

## U.S. COMMISSION ON CIVIL RIGHTS

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MEETING

**EDITED**

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FRIDAY, MARCH 14, 2014

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The Commission convened in Suite 1150 at  
1331 Pennsylvania Avenue, Northwest, Washington, D.C.  
at 2:00 p.m., Martin R. Castro, Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman

ROBERTA ACHTENBERG, Commissioner

GAIL HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner

DAVID KLADNEY, Commissioner\*

MICHAEL YAKI, Commissioner\*

MARLENE SALLO, Staff Director

\* *Present via telephone*

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STAFF PRESENT:

RYAN COWDIN

BARBARA de LA VIEZ, Deputy Director

LILLIAN DUNLAP

PAMELA DUNSTON, Chief, ASCD

YASMIN ELHADY

NICHOLAS GINSBERG

JENNIFER HEPLER, Parliamentarian

MYRNA HERNANDEZ

JOHN RATCLIFFE

EILEEN RUDERT

JACOB SIMS

ROREY SMITH, General Counsel, OGC

MICHELE YORKMAN, Director, IT

COMMISSIONER ASSISTANTS PRESENT:

ALEC DEULL

KENESHIA GRANT

CARISSA MULDER

JUANA SILVERIO

ALISON SOMIN

KIMBERLY TOLHURST

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## P R O C E E D I N G S

(2:00 p.m.)

CHAIRMAN CASTRO: It is now 2:00. I am going to call the meeting to order. This is a business meeting of the U.S. Commission on Civil Rights. As I indicated, it's 2:00 p.m. Eastern Time on March 14<sup>th</sup>. We are at the Commission's headquarters, 1331 Pennsylvania Avenue, N.W., in Washington, D.C.

I'm Marty Castro, the Chair. Commissioners who are present here in the meeting with me are Commissioner Heriot, Commissioner Achtenberg, and Commissioner Kladney. Commissioners Yaki and Kirsanow are joining us by phone. Is the court reporter present? He's nodding yes. Is the Staff Director present?

STAFF DIRECTOR SALLO: Present.

CHAIRMAN CASTRO: Okay, so we have a quorum. The meeting will now come to order.

The first item is the Approval of the Agenda.

**I. APPROVAL OF AGENDA**

CHAIRMAN CASTRO: So, I will move that we approve the agenda. Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN CASTRO: Are there any amendments to the agenda? Madam Staff Director?

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1 STAFF DIRECTOR SALLO: Yes, I do have one  
2 amendment.

3 CHAIRMAN CASTRO: Okay.

4 STAFF DIRECTOR SALLO: Chairman Castro, at  
5 this point in time I would like to make a motion to  
6 remove the Hawaii SAC Slate from the agenda for today.

7 CHAIRMAN CASTRO: Okay. Is there a second?

8 COMMISSIONER KLADNEY: Second.

9 CHAIRMAN CASTRO: Okay. Any other  
10 amendments? Hearing none we'll vote to approve the  
11 agenda. All those in favor say aye.

12 (Chorus of ayes.)

13 CHAIRMAN CASTRO: Any opposed? Any  
14 abstentions? Okay, the motion passes unanimously.

15 CHAIRMAN CASTRO: So, the first item up on  
16 our agenda is Program Planning Update and Discussion  
17 of Projects.

18 **II. PROGRAM PLANNING UPDATE AND**  
19 **DISCUSSION OF PROJECTS**

20 CHAIRMAN CASTRO: We have three agenda  
21 items under that today. The first is a discussion and  
22 vote on two proposed letters that I circulated in  
23 advance of the meeting. One would request that the  
24 President and Congress respectively make a national  
25 holiday for Cesar Chavez, and also a day of

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1 Commemoration Day of Service. And a second letter on  
2 Fred Korematsu who I'm sure you're all familiar with  
3 was involved in the litigation in the Supreme Court over  
4 Japanese-American Internment during World War II,  
5 requesting the same holiday, as well as commemoration  
6 for his service in the civil rights arena.

7 So, what I would like to do is take each  
8 of those letters individually. So, what I will do, first  
9 of all, is move that we -- and this will be for --

10 (Pause.)

11 CHAIRMAN CASTRO: The mic went off? That we  
12 approve -- I'll make a motion that we approve as a  
13 Commission the copy of the letter that was circulated  
14 to each of you to the President and Congress on behalf  
15 of the making of the national holiday for Cesar Chavez,  
16 along with a National Day of Service. Is there a second  
17 to that?

18 COMMISSIONER ACHTENBERG: Second.

19 CHAIRMAN CASTRO: Do we have any discussion  
20 or any proposed changes that folks want to make to that?  
21 All right, hearing none --

22 COMMISSIONER KIRSANOW: Mr. Chairman.

23 CHAIRMAN CASTRO: Okay. Go ahead,  
24 Commissioner Kirsanow. Please, go ahead.

25 COMMISSIONER KIRSANOW: Yes, I'm going to

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1 vote against the motion, and I just want to make a quick  
2 statement as to why.

3 CHAIRMAN CASTRO: Sure, go ahead.

4 COMMISSIONER KIRSANOW: It has nothing to  
5 do with the merits of Mr. Chavez, or in the subsequent  
6 vote on Mr. Korematsu. It has to do with the fact that  
7 I oppose any national holidays at all. We've got  
8 national holidays up the wazoo. Each national holiday  
9 take money out of people's pockets, it hurts the  
10 economy, and I don't think we need any more national  
11 holidays. We've consolidated some national holidays.  
12 And although I do believe that honoring these  
13 individuals is something that should be done, it  
14 shouldn't be done by virtue of a national holiday.

