U.S. COMMISSION ON CIVIL RIGHTS

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MEETING

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FRIDAY, OCTOBER 17, 2008

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The meeting convened in Room 540 at 624 Ninth Street, N.W., Washington, D.C., at 9:30 a.m., Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman
TODD F. GAZIANO, Commissioner
GAIL L. HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner
ARLAN D. MELENDEZ, Commissioner (via telephone)
ASHLEY L. TAYLOR, JR., Commissioner
MICHAEL YAKI, Commissioner

MARTIN DANNENFELSER, Staff Director

STAFF PRESENT:

DAVID BLACKWOOD, General Counsel
MARGARET BUTLER
CHRISTOPHER BYRNES, Chief, Programs Coordination Unit
DEMITRIA DEAS
PAMELA A. DUNSTON, Chief, ASCD
LATRICE FOSHEE
ROBERT LERNER, Assistant Staff Director for OCRE
TINA LOUISE MARTIN, Director of Management
EMMA MONROIG, Solicitor
AUDREY WRIGHT
MICHELE YORKMAN

COMMISSIONER ASSISTANTS PRESENT:

TIM FAY
DOMINIQUE LUDVIGSON
KIMBERLY SCHULD
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P-R-O-C-E-D-I-N-G

(9:35 a.m.)

CHAIRMAN REYNOLDS: Good morning. This is Chairman Gerald Reynolds. The meeting will come to order. This is a meeting of the U.S. Commission on Civil Rights.

It is 9:35 on October 17, 2008. The meeting is being held at 624 Ninth Street, N.W., Room 540, in Washington, D.C. Commissioner Melendez is participating by phone. Vice Chair Thernstrom will not be participating in today's meeting. Commissioner Taylor is en route. The remaining Commissioners are present.

I. APPROVAL OF AGENDA

CHAIRMAN REYNOLDS: The first item on the agenda is the approval of the agenda. Is there a motion to approve the agenda?

COMMISSIONER YAKI: So moved.

COMMISSIONER HERIOT: There is a motion to amend the agenda.

CHAIRMAN REYNOLDS: Okay. Is there a second to --

COMMISSIONER HERIOT: I haven't made it yet.

COMMISSIONER KIRSANOW: Yes, I have
another as well when she's done.

COMMISIONER HERIOT: Motion to amend the agenda to include a report from the Commission counsel on the investigation that we had asked for. Put that right after the Staff Director's Report.

COMMISIONER KIRSANOW: Second.

CHAIRMAN REYNOLDS: Whoa, whoa. Since we're going to -- we have a second. That will require us to go into closed session. I would recommend that we just put it at the end of the --

COMMISIONER HERIOT: That's fine.

CHAIRMAN REYNOLDS: Okay.

COMMISIONER YAKI: After Item 7?

CHAIRMAN REYNOLDS: Yes.

COMMISIONER YAKI: Okay. I'll second that.

CHAIRMAN REYNOLDS: Okay. All in favor, please say aye.

(Chorus of ayes.)

Any objections?

(No response.)

Any abstentions?

(No response.)

The motion passes unanimously.

Any other changes?
COMMISSIONER GAZIANO: I move to add a discussion and possible motion on the -- at the appropriate time on the time period Commissioners have to review each other's dissents and concurrences to the FY2008 statutory report and file possible replies to them.

CHAIRMAN REYNOLDS: Is there a second?

COMMISSIONER GAZIANO: And I'll --

COMMISSIONER HERIOT: Where are you putting that?

COMMISSIONER GAZIANO: I would suggest Program Planning, but I would welcome a friendly amendment if the chair would rather have it somewhere else.

CHAIRMAN REYNOLDS: Okay. Hold on a moment. Okay. Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN REYNOLDS: Okay. Program Planning. Additional discussion?

(No response.)

All in favor please say aye.

(Chorus of ayes.)

Any objections?

COMMISSIONER YAKI: Me.

CHAIRMAN REYNOLDS: Any abstentions?
COMMISSIONER MELENDEZ: Abstain.

CHAIRMAN REYNOLDS: Okay. Let the record reflect that Commissioner Yaki objected, Commissioner Melendez abstained. The remaining Commissioners voted in favor. The motion passes.

Any other changes to the agenda?

(No response.)

COMMISSIONER YAKI: Move as amended.

COMMISSIONER KIRSANOW: Second.

CHAIRMAN REYNOLDS: Any discussion?

(No response.)

All in favor please say aye.

(Chorus of ayes.)

Oh, oh, hold on. We have some more.

I'd like to move that we table the discussion of the Missouri SAC -- I'm sorry, Minnesota SAC, and adopt a 2009 schedule of meetings, and, finally, to set a date for the English in the Workplace briefing -- policy briefing under Item V. Is there a second?

COMMISSIONER GAZIANO: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER MELENDEZ: Commissioner Melendez here.

CHAIRMAN REYNOLDS: Yes.
COMMISSIONER MELENDEZ: I received a packet, but I didn't see Arkansas SAC in there. Is that still on for approval?

CHAIRMAN REYNOLDS: David help me out.

COMMISSIONER KIRSANOW: We just received these, I think.

STAFF DIRECTOR DANNENFELSER: Commissioner Melendez. This is the Staff Director. The Arkansas SAC deals with a new chairman and a new member. The chairman, who was approved when the Commission approved the Arkansas SAC package in July, subsequently got an appointment from Education Secretary Margaret Spellings to serve on a federal commission, and he felt that the obligations and the time obligations, and so on, that went with that require that he step down from the Arkansas SAC.

So we lost a chairman, and we also lost a member of the SAC, so we proposed -- I did send by e-mail information relating to a gentleman named Gary McHenry, who we are proposing as the new chairman, and a Ms. Oliver, who we're proposing as the new member.

COMMISSIONER MELENDEZ: Okay. I didn't see that. I haven't received that e-mail.

STAFF DIRECTOR DANNENFELSER: That was -- it was sent out to all Commissioners. It was sent
separately, had the McHenry -- the McHenry information went out, I believe on Monday, and then the Oliver information went out on Wednesday of this week.

CHAIRMAN REYNOLDS: Commissioner Melendez, do you feel -- are you willing --

COMMISSIONER MELENDEZ: Could you send that to me right now, or is it too difficult?

STAFF DIRECTOR DANNENFELSER: Okay. We could send that again.

COMMISSIONER MELENDEZ: Okay. Thank you.

CHAIRMAN REYNOLDS: Okay. So as the -- all in favor --

COMMISSIONER YAKI: Are we voting on the meeting dates or no? Was that a part of the motion?

