kuo, saying to the
 10 group that we didn't authorize this and we didn't ask
 11 you. You didn't have our permission to do this. One
 12 might have suggested that they stop that activity at
 13 the banquet and not wait until everything was
 14 distributed and then send an e-mail a day or two later
 15 that was beautifully drafted by someone who knows the
 16 law.

17 So -- I mean, I think that it's a little
 18 squishy still. I think there were violations. I think
 19 that there is -- there are explanations here and
 20 certainly efforts, at a certain point in time, to try
 21 to correct the motions that were in play and reverse
 22 them. That could be taken into account in considering
 23 what a penalty might be.

24 But I -- I -- I think that as I read the law,
 25 that there was knowledge, consultation, coordination.

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1 These items were not -- says Mr. Robinson --
 2 authorized. I think Jimmy was involved and was nodding
 3 and giving a sense and some direction to ordering many
 4 of these items. If we say they weren't authorized
 5 because they weren't reimbursed, I -- I think there was
 6 apparent authority to go forward. That's kind of a
 7 legal term. But as these items were being thought
 8 about and planned for, I think the candidate -- the
 9 record reflects that the candidate was involved.

10 The fact that the campaign at a later date,
 11 when there was a desire to correct some of the forces
 12 in play, didn't want to reimburse, to me, doesn't mean
 13 that there was no authority to go forward and have
 14 these items, which ended up appearing and getting
 15 distributed at a campaign event. So I find that
 16 troubling in terms of saying, well, there were no
 17 violations. But I think there -- there were
 18 expenditures that, under the spirit of the law, should
 19 be attributable to the campaign.

20 But, you know, the next consideration is so
 21 then what? Should there be a penalty? And I think
 22 that's when perhaps we could take issues into
 23 consideration as to how this happened, why this
 24 happened. You know, was there any mens rea? Probably
 25 not. I mean, was there any intent, at least on the

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1 MS. CASSMAN: The 464 reflected.
 2 CHAIRPERSON SMITH: -- reflecting that and
 3 then that led to excess contributions from at least a
 4 couple of people -- if -- and as I understand from
 5 previous incidents, if those excess contributions were
 6 promptly remedied by the campaign, there would be no
 7 violation?

8 MS. CASSMAN: That is --
 9 CHAIRPERSON SMITH: Once that has happened,
 10 there would be no violation with regard to excess
 11 contribution by either the group or the campaign. The
 12 only violation that would remain would be the fact that
 13 these things weren't properly attributed to the
 14 campaign in the first place, which would be, I think,
 15 then a violation by the campaign.

16 MS. CASSMAN: I would agree that the law does
 17 say that if, within 30 days of coming to knowledge of
 18 an excess contribution, it is reimbursed, that there is
 19 no -- there is no violation.

20 CHAIRPERSON SMITH: Which would --
 21 coincidentally, reimbursement would be -- would be a
 22 penalty in and of itself, when we get to talking about
 23 penalties.

24 MS. CASSMAN: But that also raises the
 25 question of when was there knowledge that these were

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1 part of the candidate, to violate the law? I would say
 2 probably not. Was there any intent on the part of this
 3 group to violate the law? Probably not. But I think
 4 they knew that there were some restrictions and
 5 limitations that they were hoping they could work
 6 around.

7 So, I mean, I think what you got to grapple
 8 with is a situation in which you've got real-life human
 9 beings that are good people here and participated in
 10 your election process, which is so valuable. Made
 11 mistakes, in my view, that rub up against the
 12 regulations in the Municipal Code. And I think the
 13 rules that -- where there is friction or the rules on
 14 giving contributions by a couple of people in the group
 15 that we know of that exceeded the contribution limit by
 16 a campaign that received contributions in excess of the
 17 contributions limit and they did not report them.

18 CHAIRPERSON SMITH: Can I ask a question
 19 along these lines?

20 MS. CASSMAN: Yes.

21 CHAIRPERSON SMITH: If we were to find that
 22 the expenses associated with the office, the
 23 paraphernalia, perhaps the eight weeks at \$40 a week --
 24 because \$320 were at the behest of the candidate and,
 25 therefore, should -- the 460 should be filed --

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1 contributions and has the 30 days run? That's assuming
 2 that until this moment they really didn't know that
 3 this was happening. And --

4 CHAIRPERSON SMITH: I certainly didn't know
 5 until this moment. I don't know about anybody else.

6 MR. ROBINSON: I still disagree.

7 COMMISSIONER PIERRE-DIXON: I wouldn't have a
 8 problem saying that.

9 CHAIRPERSON SMITH: Yeah, I mean, I'm
 10 inclined -- I'm inclined -- kind of consistent with
 11 what I said before. I agree with everything you said,
 12 with one caveat. I've been troubled with this whole
 13 thing from the very beginning. Even though I agree
 14 that I think these are good people, trying to do the
 15 right thing, I'm troubled by the -- what looks like a
 16 cover -- an attempted coverup by numerous individuals
 17 with -- you know, not coming forward at the very
 18 beginning with what they knew.

19 MR. ROBINSON: Can I speak to that for just a
 20 second? We did not have all of the information.

21 CHAIRPERSON SMITH: I understand.

22 MR. ROBINSON: And so it appears that we were
 23 lacking veracity, coming forward, when we didn't
 24 ourselves have the information. Once the information
 25 came forward -- and I think your investigators agree --

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1 and we can put it all together, we have a story that
2 makes sense to everybody. That's -- but since we
3 didn't know what was happening --

4 CHAIRPERSON SMITH: I think that you're
5 right. There's a web here that nobody had -- if this
6 is like when you're working in high-security stuff, and
7 nobody but the guy on top knows every little detail,
8 and all people know is what is in their cell.

