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STATE OF ARIZONA

ARIZONA INDEPENDENT REDISTRICTING COMMISSION

P U B L I C

REPORTER'S TRANSCRIPT OF PROCEEDINGS

PUBLIC SESSION

Phoenix, Arizona  
May 28, 2004  
9:00 a.m.

CERTIFIED TRANSCRIPT  
COPY  
ARIZONA INDEPENDENT  
REDISTRICTING COMMISSION

LISA A. NANCE, RPR, CCR  
Certified Court Reporter  
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1                                   The State of Arizona Independent  
2 Redistricting Commission was noticed to convene in Open  
3 Public Session on May 28, 2004, at 9:00 o'clock a.m. and  
4 went on the record at 9:00 o'clock a.m., at the Offices  
5 of the Arizona Independent Redistricting Commission,  
6 Phoenix, Arizona, 85007, in the presence of:

7

8 APPEARANCES:

9

CHAIRMAN STEVEN W. LYNN

10

VICE CHAIRMAN ANDI MINKOFF (Present telephonically  
as indicated.)

11

12

COMMISSIONER JAMES R. HUNTWORK

13

COMMISSIONER JOSHUA M. HALL

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COMMISSIONER DANIEL R. ELDER (Present telephonically  
as indicated.)

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ADDITIONAL APPEARANCES:

LISA T. HAUSER, Commission Counsel

JOSE de JESUS RIVERA, Commission Counsel

LOU JONES, IRC Staff

KRISTINA GOMEZ, IRC Staff

LISA A. NANCE, RPR, CCR, Court Reporter

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6

REPORT OF EXECUTIVE DIRECTOR:

Adolfo Echeveste 20  
(By Written Submission)

E X H I B I T

NO. DESCRIPTION

1 Speaker Slip for Mr. Mandell.

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Public Session  
Phoenix, Arizona  
May 28, 2004  
9:00 o'clock a.m.

P R O C E E D I N G S

CHAIRMAN LYNN: Good morning. It's 9:00  
o'clock.

Call the meeting to order.  
The Commission will be in session.  
Roll call.

Mr. Elder?

COMMISSIONER ELDER: Here.

CHAIRMAN LYNN: Ms. Minkoff?

COMMISSIONER MINKOFF: Here.

CHAIRMAN LYNN: Mr. Huntwork?

COMMISSIONER HUNTWORK: Here.

CHAIRMAN LYNN: Mr. Hall?

COMMISSIONER HALL: Here.

CHAIRMAN LYNN: Staff is here with legal  
counsel.

Contrary to what you read, heard, or have  
recalled, this meeting is called a periodic update  
meeting with respect to legal action in two courts, State  
of Arizona US District Court, and Court of Appeals. It  
is a regular update meeting we felt was appropriate and

1 necessary to keep the Commissioners informed of the  
2 proceedings in those courts. And any other information  
3 that you may have been given or led to believe simply  
4 isn't true and you need to understand that. Insofar as  
5 that reason for this meeting is the primary reason for  
6 the meeting, I would ask that, first, and foremost, we  
7 take care of that issue and we will entertain public  
8 comment later in the meeting.

9                   For that reason, pursuant to A.R.S.  
10 38-431.03(A)(3) or (A)(4), is there a motion for  
11 Executive Session?

12                   COMMISSIONER HUNTWORK: So moved.

13                   CHAIRMAN LYNN: Is there a second?

14                   COMMISSIONER HALL: Second.

15                   CHAIRMAN LYNN: All those in favor of the  
16 motion, say "aye."

17                   COMMISSIONER ELDER: "Aye."

18                   COMMISSIONER HUNTWORK: "Aye."

19                   COMMISSIONER HALL: "Aye."

20                   COMMISSIONER MINKOFF: "Aye."

21                   CHAIRMAN LYNN: Motion carries five-zero.

22                   Thank you for being here this morning.

23 There is no way of gauging the Executive Session time.

24 Even if I did, I'd be wrong. I'd ask your indulgence and

25 patience. We'll be with you as soon as we can.

1 MS. HAUSER: We can state however long the  
2 Executive Session lasts, Commissioner Minkoff is  
3 unavailable after 9:30.

4 COMMISSIONER MINKOFF: I can stay until  
5 9:45.

6 CHAIRMAN LYNN: For the record, we'll make  
7 that clear.

8 (Whereupon, the Commission recessed  
9 open Public Session at 9:07 and  
10 convened in Executive Session until  
11 10:35 a.m. at which time a recess was taken  
12 and open Public Session reconvened at  
13 10:50 a.m.)

