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INDIANA
CIVIL RIGHTS COMMISSION

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BEFORE THE STATE OF INDIANA

CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF FEBRUARY 27, 2015

COPY

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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,
Rooms 1 & 2, 402 West Washington Street,
Indianapolis, Indiana, on Friday, February 27,
2015 at 1:08 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

1 APPEARANCES :

2 COMMISSION MEMBERS :

3 Alpha Blackburn, Chairperson
4 David C. Carter
5 John E. Garcia
6 Steven A. Ramos
7 Michelle Gough McKeown
8 Ahmed Young

9 INDIANA CIVIL RIGHTS COMMISSION
10 By Jamal Smith, Director/Secretary
11 Indiana Government Center North
12 100 North Senate Avenue, Room N103
13 Indianapolis, Indiana 46204
14 On behalf of the Commission.

15 OTHER COMMISSION STAFF PRESENT :

16 Noell Allen
17 Pamela Cook
18 Debbie Rincones-Chavez

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1 1:08 o'clock a.m.
February 27, 2015

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CHAIRPERSON BLACKBURN: The Indiana
Civil Rights Commission is now in public meeting.
Good morning, everyone.

JUDGE ALLEN: Good morning, Chairman.

COMM. CARTER: Good morning.

COMM. MCKEOWN: Good morning.

CHAIRPERSON BLACKBURN: I notice that
we have a quorum, and we'll proceed with the
agenda that you have in front of you, and the
next item is the approval and adoption of the
meeting minutes. I would entertain a motion to
approve --

COMM. CARTER: So, moved.

CHAIRPERSON BLACKBURN: -- the
minutes.

COMM. GARCIA: Second.

CHAIRPERSON BLACKBURN: All in favor?

COMM. YOUNG: Aye.

COMM. CARTER: Aye.

COMM. MCKEOWN: Aye.

COMM. GARCIA: Aye.

1 CHAIRPERSON BLACKBURN: Aye.

2 Anyone opposed?

3 (No response.)

4 CHAIRPERSON BLACKBURN: Thank you.

5 And we'll move directly now to the Executive

6 Director's Report. Good morning.

7 MR. SMITH: Good morning, or good
8 afternoon.

9 CHAIRPERSON BLACKBURN: Yes, it is
10 afternoon now, isn't it?

11 MR. SMITH: There's a shift in our --

12 CHAIRPERSON BLACKBURN: Yes.

13 MR. SMITH: -- agenda. Nothing out
14 of the ordinary to report. The Commission is
15 moving smoothly.

16 In terms of the two agreements we have
17 with the Feds, HUD's contract is done. Of the
18 100 that we were contracted to complete, we are
19 at 105 with four months remaining, so that's
20 always good news. And we are roughly 80 percent
21 complete with the EEOC contract as well, with
22 more than seven months left in that fiscal year
23 for them.

1 I think it is important to note, though,
2 that although we do have the work share
3 agreement, it's kind of understood with EEOC the
4 contract, in and of itself, has not been
5 submitted from them to us, so there is nothing in
6 writing. It's almost a good-faith effort at this
7 point.

8 Unfortunately, that's not uncommon. Their
9 fiscal year ends September 30, September 30th,
10 and in which case we're supposed to receive a
11 contract for that next year. Last year we didn't
12 receive it until in April of the following year,
13 and it looks like we're going to be following the
14 same suit this year. But the good news is when
15 and if it does come in, we are practically done
16 with that contract as well, so we're excited
17 about that.

18 Outreach efforts are fantastic, of course.
19 Although March is not as busy, it's almost in
20 preparation for April, which is amazingly busy.
21 It is Fair Housing Month, and we will be hosting
22 two Fair Housing Month -- or Fair Housing events,
23 the one here in Indianapolis per the work share

1 agreement we have with HUD, and the other one
2 we'll be hosting in Southern Indiana, actually at
3 the French Lick Resort, in conjunction with the
4 housing authorities in Southern Indiana, so we're
5 excited about that as well.

6 In conjunction with that, we'll have --
7 with the Cultural Commissions, of course, the
8 Barbershop Initiative with the Black Males
9 Commission will be held like April 12th, if I'm
10 not mistaken.

11 CHAIRPERSON BLACKBURN: I
12 misunderstood you. It sounded like you said,
13 "Barbershop Commission."

14 MR. SMITH: Initiative, Barbershop
15 Initiative. So --

16 CHAIRPERSON BLACKBURN: Initiative.

17 MR. SMITH: -- the Social Status of
18 Black Males, which is one of the five Cultural
19 Commissions that we host, has their annual
20 Barbershop Health Initiative that they'll be
21 hosting statewide.

22 The idea is to bring awareness to issues
23 that relate to African-American males, prostate

1 cancer and the like, and doing so in a place that
2 is perceivably the most common for us from a
3 cultural standpoint, the barbershop. So, we'll
4 be partnering with barbershops across the state
5 in hosting that initiative, and I believe that is
6 April 12th, so we're excited about that. So,
7 April will be an exciting month.