9 I'm sorry. So you were going to make a
10 point.

11 MS. CASSMAN: I was going to say, especially
12 with respect to Tho. You know, here is a fellow who
13 feels that we were calling him a liar, when if he had
14 only sat down with us and answered some questions -- he
15 felt, because we had given us a few lines on an e-mail
16 in response to some written questions -- you know, as
17 is always the case, you know, you uncover a little
18 information and it leads to more questions. And we had
19 said, Please sit down and talk to us. He, one, still
20 didn't think that this was a viable investigation or
21 any reason for it; two, didn't understand why we wanted
22 to know any more information from him. But, in point
23 of fact, had he sat down with us, he could have
24 clarified, no, I wasn't one of the people who sat down
25 with Mr. Robinson.

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1 we -- discussion and action and reach a conclusion.

2 So let me summarize what options we have. I
3 think we know, but let me just do -- go over it.

4 The Commission may find that further
5 investigation is necessary. If so, it shall direct the
6 Evaluator to conduct further investigations and report
7 back.

8 And, second, the Commission may find that
9 there is sufficient evidence to establish that no
10 violation occurred. If so, it shall make that finding
11 and announce that fact.

12 The Commission may find that there is -- that
13 there is insufficient evidence to establish that a
14 violation has occurred. If so, then it shall make that
15 finding and announce that fact.

16 And, fourth, the Commission may find that, on
17 the preponderance of the evidence from the entire
18 record of the proceedings, that a violation --
19 actually, violation or violations have occurred.

20 And at this point -- and I should mention --
21 and -- just a second. Somehow -- I lost it. But we
22 have to -- we have to address -- in whatever findings
23 we have, we have to address all of the issues and all
24 of the respondents in one manner or another. And we
25 can do that as one motion or in multiple motions or

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1 COMMISSIONER PIERRE-DIXON: And we also need
2 to --

3 MS. CASSMAN: And there was no intention on
4 Mr. Robinson or the part of the investigator to
5 fabricate this. It's just we were working on the
6 knowledge we had.

7 COMMISSIONER PIERRE-DIXON: Right.

8 MS. CASSMAN: And he wasn't coming forward to
9 help us fill up the picture. And that's -- so
10 hopefully that's a lesson learned by everyone, that --
11 to find an attorney who is going to say, "My client
12 won't talk to you" is not necessarily the best answer.

13 COMMISSIONER PIERRE-DIXON: I wanted to make
14 sure that was part of the record as well. He did have
15 counsel. And counsel is telling him what to do. And
16 anybody that pays for an attorney should be listening
17 to the attorney at all times.

18 MS. CASSMAN: Right.

19 CHAIRPERSON SMITH: Spoken by an attorney.

20 COMMISSIONER PIERRE-DIXON: And that's part
21 of this major problem here is that we have legal
22 information that's out there and that's appropriate and
23 people are not listening to it.

24 CHAIRPERSON SMITH: Good point.

25 Okay. Basically, we're at the point where

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1 however we choose. And you can explain it better.
2 Seems to have deleted it from my notes.

3 So, in any event -- so I'll open the floor to
4 discussion and -- oh, here it is. Yeah, Commission
5 will need to make a finding for each respondent for
6 each potential violation. The findings may be made by
7 separate motion, one for each respondent, and/or one
8 for each potential violation of Commission -- or the
9 Commission may act in one motion.

10 And the other thing I might mention is, in --
11 in the past sometimes we've been very precise as to the
12 number of violations. There were eight violations, and
13 here they are. In other cases -- I can think of at
14 least one where things were kind of messy.

15 What we arrived at was there has been at
16 least one violation. And, you know -- and we don't
17 know exactly how many, but there is at least one
18 violation in this case, involving, perhaps, what
19 were -- expenditures that weren't properly attributed
20 to the campaign.

21 So, anyway, if any discussion. I've said
22 more than enough. So if anyone else wants to come
23 forward on the Commission.

24 VICE-CHAIR COSGROVE: I basically agree that
25 there seem to have been violations. They strike me as

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1 being largely inadvertent and not deliberate, although
 2 that is perhaps based on just incomplete information
 3 and conflicting, at times, accounts and faulty
 4 memories. Because we are, as we know, a few months
 5 past the campaign, unfortunately.
 6 So, as I said at the last meeting, the goal
 7 of the Elections Commission is not to punish people or
 8 create problems for people's lives but to ensure fair
 9 elections in our city. And what's fair is that if
 10 there are violations by one group, those be dealt with
 11 in some way simply because in every election there is
 12 another group running a campaign who perhaps, we hope,
 13 is making great efforts to comply with the campaign
 14 laws of our city -- with the election laws of the city.
 15 So it's really about fairness and transparency and
 16 having a place to bring complaints when people think
 17 complaints have happened.
 18 So I would certainly be comfortable with a
 19 finding that at least one violation has occurred and
 20 that, following from that, we look for reparation of
 21 the violation, perhaps through a return of the excess
 22 contributions by the campaign.
 23 I also -- just on a sort of related note, it
 24 bothers me at some level -- and I don't know how you
 25 could address this -- that in this situation it appears

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1 that people made contributions with perhaps an
 2 assumption that they would be reimbursed by some entity
 3 who then just decided not to reimburse them. That
 4 would be troubling to me, as someone supporting a
 5 campaign and thinking, rightly or wrongly, that I was
 6 kind of moving along, paying for things that I was
 7 supposed to be reimbursed for, only to find out there
 8 will be no reimbursement. But maybe that happens often
 9 in city campaigns, through -- for various reasons. But
 10 that part is a little bit troubling to me.
 11 So that would be along the lines of what I am
 12 thinking. And that our future efforts be geared
 13 towards greater education, participation and outreach
 14 to ensure that this doesn't happen and then perhaps
 15 finding a way to make clear in our findings that when
 16 supporters of campaigns have reached the limit of what
 17 they are allowed to contribute, that there -- we find
 18 creative ways to urge campaigns or the city clerk or
 19 ourselves or someone to make it clear that when you've
 20 maxed out, you've maxed out. And that you can -- you
 21 can spend your time volunteering, but you can't -- but
 22 you should not continue to give money to a campaign
 23 when you've reached your limit, because that is not
 24 legal. And so that's another concern, even though I
 25 tend to lean towards these errors in this case seeming