14 CHAIRMAN LYNN: Any business on Item IV?  
15 Hearing none, Item V, public comment.

16 I have a request from Michael Mandell,  
17 Arizona Minority Coalition.

18 This is the time for consideration and  
19 discussion of comments from the public. Those wishing to  
20 address the Commission shall request permission by  
21 filling out a speaker slip. Action taken as a result of  
22 public comment will be limited to directing staff to  
23 study the matter or rescheduling the matter for further  
24 consideration and decision at a later date unless it is  
25 the subject of an item already on the agenda.

1 Mr. Mandell.

2 MR. MANDELL: Thank you.

3 Michael Mandell representing Arizona  
4 Minority Coalition for Fair Redistricting.

5 I was coming to speak about the executive,  
6 about the open meeting law issue noted to the Commission.  
7 Obviously since Item IV went away, that is no longer an  
8 issue.

9 One of the things I would like to impress  
10 on the Commission, even if the Court of Appeals decides  
11 to stay the January 16th order, we'd hope that the  
12 Commission allow the DOJ process to continue on and let  
13 DOJ decide whether or not the April 16th map is a map  
14 that can be used for future elections, whether for this  
15 election we've used 2002 or not, 2004 or not, I  
16 understand it's not the map which is a favorite of the  
17 Commission, or one you all were real happy to have to go  
18 in and create. Millions of dollars have been spent in  
19 attorneys' and consultants' and our time and citizens'  
20 time, and DOJ's time, all of those sorts of things. We  
21 respectfully request no matter what happens you allow the  
22 map to continue its process.

23 CHAIRMAN LYNN: Thank you, Mr. Mandell.

24 Mr. Huntwork.

25 COMMISSIONER HUNTWORK: May I ask you a

1 question?

2 MR. MANDELL: Yes.

3 COMMISSIONER HUNTWORK: Can you assure the  
4 Commission that if the, if DOJ were to approve the Court  
5 ordered map in the middle of the election cycle using the  
6 other districts, for example, that it would not have the  
7 effect of revoking the preclearance that already exists  
8 for those maps? Can you assure us of that?

9 MR. MANDELL: Mr. Chairman, Mr. Huntwork, I  
10 cannot assure of you of that, no.

11 COMMISSIONER HUNTWORK: If it did -- if it  
12 was legally ambiguous as to whether it had that effect or  
13 not or if it did have that effect, then what do you think  
14 would happen to the election cycle? Would it be  
15 interrupted? Would, if, for example, it were legally  
16 ambiguous, be a lengthy delay while that ambiguity were  
17 resolved, or resolved simply, easily, go back reapplying  
18 for the previously approved maps; and if that happened,  
19 would your clients support that in order to allow the  
20 election to proceed without interruption?

21 MR. MANDELL: Mr. Chairman, Mr. Huntwork, I  
22 can't speak for my clients on a hypothetical that I  
23 haven't had time to speak with them about.

24 A lot of my clients are elected officials.  
25 It's to their benefit elections take place in a timely,

1 orderly manner, have candidates, an official duty for  
2 legislators of the State of Arizona.

3                   It really depends on the timing, I think,  
4 of when DOJ comes down with a decision. If it comes down  
5 with a decision before June 9th, I think a lot of things  
6 are avoided and the elections proceed either under either  
7 map without any types of problems. It's between June 9th  
8 and the June 21st time frame that the problems start to  
9 be created. If it goes out to June 21st, problems could  
10 be created. Becomes much larger if it happens sooner  
11 than later.

12                   COMMISSIONER HUNTWORK: Not just your  
13 clients, I think everybody shares that same view. We  
14 need to be thinking about how we can assure that there  
15 will be an orderly election.

16                   CHAIRMAN LYNN: Mr. Hall --  
17 Mr. Mandell, want to comment?

18                   MR. MANDELL: Clearly it's to everyone's  
19 benefit the elections proceed orderly and on time. I  
20 don't think anyone is advocating elections be --  
21 certainly the election deadlines could be moved, the  
22 actual date of the elections. I don't think anyone is  
23 advocating those occur.