8 (Comm. Ramos arrived.)

9 MR. SMITH: And in addition to all of
10 that, we'll have the Holocaust event, which is
11 put on by the MLK Commission, around that same
12 time as well, so we're excited about that.

13 Any questions about any of the outreach,
14 work share agreements with the Feds, or any of
15 the activity for the agency?

16 (No response.)

17 MR. SMITH: The budget projections
18 seem to be on par. We are growing. I think it's
19 important to note that the Native American
20 Commission, as we mentioned, I believe, at the
21 last meeting or the meeting prior to that, will
22 be sat, which is the one remaining Cultural
23 Commission that had not been seated.

1 CHAIRPERSON BLACKBURN: Thanks to the
2 thoroughness of your report.

3 MR. SMITH: Thank you.

4 CHAIRPERSON BLACKBURN: Thank you
5 very much. No. 2 under "Old Business," the
6 Report by Commissioners on the Complainant
7 Appeals which they reviewed.

8 Comm. Ramos, if you're ready.

9 COMM. RAMOS: Yes. In the case of
10 Kelle Rembert and Bright House Networks, I
11 recommend that we uphold the Deputy Director's
12 finding of no probable cause.

13 CHAIRPERSON BLACKBURN: May I have a
14 motion to accept that recommendation?

15 MR. SMITH: Just --

16 COMM. CARTER: So moved.

17 MR. SMITH: I'm sorry. Just a note
18 that --

19 CHAIRPERSON BLACKBURN: Yes.

20 MR. SMITH: -- we are also prepared,
21 in the midst of some of the changes that we're
22 making, to give everyone updates on those
23 individual cases. We understand that the

1 Commission -- Commissioners obviously don't have
2 an opportunity to read everybody else's case, and
3 so, I do have updates or just kind of an overview
4 of the case at hand before you guys make the
5 ruling and the suggested piece, if that will
6 please the Commission --

7 CHAIRPERSON BLACKBURN: Go right
8 ahead.

9 MR. SMITH: -- Madam Chair.

10 So, in this case, it was as stated, Kelle
11 Rembert versus Bright House Networks.
12 Complainant filed against Bright House Networks
13 and Cable Support Systems, alleging unlawful
14 discrimination on the basis of race, claiming
15 serv -- they were denied Respondent's services
16 because of her race.

17 Of course, in doing so, she would have to
18 show one of the following: She is a member of a
19 protected class; that Complainant was qualified,
20 ready, willing and able to receive Respondent's
21 services and in accordance with its reasonable
22 terms and conditions; Respondent denied
23 Complainant access to its services; and

1 Respondent treated similarly situated patrons of
2 another race more favorably under similar
3 circumstances.

4 The Complainant was not qualified to
5 receive Respondent's services in accordance with
6 its reasonable terms and conditions. Complainant
7 contracted with Respondent to have the cable
8 installed at her residence, and while Complainant
9 was not present at the time of the installation,
10 the evidence shows that an adult male, the
11 Complainant's teenage son, was present during the
12 incident.

13 A dispute as to whether the Complainant
14 owed money prior to the installation resulted in
15 one of the Complainant's guests blocking the
16 contractor from exiting the residence.
17 Ultimately the guest engaged in a physical
18 altercation, and the contractor called the police
19 to resolve the situation -- however, later called
20 the police to resolve the situation.

21 As such, and based upon the
22 aforementioned, there was no probable cause to
23 believe that a discriminatory practice occurred

1 as alleged.

2 CHAIRPERSON BLACKBURN: Okay.

3 MR. SMITH: So, back to the
4 Commission.

5 CHAIRPERSON BLACKBURN: If I can then
6 ask now, are there any questions?

7 (No response.)

8 CHAIRPERSON BLACKBURN: And hearing
9 none, I ask for a motion to accept the
10 recommendation from Comm. Ramos.

11 COMM. CARTER: So moved.

12 CHAIRPERSON BLACKBURN: Thank you.
13 And a second?

14 COMM. GARCIA: Second.

15 CHAIRPERSON BLACKBURN: And all in
16 favor?

17 COMM. YOUNG: Aye.

18 COMM. CARTER: Aye.

19 COMM. MCKEOWN: Aye.

20 COMM. RAMOS: Aye.

21 COMM. GARCIA: Aye.

22 CHAIRPERSON BLACKBURN: Aye.

23 And anyone opposed?

1 (No response.)

2 CHAIRPERSON BLACKBURN: Thank you.

3 I reviewed the case of Jackie Moody versus
4 ConAgra Foods, and if you want to give first an
5 overview or synopsis of that case.

