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BEFORE THE STATE OF INDIANA

CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF OCTOBER 27, 2006

ORIGINAL

- - -

PROCEEDINGS

in the above-captioned matter, before the  
Indiana Civil Rights Commission, Alpha  
Blackburn, Chairperson, taken before me, Lindy  
L. Meyer, Jr., a Notary Public in and for the  
State of Indiana, County of Shelby, at the  
Indiana Government Center South, Conference  
Center, Media Center, 402 West Washington  
Street, Indianapolis, Indiana, on Friday,  
October 27, 2006 at 4:00 o'clock p.m.

- - -

William F. Daniels, RPR/CP CM d/b/a  
ACCURATE REPORTING OF INDIANA  
12922 Brighton Avenue  
Carmel, Indiana 46032  
(317) 848-0088

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APPEARANCES:

COMMISSION MEMBERS:

Alpha Blackburn, Chairperson  
David C. Carter  
Charles D. Gidney  
Barry Baynard  
Tehiji G. Crenshaw  
John E. Garcia

INDIANA CIVIL RIGHTS COMMISSION  
By Gregory Kellam Scott, Director/Secretary  
& Christine Cde Baca, Deputy Director  
Indiana Government Center North  
100 North Senate Avenue, Room N103  
Indianapolis, Indiana 46204  
On behalf of the Commission.

OTHER COMMISSION STAFF PRESENT:

Stephen M. Tilden  
Robert D. Lange  
Eric Chandler  
Tawanda Sharp

ALSO PRESENT:

Renee Schoettle  
James Schoettle

- - -

1 4:00 o'clock a.m.  
2 October 27, 2006

3 - - -

4 CHAIRPERSON BLACKBURN: Good late  
5 afternoon, everybody. We are now in public  
6 session. The Indiana Civil Rights Commission  
7 reconvenes to conduct its public meeting.

8 You have the minutes of the  
9 September 15th meeting. May I have a motion to  
10 approve those?

11 COMM. CARTER: I have a question  
12 about the minutes --

13 CHAIRPERSON BLACKBURN: All right.

14 COMM. CARTER: -- and that is: On  
15 the third page, under Report from Commissioners  
16 on Complainant Appeals, second paragraph,  
17 apparently I made a recommendation, but I  
18 wasn't there.

19 CHAIRPERSON BLACKBURN: You're an  
20 extremely talented Commissioner.

21 COMM. CARTER: Well, a bit of  
22 slight of hand.

23 CHAIRPERSON BLACKBURN: Yes.

MR. SCOTT: Well, that certainly

1 has to be corrected.

2 CHAIRPERSON BLACKBURN: Well, we'll  
3 clarify that.

4 Are there any other corrections that --

5 MR. SCOTT: We'll have to take it  
6 to the Attorney --

7 CHAIRPERSON BLACKBURN: -- the  
8 minutes require?

9 (No response.)

10 CHAIRPERSON BLACKBURN: Hearing --

11 COMM. CARTER: While I have the  
12 floor --

13 CHAIRPERSON BLACKBURN: Please.

14 COMM. CARTER: -- if I could  
15 request an agenda change.

16 CHAIRPERSON BLACKBURN: Yes.

17 COMM. CARTER: And that is: Under  
18 H, I have an appeal that is not listed, Francis  
19 Spencer versus MJM Investigations.

20 CHAIRPERSON BLACKBURN: Okay.

21 COMM. CARTER: So --

22 CHAIRPERSON BLACKBURN: Do you have  
23 a report on that?

1                   COMM. CARTER:  Yes.

2                   CHAIRPERSON BLACKBURN:  Thank you  
3 very much.

4                   May I have a motion to approve the  
5 minutes with the amendments suggested, the  
6 corrections --

7                   COMM. CARTER:  So moved.

8                   CHAIRPERSON BLACKBURN:  -- that  
9 have been -- and a second?

10                  COMM. GIDNEY:  Second.

11                  CHAIRPERSON BLACKBURN:  All in  
12 favor?

13                  COMM. GIDNEY:  Aye.

14                  COMM. CARTER:  Aye.

15                  COMM. BAYNARD:  Aye.

16                  COMM. CRENSHAW:  Aye.

17                  COMM. GARCIA:  Aye.

18                  CHAIRPERSON BLACKBURN:  Anyone  
19 opposed?

20                                 (No response.)

21                  CHAIRPERSON BLACKBURN:  Thank you.

22                         Next on the agenda is the financial  
23 reports.  Is there anyone who would like to

1 speak to the financial reports?