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1 to be mostly inadvertent. But I'm not sure we'll
 2 ever -- anybody will ever know with a hundred percent
 3 satisfaction that that's where we are.
 4 That's just what I am kind of concluding.
 5 CHAIRPERSON SMITH: Thank you.
 6 COMMISSIONER PIERRE-DIXON: And I would agree
 7 with Commissioner Cosgrove. I think that were some
 8 inadvertent errors, but I think at the same time there
 9 was miscommunication and misdirection of people who
 10 wanted to do the right thing but were not given the
 11 right direction, what to do. So my feeling is that
 12 there has been a violation, at least one violation.
 13 Reparations need to be made.
 14 I'm also concerned about a bill -- I know at
 15 least one bill is still sitting out there, and it's
 16 unpaid. And that needs to be paid for, and I think it
 17 needs to be paid for by the campaign.
 18 I think what we also should have the ability
 19 to do is let every person that was a respondent in this
 20 case -- give them a clear letter on what the law says
 21 and so they can put that in a file. Because even
 22 though the people may be upset at this point, I'm sure
 23 down the line there will be more candidates running for
 24 office. These are good citizens in this community who
 25 will want to be involved in the process, but they need

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1 to have some clear direction. And certainly further
 2 down the line we hope to put on some public hearings
 3 and those kinds of things. But I'd like, as part of
 4 whatever we do, is a letter written to each respondent
 5 about what the law clearly is.
 6 COMMISSIONER LOUIE: Yeah, I agree with
 7 Commission Cosgrove and Pierre-Dixon. I also want to
 8 state that I don't believe we should penalize them with
 9 any kind of fines, because I think what was just said
 10 was everyone was doing the right thing or thought they
 11 were doing the right thing.
 12 I do hope I'm not being mean -- I'm
 13 Chinese -- I do that the same type of tradition that
 14 you respect your elders and everything. I hope that
 15 the group can come together. I hope you can understand
 16 what you had to go through, what you guys wanted to
 17 help him go through, in that you can come together and
 18 maybe do another campaign. But do it correctly this
 19 time.
 20 So I am in agreement, but I don't recommend
 21 any kind of penalty which we could assess. But -- I
 22 don't think that will do any good.
 23 CHAIRPERSON SMITH: That's a second step.
 24 COMMISSIONER LOUIE: Right.
 25 CHAIRPERSON SMITH: And I agree with --

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1 basically, I think we're all in agreement here.
 2 Essentially, if I understand, when it comes
 3 to -- we'll start with Complaint Number 3, which has to
 4 do with the independent committee. The issue there is
 5 that they established an independent campaign committee
 6 without registering and -- I guess submitting all the
 7 appropriate forms. That's the essence. And so I think
 8 what I'm hearing from myself and from my compatriots
 9 here is that we might entertain a motion that there was
 10 no violation by the respondents in Complaint Number 3
 11 with regard to establishing an independent committee.
 12 And the matter of Complaint Number 1 is
 13 basically that there was a campaign office and some
 14 associated paraphernalia or whatever word we want to
 15 use that was done at the behest of the candidate, at
 16 least in legalistic terms.
 17 And then if we wanted to talk about
 18 reparations, that would be part of the penalty phase, I
 19 believe. Am I correct?
 20 MS. LEE: I'm not sure what you mean by
 21 "reparations."
 22 CHAIRPERSON SMITH: "Reparations" would be
 23 that they need to file -- the campaign needs to file a
 24 460 and take any appropriate actions to -- the lack
 25 of -- yeah -- that would be part of the penalty phase,

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1 right?
 2 MS. LEE: Correct.
 3 CHAIRPERSON SMITH: Okay. So if somebody
 4 would like to make one or two motions --
 5 MR. ROBINSON: Just one question --
 6 MS. LEE: Yes.
 7 MR. ROBINSON: -- real quickly. Without
 8 agreeing or disagreeing with your decision, we would
 9 have to have an accounting, and we have none.
 10 CHAIRPERSON SMITH: My -- I was thinking
 11 about that, and I forgot to mention. My suggestion
 12 would be to take -- I don't think we're ever going to
 13 get a complete accounting. We could -- we could try
 14 from now until doomsday and probably never figure it
 15 out. There is too many people and -- et cetera. My
 16 suggestion would be to take the data from the
 17 transmittal from Mr. Lam and Ms. Tran and use that. In
 18 fact, I would probably encourage that be part of the
 19 motion. The data -- or that and plus Mr. Nguyentan's,
 20 because I'm not sure that the \$320 is mentioned in your
 21 memo. Basically, that we -- that those two statements
 22 form the basis for such a form.
 23 MS. CASSMAN: And the banner. I think they
 24 talked about the banner.
 25 CHAIRPERSON SMITH: Oh, and nobody ever said