15 There are number of individuals who are  
16 equally meritorious of a national holiday, anyone from  
17 Frederick Douglass to Rosa Parks, to you name it, Homer  
18 Plessy, James Meredith, Roger Williams, Harriet  
19 Tubman, so I don't know at what point we draw the line.

20 CHAIRMAN CASTRO: Thank you, Commissioner  
21 Kirsanow. Commissioner Heriot wanted to make a  
22 statement.

23 COMMISSIONER HERIOT: I believe that these  
24 two individuals are, indeed, worthy of an honor. I think  
25 there are lots of other people who are also worthy of

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1 an honor. My personal favorite if there's ever going  
2 to be another national holiday would be Norman Borlaug,  
3 but I am willing to vote against that one, too. So, I  
4 would vote against giving them a holiday.

5 CHAIRMAN CASTRO: Okay, who's squiggling  
6 around in their chair? They maybe want to mute it on  
7 the phone. Thank you. Any other comments, questions  
8 from any other Commissioners?

9 COMMISSIONER YAKI: I --

10 CHAIRMAN CASTRO: Commissioner Yaki.

11 COMMISSIONER YAKI: We're dealing just now  
12 with the Cesar Chavez letter.

13 CHAIRMAN CASTRO: Yes, exactly. I thought  
14 I would take them each individually in the event people  
15 had different views or comments on each letter.

16 COMMISSIONER YAKI: Okay, no problem. I  
17 just wanted to comment on Commissioner Kirsanow, and  
18 just say that we -- I knew that there's more than a  
19 passing resemblance in his balding head to the Grinch.

20 CHAIRMAN CASTRO: Well, now, now no need for  
21 that, but --

22 COMMISSIONER YAKI: I think he might like  
23 that --

24 COMMISSIONER KIRSANOW: Commissioner Yaki,  
25 really, either Darth Vader or Klingon.

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(Laughter.)

COMMISSIONER YAKI: You never know what species the Grinch started off as, Commissioner Kirsanow. That's all I can say.

CHAIRMAN CASTRO: Okay.

COMMISSIONER KIRSANOW: Granted.

CHAIRMAN CASTRO: Thank you, Commissioners.

COMMISSIONER KIRSANOW: Point taken.

CHAIRMAN CASTRO: Thank you, both. Anything else? Yes, there's a transcript of this, so at some point some civil rights scholar is going to be Googling Grinch and this transcript is going to come up.

But, anyway, so hearing no additional comments, I'm going to call the question on the Cesar Chavez letter. I will take a roll call vote, so Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: No. But, again, I do believe these individuals have done good things.

CHAIRMAN CASTRO: Understood and appreciate it. Commissioner Achtenberg, how do you vote?

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1 COMMISSIONER ACHTENBERG: Yes.

2 CHAIRMAN CASTRO: Commissioner Kladney,  
3 how do you vote?

4 COMMISSIONER KLADNEY: Yes.

5 CHAIRMAN CASTRO: Commissioner Yaki, how do  
6 you vote?

7 COMMISSIONER YAKI: Aye.

8 CHAIRMAN CASTRO: And I vote yes, so the  
9 letter passes.

10 Now on to the next letter, I will make a  
11 motion for discussion purposes that the Commission  
12 issue a letter to the President and Congress requesting  
13 that they make January 30<sup>th</sup> National Fred Korematsu Day,  
14 and also declare it a National Day of Service. Do I have  
15 a second?

16 COMMISSIONER YAKI: Second.

17 CHAIRMAN CASTRO: Now, I had circulated a  
18 draft letter to everyone. There was one minor change  
19 that I made to that. I think you should have all gotten  
20 a copy. I removed a reference to a blog post which I  
21 just thought is kind of out of place with the other types  
22 of recognitions that we were outlining. But other than  
23 that, the letter remains the same as circulated before.  
24 Discussion?

25 COMMISSIONER YAKI: Yes. Commissioner

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1 Castro?

2 CHAIRMAN CASTRO: Yes, Commissioner Yaki.

3 COMMISSIONER YAKI: Mr. Chairman, yes, two  
4 things. One, I want to say something on the merits, but  
5 first on the technicalities of the letter. I made  
6 revisions but I'm afraid that they arrived a little bit  
7 too late --

8 CHAIRMAN CASTRO: Oh.

9 COMMISSIONER YAKI: -- to clean up a  
10 little bit of the inconsistencies in the language --

11 CHAIRMAN CASTRO: Okay.

12 COMMISSIONER YAKI: -- with regard to the  
13 description of the town, and also to take reference to  
14 my mom. So, I think you might -- if we could approve  
15 this with --

16 CHAIRMAN CASTRO: Yes.

17 COMMISSIONER YAKI: -- leave to make  
18 minor technical corrections, I would like to make that  
19 motion because it just --

20 CHAIRMAN CASTRO: Yes, you're right. There  
21 was -- yes, we'll circulate the correct version because  
22 I did see those changes, and for some reason I think  
23 the copy that we all have doesn't have the changes in  
24 it.

25 COMMISSIONER YAKI: No, no. No problem at

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1 all.