24                   CHAIRMAN LYNN: Mr. Hall.

25                   COMMISSIONER HALL: I was just going to

1 say, to that point, our clients are the 5.1 million  
2 people in the State of Arizona. Your clients have  
3 special interests. Our clients' interests are to insure  
4 all parties have a right to vote, including the military,  
5 which there's a significant number of overseas. I want  
6 to make that very clear.

7 I just have two questions. One is, can you  
8 explain, when you were in front of the Commission during  
9 our 45-day sprint to create a court ordered map, on more  
10 than one occasion we emphasized it would be important for  
11 your clients and representatives of interested parties to  
12 provide affirmative and enthusiastic support of that  
13 plan. Information we've received from the Department of  
14 Justice is that that support, some of the support they've  
15 only received in the last week or two from certain  
16 leadership groups. So can you explain to us why that  
17 support has in some cases not only been significantly  
18 delayed and absent in some cases?

19 MR. MANDELL: Mr. Chairman, Mr. Hall,  
20 support certainly has not been absent. Submission  
21 occurred on tiers. The first letter went out on May 1st  
22 in support of the plan. Three letters went out to the  
23 Department of Justice May 1st, May 1st, May 18th, all in  
24 strong support of the plan. All clients called the  
25 Department of Justice. To my knowledge, every single one

1 supported the plan, provided information to DOJ, provided  
2 additional election data, precinct support of the plan.  
3 All this counsel has, we supported, are an appendix to  
4 the Court of Appeals action. All those letters are part  
5 of the record. So we certainly have been doing our best  
6 to try to stay in constant contact with DOJ, make our  
7 clients available to DOJ for calls, in fact have given  
8 DOJ a list of people to call, which they have called,  
9 started calls very early, started -- some clients started  
10 receiving calls early in the first week of May, have been  
11 in constant contact with DOJ since then, support the  
12 plan, have certainly been forthcoming. My clients, the  
13 organizations they represent, for example, a  
14 representative of Valley de Sol is here to talk about  
15 what their organization has done as well, a couple from  
16 LULAC, Chicanos Por La Casa.

17 COMMISSIONER HALL: LULAC in the last  
18 couple weeks. Not MALDEF.

19 COMMISSIONER HALL: MALDEF was absent.

20 MR. MANDELL: MALDEF was not absent.

21 COMMISSIONER HALL: Conversations with  
22 MALDEF.

23 MR. MANDELL: They provided additional data  
24 to try to help support the plan, showed you a viable plan  
25 should be precleared. Unfortunately, MALDEF has a

1    staunch position which has not yet been, in fact been  
2    able to confirm with them whether or not they altered  
3    their position. The person from MALDEF I talked to was  
4    actually saying that maybe the benchmark plan was not one  
5    effective for Latino voters, one actually precleared.  
6    It's hard to tell where they're coming from.

7                   CHAIRMAN LYNN: Ms. Hauser.

8                   MS. HAUSER: I just wanted to clarify for  
9    the Commission where some of the confusion comes into  
10   play, what was done with DOJ, the Minority Coalition.  
11   I'm happy Mr. Mandell is here to make statements in  
12   response to questions. I'd like to put on record for the  
13   Commission that we had indicated just as, you know, when  
14   we send things to DOJ, make copies available to the  
15   Coalition, we asked the Coalition when they gave support  
16   to DOJ, they please copy us on that. Interestingly  
17   enough, we didn't get anything. We, of course, assumed,  
18   they didn't tell us they'd refuse to give us copies, we  
19   didn't hear anything, we naturally came to the assumption  
20   they had not done anything. We did contact Mr. Mandell.  
21   In the spirit of cooperation we've come expect from the  
22   Coalition, they said they would not give us copies of  
23   anything they gave to DOJ unless we agreed in advance to  
24   never to use them against them. I'd add at that point we  
25   were in federal court.

1 I want to make you fully aware of that  
2 course of events.

3 I did make a formal request of DOJ and did  
4 receive some of that information. So we have it and got  
5 the rest of it in their court papers. Just so you know,  
6 that's where the confusion comes in.