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1 who paid for it, by the way.
 2 MS. LEE: Well, I think they did say -- I
 3 think --
 4 VICE-CHAIR COSGROVE: We have --
 5 CHAIRPERSON SMITH: All right. So that is
 6 part of this -- pardon?
 7 MS. CASSMAN: It was part of his oral
 8 testimony.
 9 CHAIRPERSON SMITH: Okay. So it would be
 10 those two memos plus the testimony indicating that that
 11 banner was paid for.
 12 VICE-CHAIR COSGROVE: And I believe it was
 13 part of the discussion at the last meeting.
 14 CHAIRPERSON SMITH: Okay. But I understand
 15 Mr. Robinson's concern. This is all during work
 16 (unintelligible) -- like what goes on this form? Where
 17 do we get this information? Because we didn't do it.
 18 MR. ROBINSON: Right.
 19 CHAIRPERSON SMITH: That is a very valid
 20 concern.
 21 Okay. So, anyway, would someone like to try
 22 to make a motion or two? If nobody else wants to, I
 23 will do it.
 24 MS. LEE: I do think, though, that -- I mean,
 25 if you're basically asking the respondent to reimburse

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1 for certain campaign -- what you're deeming to be
 2 campaign contributions, you need to identify for him --
 3 I mean, to be fair, you know, what those coordinated
 4 campaign contributions are. So I just want to make
 5 sure it's clear --
 6 CHAIRPERSON SMITH: So we would -- I think --
 7 okay. Now, I --
 8 MS. LEE: All of these --
 9 MR. ROBINSON: And can I just --
 10 CHAIRPERSON SMITH: All or some?
 11 MR. ROBINSON: From what I understand, there
 12 is no violation -- and I'm just trying to be clear.
 13 There is no violation if we are able to cure in
 14 30 days, upon notice?
 15 CHAIRPERSON SMITH: Yes, as far as excess
 16 contributions.
 17 MR. ROBINSON: If these contributions existed
 18 and what they are.
 19 CHAIRPERSON SMITH: And I would stipulate in
 20 the motion personally -- can't speak for my -- that we
 21 would treat today as the day of discovery. I think
 22 that's fair.
 23 MR. ROBINSON: Can we just ask that the
 24 notice be the date of discovery, simply because we
 25 don't know how much is available? And that would give

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<p style="text-align: center;">Page 101</p> <p>1 us 30 days once we know what the amount is. 2 CHAIRPERSON SMITH: You got the memos. 3 MR. ROBINSON: If you could just set them out 4 to us in a notice, and then the date of the notice will 5 be fine with us. 6 CHAIRPERSON SMITH: Well, that's penalty 7 phase. Let's get to this phase first. I understand 8 your point. We can work that out. 9 Okay. So anybody want to try? 10 Okay. I'll try. 11 First of all, I would move that we find that 12 there is no violation by the respondents for what we're 13 referring to as Complaint Number 3, with regard to 14 establishing and filing the appropriate forms for an 15 independent campaign committee. Do I have a second? 16 COMMISSIONER PIERRE-DIXON: I second. 17 CHAIRPERSON SMITH: Does that motion meet the 18 need? 19 I'll ask my experts. Yes? You think that 20 suffices? 21 MS. LEE: Yes. 22 VICE-CHAIR COSGROVE: Complaint Number 3, 23 does that sort of sufficiently deal with it? 24 CHAIRPERSON SMITH: Right. 25 MS. LEE: Yes.</p>	<p style="text-align: center;">Page 103</p> <p>1 testimony regarding the sign at the January 24th, 2013, 2 meeting. 3 And I should go back and say there's at least 4 one violation -- a violation. There is at least one or 5 more. 6 MR. ROBINSON: That was 4(a)? 7 CHAIRPERSON SMITH: Is that 4(a)? 8 MR. ROBINSON: That was 4(a). 9 CHAIRPERSON SMITH: Okay. Sorry. 10 MS. CASSMAN: Is the 4(a) or 4(b)? 11 VICE-CHAIR COSGROVE: It does. Let me be 12 sure. 13 CHAIRPERSON SMITH: Let's go back and be 14 sure. 15 MS. CASSMAN: Let's just be sure. 16 CHAIRPERSON SMITH: Let me see what my notes 17 say. 18 MS. CASSMAN: 4(a), I thought, was the 19 formation of -- no. 4(a). Yep. 20 MR. ROBINSON: 4(a). 21 CHAIRPERSON SMITH: It's Complaint Number 1, 22 the portion -- Complaint Number 1, Issue 4(a), yes. 23 That's it. Right. 24 MR. ROBINSON: Sorry. 25 MS. CASSMAN: You're right.</p>
<p style="text-align: center;">Page 102</p> <p>1 CHAIRPERSON SMITH: Okay. Good. Because if 2 there's a problem with the motion, I want to fix it 3 before we vote. 4 Okay. So any discussion? 5 VICE-CHAIR COSGROVE: Just a question. Do 6 you need us, Toni, to vote individually? 7 MS. TABER: No, because we're not 8 teleconferenced. 9 CHAIRPERSON SMITH: Only because we were 10 teleconferenced. 11 Okay. So all in favor? 12 (All Commissioners responded Aye.) 13 CHAIRPERSON SMITH: Any opposed? 14 So passes four to zero. 15 Okay. I'll take a crack at the second one. 16 I would move that we find that there is a violation by 17 the Jimmy Nguyen campaign, per Complaint Number 1, 18 issue 4(d), with regard to expenditures that were made 19 for the office on White Road, the various campaign 20 paraphernalia, including the sign outside the office, 21 and that these expenses are enumerated in the memos 22 provided by Mr. Lam and Ms. Tran as -- which was dated 23 February 8th, I believe -- the statement from 24 Mr. Nguyentan, which is dated -- well, it actually 25 isn't dated, but we received it today -- and the</p>	<p style="text-align: center;">Page 104</p> <p>1 CHAIRPERSON SMITH: Okay. Thank you for the 2 correction. 3 Did anybody get that? Does that sound -- am 4 I missing anything? 5 MS. CASSMAN: So it seems to me that what we 6 are saying is that there is a violation on a failure to 7 report contributions, as enumerated in the record; and, 8 in particular, the responses provided by Mr. Nguyentan 9 and Dung Tran and Duc Lam, in addition to the \$300 10 banner. That the Commission directs that the proper 11 reporting and accounting be filed. And that if -- 12 CHAIRPERSON SMITH: Is that part of -- go 13 ahead. 14 MS. CASSMAN: And then if there are excess 15 contributions -- because we don't know yet until we 16 have an accounting. 17 CHAIRPERSON SMITH: Yes. 18 MS. CASSMAN: -- that the campaign would take 19 appropriate action to reimburse any excess 20 contributions. So the violation is probably the 21 reporting. 22 CHAIRPERSON SMITH: Is that part of the 23 violation or is that part of the penalty? That is what 24 I was going to ask, this is about doing the format. 25 That's not really the violation. That's really -- I</p>

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1 think --

2 MS. LEE: That's part of the violation. If

3 these were, indeed, campaign contributions, they should

4 have been reported. And they were not reported.