2 MR. CHANDLER: Good afternoon.

3 I believe everybody's got a copy of the  
4 report at this time, and you've probably had a  
5 chance to review it. As you can see, there's a  
6 summary of all of the current balances as of  
7 September 30th, the ending of the first  
8 quarter, which reflects the ending balances for  
9 all of the fund balances that we have ending of  
10 847, 848. All of the pages following in that  
11 give you the detailed breakdown of each of the  
12 fund balance accounts.

13 Following that, you've got pie charts  
14 that give you a breakdown of all of the  
15 expenses and how they were broken down  
16 percentage-wise for each one at your discretion  
17 to look at. Most of the accounts didn't have  
18 much activity or no activity at all, other than  
19 the operating account itself.

20 And unless there were any particular  
21 questions on anything, that pretty much  
22 summarizes the report.

23 MR. GARCIA: I have a --

1 MR. SCOTT: There was one question  
2 that is -- oh, I'm sorry.

3 MR. GARCIA: Oh, that's all right.  
4 You probably can ask that question.

5 MR. SCOTT: In looking at the --  
6 there was a question raised regarding the  
7 personal service versus -- I think it was  
8 services other than personal.

9 MR. GARCIA: 1.2.

10 MR. SCOTT: Yeah, 1.1 and 1.2.

11 MR. CHANDLER: Uh-huh.

12 MR. SCOTT: And just if you could  
13 briefly indicate the distinction between each  
14 one.

15 MR. CHANDLER: Between the two?

16 MR. SCOTT: Yes.

17 MR. CHANDLER: In the operating  
18 account, the personal services, the .1, those  
19 are basically salaries that you've got in that  
20 account. All of our personnel services are in  
21 there, and your .2, where you've got your  
22 services that are other than personal, those  
23 are basically going to be contract services

1 that we have that we've done with anybody in  
2 there.

3 COMM. CRENSHAW: Huh-uh.

4 CHAIRPERSON BLACKBURN: Just --

5 COMM. CRENSHAW: Yeah, they're  
6 maybe services on contract.

7 CHAIRPERSON BLACKBURN: Well, you  
8 have services by contract as another pie slice,  
9 so --

10 MR. CHANDLER: In here?

11 MR. SCOTT: Yeah, that's .2.

12 CHAIRPERSON BLACKBURN: The  
13 question is: What is the distinction between  
14 those two categories of expenses?

15 MR. CHANDLER: Personal services --

16 MR. SCOTT: Basically the 1, 2  
17 and 3, because some of the services I'm  
18 assuming would not be necessarily by contract.

19 MR. CHANDLER: Yeah, they're not,  
20 not all of them are by contract, because it's  
21 kind of iffy the way they do it. It's actually  
22 kind of weird. Some of them, you're talking --  
23 like we've got a temp that works for us at our



1 front desk. That's a personal service. That's  
2 a .2. Sometimes we've got --

3 MR. SCOTT: No, that would be .1.

4 MS. CDE BACA: No, because it's --

5 MR. CHANDLER: No, that's .2.

6 MR. SCOTT: Okay. Services other  
7 than personal.

8 MR. CHANDLER: .1's are all  
9 salaries.

10 MR. SCOTT: Okay.

11 MR. CHANDLER: Those are strictly  
12 salary positions. Those are all salary  
13 positions. Those are all of the individuals  
14 that are employed by ICRC. .2's are people  
15 like temps and whatnot that we have. Those  
16 would be .2.

17 .3, where you've got contracts, those  
18 may be people like we've got outside people  
19 that come in that may do work for us, like  
20 we've had people in the past that have been  
21 database services and whatnot for us and, well,  
22 of course, they help with databases and we've  
23 actually done a contract with them, with actual

1 individuals.

2 Those are services by contract, where  
3 we've actually done a contract, they've signed  
4 a contract and we've signed a contract for a  
5 fee. Those are contract services, where we've  
6 actually specified a dollar amount, that we  
7 would pay them a fee for services that they are  
8 doing on behalf of ICRC. So, those are  
9 contract services.

10 COMM. CARTER: So, are we .2's, for  
11 instance?

12 MR. CHANDLER: Correct.

13 COMM. CARTER: That's the  
14 reimbursement service?

15 MR. CHANDLER: Correct.

16 COMM. CARTER: I understand it.

17 CHAIRPERSON BLACKBURN: Does that  
18 clarify it for you?

19 MR. GARCIA: Yeah, it probably  
20 should be personal services other than .1.

21 CHAIRPERSON BLACKBURN: Any other  
22 questions?

23 (No response.)

1 MR. CHANDLER: And the only reason  
2 that they are as they are designated on here is  
3 because that's how the state has them on the  
4 chart of accounts, and that chart of accounts  
5 has not been updated for years, and it really  
6 needs to be.