CHAIRMAN REYNOLDS: That is being added to the agenda under Program Planning.

COMMISSIONER YAKI: Okay.

CHAIRMAN REYNOLDS: Okay. So the agenda as revised, all in favor please say aye.

(Chorus of ayes.)

Any objections?

(No response.)

Any abstentions?

(No response.)

The motion passes unanimously.
II. APPROVAL OF MINUTES

CHAIRMAN REYNOLDS: Second item for approval is of the minutes of the meetings held on September 12, 2008, and September 30, 2008. Is there a second?

COMMISSIONER GAZIANO: I move a minor clarification in the second paragraph statement by Commissioner Gaziano. As it currently reads, the Commissioners voted to authorize the Staff Director and General Counsel conduct an investigation into allegations by Commissioner Gaziano that information regarding Hans von Spakovsky was leaked.

I don't care about most information, but I'd like it clarified that it was confidential personnel information. So if you could add "confidential personnel" right before "information."

CHAIRMAN REYNOLDS: Any objections?

concerns? discussion?

(No response.)

Okay. With that -- with that amendment, all in favor please say aye.

(Chorus of ayes.)

Any objections?

COMMISSIONER YAKI: Abstain.

CHAIRMAN REYNOLDS: Commissioner Melendez?
COMMISSIONER MELENDEZ: Yes.

CHAIRMAN REYNOLDS: I'm sorry. I didn't hear how you voted.

COMMISSIONER MELENDEZ: Yes. Aye.

CHAIRMAN REYNOLDS: Okay. Great.

Let the record reflect that Commissioner Yaki abstained. The remaining Commissioners voted in favor. The motion passes.

Okay. I'm sorry. Okay. Next up are the announcements for the month of October.

COMMISSIONER GAZIANO: Are we going to -- we're going to amend the September 30 -- are we going to approve the September 30 minutes, too? I had a slight amendment to that.

CHAIRMAN REYNOLDS: Okay. I thought we just did.

COMMISSIONER GAZIANO: Oh, I'm sorry. I thought we just did -- we did the first -- the first --

CHAIRMAN REYNOLDS: Okay. All right. If that's the case, then --

COMMISSIONER GAZIANO: We did September 12. If we could vote separately on September 30, I just have a clarification that will relate to my other motion.
CHAIRMAN REYNOLDS: Okay. What's your --

COMMISSIONER GAZIANO: On page 4, the first sentence at the top of that page, I'd just like a clarification that -- instead of "failing to vote for no reason," I'd like it reflected "the Commissioners postponed a vote" instead of "failed to." "Postponed a vote on a motion by Commissioners Gaziano and Heriot to allow Commissioners to review dissents and concurrences to reports and be given an opportunity to respond." And I would add the words "pending the resolution of that issue at the October 17 meeting."

And my -- my explanation to Commissioner Yaki, who may not have reviewed the -- and Commissioner Melendez, who I don't believe was on the call, is that part of the reason we agreed to defer that is because they were not on the call at that -- that particular time.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

All in favor please say aye.

(Chorus of ayes.)

Any objections?

COMMISSIONER YAKI: I object.

CHAIRMAN REYNOLDS: Abstentions?
COMMISSIONER MELENDEZ: I abstain.

CHAIRMAN REYNOLDS: Okay. Commissioner Yaki objects, Commissioner Melendez abstains. The remaining Commissioners voted in favor of the motion. The motion passes. The motion, as amended, passes.

III. ANNOUNCEMENTS

CHAIRMAN REYNOLDS: Next up we have the Announcements. President Bush and Congress have proclaimed the month of October National Disability Employment Awareness Month. This is an opportunity to recognize the contributions and accomplishments of Americans with disabilities and underscore our nation's commitment to advancing employment opportunities for our citizens.

Americans with disabilities strengthen our country's workforce. Landmark reforms such as the Americans with Disabilities Act of 1990 have helped to ensure that individuals with disabilities are better able to engage in productive work and participate fully in the life of our nation.

IV. STAFF DIRECTOR'S REPORT

CHAIRMAN REYNOLDS: Next up is the Staff Director's Report. Mr. Staff Director?

STAFF DIRECTOR DANNENFELSER: Thank you, Mr. Chairman. You all received a more comprehensive
Staff Director's report in the binders that went out, but I wanted just to highlight a few points.

In the area of employment law, the grievance against the Commission that had been filed previously with the Merit Systems Protection Board was dismissed on September 19, 2008. And the Commission has also received notice of a separate complaint from the EEOC that a former employee has requested a hearing on a compensation complaint, and the Office of General Counsel is responding to that complaint, to that complaint by the former employee.

Regarding more broader complaints processing, during the reporting period of August 26th through September 26th, Office of Civil Rights Evaluation received 132 written complaints, three congressional complaints, one walk-in complaint, 19 e-mail complaints, seven facsimile complaints, and 100 telephone complaints, of which 41 were repeat calls. In total, staff received and processed 262 complaints during the reporting period.

The Office of Management has continued to process FY2008 invoices for payment, and work -- is working with GSA to rectify any outstanding payment issues. And Commissioners submitted billable hours and travel invoices, and so on. We still have a few
travel invoices I believe that are being processed as part of settling the FY2008 budget.

Staff also attended a meeting relating to building space with prospective new building owners for the headquarters building. And, again, there were completed acquisitions for items such as laptops for regional offices, new copiers, several new software packages, some books for the library, Microsoft Project, an upgrade for our Exchange 2007 for remote access and backup software system that comply with COOP- and FISMA-related programs.

We had purchases related to IT offsite storage and setup and design for the agency FirstGov website, the FirstGov website and setup of equipment dealing with the Smart Card technology that is required for new government identification cards.

The library staff received 118 telephone inquiries, and they completed 37 simple reference requests and performed 15 research projects of various sizes. An additional 69 research requests were completed utilizing automated research services.

There were 209 written requests and 157 e-mail requests for publications that were received during the period. Five hundred fifty-six publications were mailed, and 49 different
publications were requested. There were no congressional requests for publications received during this period.

Getting Uncle Sam to Enforce Your Civil Rights, and Compilation of Civil Rights Laws, and the Catalog of Publications were our most requested publications this reporting period, and there are currently 58 requests for publications in process.

Commissioners received a copy of the executive summary that has been prepared for the 2008 statutory report. That was part of a discussion that we had during the meeting when the Commission approved this statutory report. We noted that the executive summary would have to reflect the final action of the Commission, and there were some changes that were done, both to the body of the report and to the findings and recommendations. So that executive summary that was sent to Commissioners reflects those changes.