7 COMMISSIONER HALL: One more question,  
8 Mike, not trying to put you on the spot, Mr. Mandell,  
9 sorry.

10 Back to this DOJ issue and plan presently  
11 before them. As you know, they have until June 21st to  
12 preclear that. So I want -- all in hypothetical, we  
13 don't know what the Court of Appeals is trying to do,  
14 here we'll have fun solving hypothetical problems.  
15 Assume for the sake of discussion DOJ on June 20th says  
16 in light of the fact we have conflicting opinions from  
17 leaders of the Hispanic community, in fact, MALDEF on one  
18 side opposing saying it's retrogressive, information  
19 provided by other sources is indicating potentially  
20 retrogressive, other members, including your clients, say  
21 it isn't, is for the benefit of the Hispanic community in  
22 the State of Arizona. Let's say, for the sake of  
23 discussion, on June 20th the Department of Justice says  
24 we are conflicted by the conflicting information;  
25 therefore, we request more information on June 20th. As

1 you know, if they request more information on June 20th,  
2 they have another 60 days from --

3 MS. HAUSER: From the time they get it.

4 COMMISSIONER HALL: -- from the time they  
5 get the information. Given that hypothetical scenario,  
6 what would be your recommendation?

7 MR. MANDELL: First, you have to assume the  
8 Court of Appeals did nothing.

9 COMMISSIONER HALL: Assuming they granted  
10 the stay, that -- assuming the Court of Appeals grant the  
11 stay, elections proceed forward, leave the April 12 plan  
12 on the table, suggesting June 20th, we don't know where  
13 you came up with the magic June 9th date.

14 MS. HAUSER: End of candidate filing date.

15 COMMISSIONER HALL: Zero, respond before  
16 June 9th, do that, what do you suggest at that point  
17 then?

18 MR. MANDELL: Mr. Chairman, Mr. Hall, I  
19 suggest the Commission return and address it at that  
20 time, that way you know what is going on. It would be  
21 pure speculation on my part and everyone's part to try  
22 figure out what DOJ would do. I'd be very surprised if  
23 on -- the day before a decision were to come out DOJ  
24 would ask for more information.

25 COMMISSIONER HALL: Pursuant to

1 Mr. Huntwork's comment, don't you agree if they did  
2 respond and precleared in a reasonable time frame, it  
3 would cause tremendous ambiguity and disruption of the  
4 election process, stay, election proceeding under the  
5 current maps, election officials stating now we're drop  
6 dead, past certain dates, implementation of the election?  
7 After a couple weeks we have subsequent, from them,  
8 creates additional ambiguity, delay. Are you concerned  
9 for your clients, specifically cause inhibition to  
10 efficient, smooth election?

11 MR. MANDELL: That would assume if the new  
12 plan were precleared that would then have to be the plan  
13 used for the election. So under that assumption,  
14 certainly the further you get out, and as I answered  
15 Mr. Huntwork's questions, the more potential harm is  
16 caused. That's certainly true.

17 CHAIRMAN LYNN: Ms. Hauser.

18 MS. HAUSER: Before I ask --

19 COMMISSIONER ELDER: Excuse me, this is  
20 Mr. Elder. Everybody speak up, please.

21 CHAIRMAN LYNN: We'll try.

22 MS. HAUSER: Before asking a question, I  
23 was asking for recognition, I'd comment, note for Members  
24 of the Commission, I heard Mr. Mandell just indicate if  
25 in fact preclearance of the April 12th plan sometime down

1 road after the Court of Appeals grants a stay, it means  
2 that the April 12th plan must be the one used for the  
3 election. He referred to that as an assumption. That is  
4 not how the Coalition presented to the court. The  
5 Coalition presented that to the court as a given, not as  
6 an assumption. So, you know, it's -- it is tiresome, I  
7 think, to hear one thing in one forum and another thing  
8 in another forum.

9 I think, I guess I would caution, I'm  
10 assuming what the Coalition says to the court is what  
11 they really believe. I caution the Commission the  
12 Coalition's position that is not assumption, it's a  
13 given. Don't know? We know for certain. We know that's  
14 their real position.

15 The question I want to ask you,  
16 Mr. Mandell, if in fact the stay is granted, and if, at  
17 some point down the road you've identified, after June  
18 9th, things become more dicey in the event DOJ precleared  
19 the April 12th plan, if the election were proceeding  
20 under the 2002 plan, if at some point down the road when  
21 it is dicey if the Commission were to determine that the  
22 submission should be withdrawn so as not to create  
23 disruption until the conclusion of the appeal, and if the  
24 Commission then lost on appeal and the April 12th map was  
25 to be revived, the Commission then, if it were to send a

1 letter to DOJ that says referencing submission 20041871,  
2 here it is, pick it up again and start working, my  
3 conversations with DOJ have informed us that's all we  
4 would need to do. The clock would start over, a new 60  
5 days. We would not need to resubmit any information. My  
6 information to you is what is wrong with that scenario?  
7 Why is that so bad if that were to occur? What is the  
8 problem with that?