7 MR. GARCIA: Uh-huh.

8 CHAIRPERSON BLACKBURN: Okay. I  
9 presume we've covered items 1, 2 and 3. All  
10 right.

11 Next on our agenda, then, is New  
12 Business. And most of us already know that on  
13 November 17th, we intend to meet in Richmond,  
14 Indiana as part of our new initiative, but  
15 ongoing initiative, to bring the Commission  
16 closer to the people around the state.

17 Next is our annual report.

18 MR. SCOTT: And for this year, the  
19 Commission will be submitting an annual report,  
20 and that report will reflect on what has  
21 occurred actually for a period larger than 12  
22 months, but will indicate the various  
23 accomplishments, the challenges ahead of us,

1 and also the goals and objectives that the  
2 Commission has in the foreseeable -- well, I  
3 shouldn't say foreseeable future. All is  
4 foreseeable, but over the immediate future, and  
5 the application of resources, you know,  
6 assuming they're provided by the General  
7 Assembly on the same level they've been  
8 provided in the past, or indicate an additional  
9 request that might be made.

10 CHAIRPERSON BLACKBURN: Okay. And  
11 the Martin Luther King, Jr. Commission,  
12 cost-sharing concern?

13 MR. SCOTT: The cost sharing on the  
14 Martin Luther King, Jr., when the Martin Luther  
15 King, Jr. Commission was created, the  
16 Department of Commerce and the Civil Rights  
17 Commission were required to provide expense --  
18 cover expense for the Commissioners. The  
19 Department of Commerce later was -- the name  
20 was changed and the mission changed, and about  
21 that same time, the responsibility for those  
22 expenses was transferred from the Department of  
23 Commerce, by name, to the Lieutenant Governor's

1 Office.

2 And we have not received -- we don't  
3 have a memorandum of understanding between the  
4 two agencies, or at least between the  
5 Lieutenant Governor's Office and our agency,  
6 and so we're engaged now in discussions with  
7 respect to arriving at what would be a  
8 reasonable interpretation by both agencies as  
9 to how we would carry out that statutory  
10 charge.

11 CHAIRPERSON BLACKBURN: Included in  
12 the charge, either at the time or since then,  
13 has been the Holocaust Observance. Would that  
14 also be one of the items which we'd be trying  
15 to seek clarification on, how to defray the  
16 expenses?

17 MR. SCOTT: Well, only to the  
18 extent that it actually reaches the cost for --  
19 or expenses of Commissioners, not programming  
20 dollars. Unfortunately and for whatever  
21 reason, the legislature has not provided any  
22 funding whatsoever for the programs that are  
23 conducted by the Martin Luther King Holiday

1 Commission.

2           What we have done in the past is we  
3 have utilized the wizardry of the various  
4 directors, deputy directors, and the  
5 individuals in finance to try to find funds  
6 that are available that can then support the  
7 program, but the legislature has never provided  
8 any programming funding for that Commission,  
9 and all it has provided are two forms of  
10 support.

11           One is, at least today, the Lieutenant  
12 Governor's Office and the Civil Rights  
13 Commission are to pay the costs and expenses  
14 for the Commissioners to come to meetings.  
15 They're not salaried. Those would just cover  
16 the per diem as well as their travel expenses.

17           CHAIRPERSON BLACKBURN: My question  
18 went to --

19           MR. SCOTT: And then two was --

20           CHAIRPERSON BLACKBURN: I'm sorry.

21           MR. SCOTT: -- the second one --

22           CHAIRPERSON BLACKBURN: Go ahead.

23           MR. SCOTT: -- the second one is:

1 We are required by that same statute to provide  
2 staff support to that Commission.

3 CHAIRPERSON BLACKBURN: My question  
4 went to the Holocaust Observance. Are you  
5 suggesting that there are no expenses in  
6 connection with that Observance?

7 MR. SCOTT: No, not at all. There  
8 are significant expenses with respect to that,  
9 and that is within the intent of the  
10 legislature when the King Commission was  
11 organized, that was not solely for  
12 commemoration of Dr. King, bt it was intended  
13 to be more a recognition of his work and his  
14 concern in terms of how individuals are treated  
15 within our society.

16 CHAIRPERSON BLACKBURN: May I  
17 suggest --

18 MR. SCOTT: And so, the Holocaust  
19 then becomes a part of that.

20 CHAIRPERSON BLACKBURN: May I  
21 suggest, then, that this item 3 include at  
22 least some mention of that program, which is a  
23 significant program for our community and

1 shouldn't be ignored as part of what we are now  
2 providing?