2 CHAIRMAN CASTRO: Yes.

3 COMMISSIONER YAKI: Secondly --

4 CHAIRMAN CASTRO: Yes.

5 COMMISSIONER YAKI: -- I just want to say  
6 that I ran this by the Japanese-American Citizens  
7 League who is very appreciative of this effort, and just  
8 from my own point of view having had the privilege of  
9 meeting Fred Korematsu in the latter years of his life,  
10 it's -- we are -- I agree with Commissioner Kirsanow  
11 in terms of the names of the individuals that he has  
12 spoken about, but in terms of if you can find someone  
13 who had a significant impact on a single discrete  
14 community, notwithstanding the fact that his efforts  
15 have ratifications far beyond that. But in terms of the  
16 Japanese-American -- indeed, the Asian American  
17 community whose isolation, persecution and treatment  
18 certainly in the country, and certainly in California  
19 in the first half of the 20<sup>th</sup> century where they passed  
20 laws denying the ability of Asian Americans to own land  
21 to stop them from being farmers when they could not own  
22 property. It's the first case to talk -- to decide the  
23 Equal Protection clause in America was because of an  
24 anti-Chinese ordinance passed by, of all people, the  
25 Board of Supervisors of San Francisco in the 1800s. Fred

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1 Korematsu stands as a giant among all these for a very  
2 simple, as you described it, and we describe in our  
3 letter, Mr. Chairman, very simple act of courage and  
4 civil disobedience in saying I don't -- I am a loyal  
5 American. I have no idea why I should be -- I and my  
6 family and my friends should be shipped off to converted  
7 horse stables which is what they were in California,  
8 horse racing facility the Japanese-Americans were  
9 basically housed in the horse stables before they were  
10 transited out to different parts of the country. And  
11 he said, you know, I am an American, I'm going to act  
12 like an American. I want to be treated like an American.

13           And I would just note as a matter of  
14 constitutional jurisprudence that notwithstanding the  
15 fact that Writ of Coram Nobis taken by a group of young  
16 dynamic Japanese-American and Asian American attorneys  
17 led by my friends, Dale Minamis, Karen Kai, and so many  
18 others, had finally forced the government to admit that  
19 they, indeed, not only had no evidence that there was  
20 a Japanese fifth column on the West coast, but to the  
21 contrary they found affirmative findings that there  
22 were none, and it was a very loyal and patriotic  
23 community. Notwithstanding that in one of the most  
24 shameful decisions by Earl Warren and by President  
25 Franklin D. Roosevelt, over 100,000 Japanese American

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1 men, women, and children were sent into isolation in  
2 internment camps supposedly for their own protection,  
3 except for the fact that the machine guns were all  
4 pointed on the inside, not on the outside. And Fred  
5 Korematsu said this is wrong. What is -- I -- and he  
6 stood as a symbol of civil disobedience and courage for  
7 all members of the Japanese-American community, for  
8 sure.

9           And I would just like to say that one of  
10 the great stains on the Constitution, constitutional  
11 law of which there are, unfortunately, several, Plessy  
12 being one of them. Korematsu, notwithstanding the fact  
13 that his conviction, personal conviction was  
14 overturned, the decision, *Korematsu v. United States*  
15 still remains, unfortunately, the law, part of the  
16 constitutional jurisprudence of this country. And I  
17 would just say that during the constitutional arguments  
18 over the detention center in Guantanamo, in one of the  
19 briefs used by the then Solicitor General of the United  
20 States, *Korematsu* was cited for the purpose of  
21 justifying the detention center at Gitmo. So, while  
22 Fred Korematsu was personally vindicated and stands as  
23 a shining example of courage and civil disobedience and  
24 principle, the decision itself still remains, and  
25 hopefully will become a footnote and never be used

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1 again. But the mere fact that it is there to justify  
2 the incarceration of people deemed to be enemies of the  
3 State even if they are citizens is a -- should be a  
4 sobering warning to all of us who care about, are  
5 concerned about civil rights and civil liberties. But  
6 in that vein, again, Mr. Chairman, thank you for your  
7 leadership, and I hope this -- the President takes  
8 positive action on this and on the Cesar Chavez  
9 resolution that this Commission will be forwarding.

10 CHAIRMAN CASTRO: Thank you, Commissioner  
11 Yaki.

12 COMMISSIONER YAKI: Thank you.

13 CHAIRMAN CASTRO: Actually, I've been  
14 informed by Special Assistant that the copy of the  
15 letter that was circulated this morning to everybody  
16 is the correct version with your corrections. I think  
17 perhaps maybe it might not have been emailed to you,  
18 but your corrections were made on the draft.

19 COMMISSIONER YAKI: Oh, thank you.

20 CHAIRMAN CASTRO: So, with that I would  
21 -- are there other questions or comments on this? If  
22 not, I will call this vote for question, call this  
23 question for vote.

24 COMMISSIONER KIRSANOW: Mr. Chairman.

25 CHAIRMAN CASTRO: Yes, Commissioner

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1 Kirsanow, go ahead.

2 COMMISSIONER KIRSANOW: Thank you, Mr.  
3 Chair. Perhaps for only the second or third time in the  
4 last eight years, I'd like to align myself with the bulk  
5 of what Commissioner Yaki had to say, but I think he  
6 said it very well, articulately, and in an impassioned  
7 fashion. And I, as I said before, would oppose a  
8 national holiday but would support some meaningful  
9 commemoration of Mr. Korematsu.

10 It was a significant act on his part. I  
11 think that there's insufficient attention, and I have  
12 said so a number of times to the manifold and long-time  
13 acts of discrimination against Asian Americans. And I  
14 don't like using that term because I think it's somewhat  
15 ham-handed, but a lot of racists like to seem to lump  
16 people into a particular category, and that's the  
17 category very often that they like to lump them into,  
18 but they've discriminated against Asian Americans  
19 since the outset of our country. So, as someone who also  
20 has had family members in detention camps and  
21 brutalized therein, including my own father, but in a  
22 nation where you might expect it, this is something that  
23 is of great importance. I just do not think it should  
24 a national holiday.

25 CHAIRMAN CASTRO: Thank you, Commissioner.

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1 Any other comments? If not, I'm going to call the motion  
2 for vote. Commissioner Kirsanow, how do you vote?