9 MR. MANDELL: First off, that,  
10 Mr. Chairman, Ms. Hauser, before I answer the question,  
11 let me address the chastisement of the Coalition's  
12 position and the Commission's position. In the Court  
13 papers, it has been that is not the case, not even  
14 precleared the benchmark plan. It's still used the 2002  
15 election. There is ambiguity whether or not, which plan  
16 would be used for this year's election. So we took one  
17 position, the Commission takes another. Election is  
18 ambiguity, we don't know.

19 MS. HAUSER: Let me stop you. That is not  
20 correct. We presented that issue.

21 CHAIRMAN LYNN: Discussion is better in  
22 another forum, someone make a decision one would or  
23 another.

24 Answer the second question if you care to,  
25 Mr. Mandell.

1                   MR. MANDELL: Because of the length of the  
2 appeal, the scenario is likely to be the same situation  
3 in 2006. A decision from the Court of Appeals on the  
4 2002 map isn't likely to occur until 2005 given the  
5 briefing schedule. With a similar briefing schedule from  
6 the Supreme Court, who knows when they'll come down with  
7 a decision. 60 days out in 2005, we've got the same  
8 problem, or 2006.

9                   CHAIRMAN LYNN: 2006.

10                  MR. MANDELL: Certainly 120 days away now  
11 from making a decision. At least we know we won't have  
12 to start the process over again, phone calls over again,  
13 spend federal tax dollars necessary to preclear the plan  
14 later on.

15                  CHAIRMAN LYNN: Any other questions for  
16 Mr. Mandell?

17                  I think he has been very generous with his  
18 answering of those questions in this forum.

19                  COMMISSIONER HUNTWORK: Thank you.

20                  CHAIRMAN LYNN: Mr. Mandell, thank you, as  
21 always.

22                  Any other member of the public wishing to  
23 speak?

24                  If not, Item VI is report from the  
25 Executive Director.

1                   I believe the Commission has a financial  
2 report in their packet, restatement of the financial  
3 situation, expenditure and available funds.

4                   COMMISSIONER MINKOFF: Since I'm not  
5 physically at the meeting, don't have the packet, I'd ask  
6 if you can't fax it to me, please.

7                   CHAIRMAN LYNN: Sure. Same for you,  
8 Mr. Elder, we're happy to get it to you as quickly as we  
9 can.

10                  COMMISSIONER ELDER: Okay.

11                  CHAIRMAN LYNN: Item VII, closing  
12 statements or comments by Chairman or Members of the  
13 Commission.

14                  Are there members of the Commission that  
15 wish to make statements at this time?

16                  Mr. Hall?

17                  COMMISSIONER HALL: Mr. Chairman, I've been  
18 very concerned with respect to things I've read in press  
19 releases, things I've heard, things I've heard yesterday  
20 in the Court of Appeals relative to members of the  
21 public, opposing counsel, representing what we are or  
22 aren't going to do in a Commission meeting. I came down  
23 here and learned via a press release what I was going to  
24 do and a letter from opposing counsel. I just want to  
25 say for the benefit for those listening and especially

1 the press, because someone may call a press conference,  
2 express their opinion of what they think we may do in  
3 this case, it's absolutely erroneous, and has been for  
4 the four years I've been doing this. And I'm just  
5 sometimes frustrated that we're not hearing both sides of  
6 the story about those issues.

7 I'm looking here at a press release by Mary  
8 Rose Wilcox. With all due respect to her, it's just --  
9 absolute printed in here, "Republicans control the IRC."  
10 It's a lie. "We've given \$10 million to the IRC and they  
11 haven't done anything. What do we have? We have  
12 nothing." That's a lie. This Commission completed it's  
13 work with less than \$3 million. All subsequent funds  
14 spent were because of special interest parties that have  
15 filed lawsuits against us to pursue their own personal  
16 interests. This Commission spent the remaining funds  
17 defending itself. We were done on three million.