3 MR. SCOTT: Well, I certainly will  
4 do that, but I know already that has not one  
5 that they -- is not one that they impart,  
6 because the statute is so specific that it  
7 states that the Lieutenant Governor's Office  
8 and the Commission is to reimburse the expenses  
9 for the per diem and the travel of the  
10 Commissioners. It does not say anything  
11 else --

12 CHAIRPERSON BLACKBURN: About --

13 MR. SCOTT: -- in terms of --

14 CHAIRPERSON BLACKBURN: -- any  
15 program?

16 MR. SCOTT: About any programs  
17 whatsoever, and where they thought we would  
18 manufacture the money or find it or come up  
19 with it is -- I'm at a loss for that, other  
20 than in one thing, and that is: They do allow  
21 the Commissioners of the King Commission to go  
22 out into the private sector and seek support  
23 and funding and et cetera. And we are going to



1 be doing that.

2           However, one of the reasons -- as we do  
3 that, we're going to make it clear that the  
4 reason we are seeking that support is because  
5 the legislature has not provided funding  
6 otherwise to the Commission.

7           CHAIRPERSON BLACKBURN: Thank you.

8           Any questions about that?

9           (No response.)

10          CHAIRPERSON BLACKBURN: The next  
11 agenda item is Old Business. Does someone want  
12 to speak to the issue of the minutes?

13          MR. SCOTT: Yes. The issue with  
14 the minutes -- and we have to now certify  
15 within the minutes that when there is a --  
16 well, now they're required to do that -- when  
17 there is an executive session, that the  
18 executive session only cover those areas  
19 permitted by the Open Access Law, and so we  
20 will be modifying the form of the minutes so  
21 that that statement will be included in the  
22 form of the minutes.

23          CHAIRPERSON BLACKBURN: Okay.

1                   Consent agreements. We have Campbell  
2 versus American Window & Glass, Inc. May I  
3 have a motion to accept that agreement?

4                   COMM. CRENSHAW: So moved.

5                   CHAIRPERSON BLACKBURN: And a  
6 second?

7                   COMM. CARTER: Second.

8                   CHAIRPERSON BLACKBURN: All in  
9 favor?

10                  COMM. GIDNEY: Aye.

11                  COMM. CARTER: Aye.

12                  COMM. BAYNARD: Aye.

13                  COMM. CRENSHAW: Aye.

14                  COMM. GARCIA: Aye.

15                  CHAIRPERSON BLACKBURN: Anyone  
16 opposed?

17                                (No response.)

18                  CHAIRPERSON BLACKBURN: And we have  
19 proposed findings of fact, conclusions of law  
20 and order for vote and signature now. The  
21 first is Gray versus Zakrowski.

22                  COMM. CARTER: Madam Chair, in the  
23 case of Gray versus Zakrowski, I move that the

1 Commission enter an order overruling  
2 Complainant's objections and adopting the  
3 proposed findings of fact, conclusions of law  
4 and order entered by the Administrative Law  
5 Judge.

6 CHAIRPERSON BLACKBURN: May I have  
7 a motion to accept that?

8 COMM. BAYNARD: Second.

9 MR. GARCIA: So moved.

10 CHAIRPERSON BLACKBURN: All in  
11 favor, please.

12 COMM. GIDNEY: Aye.

13 COMM. CARTER: Aye.

14 COMM. BAYNARD: Aye.

15 COMM. CRENSHAW: Aye.

16 COMM. GARCIA: Aye.

17 CHAIRPERSON BLACKBURN: Anyone  
18 opposed?

19 (No response.)

20 CHAIRPERSON BLACKBURN: Thank you.

21 The case of Dugger versus Jimmy John's.

22 MR. GARCIA: In the case of Dugger  
23 versus Jimmy John's/CPD Ventures, Inc., I move

1 that the Commission enter an order overruling  
2 the Complainant's objections and adopting the  
3 second proposed findings of fact, conclusions  
4 of law and order entered by the Administrative  
5 Law Judge.

6 CHAIRPERSON BLACKBURN: May I have  
7 a motion to accept the recommendation?

8 COMM. CARTER: So moved.

9 CHAIRPERSON BLACKBURN: And a  
10 second?

11 COMM. CRENSHAW: Second.

12 CHAIRPERSON BLACKBURN: All in  
13 favor, please.

14 COMM. GIDNEY: Aye.

15 COMM. CARTER: Aye.

16 COMM. BAYNARD: Aye.

17 COMM. CRENSHAW: Aye.

18 COMM. GARCIA: Aye.

19 CHAIRPERSON BLACKBURN: Anyone  
20 opposed?

21 (No response.)