5 MS. CASSMAN: And it isn't until we have a

6 proper accounting and a Form 460 filed that we know --

7 COMMISSIONER PIERRE-DIXON: What the excess

8 would be.

9 MS. CASSMAN: -- what the excess. And I

10 think your further direction would be, should there be

11 any further excess.

12 CHAIRPERSON SMITH: Okay. I would accept

13 that addition. It hasn't been seconded yet, so I can

14 accept it. And then I think we also, now that you

15 mention it, since we're getting into that, would also

16 include that the unpaid expenditures of \$320 should be

17 paid.

18 MS. CASSMAN: Right.

19 CHAIRPERSON SMITH: As well as the return of

20 the excess contribution.

21 MS. TABER: This is the newspaper ad?

22 CHAIRPERSON SMITH: Yes.

23 COMMISSIONER PIERRE-DIXON: And I think

24 that's listed in his memo.

25 CHAIRPERSON SMITH: And that's listed in

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1 Mr. Nguyentan's memo.

2 Okay. Everybody understands now.

3 MS. TABER: Let me read back what I have.

4 Find there is a violation by the Jimmy Nguyen

5 campaign for Campaign Number 1, Issue 4(a), with regard

6 to the expenditures that were made for the office on

7 White Road, for the various campaign paraphernalia,

8 including the sign outside the office. And these

9 expenses were enumerated in the memo provided by

10 Mr. Lam and Ms. Tran, which was dated February 8th; the

11 statement from Mr. Nguyentan received today; and the

12 testimony regarding the sign at the January 24th, 2013,

13 meeting, all of which should have been included on the

14 Form 460.

15 MS. CASSMAN: Plus the 320 --

16 MS. TABER: That's part of the --

17 VICE-CHAIR COSGROVE: Got it.

18 CHAIRPERSON SMITH: And -- okay. And, in

19 addition, to include -- that didn't include all the

20 business about -- that the -- excess -- you know, all

21 of the --

22 MS. TABER: The violation part? Are we

23 separating those out into -- there's --

24 CHAIRPERSON SMITH: I thought there was a

25 violation, but they're telling me -- my attorneys are

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1 telling me that it's part of the -- I thought it was

2 part of the penalty. They're telling me it's part of

3 the violation. So I don't know.

4 MS. LEE: Well, we're saying it's a violation

5 to fail to disclose -- disclose campaign contributions.

6 So that is clear.

7 What we don't know for certain -- although I

8 think we can be pretty sure at least as to what

9 Ms. Dung Tran had sent. That would be an excess

10 contribution, because you already maxed out. But the

11 rest of the individuals who made some sort of

12 contribution, we don't know if it's an excess

13 contribution.

14 CHAIRPERSON SMITH: Right.

15 MS. LEE: So, if there was an excess

16 contribution in the -- I think we could say there

17 probably -- I think you can find an excess

18 contribution --

19 CHAIRPERSON SMITH: At least one.

20 MS. LEE: At least one, correct. And we

21 don't know if there are any others. But, you know, in

22 the penalty phase you can direct the respondent to

23 reimburse any excess --

24 CHAIRPERSON SMITH: Okay. So that would be

25 part of the --

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1 MS. CASSMAN: Yes.

2 CHAIRPERSON SMITH: Okay. That --

3 MS. CASSMAN: And then once there is full

4 rectification, then under the Municipal Code that would

5 nullify the violation.

6 CHAIRPERSON SMITH: Okay. And in -- before I

7 ask for a second which -- I want to make sure that the

8 motion is right. If we have any issues -- I don't

9 think there is going to be anybody out there who

10 doesn't get reimbursed who has spent more than a

11 thousand dollars themselves. You know, if there is

12 more than a thousand dollars left over -- is there an

13 independent committee?

14 MS. CASSMAN: Well, I think as to this group,

15 we kind of have established that they weren't very

16 independent.