6 MR. SMITH: Yes, ma'am. Jackie Moody
7 versus ConAgra Foods, Incorporated. Jackie Moody
8 filed a complaint with the Commission against
9 ConAgra Foods, alleging discrimination on the
10 basis of sex, in violation of Title VII of the
11 Civil Rights Act of '64.

12 The issue presented to the Commission is
13 whether Complainant was subject to disparate
14 discipline because of her gender. In order to
15 prevail, Complainant must show: 1, she is
16 engaged in a work environment similar to that of
17 her male counterparts; and 2, the disciplinary
18 measures enforced against her were more severe
19 than those levied against her male counter --
20 co-workers.

21 CHAIRPERSON BLACKBURN: Was that not
22 sex and race, if I remember correctly?

23 MR. SMITH: According to the doc

1 here, it says -- no, according to the doc, it
2 says, "Filed by the Commission against ConAgra
3 Foods, alleging discrimination on the basis of
4 sex in violation of Title VII of the Civil Rights
5 Act of '64 and the Indiana Civil Rights Law.
6 Accordingly, the Commission has jurisdiction over
7 the parties and the subject matter of this
8 complaint."

9 COMM. MCKEOWN: They wound up
10 modifying that to include race as well.

11 MR. SMITH: To include race? Okay.
12 Well, then I stand corrected. That's why you
13 guys are the Commission.

14 CHAIRPERSON BLACKBURN: Continue.

15 MR. SMITH: And we probably need to
16 amend this as well. Let's see. During the
17 course of the Complainant's tenure with
18 Respondent, it's noted that she violated the LOTO
19 procedures, resulting in her becoming strapped,
20 as was stated here, as Complainant was aware of
21 the LOTO procedures as well as the disciplinary
22 policy, had recently received training four days
23 before the incident, and failed to comply with

1 other procedures, Respondent terminated
2 Complainant for failing to comply with the LOTO
3 procedures.

4 Despite Complainant's assertions, there is
5 insufficient evidence to support her claims;
6 rather, evidence shows that Respondent was
7 terminated -- has terminated both male and female
8 employees for similar violations of the
9 procedures.

10 CHAIRPERSON BLACKBURN: Thank you
11 very much.

12 MR. SMITH: Yes, ma'am.

13 CHAIRPERSON BLACKBURN: Are there any
14 questions from Commissioners?

15 (No response.)

16 CHAIRPERSON BLACKBURN: Hearing none,
17 I want to recommend that we uphold the finding of
18 no probable cause and ask for a motion to accept
19 that recommendation.

20 COMM. RAMOS: So moved.

21 COMM. CARTER: Second.

22 CHAIRPERSON BLACKBURN: And a second?
23 And all in favor?

1 COMM. YOUNG: Aye.

2 COMM. CARTER: Aye.

3 COMM. MCKEOWN: Aye.

4 COMM. RAMOS: Aye.

5 COMM. GARCIA: Aye.

6 CHAIRPERSON BLACKBURN: Aye.

7 Anyone opposed?

8 (No response.)

9 CHAIRPERSON BLACKBURN: Thank you.

10 The next two cases will be reported on by
11 Comm. Carter.

12 COMM. CARTER: Madam Chair, in the
13 case of Kerri Allen versus Deardorf Property
14 Management, et cetera, I recommend that we uphold
15 the finding of no reasonable cause.

16 MR. SMITH: In the case, Allen versus
17 Deardorf Property Management, Kerri Allen filed a
18 complaint with the Commission against Deardorf
19 Property Management and South Park Apartments,
20 alleging unlawful discriminatory housing
21 practices on the basis of race, in violation of
22 the Indiana Fair Housing Act, the Indiana Civil
23 Rights Law, and the Federal Fair Housing Act.

1 The first issue before the Commission is
2 whether Complainant was threatened with eviction
3 because of her association with an individual of
4 another race. In order to prevail on such a
5 claim, Complainant must show that: One, she is a
6 member of a protected class by virtue of her
7 association with individual of another race; two,
8 she is qualified, willing and able to continue
9 her tenancy with Respondent according to its
10 reasonable terms and conditions; three, she was
11 threatened with eviction or another adverse
12 housing action; and four, Respondent treated
13 similarly situated tenants not associated with
14 individuals of another race more favorably under
15 similar circumstances.

16 Specifically, Complainant -- Complainant
17 admits that she never received a written eviction
18 notice, and Respondent disputes Complainant's
19 allegations that she received verbal threats of
20 eviction, in response to the first issue.

21 The second issue before the Commission is
22 whether Complainant was subjected to a hostile
23 housing environment. In order to prevail on that

1 claim, Complainant must show that: One, she is a
2 member of a protected class; she was subjected to
3 unwelcome comments because of her interaction
4 with an individual of another race; the comments
5 were sufficiently severe or pervasive such as to
6 affect the enjoyment of her housing; and four,
7 Respondent knew of the behavior but failed to
8 take corrective action to remedy the situation.