22 CHAIRPERSON BLACKBURN: Thank you.

23 I want to move now to the Report by

1 Commissioners on Complainant Appeals, and begin  
2 with Comm. Baynard.

3 COMM. BAYNARD: Yes, Madam Chair.  
4 I have two cases. In the case of Mustaklem  
5 versus Brooks Bend & the Groves Homeowners  
6 Association and East-Miller versus Crown Point  
7 Community School Corporation, I recommend that  
8 we uphold the Director's finding of no probable  
9 cause.

10 CHAIRPERSON BLACKBURN: May I have  
11 a motion to accept that recommendation?

12 COMM. CARTER: So moved.

13 CHAIRPERSON BLACKBURN: And a  
14 second, please?

15 MR. GARCIA: Second.

16 CHAIRPERSON BLACKBURN: All in  
17 favor, may I hear the sign of aye?

18 COMM. GIDNEY: Aye.

19 COMM. CARTER: Aye.

20 COMM. BAYNARD: Aye.

21 COMM. CRENSHAW: Aye.

22 COMM. GARCIA: Aye.

23 CHAIRPERSON BLACKBURN: Anyone

1       opposed?

2                               (No response.)

3                               CHAIRPERSON BLACKBURN: Thank you.

4                               Comm. Garcia, in the case of Schoettle  
5 versus Perry Meridian Middle School, we have in  
6 attendance at the Commission meeting today  
7 Renee Schoettle and James Schoettle.

8                               And I understand that one or both of  
9 you would like to make a statement before the  
10 Commissioners.

11                              MS. SCHOETTLE: Yes. My name is  
12 Renee Schoettle. I'm a 20-year teacher here in  
13 Indianapolis. I'm a mother of four children,  
14 and my son Andrew, who this is about, is now a  
15 sophomore at Perry Meridian High School, and  
16 for the record, this is for Perry -- this  
17 complaint was against Perry Meridian -- or  
18 Perry Township, not the Middle School.

19                              When Andrew was in the seventh grade --  
20 and as I said, he is now a sophomore -- is when  
21 I submitted this complaint. We received the  
22 findings this past fall, and I just wanted to  
23 make some statements about what was said in

1 here to set some things straight.

2 And for everybody that may not know  
3 about this, my son has cerebral palsy. He was  
4 born with it. He is very capable through  
5 therapy since he was 13 months old, going  
6 through therapy twice a week. Now we're once a  
7 month, still having to work on range of motion  
8 and concerns about surgeries and whatnot.

9 But to get back to this, he wants to  
10 participate in after-school activities, one  
11 being an athletic activity. He is capable,  
12 he's able, and the township is excluding him  
13 because of his disability, and I firmly believe  
14 this.

15 I work with children with disabilities.  
16 I work very hard as an educator to make sure  
17 that I am always being fair and equal. I  
18 question myself every day with all of my  
19 students, and I always wonder, "What could I  
20 have done better?" And I know I will never be  
21 that perfect teacher, but I always will strive  
22 to, and I feel that anyone in education needs  
23 to be that way.

1           If we are going to bring up and educate  
2 all students to be the best that they can be  
3 and to become citizens that will be beneficial  
4 to our society, every part of education for a  
5 child is important for their character, to  
6 build it, and when you take something away from  
7 a child that wants to be a part of something, I  
8 have a problem with that.

9           It states that this golf coach gave  
10 equal opportunity in middle school to these  
11 children through ranking. Well, he did, except  
12 scores didn't count. He placed these students  
13 where he felt they needed to be. It wasn't  
14 about their score. But looking at my child,  
15 who has a disability, he felt he could never  
16 perform for the high school and placed him at  
17 the bottom of the list. So, I wanted to  
18 clarify that.

19           So, challenges worked after he placed  
20 where he wanted them though coach's discretion.  
21 Challenges did not occur until the last two  
22 weeks of that seventh-grade year, only because  
23 we questioned why they weren't happening, so



1 they did not occur the entire season.

2 Another thing I would like to say: If  
3 Andrew would have been placed where he should  
4 have been due to score, we would not have had  
5 this issue. He ranked fifth or sixth due to  
6 his score, and was placed 11th, coach's  
7 discretion. If the challenge matches were  
8 about score and score only and participants  
9 were placed according to their score, then  
10 challenge matches would be acceptable. It's  
11 stated here that you found that challenge  
12 matches should be discontinued. If they're  
13 used properly, they work, especially when it  
14 deals with score.

15 My last statement: At this time, Perry  
16 Township has continued their discretionary  
17 behavior. We just left the meeting two weeks  
18 ago. Andrew now has a 504, and we meet every  
19 year with the teachers. They kept the golf  
20 coach out of this meeting, claiming they had  
21 not hired him.