3 COMMISSIONER KIRSANOW: No.

4 COMMISSIONER HERIOT: Commissioner Heriot,  
5 how do you vote?

6 COMMISSIONER HERIOT: For the same reason  
7 I voted no on the other motion, I vote no on this one.

8 CHAIRMAN CASTRO: Commissioner Achtenberg,  
9 how do you vote?

10 COMMISSIONER ACHTENBERG: Yes.

11 CHAIRMAN CASTRO: Commissioner Kladney,  
12 how do you vote?

13 COMMISSIONER KLADNEY: Yes.

14 CHAIRMAN CASTRO: Commissioner Yaki, how do  
15 you vote?

16 COMMISSIONER YAKI: Aye.

17 CHAIRMAN CASTRO: And I vote yes, so the  
18 motion passes. Thank you, everyone.

19 Now we'll move on to the next topic on the  
20 agenda which is discussion of the scheduling of our  
21 Stand Your Ground briefing. I'll turn that over to the  
22 Staff Director.

23 STAFF DIRECTOR SALLO: Thank you. At the  
24 present time we have the Stand Your Ground scheduled  
25 for April 11<sup>th</sup>, and we have the Sexual Harassment

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1 briefing scheduled in May, so I wanted to advise the  
2 Commissioners that as we move forward in trying to  
3 assess potential locations to hold the Stand Your  
4 Ground briefing, and we reached out to potential  
5 speakers and researchers, it came to our attention that  
6 the main speakers that we were interested in inviting,  
7 the main researchers were not available on April 11<sup>th</sup>.  
8 As it turns out, the National Action Network is having  
9 a week-long briefing, not briefing, conference in New  
10 York City the week that we were scheduled to have our  
11 Stand Your Ground briefing, and one of the topics  
12 they're going to be addressing at their conference is  
13 stand your ground in New York City. So, the main folks  
14 that we would have loved to have had at our meeting will  
15 not be available on April 11<sup>th</sup>, so that is why that was  
16 put on the agenda. And then the next question was if  
17 we move the Stand Your Ground, should we also move the  
18 Sexual Harassment? And in discussing it with  
19 Commissioner Heriot, she was amenable to possibly  
20 pushing it forward, if necessary.

21 CHAIRMAN CASTRO: So, do you have a  
22 particular proposal in terms of --

23 STAFF DIRECTOR SALLO: The thought had been  
24 to reschedule the Stand Your Ground for May, and then  
25 do the Sexual Harassment in July.

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1 CHAIRMAN CASTRO: Okay. And folks know from  
2 email that I issued previous to this meeting that we  
3 are going to do the Stand Your Ground briefing in  
4 Florida.

5 STAFF DIRECTOR SALLO: Yes, but then  
6 there's a catch.

7 CHAIRMAN CASTRO: There's always a catch.

8 STAFF DIRECTOR SALLO: Yes. So, as it turns  
9 out the Friday that we could have it in May in Florida,  
10 we wanted some gentlemen to be present from the State  
11 legislature, and it turns out that it's the Young State  
12 Representative Conference or something that same week,  
13 so they can't be present. And then Ilya has indicated  
14 he's not available April or May either, so that's where  
15 we stand right now. So, I'm -- obviously, this is  
16 Commissioner Yaki's concept paper, and he, obviously,  
17 would have a voice in this, but I'm amenable to whatever  
18 the Commissioners feel is best to accommodate. But  
19 definitely April 11<sup>th</sup> won't work because even the  
20 researchers that we needed to be present at the briefing  
21 are not available in the month of April.

22 CHAIRMAN CASTRO: Commissioner Yaki, can  
23 you give us your thoughts?

24 COMMISSIONER YAKI: Yes, I am in no hurry  
25 to get this -- to do this if it means -- if it's at the

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1 cost of giving the witnesses amenable locations, et  
2 cetera. So, I would just simply say that I'd like to  
3 make a motion to, again, give the Staff Director and  
4 the Chairman hopefully in consultation with me the  
5 discretion to set an appropriate date that works within  
6 our schedule and everyone else's schedule, instead of  
7 trying to find a date and then revisit this again if  
8 we have to play around with it. So, I would just say  
9 I think I'd like to move that we give the authority to  
10 the Staff Director and the Chairman to determine the  
11 appropriate date and time in Florida for the Stand Your  
12 Ground briefing.

13 CHAIRMAN CASTRO: Is there a second to that?  
14 Okay, discussion on that motion, folks? This is as it  
15 relates to Stand Your Ground.

16 COMMISSIONER KLADNEY: Mr. Chairman.

17 CHAIRMAN CASTRO: Yes. Hold on, hold on.  
18 Commissioner Achtenberg, then Commissioner Heriot,  
19 then Commissioner Kladney. Okay.

20 COMMISSIONER ACHTENBERG: All I would ask  
21 is that individual calendars be taken into account  
22 because it's -- and we try to accommodate -- find a date  
23 that all Commissioners can be accommodated.

24 CHAIRMAN CASTRO: Right. I know some folks  
25 will be out of the country.

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1 COMMISSIONER ACHTENBERG: Yes, because I  
2 mean, this is a real problem for us now that the State  
3 legislatures --

4 COMMISSIONER YAKI: Okay. I agree. I agree.

5 CHAIRMAN CASTRO: Yes. Madam Staff  
6 Director, do you have a response real quick?

7 STAFF DIRECTOR SALLO: Well, no, I have a  
8 question really. So, normally I would just go along with  
9 the preset Commission meetings, so are we saying that  
10 we're leaving it open to even change the date outside  
11 of a preset Commission meeting?

12 CHAIRMAN CASTRO: No, that's not how I view  
13 that.

14 STAFF DIRECTOR SALLO: Okay.

15 COMMISSIONER ACHTENBERG: No. All I'm  
16 saying is by changing it from April to May some of us  
17 weren't able to be present in May. I prefer that you  
18 not choose a time --

19 STAFF DIRECTOR SALLO: So if you just send  
20 me your availability then I can work around that.

21 COMMISSIONER ACHTENBERG: Yes, perfect,  
22 great. That would be great.

23 CHAIRMAN CASTRO: Commissioner Heriot,  
24 then Commissioner Kladney.

25 COMMISSIONER HERIOT: I'm just -- I'm

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1 confused at this point. We're still working with the  
2 days that have been designated as meeting days.