9 During the course of Complainant's
10 tenancy, she alleges that her neighbors engaged
11 in racist behavior because of her association
12 with an African-American male. While there is
13 sufficient evidence to substantiate Complainant's
14 allegations that she reported some of the
15 inappropriate behavior to Respondent, there is
16 insufficient evidence to show that she was
17 subjected to harassment for months, and that all
18 of the occurrences were reported to the property
19 manager, as there is no written documentation to
20 support the assertion, and the Respondent denies
21 the allegations, or when the Complainant
22 acknowledges that she -- that after she sent
23 Respondent an e-mail in March of 2014 regarding

1 the harassent, the harassent ended.

2 The end.

3 CHAIRPERSON BLACKBURN: May I have a
4 recommendation?

5 COMM. CARTER: I did recommend a no
6 reasonable cause finding.

7 CHAIRPERSON BLACKBURN: Okay.

8 And may -- are there any questions?

9 (No response.)

10 CHAIRPERSON BLACKBURN: May I have a
11 motion to accept Comm. Carter's recommendation?

12 COMM. GARCIA: So moved.

13 COMM. RAMOS: Second.

14 CHAIRPERSON BLACKBURN: All in favor?

15 COMM. YOUNG: Aye.

16 COMM. CARTER: Aye.

17 COMM. MCKEOWN: Aye.

18 COMM. RAMOS: Aye.

19 COMM. GARCIA: Aye.

20 CHAIRPERSON BLACKBURN: Aye.

21 Anyone opposed?

22 (No response.)

23 CHAIRPERSON BLACKBURN: Thank you.

1 COMM. CARTER: And in the case of
2 Samantha -- either Buikema or Buikema --

3 COMM. GARCIA: Buikema.

4 COMM. CARTER: -- or something
5 else -- versus Meyers Castle, I recommend we
6 uphold the no probable cause finding of the
7 Deputy Director.

8 MR. SMITH: In the case of
9 Samantha -- Buikema?

10 COMM. GARCIA: Buikema.

11 MR. SMITH: Buikema versus Meyers
12 Castle, Samantha Buikema filed a complaint with
13 the Commission against Meyers Castle alleging
14 discrimination on the basis of sex as well as
15 sexual harassment. The issue present -- or
16 presented to the Commission is whether
17 Complainant was terminated after refusing another
18 employee's sexual advances.

19 In order to prevail, Complainant must show
20 that she experienced unwelcome sexually offensive
21 comments or actions in the workplace; the
22 comments were sufficiently severe or pervasive
23 such that it would affect a reasonable employee's

1 employment; three, she made it known that the
2 comments were unwelcome; four, Respondent failed
3 to take corrective action to address the hostile
4 work environment.

5 Complainant is a bartender. Respondent
6 hired Complainant as a bartender in 2015.
7 Complainant alleges that she overheard a bar
8 manager tell another individual that he wanted to
9 have sex with Complainant. Subsequently,
10 Complainant alleges that she was taken to a
11 hospital where she was tested positive for
12 methamphetamine; however, Respondent contends
13 that another individual discovered Complainant
14 performing a sex act on a patron in a vehicle
15 parked in the gravel parking overflow lot.

16 Moreover, no evidence has been submitted
17 or uncovered to show that Complainant reported
18 the alleged harassment to Respondent -- to
19 Respondent's owner. Furthermore, assuming
20 arguendo that another employee made an
21 inappropriate comment, no evidence has been
22 provided or uncovered to show that the manager
23 drugged her or otherwise engaged in sufficiently

1 severe or pervasive behavior.

2 Is that -- arguendo; is that legalese in
3 that piece?

4 COMM. MCKEOWN: (Nodded head yes.)

5 MR. SMITH: Arguendo; did I say that
6 right?

7 COMM. CARTER: For the sake of
8 argument is what it means --

9 MR. SMITH: Yeah.

10 COMM. CARTER: -- in real people
11 talk.

12 MR. SMITH: I got a copy of it. I
13 just wanted to make sure that I pronounced it
14 correctly.

15 So, there you have it.

16 CHAIRPERSON BLACKBURN: Thank you.

17 Are there any questions?

18 (No response.)

19 CHAIRPERSON BLACKBURN: And the
20 recommendation?

21 COMM. CARTER: To uphold the no
22 probable cause finding.

23 CHAIRPERSON BLACKBURN: And may I

1 have a motion to accept that?

2 COMM. GARCIA: So moved.

3 COMM. RAMOS: Second.

4 CHAIRPERSON BLACKBURN: Thank you.

5 All in favor?

6 COMM. YOUNG: Aye.

7 COMM. CARTER: Aye.

8 COMM. MCKEOWN: Aye.

9 COMM. RAMOS: Aye.

10 COMM. GARCIA: Aye.

11 CHAIRPERSON BLACKBURN: Aye.

12 Anyone opposed?

13 (No response.)