18 Quite frankly, the first time we submitted  
19 a more competitive map, it had percentages similar to the  
20 April 12 plan. There was lack of support of key parties.  
21 We had to redraw, bump percentages up. Now you want us  
22 to lower them again. I'm frustrated at the schizophrenia  
23 of the variety of interested parties. My opinion, and  
24 those of Commissioners, we have done our damn well best  
25 to just serve the people of Arizona. Respectively,

1 Mr. Gillardo, if really what you said, or the comment of  
2 you, this plan, April 12 plan, is more representative of  
3 your constituents, the plan, E 2 plan has higher  
4 percentages, I argue, is more representative, under the  
5 assumption higher percentage of higher number Hispanic  
6 constituents. There was an article in this morning's  
7 Republic, no one representing the Commission or Republic  
8 quoted, Mr. Fisher says I'm testy this morning. That may  
9 well be the case. My frustration level is increasing.  
10 We strive, my goal, not Democrats or Republicans, my goal  
11 is five million people be able to vote, military people  
12 honorably serving our people and potentially  
13 disenfranchised last election, officials representing  
14 those people last occurs. There's already a risk they  
15 may be disenfranchised in the current process we're  
16 involved with. I, ramblings, idle thoughts of Joshua  
17 Hall, would like to emphasize that's our intention. I  
18 want as many competitive districts as legally possible in  
19 the State of Arizona. I've always said that. Every time  
20 I tried to get more competition, there has been handcuffs  
21 with respect to voting rights and other related issues  
22 that has not allowed that to occur. Already, when we  
23 were promised animated, enthusiastic support, opposing  
24 groups oppose districts. I'm interested whether Judge  
25 Fields' group --

1                   Everyone on this Commission wants as  
2 competitive a plan as possible. My fear is we are so  
3 limited that by the restrictions placed upon us, we are  
4 not able to do any more than we did way back in our first  
5 original plan.

6                   I got that off my chest now.

7                   CHAIRMAN LYNN: Hope you feel better.

8                   MS. HAUSER: May I interrupt?

9                   CHAIRMAN LYNN: We have word.

10                  MS. HAUSER: We have word. The stay was  
11 granted.

12                  CHAIRMAN LYNN: Do you know how  
13 comprehensively?

14                  MS. HAUSER: Very comprehensively. I  
15 haven't seen it in writing. It did not appear to come  
16 with qualification.

17                  COMMISSIONER HUNTWORK: Whatever the answer  
18 to that was going to be, my comment was going to be the  
19 same.

20                  I remind everybody that although what this  
21 Commission does has a profound effect on politics in the  
22 State of Arizona, what we do is not political. The  
23 Commission was set up originally with safeguards. The  
24 safeguards were that each member of this Commission was  
25 screened and approved by the same body that approves the

1 appellate justices and judges in the State of Arizona.  
2 The members of the Commission are balanced. I'll remind  
3 you the Commission has two strong, articulate Democrats;  
4 two Republicans; and an Independent Chairman who is one  
5 of the most principled public servants I've ever had the  
6 opportunity to deal with. The Commission applied  
7 Proposition 106 as best we could, as best we honestly  
8 could, and came to our conclusions.

9                   We're in a process where the Court, Judge,  
10 disagreed with us. The Court of Appeals is looking at  
11 the legal issues that were raised by the trial court. We  
12 are all colleagues in this process.

13                   Mr. Mandell, in the broadest sense, is not  
14 our opponent in this process. Certainly the courts are  
15 not our opponents in this process. We're working  
16 together to answer all the questions about how  
17 Proposition 106 is to be interpreted, how it is to be  
18 applied.

19                   I remind everyone this is the first time  
20 we've gone through Proposition 106. The fact that there  
21 are issues, the fact people can disagree about those  
22 issues, is not surprising. It is to be expected. It is  
23 an inevitable part of this process.

24                   What we need to do at this point, in my  
25 opinion, is put aside the partisan issues and focus on

1 the primary question of how are we going to all get  
2 together to assist the people of Arizona in having the  
3 opportunity to conduct a fair, open election this  
4 November.

5                   We have to get candidates in place. We  
6 have to give them the opportunity to have their party  
7 primaries in a timely way. We have to give them the  
8 opportunity then for Republicans, Democrats, and others  
9 to compete against each other with full time and full  
10 resources available to them in the fall election. In my  
11 opinion, that's something that all the citizens of  
12 Arizona, Democrats, Republicans, Independents alike, need  
13 to join together and work for at this time.