3 CHAIRMAN CASTRO: Correct.

4 COMMISSIONER HERIOT: Okay.

5 CHAIRMAN CASTRO: Commissioner Kladney.

6 COMMISSIONER KLADNEY: My only thing is the  
7 same thing as Commissioner Achtenberg. I was thinking  
8 that next month we were going to have that hearing, so  
9 I made myself available, and then I made plans for some  
10 other time.

11 CHAIRMAN CASTRO: We understand.

12 COMMISSIONER KLADNEY: So, I will provide  
13 my dates to the Director.

14 CHAIRMAN CASTRO: Okay. Any other  
15 discussion on that motion? Hearing none then we'll take  
16 a vote on that. Commissioner Kirsanow, how do you vote?

17 COMMISSIONER KIRSANOW: Yes.

18 CHAIRMAN CASTRO: Commissioner Heriot, how  
19 do you vote?

20 COMMISSIONER HERIOT: Yes.

21 CHAIRMAN CASTRO: Commissioner Achtenberg,  
22 how do you vote?

23 COMMISSIONER ACHTENBERG: Yes.

24 CHAIRMAN CASTRO: Commissioner Kladney,  
25 how do you vote?

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1 COMMISSIONER KLADNEY: Yes.

2 CHAIRMAN CASTRO: Commissioner Yaki, how do  
3 you vote?

4 COMMISSIONER YAKI: Yes.

5 CHAIRMAN CASTRO: And I vote yes, so it's  
6 unanimous.

7 The next motion, we need to make a motion  
8 on your briefing. We wanted to move that to July. Right?  
9 We need a motion on that, do we? Is that right? Yes,  
10 we do.

11 COMMISSIONER HERIOT: Do you want me to make  
12 it?

13 CHAIRMAN CASTRO: Yes, why don't you.

14 COMMISSIONER HERIOT: I'm happy to make it,  
15 although I'd be happy to hold it in May, as well. I move  
16 that we move the briefing on Sexual Harassment to --

17 STAFF DIRECTOR SALLO: We can do it in July.

18 COMMISSIONER HERIOT: -- July.

19 CHAIRMAN CASTRO: Okay. Is there a second?

20 COMMISSIONER KIRSANOW: Second.

21 CHAIRMAN CASTRO: All right. So, any  
22 discussion on that? Commissioner Achtenberg?

23 COMMISSIONER ACHTENBERG: Is there a reason  
24 not May?

25 CHAIRMAN CASTRO: Yes, because

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1 Commissioner Kladney doesn't want it. Any other  
2 questions or discussion? If not, I'll call the question  
3 on moving the briefing to July. Commissioner Kirsanow,  
4 how do you vote?

5 COMMISSIONER KIRSANOW: Yes.

6 CHAIRMAN CASTRO: Commissioner Heriot, how  
7 do you vote?

8 COMMISSIONER HERIOT: Yes.

9 CHAIRMAN CASTRO: Commissioner Achtenberg,  
10 how do you vote?

11 COMMISSIONER ACHTENBERG: Yes.

12 CHAIRMAN CASTRO: Commissioner Kladney,  
13 how do you vote?

14 COMMISSIONER KLADNEY: Yes.

15 CHAIRMAN CASTRO: Commissioner Yaki, how do  
16 you vote?

17 COMMISSIONER YAKI: Aye.

18 CHAIRMAN CASTRO: And I vote yes, so that  
19 passes unanimously. Okay. So, I believe that's that for  
20 that topic. We next move on to discussion and a vote  
21 on issuing a report based on the 2012 State Immigration  
22 Enforcement briefing that we held in August of 2012 in  
23 Alabama.

24 And the reason that I felt that we should  
25 just issue the transcript a few months ago, or last year

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1 was that -- and as I stated on the record, comprehensive  
2 immigration reform was coming up for consideration in  
3 the Congress, and we wanted -- I wanted to make sure  
4 that we had the benefit of sharing the data and  
5 information that we gathered from all sides of that  
6 debate in Alabama on our website so that policymakers  
7 and advocates, et cetera, who had an interest in the  
8 civil rights implications of these issues would have  
9 access to that.

10 As we've seen over the last months, the  
11 prospect of CIR seems less likely every day. My concern  
12 is that should immigration reform in some format not  
13 pass, and I think we see this already beginning to  
14 happen in some states, a resurgence of the state  
15 enforcement type of actions focused on undocumented  
16 immigrants because there is a lack of federal action,  
17 I think the data that we collected again on both sides  
18 of the issue which is out there should be turned into  
19 a report. And knowing that it's going to take some time  
20 to issue that report, I want to begin that process now  
21 so that we can actually benefit from the work that was  
22 done by this Commission and contribute to the public  
23 policy debate which will be continuing both at the state  
24 and I believe at the federal level. So, that is why I'm  
25 bringing this to you all for a vote. So, is there -- I

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1 guess I'll make that my motion. Is there a second?

2 COMMISSIONER ACHTENBERG: Second.

3 CHAIRMAN CASTRO: Any discussion?

4 COMMISSIONER KIRSANOW: Yes, Mr. Chair,  
5 Kirsanow here.

6 CHAIRMAN CASTRO: Go ahead.

7 COMMISSIONER KIRSANOW: I would oppose this  
8 because we voted unanimously a year ago at a business  
9 meeting to post the transcript in lieu of a report. And  
10 that was done not because we couldn't prepare a report  
11 in time for any debate. We see that the debate has gone  
12 on for quite some time, whenever you have a one part  
13 of Congress controlled by one party and another by  
14 another party, there is going to be protracted debate  
15 on almost everything including what to have for lunch.