The Commission hosted a meeting here yesterday of the D.C. SAC, which was a very prestigious group of people, including the Education Chancellor Michele Rhee, former Mayor Anthony Williams, and Chancellor Rhee opened her remarks by stating that she doesn't have an official view on
vouchers, because she had been the subject of some debate the night before in the Presidential debate about the issue of vouchers and reform of D.C. So it was very timely to have her here as a witness after she had been a subject of discussion in front of many millions of people the night before.

But the SACs in general are involved with a number of different meetings, and you have been receiving reports weekly on meetings that have taken place and that are being planned.

And that's my report for now, Mr. Chairman.

CHAIRMAN REYNOLDS: Okay. Questions?
(No response.)
All right.

V. PROGRAM PLANNING

CHAIRMAN REYNOLDS: Next up -- the next item is the 2009 statutory report concept paper. May I have a motion to approve the 2009 statutory report topic and concept paper, "The Possible Effect of Lending Status for Minority Mortgages on the Mortgage Crisis"? Oooh, I don't like that name. Bad title. Anyway, is there a second?

COMMISSIONER TAYLOR: Second.

CHAIRMAN REYNOLDS: Thank you.
Discussion? Commissioner Heriot.

COMMISSIONER HERIOT: I just wanted to say that I think it's important that at some point very soon we have a research agenda that is quite detailed, that this document really, you know, is -- it doesn't bother me, it's just that it doesn't really help direct how the research is going to be conducted --

CHAIRMAN REYNOLDS: Are you taking about --

COMMISSIONER HERIOT: -- over the next year.

CHAIRMAN REYNOLDS: -- a work plan?

COMMISSIONER HERIOT: Whatever you want to call it -- research agenda, work plan. But just something that isn't just a very vague description of the topic here.

CHAIRMAN REYNOLDS: Well, this is just high concept discussion of a topic --

COMMISSIONER HERIOT: Yes, I want low concept.

CHAIRMAN REYNOLDS: -- and you are looking for something --

COMMISSIONER HERIOT: So I'm looking --

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER HERIOT: -- forward to low
concept.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER HERIOT: And I just want to state for the record right now that I think, you know, a research agenda that is very specific is what I'm looking for. I think there were a lot of problems in our last statutory report, things that could have been caught earlier, and I'd like to be able to try to catch them early this time.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: Rather than later.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER GAZIANO: Could I ask Staff Director if he has an idea of when we might get that -- whatever we were going to call it, work report, research --

STAFF DIRECTOR DANNENFELSER: Discovery plan I guess. That is being worked on right now. The expectation that that would be ready for consideration at the November 7th meeting, for the Commission to consider at the November 7th meeting. So that you would receive it, you know, a week in advance at least.

COMMISSIONER GAZIANO: I think I would definitely like it to be done by then, and preferably
circulated before then, so that we can provide input and perhaps make additional direction, especially if we -- again, because you all know the work involved at least as much as we do, to schedule the briefing, to get the interrogatories out, to get the agency's data that we may want to request, if we -- partly our fault, I know, as Commissioners. They are not approving the topic, but let's all try to move that along.

STAFF DIRECTOR DANNENFELSER: Okay. Well, hopefully, we will be able to get it out, you know, at least a week in advance, hopefully earlier than that, you know, prior to the November 7th meeting.

COMMISSIONER GAZIANO: And I am interested, if the Chairman doesn't mind a brief conversation from hearing from other Commissioners, what specific focus other Commissioners want the staff to pursue in preparing that. People who know more about this than I do, which is probably everyone.

I help -- you know, I confess that I helped staff with some of this, but --

CHAIRMAN REYNOLDS: Well, I think that, just off the top of my head, in terms of who we invite, I think it's important that we invite someone who has expert knowledge on the Community Reinvestment
Act, someone who can provide us with, you know, a nuanced discussion on how Fannie Mae and Freddie Mac's view towards lending standards evolved over time. Those are just two thoughts that come to mind.

COMMISSIONER KIRSANOW: In 2003, when we had a briefing or a hearing on the Community Reinvestment Act, we had one member of the Fed who testified, and also the person who headed up for the Fed the -- I think it -- I can't recall the exact title, but something to the effect Small Business Credit Administration, or something of that nature, who had particular expertise in matters of this nature. So we may want to look at inviting someone like that.

COMMISSIONER GAZIANO: And I would like -- staff has given me some -- and it's contained in the report -- some possible agency databases that would be valuable if there is further development of, you know, what data analysis the staff would be able to do, further investigation of those databases -- in other words, what -- whether some of them are publicly available. I think there was a question whether some of them were publicly available and would be easy to obtain, whether some of them would -- we would have to
request via document requests and interrogatories, how many, that kind of details would make me more at ease.

STAFF DIRECTOR DANNENFELSER: Yes. We will conclude that in there.

COMMISSIONER GAZIANO: Okay.

CHAIRMAN REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: I just have general advice. Go narrow on this. This is a very big topic, and we need to carve out something that we actually can do properly and make a contribution to a debate that is much larger than simply what goes on here. But if we go narrow, we can actually have an effect upon the world. If we go broad, we will never -- we will never be able to climb out of it.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: A question. The bill that the President recently signed that would allow $250 billion to be invested, as part of that bill, is there any adjustment to these policies that we're talking about analyzing? From my perspective at least, if -- if we're asking the question what impact it may have had in terms of helping to create possibly the crisis or our current situation, part of the answer would be, in resolving it, are folks on the Hill doing anything about these issues. If they are
not addressed in the bill, and no one is addressing them, it suggests to me that someone believes they had little impact, one would think.

COMMISSIONER GAZIANO: Or they didn't want to admit their fault. My understanding is that the bill did not address the issues that are proposed for us to study -- the pressure to weaken the loan standards. There was nothing in the bill that directed the --

COMMISSIONER TAYLOR: And that was a conscious decision?

COMMISSIONER GAZIANO: -- that directed --

I don't know whether it was conscious or not. But there was nothing in the bill that directed the Fed or other agencies to change the guidelines of the standards.

CHAIRMAN REYNOLDS: Commissioner Yaki, any comments? Commissioner Melendez?

COMMISSIONER MELENDEZ: When will we be receiving something on this?

CHAIRMAN REYNOLDS: I believe the goal is to present and discuss it at our next business meeting, November.

COMMISSIONER MELENDEZ: Okay. All right. Thanks.
COMMISSIONER YAKI: Oh, there is one thing.