17 CHAIRPERSON SMITH: Right.

18 MS. CASSMAN: So if there is anything else

19 out there, it should be included in the --

20 CHAIRPERSON SMITH: Yeah, okay.

21 COMMISSIONER PIERRE-DIXON: Can we hear our

22 motion now that we have --

23 CHAIRPERSON SMITH: By the way, if we get

24 any --

25 MS. TABER: Do I need to put the excess

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<p style="text-align: center;">Page 109</p> <p>1 contribution part now or later? 2 MS. LEE: I think you can put it in because 3 that's -- 4 MS. TABER: Let me write it out, and then 5 I'll read it back. 6 CHAIRPERSON SMITH: Okay. And it's at least 7 one, right? 8 MS. TABER: Yeah. 9 CHAIRPERSON SMITH: Okay. She'll read it 10 back, and then we can get a second. Depending on how 11 she asked the question, I think we're telling her one 12 thing or another. Which is confusing to me. 13 COMMISSIONER PIERRE-DIXON: She'll get it in 14 there. 15 CHAIRPERSON SMITH: We can't call that a 16 violation until 30 days have passed. Because if they 17 fix it in 30 days, it ain't a violation. Unless you 18 put it in there with a clause that says -- 19 MS. CASSMAN: You definitely need to put that 20 in there. But until it is, you have found that -- 21 there is a violation. 22 CHAIRPERSON SMITH: There's a violation, but 23 still -- 24 MS. CASSMAN: If cured, it is nullified. 25 CHAIRPERSON SMITH: Okay. It's going to take</p>	<p style="text-align: center;">Page 111</p> <p>1 CHAIRPERSON SMITH: Okay. 2 COMMISSIONER PIERRE-DIXON: I would second -- 3 I would second that motion. 4 CHAIRPERSON SMITH: Okay. Any discussion? 5 Okay. All in favor? 6 (All Commissioners responded Aye.) 7 CHAIRPERSON SMITH: Any opposed? 8 Okay. Passes four to zero. 9 Now the penalty. 10 MS. LEE: Do you have to do the 11 certification? 12 CHAIRPERSON SMITH: Oh, yes. I'm sorry. 13 Thank you. Yes, we do. 14 MS. CASSMAN: Did we already take on the 15 record the finding that there were no violations on 16 the -- 17 CHAIRPERSON SMITH: We did that last time. 18 MS. CASSMAN: Good. I just want to make sure 19 that was done. 20 CHAIRPERSON SMITH: The only thing we have to 21 do on those is the resolution. 22 VICE-CHAIR COSGROVE: Got it. 23 CHAIRPERSON SMITH: Okay. Upon adoption of 24 the motion, the Chair must ask each Commission member 25 to certify that they have heard or read the testimony</p>
<p style="text-align: center;">Page 110</p> <p>1 longer to do the motion -- 2 COMMISSIONER PIERRE-DIXON: That's all right. 3 It has to be right. 4 CHAIRPERSON SMITH: I'm impressed, Toni, I've 5 got to say, that you can take all of that and make a 6 motion out of it. 7 (Discussion off written record.) 8 MS. TABER: Find there is at least one 9 violation by the Jimmy Nguyen campaign for Complaint 10 Number 1, Issue 4(a), with regard to failing to report 11 contributions and receiving contributions in excess of 12 the limit established by the Municipal Code. 13 And then we're referencing Code 12.06.210 and 14 12.06.910. 15 MS. CASSMAN: Those are the reporting and the 16 excess contributions provisions. 17 MS. TABER: And that is the motion made by 18 the Chair. 19 CHAIRPERSON SMITH: And where -- okay. One 20 question. Where do we put the business about it can be 21 cured? That needs to be on the record somewhere. 22 MS. TABER: It will. That will be the next 23 phase. 24 CHAIRPERSON SMITH: In the penalty? 25 MS. TABER: Yes.</p>	<p style="text-align: center;">Page 112</p> <p>1 at the hearing and have reviewed all the evidence in 2 the record by affirming "so certified." 3 Commissioner Cosgrove? 4 VICE-CHAIR COSGROVE: So certified. 5 CHAIRPERSON SMITH: Commissioner 6 Pierre-Dixon? 7 COMMISSIONER PIERRE-DIXON: So certified. 8 CHAIRPERSON SMITH: Commissioner Louie? 9 COMMISSIONER LOUIE: So certified. 10 CHAIRPERSON SMITH: And Chair Smith, so 11 certified. 12 Okay. If the Commission finds that a 13 violation has occurred, it must consider imposing 14 penalties. The Commission may, first, find mitigating 15 circumstances and take no further action; second, issue 16 a public statement or reprimand; third, require a 17 corrective action by a particular deadline; and/or -- 18 and that's important; it's "and/or" -- we can do any or 19 all of these -- impose a civil penalty in accordance 20 with Chapter 12.04 of the San Jose Municipal Code. 21 Civil penalties are imposed by resolution of 22 the Commission. Except as otherwise specified in 23 Title 12, the Commission may impose penalties of up to 24 \$5,000 for each violation or three times the amount 25 which a person or respondent failed to report properly</p>

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1 or unlawfully contributed, expended, gave or received,
 2 whichever is greater.
 3 The affirmative votes of at least three
 4 Commission members are required to impose orders and
 5 penalties for a violation.
 6 And in determining if the penalties should be
 7 imposed for violations of Title 12 and the amount of
 8 such penalties, the Commission shall consider all
 9 relevant circumstances surrounding the case, including,
 10 one, the severity of the violation; two, the presence
 11 or absence of any intention to conceal, deceive or
 12 mislead; three, whether the violation was deliberate,
 13 negligent or inadvertent; four, whether the violation
 14 was an isolated incident or pervasive enough to
 15 indicate a pattern of disregard for this Chapter; five,
 16 whether the respondent has a prior record of violations
 17 of city law in relation to campaign finance, lobbying,
 18 conflicts of interest or governmental ethics; six, the
 19 degree to which the respondent cooperated with the
 20 investigation; seven, whether or not corrective actions
 21 were taken, if appropriate, in accordance with the
 22 provisions of this Chapter.
 23 Is there a motion?
 24 Now, I think what I heard was that this
 25 motion should include -- and I'm not quite sure how

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1 we're going to do a violation or penalty. This should
 2 be included -- well, the discussion we were having so
 3 far is that -- the feeling seems to be that there
 4 should be no financial penalty, that the campaign
 5 should be -- as far as a corrective action, should file
 6 the appropriate 460s, using the information that we
 7 talked about earlier in the memos and testimony and
 8 should correct any excess contributions and that if
 9 such excess contributions are corrected within 30 days,
 10 that -- that what?
 11 MS. CASSMAN: A violation is cured or
 12 nullified or --
 13 CHAIRPERSON SMITH: At least the portion --
 14 the portion of the first -- of the -- the portion of
 15 the violation regarding excess contributions would be
 16 cured.
 17 MS. CASSMAN: That the violation would be
 18 nullified.
 19 CHAIRPERSON SMITH: Not the whole violation.
 20 Because the violation had to do with having not
 21 reported in the first place. It's only the excess
 22 contributions.
 23 MR. ROBINSON: But if you don't know that a
 24 contribution exists until today, how do we record it?
 25 MS. CASSMAN: Well, the way we've worded it