16 We voted unanimously pursuant to an  
17 agreement that was struck between Commissioner Gaziano  
18 and the Chair. The prelude to such agreement was that  
19 Commissioner Gaziano would assist in securing a  
20 balanced panel of witnesses, because there were a  
21 number of witnesses who were reluctant to appear for  
22 a variety of reasons. And those witnesses appeared at  
23 the instance of Commissioner Gaziano provided they  
24 wouldn't be defamed or slandered, and had Commissioner  
25 Gaziano I know, and Commissioner Heriot, myself and

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1 Vice Chair not cooperate in that agreement, there would  
2 be no quorum for the briefing, there would have been  
3 no report and no briefing on immigration back in August  
4 of 2013, or 2012. Yet, the briefing went forward. The  
5 witnesses nonetheless several of them were defamed as  
6 racists, xenophobes, likened to the Klan, and when a  
7 vote on the matter came up last March, four  
8 Commissioners were opposed to it, Gaziano, Heriot,  
9 Kirsanow, and Vice Chair Thernstrom. But, nonetheless,  
10 Commissioner Gaziano maybe out of who knows why, but  
11 he participated in trying to resolve this by agreeing  
12 to post the transcript instead of a report, and that  
13 was in exchange for addressing certain personnel  
14 issues. Now Gaziano and Thernstrom are not here, but  
15 nonetheless I think we should stick by the previous  
16 vote. It was an understanding as to why that vote went  
17 forward. And I know you've got the votes to go forward  
18 with this if you want to, but if any media make any  
19 reference to the report without noting how it came to  
20 be it will be woefully complicit promoting the  
21 continued defamation of these witnesses, and I will  
22 make sure at least in my capacity to correct the record  
23 every single chance I get.

24 CHAIRMAN CASTRO: Thank you, Commissioner  
25 Kirsanow. First of all, as I indicated to you in our

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1 email exchange of last night, I think there's a lot of  
2 inaccuracies in that statement which I know you base  
3 it on correspondence that you received from former  
4 Commissioner Gaziano. And it seems that former  
5 Commissioner Gaziano and I, in our conversations would  
6 routinely seem to misunderstand one another. And I  
7 think you're mixing two different issues.

8           There was a dispute that developed between  
9 myself and Commissioner Gaziano after he and I worked  
10 together to provide what we believed was a balanced  
11 panel. His perspective was that it should have been a  
12 one-to-one balance. My view was that it should be  
13 balanced as we look at everything else. It doesn't have  
14 to be one-to-one. And there was a dispute about my  
15 having added a speaker from the Southern Poverty Law  
16 Center.

17           There was no discussion at that time  
18 whatsoever about the issue of a transcript versus a  
19 report. That issue did not come up until much later.  
20 And there certainly was no specific agreement between  
21 myself and Commissioner Gaziano for any vote in  
22 exchange for anything else. In fact, I very clearly told  
23 him that he could vote however he wanted on other  
24 issues.

25           I've explained to you why I was motivated

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1 to move this as a transcript. I know you've indicated  
2 in your email to me that Commissioner Gaziano felt that  
3 the transcript, the hearing itself was inappropriate.  
4 If that was the case, why do we even put the transcript  
5 up on the website.

6 There was no defamation that occurred. We  
7 had our OGC look at that issue left and right. The  
8 statements that were drafted that were of some concern,  
9 the written statements that were drafted by some of the  
10 witnesses that were of some concern to Commissioner  
11 Gaziano were redrafted by those witnesses. They did not  
12 publish those statements. And, in fact, as we were  
13 voting to put the transcript up we made sure that that  
14 was not included. So, there is no defamation at all in  
15 that transcript. That transcript has passed muster in  
16 terms of being appropriate. And it was always my  
17 understanding, perhaps not his, but it was always my  
18 understanding that this issue could be revisited again.  
19 And I am revisiting it, for the reasons I've stated.

20 COMMISSIONER KIRSANOW: Mr. Chair, I have  
21 no objection to revisiting the issue in a new briefing.  
22 If you want to have another briefing, fine. I don't have  
23 any objections to that. But with respect to this  
24 particular briefing and any report that therefrom,  
25 we've had a vote on this. There is an understanding that

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1 wasn't just the understanding of Commissioner Gaziano.  
2 I was present throughout everything other than your  
3 private conversations with him, and I had a distinct  
4 understanding as to why it is we posted a transcript  
5 as opposed to having a report.

6 And I know this, I would not have  
7 participated in the Alabama briefing, physically  
8 participated unless I had an understanding that a  
9 number of the witnesses who were concerned about how  
10 they were going to be portrayed would be treated in a  
11 proper fashion. That would have deprived the Commission  
12 of a quorum because I know -- I don't want to speak for  
13 anyone else, but I had discussions with Vice Chair  
14 Thernstrom, Commissioners Gaziano and Heriot, they  
15 would not have appeared for such a briefing, and nothing  
16 would have gone forward. That was the prelude to it.  
17 And then my understanding as to why I voted to post the  
18 transcript was the same as expressed by Commissioner  
19 Gaziano in his email.

20 CHAIRMAN CASTRO: Again, you know, that may  
21 be his point of view that he conveyed to you, but that  
22 is not how it transpired, so you've made your statement.  
23 You're also going to have a chance once this is drafted  
24 to take a look at it and vote up or down, or recommend  
25 changes to the draft report. This is not approving a

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1 report in absentia. This is voting to have our career  
2 staff begin to prepare a report which will be subject  
3 to all the bells and whistles that every single one of  
4 our reports are subject to in terms of content,  
5 defamation, et cetera, and we'll still have a right to  
6 vote on it. So, any other comments or questions? Hearing  
7 none I will call the question for a vote. Commissioner  
8 Kirsanow, how do you vote?