CHAIRMAN REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: Yes. I just wanted to note that when we -- if we're doing research specifically on some of the predatory lending to minority homeowners, let's not conflate that with CRA, because the fact of the matter is that many of the subprime loans, for example, that were the subject of the mortgage securities collapse were in fact not made by institutions under the jurisdiction of CRA.

CHAIRMAN REYNOLDS: That's right.

Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Just some more food for thought in terms of possible resources or witnesses. The Green Lining Institute, which I believe had advocated on behalf of -- I don't mean to put words in their mouth, but I think they may have had some involvement -- I know they testified in front of us at some point. I can't recall when it was. Maybe someone wants to research that.

But they were I think advocating on behalf of subprime loans to minority homeowners, maybe not subprime loans but a relaxation of standards. And I don't want to put words in their mouth. I'm not sure
if that's in fact the case.

But I recall that they were critical of the allegation that there was redlining in minority communities that were -- was independent of actual credit standards that are applied more broadly. And you may want to also talk to the folks at ACORN, who are also involved in the same discussion.

CHAIRMAN REYNOLDS: Any other comments?

(No response.)

Okay. We can vote. All in favor please say aye.

(Chorus of ayes.)

Any objections?

(No response.)

Any abstentions?

(No response.)

The motion passes unanimously.

Next up is the approval of a letter requesting that Jeff Bleash, Chair of the Board of Governors of the State Bar of California, release to the Commission for further study and review records concerning law graduates' performance on the California bar exam.

A draft letter, together with the May 29, 2008, letter from Richard Sander and Joe Hicks to the
California bar referenced in the draft as Exhibit 1, was forwarded to Commissioners for their review last week. May I have a second?

COMMISSIONER KIRSANOW: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

All in favor please say aye.

(Chorus of ayes.)

Objections?

COMMISSIONER YAKI: Me.

COMMISSIONER MELENDEZ: Opposed.

CHAIRMAN REYNOLDS: Commissioners Yaki and Melendez objected to the motion. The remaining Commissioners voted in favor.

COMMISSIONER YAKI: I also want to note for the record that Commissioner Melendez and I will be sending a letter to the State Bar in direct opposition to the letter just approved today.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER GAZIANO: May I ask on what grounds you will be opposing this letter? I'm just curious, if you don't mind.

COMMISSIONER YAKI: You may, but you'll see in my letter.

COMMISSIONER HERIOT: But you do plan to
distribute the letter.

    COMMISSIONER YAKI: Of course. After it's sent.

    CHAIRMAN REYNOLDS: You don't want to allow us to take a look?

    COMMISSIONER YAKI: Why?

    CHAIRMAN REYNOLDS: Maybe we can offer some suggestions.

    COMMISSIONER YAKI: Why?

    CHAIRMAN REYNOLDS: We provided you with an --

    COMMISSIONER YAKI: You've already voted to do this, so I'm going to do -- exercise my --

    CHAIRMAN REYNOLDS: We provided you an opportunity --

    COMMISSIONER YAKI: -- rights.

    CHAIRMAN REYNOLDS: -- to review our document before it was sent out, giving you an opportunity to make comments and suggestions.

    COMMISSIONER YAKI: Well, amidst the laughter after I read that, I decided better to just move on.

    CHAIRMAN REYNOLDS: Okay. Next up, on October 14, 2008, the Staff Director sent Commissioners a proposed 2009 Commission meeting
calendar. I move that we approve the proposed 2009 Commission meeting calendar. Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN REYNOLDS: Discussion?

Commissioner Yaki?

COMMISSIONER YAKI: Yes. I just wanted to inform you that the January 16th meeting has already run head-on into inaugural hotel and flight problems.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: I mean, head-on.

CHAIRMAN REYNOLDS: All right.

COMMISSIONER MELENDEZ: What was the January date again?

CHAIRMAN REYNOLDS: 16th.

COMMISSIONER YAKI: Inaugural is on the 20th.

CHAIRMAN REYNOLDS: Okay, folks. Do we --

COMMISSIONER YAKI: Government flights are all -- government rate flights are already pretty much sold out for that -- those two weeks prior.

CHAIRMAN REYNOLDS: Have you confirmed this? Have we looked into this yet?

STAFF DIRECTOR DANNENFELSER: We have not. I was working with the expectation that it would be early enough before the main crush that we wouldn't
hit that.

CHAIRMAN REYNOLDS: Well, how about this. Let us look into it. If we confirm this, then we're going to have to pick another date.

COMMISSIONER YAKI: Okay. I just wanted to let you know.

COMMISSIONER HERIOT: Let me just say this government rate isn't much of a bargain anyway, so it will be wonderful if we couldn't get any government rate flights, because the regular flights are half that.

COMMISSIONER YAKI: No, not -- I mean, anyway --

COMMISSIONER HERIOT: A third. I mean, they're a third of that.

COMMISSIONER YAKI: But it also offers you the flexibility of changing without a lot of hassle.

COMMISSIONER GAZIANO: Why do we pay government -- if it's --

COMMISSIONER HERIOT: We're insane. We're insane.

CHAIRMAN REYNOLDS: We can have a briefing report on --

(Laughter.)

-- this later --
COMMISSIONER YAKI: But, Commissioner Heriot, where it doesn't -- where it doesn't make a huge difference is in hotel booking, and the hotels are completely -- are completely sold out.

COMMISSIONER HERIOT: Actually, I have a cheaper hotel under non-government rate for tomorrow. Of course, that's a Saturday.

COMMISSIONER GAZIANO: Are people really going to -- really booked hotels for the 16th for the --

COMMISSIONER YAKI: I tried -- I tried this week, just --

CHAIRMAN REYNOLDS: That's going to be a big deal.

COMMISSIONER YAKI: And it's minimum stays and it's --

CHAIRMAN REYNOLDS: If Obama wins, it's going to be --

COMMISSIONER YAKI: Whoever wins, this is called the gravy train for D.C. for the month of January. It happens every four years. It's like four-night minimums, and no one -- two government rate rooms per hotel. Everything else is market rate.

CHAIRMAN REYNOLDS: Okay. Sounds like --

looks like --
STAFF DIRECTOR DANNENFELSER: More likely back it up earlier as opposed to later, because later we would have people still here probably.

COMMISSIONER TAYLOR: I would agree with that, a week earlier.

COMMISSIONER HERIOT: I can't do a week earlier. I can't do the week after either, or two weeks earlier. I can do the 30th.

CHAIRMAN REYNOLDS: When is the February meeting? When is that scheduled?

STAFF DIRECTOR DANNENFELSER: 20th, February 20th.

CHAIRMAN REYNOLDS: Okay. That wouldn't be too bad.