14                   I heard, very clearly, the comments  
15 Mr. Mandell made about his concern that if the Judge  
16 ordered plan turns out to be the correct one, that it's  
17 not fair to have ultimately to have the Justice  
18 Department delay stand in way of that plan when the time  
19 comes. All I can say, I pledge to you, Mr. Mandell, if  
20 that's what happens, the Commission will endeavor to make  
21 sure the Justice Department will endeavor to clear that.  
22 I'm sure election administrators feel it's already too  
23 late to implement an alternative plan. We need to pull  
24 together to have the election this fall and then we can  
25 complete the appellate process in a fair, orderly manner,

1 and we will all, once again, pull together our best to  
2 implement whatever the appellate courts rule as  
3 effectively as possible for the people of Arizona.

4 Good rant.

5 CHAIRMAN LYNN: Thank you, Mr. Huntwork.

6 Ms. Minkoff or Mr. Elder, comments?

7 COMMISSIONER MINKOFF: Yes, a brief  
8 comment.

9 I certainly support everything Commissioner  
10 Huntwork said. We need to pull together to make sure the  
11 election proceeds smoothly and in the best interests of  
12 the people of Arizona. I certainly have no expertise in  
13 the conduct of elections, far less than Mr. Huntwork, far  
14 less than the people responsible in each county for  
15 conducting those elections. But whatever needs to be  
16 done, I think we as Commissioners need to support that  
17 process.

18 The second thing is that now that the stay  
19 has been granted, I think we all need to take a deep  
20 breath, let the appellate process go forward. I think  
21 it's extremely important that philosophical disagreements  
22 people of good faith have about this law make it very,  
23 very clear we need an appellate court determination of  
24 exactly what the Constitution of the State of Arizona  
25 says regarding the conduct of the Independent

1 Redistricting Commission, that conduct now go forward. I  
2 hope while it goes forward we will as much as possible  
3 restrict our arguing and disagreeing to court documents  
4 and court arguments and try to tone down public rhetoric.  
5 We all want the same thing. There's some disagree on the  
6 best way we disagree on that. Let's tell it to the judge  
7 and let them tell us the best way to achieve that and  
8 tone down the rhetoric in other areas.

9 CHAIRMAN LYNN: Thank you, Ms. Minkoff.

10 Mr. Elder?

11 COMMISSIONER ELDER: No. I'm fine with  
12 what's been said by everybody else.

13 Fine. I'd like to, don't know if said in  
14 Executive Session, the attorneys read the stay order,  
15 give advice on what is next to come and the process looks  
16 like.

17 CHAIRMAN LYNN: As with this meeting,  
18 Mr. Elder, we'll meet periodically as necessary to move  
19 forward any issues pertinent to the Commission. We have  
20 news of the stay. We certainly do not have the order in  
21 front of us and cannot parse it at this time.

22 COMMISSIONER ELDER: Correct.

23 CHAIRMAN LYNN: Let me add a couple  
24 comments to what was said by all parties, echos what  
25 Mr. Huntwork described very aptly and, save the part

1 about the Chairman, very aptly about this Commission.  
2 What is important for the press to understand is that  
3 this Commission has chosen, by large throughout its  
4 entire existence, to simply appropriately do its work  
5 within the confines of the law and within the confines of  
6 the open meeting requirements imposed upon us as a public  
7 body in the State of Arizona. I invite anyone trying to  
8 solve the complex problems with political overtones to  
9 try to do that in the full view of the State of Arizona.  
10 It is not an easy task, not one particularly enjoyable in  
11 some cases. Please understand you have five citizens who  
12 volunteered to take on this very difficult and very  
13 frustrating responsibility to try as the first  
14 Independent Commission in the State of Arizona and one of  
15 the first truly independent commissions in the United  
16 States to take a very politicized process and make it  
17 more independent, make it free of partisan political  
18 decision making. I can assure the people of Arizona  
19 after three-and-a-half years at this, I cringe to make  
20 that statement, three-and-a-half years, that partisan  
21 political decision making has not entered into the  
22 deliberations of this Commission. Make no mistake about  
23 it, public statements made about others, not about voting  
24 rights, voting groups, partisan groups. It's a fact, go  
25 back in the evolution of testimony before the Commission,

1 absolutely fact. Statements made in public before the  
2 Commission by the very people who held a news conference  
3 yesterday contravene each other time after time after  
4 time. It is statements of convenience, not statements of  
5 law or statements of conviction.