9 COMMISSIONER KIRSANOW: No.

10 CHAIRMAN CASTRO: Commissioner Heriot, how  
11 do you vote?

12 COMMISSIONER HERIOT: I vote no.

13 CHAIRMAN CASTRO: Commissioner Achtenberg,  
14 how do you vote?

15 COMMISSIONER ACHTENBERG: Yes.

16 CHAIRMAN CASTRO: Commissioner Kladney,  
17 how do you vote?

18 COMMISSIONER KLADNEY: Yes.

19 CHAIRMAN CASTRO: Commissioner Yaki, how do  
20 you vote? Commissioner Yaki?

21 COMMISSIONER YAKI: Aye.

22 CHAIRMAN CASTRO: And I vote yes, the motion  
23 passes 4-2. Thank you.

24 The next item on the agenda is Management  
25 and Operations.

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**III. MANAGEMENT AND OPERATIONS**

CHAIRMAN CASTRO: Madam Staff Director.

STAFF DIRECTOR SALLO: Thank you, Chairman Castro. I will give a very brief update. First of all, I wanted to welcome two interns that we have with us today. We have a new intern in ERO. He just started today, as a matter of fact, so his name is Ryan Cowdin, and he's a 1L at G.W. here in D.C., and he's from Virginia, Northern Virginia. And then today is Nicholas Ginsberg's last day, and he is an intern who's only been with us for one week, that's it. We only get them for one week, and he's from Carbondale High School in Illinois. He's a senior, and he's going to be starting at Vassar in August, so I'd like to say it's been a pleasure having Nicholas here with us, and I welcome Ryan as he commences his internship today.

CHAIRMAN CASTRO: Thank you for your work, and thank you in advance for the work you're going to do. Appreciate it. In fact, would you like to draft a briefing report on immigration?

(Laughter.)

STAFF DIRECTOR SALLO: I also wanted to advise everyone, as you know the IG is no longer assigned to the Commission, so they will not be issuing a report. I did circle back with them. They will be

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1 completing whatever investigations they had  
2 outstanding, and they were given \$70,000 out of this  
3 year's budget to complete that. We will, however, have  
4 GAO come in to take a look at us, and they will be looking  
5 at three specific items. So, they plan on looking at  
6 the Commission's roles and responsibilities,  
7 organizational structure, staffing, and the number of  
8 Commission products issued since 2009. They're also  
9 going to follow-up on how well the Commission has  
10 implemented GAO's prior recommendations. And, finally,  
11 they will be looking at the role of the State Advisory  
12 Committees in accomplishing the mission of the  
13 Commission, so I will be their point person, and I will  
14 be providing them with any and all documents that they  
15 wish to review. And they will probably be here for about  
16 three months once -- and I don't know yet when they're  
17 going to come in, but it will be as soon as possible.

18 Finally, I have some good news. As you  
19 know, we just finished a CFC campaign, so I wanted to  
20 --

21 CHAIRMAN CASTRO: Remind folks what CFC  
22 means.

23 STAFF DIRECTOR SALLO: Thank you, Combined  
24 Federal Campaign. So, as you know, folks donated and  
25 this is something that happens federal-wide, and we

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1 received three awards. That's the bottom line. So, this  
2 year the National Capital Region fell short of its goal.  
3 Right? So, the region itself is short, but the  
4 Commission smashed the goal and then some, so we  
5 received the highest award. We actually received the  
6 President's award signed by President Obama.

7 (Applause.)

8 STAFF DIRECTOR SALLO: So, I am very happy  
9 about that, so it's awarded to agencies reporting 75  
10 percent employee participation or \$275 per capita  
11 gifts. We exceeded both. We had almost 90 percent  
12 participation and 486 for our per capita gift amounts.

13 Secondly, we received a Summit award, so  
14 here's the Summit award, so I'm very happy about that.

15 (Applause.)

16 STAFF DIRECTOR SALLO: And it's given to  
17 agencies that achieve a 3 percent increase in total  
18 dollars raised over the previous year's campaign. Our  
19 Commission had an almost 50 percent increase in total  
20 dollars raised. We also increased the participation  
21 from last year's campaign earning the Participation  
22 Achievement award.

23 (Applause.)

24 STAFF DIRECTOR SALLO: And this is given to  
25 departments or agencies that achieve a 2 percent

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1 increase in the preceding year. We actually doubled  
2 participation from last year. So, first and foremost,  
3 I'd like to thank each and every person that donated  
4 towards the campaign. Obviously, we couldn't have done  
5 it without you. And I'd also like to thank Barbara and  
6 Yasmin for being our wonderful leaders, and they did  
7 a phenomenal tape, little short video/stand up comedy  
8 tape which was submitted, as well, to CFC, and it's my  
9 understanding that it will probably uploaded on their  
10 website. So, I'd like to thank each and every one of  
11 you.

12 (Applause.)

13 CHAIRMAN CASTRO: Thank you.

14 STAFF DIRECTOR SALLO: And that is about it.

15 CHAIRMAN CASTRO: Can I ask our Ethics  
16 Officer, are we allowed to accept these? They look  
17 valuable.

18 STAFF DIRECTOR SALLO: Yes.

19 COMMISSIONER KLADNEY: Where are you going  
20 to post them?

21 STAFF DIRECTOR SALLO: So, Pam and I have  
22 discussed posting this at the entrance so that everyone  
23 can see that we got the President's award.

24 CHAIRMAN CASTRO: Yes, great. All right.

25 STAFF DIRECTOR SALLO: So, not bad for my

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1 first year as Staff Director.