STAFF DIRECTOR DANNENFELSER: That would be good.

CHAIRMAN REYNOLDS: Okay. Well, how about this. Let's confirm it at the November meeting.

Okay. Next up --

COMMISSIONER GAZIANO: Are we going to approve all of the other days or --

CHAIRMAN REYNOLDS: Oh.

COMMISSIONER GAZIANO: -- we're just going to --

CHAIRMAN REYNOLDS: Any concern about the
other dates?

(No response.)

Okay. All in favor of the schedule, with the understanding that we may have to revisit the January date, please say aye.

(Chorus of ayes.)

Any objections?

(No response.)

Any abstentions?

(No response.)

The motion passes unanimously.

Next up is the date for the English in the Workplace briefing. At the September 30, 2008 meeting, Commissioners approved a concept paper titled "Specifying English as the Common Language of the Workplace: Every Employer is Right or a Violation of Federal Law."

On the Equal Employment Opportunity Commission's Language Policy in the Workplace, the Staff Director has recommended that this briefing be held on December 12, 2008, so that there will be sufficient time to receive the EEOC's answers to interrogatories.

May I have a motion that the briefing on the EEOC's Language Policy in the Workplace be held on
COMMISSIONER HERIOT: So moved.

CHAIRMAN REYNOLDS: Second?

COMMISSIONER KIRSANOW: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

All in favor please say aye.

(Chorus of ayes.)

Any objections?

COMMISSIONER YAKI: I object.

CHAIRMAN REYNOLDS: Any abstentions?

(No response.)

Now, you object to the date? That doesn't work for you? I'm just trying --

COMMISSIONER YAKI: It's a general objection, just a general objection.


Okay. Commissioner Melendez?

COMMISSIONER MELENDEZ: Yes. Yes?

CHAIRMAN REYNOLDS: Do you object to the date, or do you abstain?

COMMISSIONER MELENDEZ: What was the date again?

CHAIRMAN REYNOLDS: December 12th.
COMMISSIONER MELENDEZ: Seems to work.

CHAIRMAN REYNOLDS: Okay. I'll take that as an affirmative vote. Commissioner Yaki voted against the motion. The remaining Commissioners voted in favor. The motion passes.

Next up is the State Advisory Committee Issues.

COMMISSIONER GAZIANO: I thought we added --

CHAIRMAN REYNOLDS: Oh, that's right.

COMMISSIONER GAZIANO: -- my motion to add a discussion --

CHAIRMAN REYNOLDS: Yes, you're right. You're right.

COMMISSIONER GAZIANO: Can I speak to the issue and then make --

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER GAZIANO: -- a motion?

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER GAZIANO: Some of this predates my membership on the Commission, but I understand that our AI is not -- does not prohibit Commissioner review of each other's comments and possible replies. The practice has been rather ad hoc. Sometimes there has been such an opportunity.
Sometimes there has not.

I certainly think that it is good practice for a variety of reasons that all Commissioners be able to review. Sometimes if we -- we may need to push up statutory report deadlines accordingly, but sometimes we take a year or two to get out some other report, and it certainly would improve the reports if they are extended by seven or 14 days or something like that, to make sure that there is a true exchange.

At the discussion on the 30th for the statutory report, we wanted to leave that -- at least several of us wanted to leave that issue open, whether that should be the practice for the statutory report, and -- but we wanted to allow all Commissioners to participate in that discussion. Some had to leave the phone.

So I move at this time that we be given, say, 14 days or seven days, or how about 10 days -- 10 days to review each other's comments and provide any replies that are directed not at new issues but at issues raised by each other's dissents and concurrences, and that the Commission clarify a written rule going forward.

CHAIRMAN REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: A point of
clarification, Commissioner Gaziano. When you say "10
days," first, calendar days, I presume? And, second,
is there a limitation on the number of back and
forths?

COMMISSIONER GAZIANO: I think
for disbursed time let's just make it one -- one
response. We should consider how we want to write --
clarify our rule for the future, but then we just have
-- particularly because the deadlines in the statutory
report are already extended --

COMMISSIONER KIRSANOW: Right.

COMMISSIONER GAZIANO: -- beyond what we
all would have liked, and it should be 10 calendar
days from the time the Staff Director gets us the
comments. But I presume that might be later today.

CHAIRMAN REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: If I may offer a
somewhat practical objection to the proposal. We are
now in a new fiscal year. The temporary contract
assistants that we had are -- or could have had are
gone. We are back to the status quo.

We are now talking about, for the two
Democrat Commissioners, having to possibly respond to
six statements by our colleagues, whereas in perhaps a
cynical viewpoint of mine, my six colleagues might
only have to respond to two of their colleagues' statements. And frequently Commissioner Melendez and I, because of the sheer workload involved, often just use a single joint statement.

I think that it is, as a practical matter, extremely burdensome and unfair on the two Democratic Commissioners to have to possibly wade through three, four, five, or six statements within 10 days, and respond to them by ourselves or the help of one single special assistant.

And when this first came up, by the way, in a report, it was unusual. The way this has previously worked is that everyone submitted their comments by a date certain, and that was that and we moved on. We did not, then, proceed to bog ourselves down in a merry-go-round of rebuttal and surrebuttal that I think serves little more than simply to drag on and prevent closure on a subject that we need to -- and to move on to other priorities that we have.

So I would strongly object to this type of procedure. Perhaps if the scales were more balanced, perhaps if there were more special assistants available to deal with this, I might think differently. But the fact of the matter is, from a practical standpoint, having one special assistant to
deal with potentially six statements, whereas, like I said --

COMMISSIONER GAZIANO: Would the Commissioner yield?

COMMISSIONER YAKI: -- generally -- I am still speaking. Generally, Commissioner Melendez and I do a single joint dissent, or I may do a very short one in addition to his.

I think, you know, it increases the burden on the Commission, increases the paperwork that we generate, and I don't know if it really contributes overall to the report, other than to satisfy each other's desire to sort of take a whack at someone else's statement.

CHAIRMAN REYNOLDS: Would you feel better -- would you be comfortable with this if we increased the amount of time from 10 days to 14? And also with the understanding that the configuration of the Commission will shift over time?

COMMISSIONER YAKI: No, because I think that then -- one, I think 14 is insufficient. You have to -- first, you have to analyze, and then you have to decide how to write. We have -- as it stands right now, we have a fair amount of time in which to analyze the report as a whole, and then to -- and
then, for all practical purposes, from my point of view, gather material to write a dissent.