14 CHAIRPERSON BLACKBURN: Thank you.

15 Comm. Garcia.

16 COMM. GARCIA: In the case of Myekeal
17 Smith versus Prime Distribution Services, Inc., I
18 concur with the Deputy Director's finding of no
19 probable cause.

20 MR. SMITH: In this case, Myekeal
21 Smith versus Prime Distribution Services, Myekeal
22 Smith filed a complaint with the Commission
23 against Prime Distribution Services alleging

1 discrimination on the basis of race. Complainant
2 was terminated -- the issue presented to the
3 Commission is whether Complainant was terminated
4 because of his race.

5 However, Complainant was not meeting
6 Respondent's legitimate business expectations,
7 and there is -- and there is insufficient
8 evidence to substantiate that similarly situated
9 employees of another race were treated more
10 favorably under similar circumstances.

11 During the course of Complainant's tenure
12 with Respondent, he suffered from inconsistent
13 job performance. Specifically, in September
14 of 2012, Complainant failed to take a lunch break
15 in contravention of Respondent's policies and
16 procedures. Complainant received a verbal
17 counseling after failing to take direction from
18 his supervisor and displaying a negative attitude
19 toward his co-workers.

20 In addition to that, Complainant behaved
21 in an insubordinate manner when he refused to
22 comply with the supervisor's decision to limit
23 overtime. Specifically, Complainant told his

1 supervisor that, quote, I am my own man and just
2 here for my family, and I don't need to deal with
3 this, end quote, tossed his radio in the window
4 and said, quote, this is fucking bullshit and
5 this place sucks, end quote.

6 Complainant continued to engage in defiant
7 behavior and poor work performance is evident --
8 oh, I'm sorry -- and poor work performance as
9 evidenced. Complainant failed to respond when
10 addressed, refused to follow directives, and
11 spoke with supervision and co-workers in a
12 belligerent tone.

13 End of synopsis.

14 CHAIRPERSON BLACKBURN: Okay.

15 MR. SMITH: And I have to wash my
16 mouth out with soap.

17 CHAIRPERSON BLACKBURN: Are there any
18 questions?

19 (No response.)

20 CHAIRPERSON BLACKBURN: Hearing none,
21 Comm. Garcia, your recommendation is to uphold
22 the finding of no probable cause. I would ask
23 that someone would move acceptance of your

1 recommendation.

2 COMM. CARTER: So moved.

3 COMM. MCKEOWN: Second.

4 COMM. RAMOS: Second.

5 CHAIRPERSON BLACKBURN: Was that a
6 question, Michelle?

7 COMM. MCKEOWN: Oh, I said, "Second."

8 CHAIRPERSON BLACKBURN: Oh, okay.

9 All in favor?

10 COMM. YOUNG: Aye.

11 COMM. CARTER: Aye.

12 COMM. MCKEOWN: Aye.

13 COMM. RAMOS: Aye.

14 COMM. GARCIA: Aye.

15 CHAIRPERSON BLACKBURN: Aye.

16 Anyone opposed?

17 (No response.)

18 CHAIRPERSON BLACKBURN: Thank you

19 very much.

20 To New Business and the Assignment of New
21 Appeals. Thank you, Mr. Smith. That was
22 beautifully done.

23 MR. SMITH: Filling in for our

1 General Counsel, who I'm sure would have read and
2 briefed those a heck of a lot better than I did,
3 but thank you for allowing me to do it.

4 COMM. CARTER: I do actually have a
5 question about the process. That is, last month
6 we were given these flash drives, which was a new
7 procedure --

8 MR. SMITH: Uh-huh.

9 COMM. CARTER: -- which contain those
10 cases --

11 MR. SMITH: Uh-huh.

12 COMM. CARTER: -- as well as the ones
13 that were assigned to us.

14 MR. SMITH: Uh-huh.

15 COMM. CARTER: And those cases in the
16 case file contain the notification of findings.

17 MR. SMITH: Uh-huh.

18 COMM. CARTER: And therefore,
19 presumably, we've all read what you read to us.

20 MR. SMITH: Uh-huh.

21 COMM. CARTER: Would it not be
22 streamlining the process if we could take that as
23 a given?

1 MR. SMITH: Well, that's assuming the
2 presumption is correct --

3 COMM. CARTER: Yes.

4 MR. SMITH: -- and assuming a
5 complete file, and were I to ask everyone, I'm
6 not really sure anyone wants to be on record as
7 to admitting whether or not they actually read
8 everyone's case or not.

9 COMM. CARTER: I'm -- you don't have
10 to read the whole case file.

11 MR. SMITH: The rationale behind it
12 was in the off-chance that there were any
13 questions about the synopsis, that we would --

14 COMM. CARTER: Okay.

15 MR. SMITH: -- very quickly read
16 those and take care of that.

17 COMM. CARTER: Okay.

18 COMM. RAMOS: Plus those that were
19 absent last month did not receive that.

20 MR. SMITH: True.

21 COMM. CARTER: Okay.

22 CHAIRPERSON BLACKBURN: So, I sense
23 from the reaction that the synopsis does serve a

1 good purpose. Okay.