22 We had a second meeting with the  
23 athletic director at the high school. The

1 criteria that they're using now -- because the  
2 findings here is that there is no probable  
3 cause. As such, that they are making Andrew go  
4 through more hoops than ever before, and their  
5 attitude is very arrogant, as if it's okay to  
6 discriminate and exclude. If you don't fit in  
7 the box, you don't belong, and that is  
8 basically the attitude they have given us.

9 We were told that the 504 stops at  
10 2:20, the end of the school day. We all know  
11 that's incorrect. What they're trying to tell  
12 us is: If we pursue this any more, Andrew may  
13 not be on this team.

14 I am concerned with the way that this  
15 message is being relayed to all children and  
16 all students. If a coach can decide by dubbing  
17 a participant "that you can play" and "you  
18 cannot play," what message is that sending our  
19 youth? Is it sending hard work, doing your  
20 personal best, or is it "If you play the game  
21 and the coach likes you --" or the teacher,  
22 because remember, these coaches are educators,  
23 what message is that sending?

1           After-school activities are an  
2 extension of the school day. Their behavior  
3 does have a disparate impact. I wonder what's  
4 going on in this school day. That's my concern  
5 as well.

6           CHAIRPERSON BLACKBURN: Thank you  
7 very much. Is that all that you'd like to --

8           MR. SCHOETTLE: I want to say a few  
9 things. I don't know that I can add much to  
10 what my wife Renee has said to try to convey,  
11 you know, what's happened. I try to look at  
12 this, you know, in as legal a perspective as  
13 I'm capable of doing, not being a lawyer and  
14 not having the background of law.

15           I've looked at the Americans with  
16 Disabilities Act, I've looked at the  
17 Rehabilitation Act, and as far as I can  
18 determine, based on what's gone on over the  
19 last four years, the law should protect -- let  
20 me compose myself.

21           CHAIRPERSON BLACKBURN: It's okay.  
22 Take your time.

23           (Pause in proceedings.)

1                   MR. SCHOETTLE: It's been a very  
2 emotional four years, and it's difficult for a  
3 parent. I apologize.

4                   MR. SCOTT: No apology necessary,  
5 sir.

6                   MR. SCHOETTLE: Take the emotion  
7 out of it; okay? I just feel that the law  
8 should protect my son, and it may be about  
9 something that it's not. See, it's not about  
10 playing time. It's not about sport. It's  
11 about hurting a child, my son, hurting a child,  
12 and it's big time, and they've hurt me, my  
13 wife, and my entire family.

14                   It's not that important that Andrew  
15 plays golf on his high school team. It's just  
16 important that he's treated fairly. My wife  
17 and I have the resources to take him to the  
18 golf course to play any golf courses he wants  
19 to play. There's other venues where he can  
20 play golf. That's not what this is about.  
21 It's about Andrew's rights.

22                   He's 15 years old. This has been going  
23 on since he was 11. He was born with cerebral

1 palsy. He can't do anything about that. All  
2 that we can ask is that the law protect him,  
3 because that won't go away. It won't change.  
4 He will live with that all of his life, and  
5 it's our jobs as parents to try to protect him  
6 and teach him how to deal with that, and that's  
7 what this is about.

8 And to allow them to continue their  
9 behavior sends the wrong message. As far as I  
10 can determine, as I said -- and I'm not a  
11 lawyer -- the law should protect Andrew, and  
12 I'm asking the law to do that. That's all I'm  
13 asking for. I've been portrayed as a lot of  
14 things by this administration over at the  
15 school, but all that I am is an emotional  
16 father who cares about his son and wants the  
17 right thing done. And that can only be done  
18 through the law.

19 CHAIRPERSON BLACKBURN: And we  
20 thank you for your statement.

21 Commissioner Garcia has reviewed the  
22 appeal.

23 Do you have a recommendation to make?

1                   COMM. GARCIA: I'll be brief; okay?  
2           But I can understand what they're -- what  
3           they've just said.

4                   And that's one of the reasons I didn't  
5           want to call you, because I didn't want to  
6           introduce any new evidence. This was on  
7           appeal. At the time you made the complaint --  
8           and I think that may be an issue here now. I  
9           think you bring up some issues that this may be  
10          an ongoing problem, and I think the issue here  
11          was what happened in seventh grade.

12                   And I think that a lot of school  
13          systems do what you're saying, and I think  
14          since the Deputy Commissioner has taken on this  
15          education issue a little bit stronger than  
16          other Commissions have in the past, I think I'd  
17          like to remand the case back for further review  
18          and maybe amend the complaint to include  
19          subsequent years. I'm not a lawyer either, but  
20          I think that's something we ought to look at.  
21          You don't have to be disabled to be looked upon  
22          as a weaker competitor.