Now we are talking about the potential of -- and this has been a practice that I have been seeing with recurring frequency, that people are attempting to put into the record whole reports or studies as part of what they are trying to do that would require a little more attention being paid than simply 14 days, because many -- much of it is new material.

When you add to that -- when you multiply that by a potential of two, three, four, or six, for Commissioners Melendez and myself, it is -- it is essentially, you know, an unfair fight, and maybe that's the way the Commission simply wants to have it done. And I can't -- I can't do anything about it, because I'm outvoted six to two.

But I think as a -- but I think in terms of the greater mission of the Commission, and that is that you move on and continue to address new topics, we are simply extending out -- if you would want -- what I would say -- well, if you were to offer me a chance to compromise on this, I would say that I would need a minimum of one month to review -- to review that, and decide from within that how to respond,
because this could involve --

CHAIRMAN REYNOLDS: With 30 days, you would vote for this?

COMMISSIONER YAKI: I'm not saying I would. I'm saying this is -- let's play this out. Even in 30 days, I would still have to read six potential statements, some have supporting --

COMMISSIONER GAZIANO: The motion on the table --

COMMISSIONER YAKI: Some have --

CHAIRMAN REYNOLDS: Hold on.

COMMISSIONER GAZIANO: The motion on the table is just for this one.

CHAIRMAN REYNOLDS: Hold it, hold it, hold it, hold it.

COMMISSIONER YAKI: Point of order.

CHAIRMAN REYNOLDS: Easy, easy, easy, easy, easy.

COMMISSIONER YAKI: Point of order. I believe -- point of order. I believe I have the floor. I'm just offering -- I'm offering a hypothetical, and that is you could have four, you could have six, you could have six statements, each with independent supporting materials. And then, to have to write --

COMMISSIONER HERIOT: The motion is for
this report.

COMMISSIONER YAKI: And then, to have to
write to address each one of those --

CHAIRMAN REYNOLDS: Okay. Let's --

Commissioner Heriot is up next, and then Commissioner
Gaziano.

COMMISSIONER HERIOT: Okay. One, I just
wanted to -- as usual, I agree with Commissioner Yaki
about the need for special assistants, and that each
member of the Commission should have a special
assistant. I believe that because these Commissioner
concurring and dissenting statements I think are in
fact the most important part of the report, and that
more work should be done on them.

So on that point I'm with him. On
everything else, number one, there are not six
concurring reports at this point.

CHAIRMAN REYNOLDS: There has never been.

COMMISSIONER HERIOT: Commissioner
Thernstrom has done one, and I have done one. They
are both mercifully short, and are quite easy to
respond to, if Commissioner Yaki is interested in
doing so. I think it is a terrible mistake not to
allow responses, because frequently I have seen that
these concurring and dissenting reports contain
arguments that are sometimes even scurrilous accusations.

We can't have that and not have -- allow people to respond. It is, in my view, fundamental fairness. We have to allow responses. And so I very much favor doing this on this occasion, and I am not concerned about the amount of time. If it's 10 days, it's fine. If it's 14 days, it's fine. If it's 30 days, it's fine. But these are not unimportant parts of the report.

CHAIRMAN REYNOLDS: Commissioner Heriot, would you feel comfortable if we tried to address everyone's concern by increasing the amount of time people have to respond, also placing a cap on the number of pages?

COMMISSIONER HERIOT: I think a page limitation would be okay, as long as it's within reason.

CHAIRMAN REYNOLDS: Sure.

COMMISSIONER HERIOT: I think we have to understand that these issues are important.

CHAIRMAN REYNOLDS: What's -- give me a number. What's a reasonable --

COMMISSIONER HERIOT: This is just ad hoc here.
CHAIRMAN REYNOLDS: Yes.
COMMISSIONER HERIOT: This is just for this report. The -- for this particular report, the concurring and dissenting statements that have been submitted are like five and six pages. To say that a reply --
CHAIRMAN REYNOLDS: Ten page limit?
COMMISSIONER YAKI: Why is that?
COMMISSIONER HERIOT: Perfectly fine for this.
CHAIRMAN REYNOLDS: Do you have an alternative?
COMMISSIONER GAZIANO: Five.
CHAIRMAN REYNOLDS: Five?
COMMISSIONER GAZIANO: Five for a response.
COMMISSIONER HERIOT: Five for responses. Given this -- we can develop a rule --
COMMISSIONER GAZIANO: How long was the dissent?
COMMISSIONER HERIOT: Todd? Todd, can I finish? When we develop our rule, the page limit should be proportionate to the number of pages of the initial statements.
CHAIRMAN REYNOLDS: We are going to have
another conversation about what the ultimate written rule is going to be. As you two have pointed out --

COMMISSIONER HERIOT: For the ad hoc for this report, five pages is fine with me.

COMMISSIONER GAZIANO: Five pages is fine with me.

COMMISSIONER TAYLOR: That is, five pages per response.

COMMISSIONER GAZIANO: What is the length of the -- and for the record, Commissioner Yaki, I was asking if you would yield just to ask you a few questions, which, if you didn't want to answer, then fine.

CHAIRMAN REYNOLDS: All right. Come on, come on, come on.

COMMISSIONER GAZIANO: How long --

COMMISSIONER YAKI: Don't get so --

COMMISSIONER GAZIANO: How long are the three dissents and concurrences? How many pages?

STAFF DIRECTOR DANNENFELSER: They vary from, I believe, four to 10 pages.

COMMISSIONER GAZIANO: Okay. Then five sounds fine to me.

I want to be on the record of supporting Commissioner Yaki's call -- my call for special
assistants. I actually took advantage of the authority, although it was abused, and I was, you know, slapped around improperly.

CHAIRMAN REYNOLDS: Okay. All right, folks. That's another topic, right?

COMMISSIONER GAZIANO: Okay. But that experience convinced me of the wisdom of our prior position on special assistants. I also just want to correct the record. There is not six to two. There are two Democrat Commissioners. There are two independent Commissioners. There are currently four Republican Commissioners, which may change, and we don't all think monolithic, even within the same party. But two Independents certainly don't think monolithically.

But more to the point, I don't care what the time period is, except I know there were some concerns about getting this to Congress. I do think we met our statutory obligation by adopting the primary report. I don't think the statute is specific of when we have to deliver it by, but I think we should -- if someone will vote for it by extending it beyond the end of this month, that seems fine. And I don't really care about the time period.

CHAIRMAN REYNOLDS: Commissioner Heriot?
COMMISSIONER HERIOT: I just wanted to echo something Todd was saying, and that is it's not a question of six to two. There are things that I disagree with that Republican or Independent Commissioners have said. So it's not -- it's not a question of --

CHAIRMAN REYNOLDS: I can vouch for that.