2 COMM. CARTER: And I'm just making
3 trouble.

4 MR. SMITH: Well, those are the first
5 ones. We'll have to iron this thing out to make
6 it as efficient --

7 CHAIRPERSON BLACKBURN: All right.

8 MR. SMITH: -- as we can, so good
9 stuff.

10 CHAIRPERSON BLACKBURN: So, we thank
11 you.

12 MR. SMITH: Yes, ma'am. Thank you.

13 CHAIRPERSON BLACKBURN: The case
14 of -- hmm. I'm looking at the assignment of the
15 case to Commissioner -- and the case, Jamal -- do
16 you want to comment? I'm not clear on what that
17 means.

18 MR. SMITH: Well, it's a housing
19 case, so, in essence, it's always the agency or
20 the Director in official capacity versus Roy
21 Hanover in that particular housing case. So, I
22 didn't -- not that I have a personal housing case
23 on file, but it's just listed that way. So, it's

1 the agency or Jamal Smith, in his official
2 capacity as Executive Director of the ICRC, and
3 representation of Lisa Rodriguez, who was the
4 Complainant, officially, versus Roy Hanover.
5 Does that make sense, or am I off?

6 CHAIRPERSON BLACKBURN: That's fine.

7 COMM. CARTER: I believe in the
8 statutes there's a Director-initiated
9 complaint --

10 CHAIRPERSON BLACKBURN: Right.

11 COMM. CARTER: -- that the rest of
12 the Commissioners, unless they're doing it as
13 private citizens --

14 CHAIRPERSON BLACKBURN: Will still
15 have to --

16 COMM. CARTER: -- can't start a
17 complaint.

18 CHAIRPERSON BLACKBURN: Right. And
19 so -- and if we can assign the cases from right
20 to left until we run out of cases. Let's see.
21 One, two, three, four, five, six. One, two,
22 three, four, five, six. How cozy and convenient
23 is that? Thank you.

1 Motions before the Commission. There's a
2 petition to change the judge in Aleesha Bullock
3 versus Cardinal Ritter High School, Inc., and I
4 would entertain your comments with regard to that
5 motion before we act on it.

6 COMM. GARCIA: Oh, questions from us?

7 CHAIRPERSON BLACKBURN: Anybody.

8 COMM. GARCIA: Okay. I just want to
9 know how far -- I mean being remanded, I guess
10 the judgment, how far back are we going? Are we
11 going to reinvestigation, or are we starting with
12 Josh Brewster's -- Attorney Brewster's
13 recommendation of no probable cause? Are we
14 starting there and going forward, or are we
15 having another investigation? Or where are we
16 starting?

17 COMM. CARTER: I thought the request
18 was for another hearing.

19 COMM. GARCIA: What?

20 COMM. CARTER: The request was for
21 another hearing with a change of judge.

22 COMM. GARCIA: With a change of
23 judge.

1 COMM. CARTER: Yes.

2 COMM. GARCIA: Starting where?

3 That's what I'm asking.

4 JUDGE ALLEN: So, the order of remand
5 instructs the matter to be conducted before an
6 administrative law judge, so essentially a new
7 hearing.

8 COMM. GARCIA: Okay.

9 JUDGE ALLEN: So, the request before
10 the Commission is a petition to change the judge
11 from myself to another administrative law judge,
12 or yourselves.

13 CHAIRPERSON BLACKBURN: May I have a
14 motion to approve the petition to change the
15 judge?

16 COMM. MCKEOWN: I would offer a
17 motion to deny the motion to change the judge.

18 CHAIRPERSON BLACKBURN: Do I have a
19 second?

20 COMM. RAMOS: Second.

21 CHAIRPERSON BLACKBURN: And all in
22 favor of the motion to deny?

23 COMM. YOUNG: Aye.

1 COMM. CARTER: Aye.

2 COMM. MCKEOWN: Aye.

3 COMM. RAMOS: Aye.

4 COMM. GARCIA: Aye.

5 CHAIRPERSON BLACKBURN: Aye.

6 That carries. Thank you very much. The
7 motion is denied.

8 Findings of Fact, Conclusions --

9 COMM. GARCIA: I just have a
10 question.

11 CHAIRPERSON BLACKBURN: Yes.

12 COMM. GARCIA: So, how far back are
13 you going? When we reversed the Deputy
14 Director's finding, is that how far back you're
15 going, to no probable cause, or -- I mean when
16 does everything just stop and when does
17 everything just start?

18 JUDGE ALLEN: So, right now, I will
19 actually schedule a new hearing. So, we are
20 post-probable cause from the Deputy Director's
21 finding.