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1 and with the mitigating circumstances that we've
 2 discussed, we're talking about a motion that says -- we
 3 just took a motion that there was at least one
 4 violation.
 5 CHAIRPERSON SMITH: Right.
 6 MS. CASSMAN: And we have kind of combined
 7 the violation to be the failure to report -- and
 8 they're going to do that as soon as they know what to
 9 report -- coupled with the -- the receipt of excess
 10 contributions. So I think you could say, since you're
 11 really basing it on at least one violation, that
 12 once -- what's appropriate reparation has been made.
 13 CHAIRPERSON SMITH: So what -- then the
 14 resolution gets issued -- if it gets issued before
 15 30 days, (unintelligible); if it gets issued after
 16 30 days, there's no longer a violation?
 17 MS. CASSMAN: Why couldn't it say after
 18 30 days that there was a violation and the finding of
 19 the violation occurred on this date, 2-13; however, in
 20 the 30-day period that you were allowed, you cured it
 21 or repaired it and now we're finding that it has been
 22 nullified through those actions. So you're
 23 acknowledging that one happened and acknowledging that
 24 there was a cure and then saying the cure nullifies it.
 25 COMMISSIONER LOUIE: But it's not 2-13. It's

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1 when they get the report is what he's requesting.
 2 VICE-CHAIR COSGROVE: Sorry. But the finding
 3 that there was at least one violation is occurring
 4 tonight.
 5 MR. ROBINSON: I think that's okay. I think
 6 we can live with that.
 7 VICE-CHAIR COSGROVE: They're asking for
 8 30 days from the time they have knowledge. We'll get
 9 them -- we'll get them a list.
 10 CHAIRPERSON SMITH: Can we make a motion out
 11 of that?
 12 MS. TABER: Require that the Jimmy Nguyen
 13 campaign committee file an amended Form 460 to report
 14 the expenditures that were made for the office on White
 15 Road; the various campaign swag, including the sign
 16 outside the office. And these expenses are enumerated
 17 in the memos provided by Mr. Lam and Ms. Tran which was
 18 dated February 8th and the statement from Mr. Nguyentan
 19 received today and the testimony regarding the sign at
 20 the January 24th meeting and any excess contributions
 21 that are found are to be immediately returned to the
 22 contributor.
 23 CHAIRPERSON SMITH: And the unpaid
 24 expenditures.
 25 MS. TABER: That's part of that. Because