23                   MS. SCHOETTLE: Absolutely right.

1                   COMM. GARCIA:  And I think what  
2 happens, sometimes coaches look at that, and  
3 you have to think like a coach sometimes, too.  
4 You have parents that are zealots, that when  
5 they do have a good athlete, they look at the  
6 coach as to "Why'd you take him out of the  
7 game?  He should play the entire game.  So, the  
8 coach has to balance a lot of those issues, so  
9 you have to look at it from the coach's  
10 perspective, too.

11                   A lot of times politics and other  
12 things get into it, but you don't have to be  
13 disabled to be looked upon as a weaker  
14 competitor, and I think that plays into a lot  
15 of people that aren't disabled, and it gets  
16 back to what the Deputy Commissioner indicated  
17 in her -- in the last paragraph, the last  
18 paragraph of her recommendation, was that the  
19 Respondents strongly encourage them to  
20 discontinue the practice of the challenges.

21                   Well, my kids compete in challenges.  
22 Sometimes I don't agree with -- I always don't  
23 agree with the fact that there aren't any

1 guidelines as to how the challenges are  
2 supposed to be conducted, and it's upon the  
3 discretion of the coach. So, I can understand  
4 that, and perhaps maybe not discontinue the  
5 practice. I think challenges are good, but  
6 there should be guidelines. And I think that  
7 the school system ought to be encouraged to set  
8 some guidelines.

9 MS. SCHOETTLE: They did, all by  
10 visual.

11 COMM. GARCIA: Well --

12 MS. SCHOETTLE: Yeah, I know.

13 COMM. GARCIA: -- I don't know that  
14 any guidelines were written. I didn't see any  
15 evidence of any guidelines --

16 MS. SCHOETTLE: You're right.

17 COMM. GARCIA: -- that were  
18 written.

19 MS. SCHOETTLE: Not for this one,  
20 you're absolutely right.

21 MR. GARCIA: So, I would recommend  
22 to the Commission that we remand this case for  
23 further review in light of the extra evidence



1           that we've just heard.

2                         CHAIRPERSON BLACKBURN: I want to  
3           thank you for being here today, because I think  
4           you certainly shed a different light on the  
5           appeal that is not necessarily -- that has not  
6           necessarily been adequately reviewed or  
7           expressed in the written documentation.

8                         And our purpose here is to try to  
9           effectuate a fair and good judgment from the  
10          standpoint of the law, and also to broaden the  
11          understanding and sensitivity of the system  
12          that we see flaws in terms of the way it is  
13          supporting our students and -- or lack of  
14          support for our students in any number of  
15          areas, and we're looking into that.

16                        With that, let it be said that the  
17          case, your case will be remanded for further  
18          consideration.

19                        May I have a second to that  
20          recommendation?

21                                 COMM. CARTER: Second.

22                                 CHAIRPERSON BLACKBURN: And all in  
23          favor?

1                   COMM. GIDNEY:   Aye.

2                   COMM. CARTER:   Aye.

3                   COMM. BAYNARD:   Aye.

4                   COMM. CRENSHAW:  Aye.

5                   COMM. GARCIA:    Aye.

6                   CHAIRPERSON BLACKBURN:  Anyone

7                   opposed?

8                                   (No response.)

9                   CHAIRPERSON BLACKBURN:  Thank you  
10                   very much.

11                   MS. SCHOETTLE:   Thank you.

12                   MR. SCHOETTLE:   Thank you.

13                   MR. GARCIA:    In the case of  
14                   Muhammad versus Indiana Family and Social  
15                   Services Administration, Mr. Muhammad isn't  
16                   here, but this is quite clearly a more  
17                   clear-cut case, and I concur with the Deputy  
18                   Director's finding of reasonable cause does not  
19                   exist, and I would recommend a motion to  
20                   approve that finding.

21                   CHAIRPERSON BLACKBURN:  May I have  
22                   a motion to accept that recommendation?

23                   COMM. BAYNARD:    So moved.

1                   COMM. CARTER:    Second.

2                   CHAIRPERSON BLACKBURN:  All in  
3 favor?

4                   COMM. GIDNEY:    Aye.

5                   COMM. CARTER:    Aye.

6                   COMM. BAYNARD:   Aye.

7                   COMM. CRENSHAW:  Aye.

8                   COMM. GARCIA:    Aye.

9                   CHAIRPERSON BLACKBURN:  Anyone  
10 opposed?

11                                   (No response.)