6 I will tell you this, as Chairman of the  
7 Commission, it has been my hope that this Commission  
8 would operate in the most transparent, professional, and  
9 dedicated manner to serve the people of the State of  
10 Arizona. And maybe we should have done more to go out  
11 publicly and state positions. Perhaps we should have  
12 done more in terms of publicizing our own activities and  
13 deliberations. But I will put this group of five people,  
14 certainly group of four, fellow Commissioners, up against  
15 any Commission in the State of Arizona, or any  
16 Legislative Body in the State of Arizona, or any other  
17 state for that matter, in terms of dedication, trying the  
18 best they can to follow the Constitution, not abuse it,  
19 to impose the Constitutional requirements we have, which  
20 are several, I might add, not just competitiveness, and  
21 do so in a manner purely nonpolitical. We've done that,  
22 continue to do it, as Ms. Minkoff said. We're all  
23 interested in the alternate outcomes the courts provide  
24 us, some certainty which of these new provisions in the  
25 State Constitution have been properly implemented which

1 haven't. If there are those improperly implemented by  
2 this Commission, no one is more interested in this  
3 information than we are. Not one of us wish to openly,  
4 knowingly, willfully, violate the Constitution. We  
5 haven't done so, don't intend to do so.

6                   This Commission will continue to operate  
7 under the law as we understand the law to be.

8                   Having said that, this Commission will  
9 continue to meet periodically to receive updated  
10 information from counsel or others who have information  
11 relevant to the Commission based on our current  
12 circumstances in whichever court we are presently  
13 appearing before. And as you know, this is a movable  
14 feast. We've gone from court to court to court, not  
15 because we wanted to, others have been unhappy with the  
16 outcome of the process.

17                   I will say this, in closing: To the extent  
18 that we are given the resources, and to the extent we  
19 have the tenacity to continue to do it, it is certainly  
20 my view, and I think my fellow Commissioners as well, we  
21 are intending to see this through. We have a 10-year  
22 term. As someone that serves at no compensation, and I  
23 might add no time off for good behavior or otherwise,  
24 that is a long term of office. No one on the Commission  
25 as we began envisioned by '06, Mr. Mandell, pressing on

1 yet another round of elections, we'd still have  
2 uncertainty on what this law means and how it should be  
3 implemented.

4 My fervent hope is whatever the decision,  
5 of the Court of Appeals, I hope early '05, quickly,  
6 expeditiously, finally resolve that at the Supreme Court,  
7 whichever way the decision goes, we have not only  
8 certainty for '06 but rest for the Commission beyond that  
9 point.

10 There is a saying which says revenge is a  
11 dish best served cold. I believe justice is a concept  
12 best served cold, meaning not in the light of and heat of  
13 an election cycle.

14 I hope decisions made by the courts, courts  
15 plural, in the future, are done in an atmosphere neither  
16 at a deadline or impending election which creates any  
17 more pressure than is already there to make a finding of  
18 law to give clarity not only to this Commission but  
19 subsequent Commissions.

20 Is there any further business to come  
21 before the Commission today?

22 MR. FISHER: Can I ask a question?

23 CHAIRMAN LYNN: Not on the record.

24 MR. FISHER: Can I ask a question?

25 CHAIRMAN LYNN: Not on the record.

1 Any further business to come on the record?

2 Any from counsel?

3 From staff?

4 The Commission stands adjourned.

5 (Whereupon, the Public Hearing of the

6 Independent Redistricting Commission of

7 Arizona adjourned at approximately

8 11:30 a.m.)

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1 STATE OF ARIZONA )  
 ) ss.  
2 COUNTY OF MARICOPA )

3 BE IT KNOWN that the foregoing Public  
4 Hearing of the Arizona Independent Redistricting  
5 Commission was taken before me, LISA A. NANCE, RPR, CCR,  
6 Certified Court Reporter in and for the State of Arizona,  
7 Certificate Number 50349; that the proceedings were taken  
8 down by me in shorthand and thereafter reduced to written  
9 form via computer and the latest technology by myself;  
10 that the foregoing 32 pages constitute a true and  
11 accurate transcript of all proceedings had upon the  
12 taking of said hearing, all done to the best of my  
13 ability;

14 I FURTHER CERTIFY that I am in no way  
15 related to any of the parties hereto, nor am I in any way  
16 interested in the outcome hereof.

17 DATED at Phoenix, Arizona, this 9th day of  
18 July, 2004.

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LISA A. NANCE, RPR, CCR  
Certified Court Reporter  
Certificate Number 50349