COMMISSIONER HERIOT: Yes, it's not a six-two thing at all.

CHAIRMAN REYNOLDS: Commissioner Ashley, would you like to jump in?

COMMISSIONER TAYLOR: Commissioner Ashley.

(Laughter.)

CHAIRMAN REYNOLDS: I'm sorry. Taylor.

COMMISSIONER TAYLOR: No. I'm going to go ahead and pitch the question to Commissioner Yaki and see where we are.

CHAIRMAN REYNOLDS: Okay. With these compromises, are you willing to vote in favor of this?

COMMISSIONER YAKI: No. I mean --

CHAIRMAN REYNOLDS: Are there additional things that you want to put on the table that --

COMMISSIONER YAKI: For all intents and purposes, if we want to start going down the voting list, it's six to two. That's how it works out. But
that --

CHAIRMAN REYNOLDS: I am working to see --

COMMISSIONER YAKI: That being -- that being --

CHAIRMAN REYNOLDS: -- get your vote --

COMMISSIONER YAKI: That being the case, you know, on this particular report, which to me was a lot of sound and fury that signified ultimately nothing in the end, I don't care. I'd like an appropriate time in which to review it. It is a very busy time for me. The chances for me looking at these reports in the next two weeks is probably slim to none, in terms of -- in terms of the -- my colleagues.

I would -- if you are going to do it, I would like 30 days.

Maybe I -- you know what? I think I will adopt the language from Bush versus Gore. My vote on this is limited to the particular facts of this case.

So I would support a 30-day --

CHAIRMAN REYNOLDS: You would vote for this?

COMMISSIONER YAKI: Limited to the facts of this case.

CHAIRMAN REYNOLDS: You would vote for this?
COMMISSIONER YAKI: Limited to the facts of this case, yes.

CHAIRMAN REYNOLDS: Okay. Commissioner Melendez?

COMMISSIONER MELENDEZ: I agree.

CHAIRMAN REYNOLDS: I'm sorry?

COMMISSIONER MELENDEZ: I would agree with Michael.

CHAIRMAN REYNOLDS: Okay. How does -- okay. If I got this down right, this is limited to this particular report, five-page limit, 30 days to review. Is everyone comfortable with that? All in favor please --

STAFF DIRECTOR DANNENFELSER: Can I just clarify? I'm sorry.

CHAIRMAN REYNOLDS: Okay.

STAFF DIRECTOR DANNENFELSER: So people have -- can respond to each -- there are three -- there are three sets of comments out there. There is a Yaki-Melendez statement, there is a Heriot statement, and there's a Thernstrom statement. So each Commissioner can respond to each one of those. Well, is that the understanding? And it's a five-page limit?

CHAIRMAN REYNOLDS: Yes, that's my
understanding. But --

COMMISSIONER HERIOT: Yes. I was thinking five total pages.

STAFF DIRECTOR DANNENFELSER: Or was it five total for --

COMMISSIONER HERIOT: Yes.

STAFF DIRECTOR DANNENFELSER: -- responding to everything.

COMMISSIONER HERIOT: If people want five --

COMMISSIONER YAKI: No, that's not what I thought. I thought you were talking about five pages for each response.

CHAIRMAN REYNOLDS: Actually, that's what I thought.

COMMISSIONER HERIOT: That's fine. I don't care either way. I mean, that's --

CHAIRMAN REYNOLDS: Okay. So we have an agreement. All in favor please say aye.

COMMISSIONER GAZIANO: And my -- just to clarify, my motion is that we are going to write a rule --

COMMISSIONER YAKI: You just lost my vote.

COMMISSIONER HERIOT: We don't need that --
(Whereupon, several participants were speaking simultaneously.)

CHAIRMAN REYNOLDS: Okay. This vote has to do -- this is a --

PARTICIPANT: Let's do that one first.

CHAIRMAN REYNOLDS: All in favor of the revised motion please say aye.

(Chorus of ayes.)

Any objections?

(No response.)

Any abstentions?

COMMISSIONER KIRSANOW: Abstain.

(Laughter.)

CHAIRMAN REYNOLDS: Let the record reflect that --

COMMISSIONER YAKI: It's the beard. It's the beard thing. It has got him a little ornery today.

CHAIRMAN REYNOLDS: -- Commissioner Kirsanow abstained.

VI. STATE ADVISORY COMMITTEE ISSUES

CHAIRMAN REYNOLDS: Moving on, Bob Costrell, who we appointed, as Chairman of the Arkansas SAC in July, has been appointed to an advisory committee by Education Secretary Margaret
Spellings. Because of the demands of that position, he has resigned from the Arkansas SAC.

Based on feedback from our Regional Director and the Regional Programs Coordination Unit Chief, as well as independent research, the Staff Director recommends that the Commission appoint SAC member Gary McHenry to assume the chairmanship during the Commission meeting -- well, during this Commission meeting.

May I have -- hold on. May I have a second to adopt the Staff Director's recommendation?

COMMISSIONER KIRSANOW: Second.

CHAIRMAN REYNOLDS: Thank you.

Discussion?

(No response.)

All in favor please say aye.

(Chorus of ayes.)

Any objections?

COMMISSIONER YAKI: I abstain.

COMMISSIONER MELENDEZ: Abstain.

Melendez.

CHAIRMAN REYNOLDS: Okay. Commissioners Yaki and Melendez abstain. The remaining Commissioners voted in favor.

Okay. Next up, the Staff Director has
also proposed that Ranko Shiraki Oliver, Associate
Professor of Law at the University of Arkansas --
Arkansas' William H. Bowen School of Law has -- will
be approved as a new member of the Arkansas SAC to
bring the membership of the Arkansas SAC to its
previous rechartering level. Is there a second?

COMMISSIONER YAKI: I'll second.

CHAIRMAN REYNOLDS: Discussion?
(No response.)

All in favor please say aye.
(Chorus of ayes.)

No general objection?

COMMISSIONER YAKI: I said aye.

CHAIRMAN REYNOLDS: Just, you know,
sometimes I can't believe my ears. I'm just making
sure.

The rest of you folks?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Any objections?

COMMISSIONER YAKI: I like to change

things up on you, Mr. Chair, every once in a while.

CHAIRMAN REYNOLDS: You confuse me when

you do that.

Any abstentions?

COMMISSIONER HERIOT: Abstain.
CHAIRMAN REYNOLDS: Okay. Commissioner Heriot abstains. The remaining Commissioners voted in favor of the motion. The motion passes.