12                   CHAIRPERSON BLACKBURN:  Thank you.  
13 I'll skip mine and go to Commissioner Ramos.

14                   COMM. CARTER:    I've got one.

15                   CHAIRPERSON BLACKBURN:  He's not  
16 here.  Do we have it?  You have it.  Okay.

17                   COMM. CARTER:    I have one.

18                   CHAIRPERSON BLACKBURN:  All right.

19                   COMM. CARTER:    Okay.  In the case  
20 of Princess Spencer -- it's not on the  
21 agenda -- Princess Spencer versus MJM  
22 Investigations, Inc., I recommend that we  
23 support the Deputy Director's no probable cause

1 finding.

2 CHAIRPERSON BLACKBURN: May I have  
3 a motion to accept that recommendation?

4 COMM. CRENSHAW: So moved.

5 COMM. BAYNARD: So moved.

6 COMM. CRENSHAW: Second.

7 CHAIRPERSON BLACKBURN: And a  
8 second? All right. Thank you very much. All  
9 those in favor?

10 COMM. GIDNEY: Aye.

11 COMM. CARTER: Aye.

12 COMM. BAYNARD: Aye.

13 COMM. CRENSHAW: Aye.

14 COMM. GARCIA: Aye.

15 CHAIRPERSON BLACKBURN: Anyone  
16 opposed?

17 (No response.)

18 CHAIRPERSON BLACKBURN: Thank you.

19 Commissioner Gidney?

20 COMM. GIDNEY: Okay. I recommend  
21 that we uphold the Director's findings of no  
22 probable cause in the case of Escamilla versus  
23 the Hammond Police Department.

1 CHAIRPERSON BLACKBURN: May I have  
2 a motion to accept --

3 COMM. CARTER: So moved.

4 CHAIRPERSON BLACKBURN: -- the  
5 Commissioner's recommendation?

6 COMM. BAYNARD: Second.

7 CHAIRPERSON BLACKBURN: And all in  
8 favor?

9 COMM. GIDNEY: Aye.

10 COMM. CARTER: Aye.

11 COMM. BAYNARD: Aye.

12 COMM. CRENSHAW: Aye.

13 COMM. GARCIA: Aye.

14 CHAIRPERSON BLACKBURN: Anyone  
15 opposed?

16 (No response.)

17 COMM. CRENSHAW: And I have one.

18 CHAIRPERSON BLACKBURN: And you  
19 have one.

20 COMM. CRENSHAW: In the case of  
21 Hazel McGee versus Diamond Valley Chain, I  
22 recommend to uphold the Deputy Director's  
23 finding of no probable cause.

1                   CHAIRPERSON BLACKBURN: May I have  
2 a motion to accept that recommendation?

3                   COMM. GIDNEY: So moved.

4                   COMM. CARTER: Second.

5                   CHAIRPERSON BLACKBURN: All in  
6 favor?

7                   COMM. GIDNEY: Aye.

8                   COMM. CARTER: Aye.

9                   COMM. BAYNARD: Aye.

10                  COMM. CRENSHAW: Aye.

11                  COMM. GARCIA: Aye.

12                  CHAIRPERSON BLACKBURN: Anyone  
13 opposed?

14                                 (No response.)

15                  CHAIRPERSON BLACKBURN: Thank you.

16                                 In the case of Barrand versus Ear, Nose  
17 and Throat Associates, P.C., I move that we  
18 uphold the Deputy Director's finding of no  
19 probable cause in that case. May I have a  
20 motion to accept that recommendation?

21                  COMM. BAYNARD: So moved.

22                  COMM. CARTER: Second.

23                  CHAIRPERSON BLACKBURN: All in

1 favor?

2 COMM. GIDNEY: Aye.

3 COMM. CARTER: Aye.

4 COMM. BAYNARD: Aye.

5 COMM. CRENSHAW: Aye.

6 COMM. GARCIA: Aye.

7 CHAIRPERSON BLACKBURN: Thank you.

8 I need to continue the case of  
9 Weddle-Van Sickle versus Franklin Family  
10 Restaurant.

11 Assignment for Commissioners to review  
12 on appeal. Commissioner Carter, Fox versus  
13 Tendercare Homes Health Services, Inc.;  
14 Commissioner Baynard, McCray versus Wishard  
15 Health Services; Commissioner Crenshaw,  
16 Nicodemus versus Resort Condominiums  
17 International; Commissioner Garcia, Harris  
18 versus Promex Technologies; Commissioner  
19 Gidney, O'Brien versus Calltech Communications,  
20 LLC.

21 I'm assuming these are two cases  
22 assigned to Commissioner Ramos. I'll take one  
23 and Commissioner Carter will take one, so we'll