22 COMM. GARCIA: Okay. So, our
23 reversal means nothing, back on May 12th? The

1 Commission's reversal of the finding means
2 absolutely nothing?

3 JUDGE ALLEN: So, just to give you a
4 procedural update, when the Deputy Director at
5 the time, I believe Joshua Brewster, he found
6 that there was no probable cause. It was
7 appealed to the Commission, and the Commission
8 reversed that and found probable cause, making
9 the matter go before an administrative law judge.

10 And since Judge Lange conducted a hearing
11 and it was thereafter appealed to the Indiana
12 Court of Appeals, it is remanded back to the
13 administrative law judge, so it is still a
14 post-finding --

15 COMM. GARCIA: Okay.

16 JUDGE ALLEN: -- cause.

17 COMM. GARCIA: Okay.

18 CHAIRPERSON BLACKBURN: Is everybody
19 clear?

20 COMM. RAMOS: Yes.

21 CHAIRPERSON BLACKBURN: Okay. Great.
22 Thank you very much.

23 Conclusions -- Findings of Fact,

1 Conclusions of Law and Order, there are four
2 listed. If you want to take those one by one, I
3 would ask for approval of the findings, starting
4 with Jamal Smith versus Pedcor Management. May I
5 have a motion to accept?

6 COMM. CARTER: So moved.

7 JUDGE ALLEN: And in -- I'm sorry.
8 And in like manner, with each of the proposed
9 findings, if the Commission permits, I will
10 provide an overview.

11 CHAIRPERSON BLACKBURN: Oh, that
12 would be wonderful.

13 COMM. GARCIA: Sure.

14 JUDGE ALLEN: And for the sake of
15 time, what I would do, then, is group the first
16 three bullet points, because it's essentially the
17 same issue, although three separate cases. So,
18 in each of these cases, they're all housing.
19 Either party has the ability to elect to have the
20 case heard in State Court.

21 And so, the Respondent in each of these
22 cases filed that notice of election pursuant to
23 Indiana Code 22-9.5-6-12, whereby the Commission

1 no longer has jurisdiction over the matter, and
2 therefore we must dismiss.

3 And so, the proposed finding that is
4 before you is an order to dismiss this matter so
5 that they can go before the State Court.

6 CHAIRPERSON BLACKBURN: May I have a
7 motion to accept the findings as just described?
8 And before the motion, are there any questions?

9 (No response.)

10 CHAIRPERSON BLACKBURN: Okay.

11 COMM. CARTER: Madam Chair, I move
12 that we accept the findings of Fact, Conclusions
13 of Law and Order of the first three of these
14 listed housing cases.

15 CHAIRPERSON BLACKBURN: And a second?

16 COMM. YOUNG: Second.

17 CHAIRPERSON BLACKBURN: And all in
18 favor?

19 COMM. YOUNG: Aye.

20 COMM. CARTER: Aye.

21 COMM. MCKEOWN: Aye.

22 COMM. RAMOS: Aye.

23 COMM. GARCIA: Aye.

1 CHAIRPERSON BLACKBURN: Aye.

2 And anyone opposed?

3 (No response.)

4 CHAIRPERSON BLACKBURN: Thank you
5 very much.

6 And the case of Elizabeth Bridgewater
7 versus Fishers Adolescence Catholic Enrichment
8 Society, Inc.

9 JUDGE ALLEN: This case was appealed
10 all of the way to the Indiana Supreme Court, and
11 it was recently remanded in a four-one decision
12 to the Commission to grant the motion to dismiss
13 filed by FACES, or the Respondent, as to both
14 claims. It was both a disability and retaliation
15 claim.

16 And so, my proposed order before the
17 Commission is doing just that, instructions from
18 the Indiana Supreme Court to dismiss the claims
19 of discrimination.

20 CHAIRPERSON BLACKBURN: May I have a
21 motion to accept the Finding of Fact, Conclusions
22 of Law and Order in that case, which essentially
23 dismisses the case?

1 COMM. MCKEOWN: So moved.

2 CHAIRPERSON BLACKBURN: And a second?

3 COMM. RAMOS: Second.

4 CHAIRPERSON BLACKBURN: And all in
5 favor?

6 COMM. YOUNG: Aye.

7 COMM. CARTER: Aye.

8 COMM. MCKEOWN: Aye.

9 COMM. RAMOS: Aye.

10 COMM. GARCIA: Aye.

11 CHAIRPERSON BLACKBURN: Aye.

12 Anyone opposed?

13 (No response.)

14 CHAIRPERSON BLACKBURN: Thank you
15 very much.

16 JUDGE ALLEN: Thank you.

17 COMM. CARTER: Was that the food
18 allergy case?

19 JUDGE ALLEN: I beg your pardon?

20 COMM. CARTER: Was that the food
21 allergy case?

22 JUDGE ALLEN: Yes.

23 CHAIRPERSON BLACKBURN: And having

1 had an opportunity to review the Syed Ather
2 versus University Hospital Consent Agreement, do
3 you want to comment about it at all?