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<p style="text-align: center;">Page 117</p> <p>1 they'll have to report it --</p> <p>2 CHAIRPERSON SMITH: They have to report it,</p> <p>3 but they got to pay it too. I think.</p> <p>4 MS. CASSMAN: Uh-huh.</p> <p>5 CHAIRPERSON SMITH: With all the other</p> <p>6 expenditures -- all the other expenditures have been</p> <p>7 paid.</p> <p>8 MS. TABER: And paid the unpaid expenditure,</p> <p>9 the \$320 for the newspaper ad. I can specify the ad.</p> <p>10 Yeah.</p> <p>11 CHAIRPERSON SMITH: Okay. Okay. Any</p> <p>12 discussion -- or let's have a second, and then we have</p> <p>13 a discussion.</p> <p>14 COMMISSIONER PIERRE-DIXON: Are we going to</p> <p>15 add in there once cured, that it's nullified? That</p> <p>16 should be part of that.</p> <p>17 CHAIRPERSON SMITH: Okay.</p> <p>18 MS. CASSMAN: The foregoing violation is</p> <p>19 nullified once appropriate measures have taken place --</p> <p>20 CHAIRPERSON SMITH: Within 30 days.</p> <p>21 MS. LEE: Once the corrective action --</p> <p>22 MS. TABER: We need to put a date.</p> <p>23 MS. LEE: Yeah, we need to put a date.</p> <p>24 CHAIRPERSON SMITH: Oh, put a date on the --</p> <p>25 MS. LEE: On the finding.</p>	<p style="text-align: center;">Page 119</p> <p>1 was that the motion --</p> <p>2 MS. McDANIEL: Was that your motion?</p> <p>3 CHAIRPERSON SMITH: Yes.</p> <p>4 COMMISSIONER LOUIE: Can I suggest --</p> <p>5 COMMISSIONER PIERRE-DIXON: She's going to</p> <p>6 re-read it for us.</p> <p>7 CHAIRPERSON SMITH: Okay. Right. Yes.</p> <p>8 MS. LEE: If they take corrective action</p> <p>9 within that time frame, then the violation will be</p> <p>10 deemed nullified.</p> <p>11 MS. TABER: If the corrective action is taken</p> <p>12 within this time frame, the violation will be deemed</p> <p>13 nullified.</p> <p>14 MS. LEE: Uh-huh.</p> <p>15 MS. TABER: And if they don't, do we need to</p> <p>16 put something?</p> <p>17 MS. CASSMAN: Then there will be a violation.</p> <p>18 COMMISSIONER PIERRE-DIXON: Okay.</p> <p>19 CHAIRPERSON SMITH: I suspect it will be</p> <p>20 taken care of. Okay.</p> <p>21 COMMISSIONER PIERRE-DIXON: Toni, if you --</p> <p>22 CHAIRPERSON SMITH: Do you want to read it</p> <p>23 back, then.</p> <p>24 MS. TABER: Require that the Jimmy Nguyen</p> <p>25 campaign committee file an amended Form 460 to report</p>
<p style="text-align: center;">Page 118</p> <p>1 CHAIRPERSON SMITH: Yeah.</p> <p>2 MS. TABER: And such action should be taken</p> <p>3 30 days after receipt of --</p> <p>4 (Discussion off written record.)</p> <p>5 CHAIRPERSON SMITH: Okay. We're not going to</p> <p>6 do it based on today. We're going to do it based on --</p> <p>7 MS. TABER: Yeah.</p> <p>8 MS. CASSMAN: Well, the finding of fact --</p> <p>9 the finding takes place today.</p> <p>10 CHAIRPERSON SMITH: Right.</p> <p>11 MS. CASSMAN: The 30 days to reimburse.</p> <p>12 COMMISSIONER PIERRE-DIXON: From the time</p> <p>13 they get the notice of what it is --</p> <p>14 CHAIRPERSON SMITH: Okay. So --</p> <p>15 MS. CASSMAN: Starts from the time --</p> <p>16 CHAIRPERSON SMITH: Are we talking -- when</p> <p>17 you say "the notice," are you talking about the</p> <p>18 resolution?</p> <p>19 MS. TABER: No, we're going to write them a</p> <p>20 letter.</p> <p>21 CHAIRPERSON SMITH: Oh, okay. I gotcha.</p> <p>22 Because the -- yeah, the resolution will take a little</p> <p>23 longer. Okay. Gotcha.</p> <p>24 MR. ROBINSON: Thank you.</p> <p>25 CHAIRPERSON SMITH: Okay. So did we get a --</p>	<p style="text-align: center;">Page 120</p> <p>1 the expenditures that were made for the office on White</p> <p>2 Road; the various campaign swag, including the sign</p> <p>3 outside the office; and those expenses enumerated in</p> <p>4 the memos provided by Mr. Lam and Ms. Tran, which was</p> <p>5 dated February 8th, the statement from Mr. Nguyentan</p> <p>6 received today and the testimony regarding the sign at</p> <p>7 the January 24th, 2013, meeting, and any excess</p> <p>8 contributions that are found are to be immediately</p> <p>9 returned to the contributor and pay -- pay the unpaid</p> <p>10 expenditure of \$320 for the newspaper ad, and such</p> <p>11 action should be taken 30 days after the mailing of the</p> <p>12 notice by the City Clerk's office. If corrective</p> <p>13 action is taken within this time frame, the violation</p> <p>14 will be deemed nullified.</p> <p>15 COMMISSIONER PIERRE-DIXON: I would second</p> <p>16 that motion.</p> <p>17 CHAIRPERSON SMITH: When you write it, you</p> <p>18 may want to put a couple of periods.</p> <p>19 MS. TABER: We'll make it sound, you know,</p> <p>20 grammatically correct.</p> <p>21 CHAIRPERSON SMITH: I'm glad you're -- I'm</p> <p>22 glad you're here to make sense out of this. I applaud</p> <p>23 you.</p> <p>24 Okay. We've got a motion and a second from</p> <p>25 Commissioner Pierre-Dixon.</p>

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1 Any discussion?
 2 Okay. All in favor?
 3 (All Commissioners responded Aye.)
 4 CHAIRPERSON SMITH: Any opposed?
 5 Okay. Passes four-zero.
 6 I need to certify again. Upon adoption of
 7 the motion, the Chair must ask that each Commission
 8 member certify that they have heard or read the
 9 testimony at the hearing and have reviewed all of the
 10 evidence in the record by affirming "so certified."
 11 Commissioner Cosgrove?
 12 VICE-CHAIR COSGROVE: So certified.
 13 CHAIRPERSON SMITH: Commissioner
 14 Pierre-Dixon?
 15 COMMISSIONER PIERRE-DIXON: So certified.
 16 CHAIRPERSON SMITH: Commissioner Louie?
 17 COMMISSIONER LOUIE: So certified.
 18 CHAIRPERSON SMITH: And Chair Smith, so
 19 certified.
 20 And at this time I would entertain a motion
 21 that the Commission directs the city attorney to draft
 22 a resolution of the Commission's findings and penalties
 23 for Complaints Number 1, Number 2 and Number 3 in their
 24 entirety and that the Commission authorizes the Chair
 25 to approve and sign the resolution.

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1 MS. LEE: Resolutions.
 2 CHAIRPERSON SMITH: So somebody just say "so
 3 moved."
 4 COMMISSIONER PIERRE-DIXON: So moved.
 5 CHAIRPERSON SMITH: Who did? I did.
 6 MS. TABER: Rolanda got it in first.
 7 CHAIRPERSON SMITH: Okay. And a second?
 8 COMMISSIONER LOUIE: Second.
 9 CHAIRPERSON SMITH: Commissioner Louie.
 10 Okay. Any discussion?
 11 All in favor?
 12 (All Commissioners responded Aye.)
 13 CHAIRPERSON SMITH: Any opposed?
 14 Okay. Four-zero again.
 15 And I will declare this hearing closed and go
 16 on to other matters. Thank you all for your patience
 17 and participation.
 18 (Whereupon, the meeting was adjourned at
 19 8:14 p.m.)
 20
 21
 22
 23
 24
 25

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1
 2 I, NOELIA ESPINOLA, do hereby certify:
 3 That prior to being examined, the witnesses
 4 named in the foregoing meeting were duly sworn to
 5 testify as to the truth, the whole truth, and nothing
 6 but the truth;
 7 That said meeting was taken down by me at the
 8 time and place therein named, and thereafter reduced to
 9 computerized transcription under my direction.
 10 I further certify that I am not interested in
 11 the outcome of this meeting.
 12
 13
 14
 15 Dated: _____
 16 NOELIA ESPINOLA, CSR #8060
 17
 18
 19
 20
 21
 22
 23
 24
 25

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