Next up, Commissioners were sent a package for the appointment of 11 members of a North Carolina Advisory Committee.

COMMISSIONER YAKI: You betcha.

CHAIRMAN REYNOLDS: All 11 members of the previously-chartered committee were asked about their interest in reappointment. Two of these did not respond. Two requests for consideration to be reappointed. Another member declined reappointment. Remaining eight previously-appointed members are being recommended for reappointment.

The staff has recommended -- is also recommending a new advisory -- well, new Advisory Committee members who were selected after giving consideration to the views of a cross-section of those directly affected by the proposal of the Advisory Committee.

Following the Lean Six Sigma process approved by the Commission in January of '08, Commission staff reached out to Commissioners, the current SAC members, the entire North Carolina congressional delegation, various mayors, various
universities, as well as various religious organizations, labor unions, civil rights organizations, and newspapers and journals.

May I have a motion that the Commission rechart the North Carolina State Advisory Committee? Under this motion, the Commission appoints the following individuals to that committee, based on the recommendation of the Staff Director: Marian Ackerman, Steven Greene, Valerie Green, Reggie Holley, Matty Lazo-Chadderton, George Leef, Kevin Leonard, Rick Martinez, Thealetta Monet, Willie Ratchford, and Sarah Cecilia Taylor.

I also move that the Commission appoint Marian Ackerman as the chair of the rechartered North Carolina State Advisory Committee. These members will serve as uncompensated government employees, and the Commission appreciates the hard work that they will no doubt contribute to this state.

Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork for the appointment.

Is there a second?

COMMISSIONER YAKI: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)
All in favor please say aye.

(Chorus of ayes.)

Objections?

(No response.)

Abstentions?

COMMISSIONER MELENDEZ: I abstain.

Melendez.

CHAIRMAN REYNOLDS: Commissioner Melendez abstains. The remaining Commissioners voted in favor. The motion passes.

VII. FUTURE AGENDA ITEMS

CHAIRMAN REYNOLDS: Okay. We added an agenda item that deals with the investigation that took place at our request. This deals with --

COMMISSIONER YAKI: We have no -- nothing on Item VII?

CHAIRMAN REYNOLDS: Ah. Future Agenda Items. Is there anything you would like to discuss on --

COMMISSIONER GAZIANO: Well, I'd like to place back on the agenda the severed part of the motion to rewrite a rule on commenting generally.

CHAIRMAN REYNOLDS: Okay. Let's have a discussion.

COMMISSIONER GAZIANO: On whether we're
going to discuss it in the future?

CHAIRMAN REYNOLDS: Well --

COMMISSIONER GAZIANO: Okay. Okay.

CHAIRMAN REYNOLDS: -- flesh this out for me.

COMMISSIONER GAZIANO: Okay.

CHAIRMAN REYNOLDS: What are you asking for?

COMMISSIONER GAZIANO: I just think we should come up with a general rule, since we have been responding in an ad hoc way, as I understand the Commission, since before -- I think besides preventing ad hominem -- discouraging ad hominem comments there is even stronger reasons that every other deliberative body that I am aware of that has concurrences and dissents allows the other members of that collegial body to review them and perhaps correct their own comments. So I just think it's a very important practice, and so that we ought to -- to actually clarify what our procedure will be.

CHAIRMAN REYNOLDS: So If I understand you right, you are making a motion to have the Staff Director prepare draft language --

COMMISSIONER HERIOT: No, no.

COMMISSIONER GAZIANO: Or individual
Commissioners can draft, too. I just want it on our agenda that we are going to consider the adoption of such clarification, whether it be -- the Staff Director certainly can propose something to us, and we can propose something to each other as well.

COMMISSIONER HERIOT: I may have my own proposal on that.

CHAIRMAN REYNOLDS: Okay. So this will be on the next agenda. Anything else?

COMMISSIONER YAKI: Nope. Move we go into executive session.

CHAIRMAN REYNOLDS: Yes. The following item on the agenda is a closed portion of the meeting pursuant to the Commission's regulations implementing the Sunshine Act.

The General Counsel and Solicitor, please certify that the meeting can be closed pursuant to the Commission's regulations.

MR. BLACKWOOD: Certified.

MS. MONROIG: We certify that this meeting can be closed, and the information pertaining to the same can be withheld, pursuant to the following exemptions provided for under Commission regulations at 45 CFR Section 702.54, exemption 2, as it relates to the internal personnel rules and practices of the

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Commission; and exception 6 that might involve disclosing information of a personal nature or disclosure might constitute a clearly unwarranted invasion of personal privacy.

CHAIRMAN REYNOLDS: Okay. May I have a motion to close this meeting pursuant to exemptions 2 and 6 of the closed meeting procedures for Commission meetings, and, furthermore, to authorize the Staff Director to place in a location accessible to the public within one working day the public vote to close the meeting, an explanation of the decision to close the meeting, and a list of all persons attending the meeting.

COMMISSIONER GAZIANO: So moved.

CHAIRMAN REYNOLDS: Is there a second?

COMMISSIONER KIRSANOW: Second.

CHAIRMAN REYNOLDS: Okay. All in favor please say aye.

(Chorus of ayes.)

Any objections?

(No response.)

Any abstentions?

(No response.)

The motion passes unanimously. Let the record reflect that Commissioner Kirsanow voted in the
affirmative, Commissioner Heriot voted in the affirmative, Commissioner Melendez voted in the affirmative, Commissioner Yaki voted in the affirmative, Commissioner Taylor voted in the affirmative, as did the Chairman.

Okay. So the vote was unanimous. So pursuant to the vote, the Commissioners -- well, at this point, all folks need to leave the room, with the exception of Commissioners, the General Counsel, the Solicitor, and the Staff Director. And the Court Reporter.

(Whereupon, at 10:31 a.m., the proceedings in the foregoing matter went into Closed Session, and went back into Open Session at 10:41 a.m.)

VIII. ADJOURN

CHAIRMAN REYNOLDS: All right. We are going to open the door, give people an opportunity to come in, so we can adjourn.

Okays. Folks, I guess you can turn around now, because we have adjourned.

COMMISSIONER HERIOT: Do we have to move to adjourn in broad session?

CHAIRMAN REYNOLDS: Okay. I move to adjourn. Is there a second?
COMMISSIONER HERIOT: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

All in favor please say aye.

(Chorus of ayes.)

Any objections?

(No response.)

Any abstentions?

(No response.)

COMMISSIONER TAYLOR: Thank you. I feel better now.

CHAIRMAN REYNOLDS: All right.

(Whereupon, at 10:42 a.m., the proceedings in the foregoing matter were adjourned.)