4 JUDGE ALLEN: The commentary that I
5 can provide on this particular case is that it is
6 an old case. This case -- there was a hearing
7 before Judge Lange, my predecessor, and after
8 reviewing the record, I found that I needed to
9 reopen the record to ask additional questions. I
10 issued a proposed decision upon reopening the
11 record, and found in one manner or the other.

12 The parties, after reviewing my proposed
13 order, engaged in settlement discussions and
14 settled the case, thereby issuing this Consent
15 Agreement. I do not know the details of the
16 Consent Agreement, nor should I know. So, it is
17 upon the Commission to make a decision to accept
18 it.

19 CHAIRPERSON BLACKBURN: May I have a
20 motion to accept?

21 COMM. CARTER: So moved.

22 CHAIRPERSON BLACKBURN: And a second?

23 COMM. MCKEOWN: Second.

1 CHAIRPERSON BLACKBURN: All in favor?

2 COMM. YOUNG: Aye.

3 COMM. CARTER: Aye.

4 COMM. MCKEOWN: Aye.

5 COMM. RAMOS: Aye.

6 COMM. GARCIA: Aye.

7 CHAIRPERSON BLACKBURN: Aye.

8 Anyone opposed?

9 (No response.)

10 CHAIRPERSON BLACKBURN: Thank you
11 very much.

12 Are there any announcements?

13 COMM. CARTER: I have a question.

14 CHAIRPERSON BLACKBURN: Yes.

15 COMM. CARTER: You said you assigned
16 the cases not by name, but around the table, and
17 there are -- there's one more case than there are
18 Commissioners, if that --

19 CHAIRPERSON BLACKBURN: I miscounted?

20 COMM. CARTER: -- number is correct.

21 So, am I taking the last two? This is for
22 Debbie, it's not --

23 CHAIRPERSON BLACKBURN: Yes.

1 COMM. CARTER: It's just to know
2 which ones. Yes?

3 CHAIRPERSON BLACKBURN: Yes. Now,
4 you can be suspect --

5 COMM. CARTER: I wasn't volunteering,
6 but --

7 CHAIRPERSON BLACKBURN: You're going
8 to be suspect of your place at the table from now
9 on; right?

10 COMM. CARTER: I sit where there's no
11 chair.

12 CHAIRPERSON BLACKBURN: Okay.

13 Any announcements?

14 (No response.)

15 CHAIRPERSON BLACKBURN: No

16 announcements? Really?

17 (No response.)

18 CHAIRPERSON BLACKBURN: Hearing none,
19 I call your attention to the meeting dates
20 for 2015, and note that they will be in these two
21 rooms, our new home place.

22 And I'll announce that, to the benefit of
23 the Indiana Repertory Theater, I'll be on stage

1 tonight, playing the part of an over-the-hill
2 actress is what I understand.

3 (Laughter.)

4 CHAIRPERSON BLACKBURN: I'm beginning
5 to think I'm being typecast, having done a
6 similar role for an Alzheimer's benefit at Clowes
7 a couple of months ago.

8 COMM. CARTER: Well, they wouldn't
9 remember.

10 CHAIRPERSON BLACKBURN: But at any
11 rate, if any of you want some lighthearted
12 entertainment tonight, it's at the Indiana
13 Repertory Theatre.

14 COMM. CARTER: Are you sure you
15 weren't cast as the ingenue?

16 CHAIRPERSON BLACKBURN: I don't know
17 about -- that would be really a stretch. That
18 requires more of my acting ability than I'm
19 capable.

20 COMM. RAMOS: Since you're the star,
21 can you get tickets?

22 CHAIRPERSON BLACKBURN: Oh, at least
23 one. I don't know anybody who's coming as my

1 guest.

2 COMM. CARTER: Backstage pass.

3 CHAIRPERSON BLACKBURN: No, I think
4 the tickets are quite affordable. I wouldn't
5 even announce it otherwise.

6 So, any other announcements?

7 (No response.)

8 CHAIRPERSON BLACKBURN: All right.

9 Thank you very much.

10 The meeting is now adjourned.

11

12 Thereupon, the proceedings of
13 February 27, 2015 were concluded
14 at 1:43 o'clock p.m.

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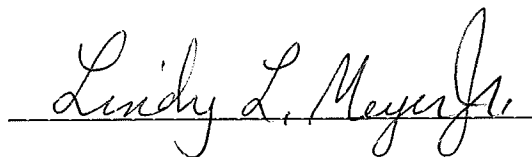
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CERTIFICATE

I, Lindy L. Meyer, Jr., the undersigned Court Reporter and Notary Public residing in the City of Shelbyville, Shelby County, Indiana, do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me on Friday, February 27, 2015 in this matter and transcribed by me.



Lindy L. Meyer, Jr.,

Notary Public in and
for the State of Indiana.

My Commission expires October 27, 2016.

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