2 CHAIRMAN CASTRO: No.

3 (Simultaneous speech and laughter.)

4 STAFF DIRECTOR SALLO: I'm trying my best  
5 here. You get one win.

6 CHAIRMAN CASTRO: All right. Anything else,  
7 Madam Staff Director?

8 STAFF DIRECTOR SALLO: No, this is all.  
9 Thank you.

10 CHAIRMAN CASTRO: Any questions for her  
11 from anybody? No? Okay, we'll move on to the last item  
12 which is our State Advisory Committee appointments.

13 **IV. APPROVAL OF STATE ADVISORY**

14 **COMMITTEE SLATES**

15 CHAIRMAN CASTRO: So, we will turn to, let's  
16 see, Alabama is up first. So, I will make a motion to  
17 -- I am nominating a motion that the Commission appoint  
18 the following individuals to the Alabama Committee  
19 based upon the recommendation of our Staff Director;  
20 Valerie Askew, Mark Ayers, David Beito, Lula Bridges,  
21 Richard Finley, Stephen Gordon, Laid Javier-Ferrell,  
22 Randy Kelley, Raphael Maharaj, Kevin Newsom, Isabel  
23 Rubio, Maurice Shevin, L'Tryce Slade, Edward Still, and  
24 Alice Westery.

25 Pursuant to this motion, the Commission

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1 appoints David Beito as Chair of the Alabama State  
2 Advisory Committee. These members will serve as  
3 uncompensated government employees. Under this motion,  
4 the Commission authorizes the Staff Director to execute  
5 the appropriate paperwork for the appointments. Is  
6 there a second?

7 COMMISSIONER ACHTENBERG: Second.

8 CHAIRMAN CASTRO: Okay. Any discussion?  
9 Hearing none I'll call it for a vote. Commissioner  
10 Kirsanow, how do you vote?

11 COMMISSIONER KIRSANOW: Yes.

12 CHAIRMAN CASTRO: Commissioner Heriot, how  
13 do you vote?

14 COMMISSIONER HERIOT: Yes.

15 CHAIRMAN CASTRO: Commissioner Achtenberg,  
16 how do you vote?

17 COMMISSIONER ACHTENBERG: Yes

18 CHAIRMAN CASTRO: Commissioner Kladney,  
19 how do you vote?

20 COMMISSIONER KLADNEY: Yes.

21 CHAIRMAN CASTRO: Commissioner Yaki, how do  
22 you vote?

23 COMMISSIONER YAKI: Aye.

24 CHAIRMAN CASTRO: And I vote yes, so the  
25 slate passes unanimously.

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1 I am now going to make a motion that the  
2 Commission appoint the following individuals to the  
3 District of Columbia State Advisory Committee based  
4 upon the recommendation of our Staff Director: Farah  
5 S. Abbas, Nadia Jahan Fiorizv, Leila J. Levy, Melissa  
6 C. Tucker, Yisel Vales, Csheena Wadhawan, James J.  
7 Sandman, Sonia P. Gutierrez, Clyde J. Hart, Vernon  
8 Dexter Ingram II, Daniel P. Lips, Charles R. Lowery,  
9 Jr., Alan K. Palmer, Laurence D. Pearl, Edison G.  
10 Peterman, and Steven J. Wagner.

11 Pursuant to this motion, the Commission  
12 appoints -- who are we appointing Chair?

13 (Off microphone comment.)

14 CHAIRMAN CASTRO: Okay, James J. Sandman as  
15 Chairman of the District of Columbia State Advisory  
16 Committee. These members will serve as uncompensated  
17 government employees. Under this motion, the  
18 Commission authorizes the Staff Director to execute the  
19 appropriate paperwork for the appointments. Is there  
20 a second? Any discussion, questions? Commissioner  
21 Heriot?

22 COMMISSIONER HERIOT: I don't think this  
23 SAC is balanced properly so I plan to vote no.

24 CHAIRMAN CASTRO: Any other questions,  
25 comments? Hearing none I'll call it for a vote.

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1 Commissioner Kirsanow, how do you vote?

2 COMMISSIONER KIRSANOW: Not having had an  
3 opportunity to review the qualifications of the slate,  
4 I will abstain.

5 CHAIRMAN CASTRO: Okay. Commissioner  
6 Heriot, how do you vote?

7 COMMISSIONER HERIOT: I vote no.

8 CHAIRMAN CASTRO: Commissioner Achtenberg,  
9 how do you vote?

10 COMMISSIONER ACHTENBERG: Yes.

11 CHAIRMAN CASTRO: Commissioner Kladney,  
12 how do you vote?

13 COMMISSIONER KLADNEY: Yes.

14 CHAIRMAN CASTRO: Commissioner Yaki, how do  
15 you vote?

16 COMMISSIONER YAKI: Aye.

17 CHAIRMAN CASTRO: And I vote yes, so it  
18 passes with four yeses, one no, and one abstention.

19 I now make a motion that the Commission  
20 appoint the following individuals to the Washington  
21 State Advisory Committee based upon the recommendation  
22 of our Staff Director, Rita Zawaideh, Joel B. Ard, Tony  
23 R. Benegas, Robin R. Boehler, Duane M. French, Dan  
24 Goldhaber, Paul W. Guppy, Roxanne Husmann, Laurie D.  
25 McCubbin, David Nice, Diana Perez, Henry A. Yates, and

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1 Karen L. Yoshitomi.

2 Pursuant to this motion, the Commission  
3 appoints Rita Zawaideh as Chair of the Washington State  
4 Advisory Committee. These members will serve as  
5 uncompensated government employees.

6 Under this motion, the Commission  
7 authorizes the Staff Director to execute the  
8 appropriate paperwork for the appointments. Is there  
9 a second?

10 COMMISSIONER KLADNEY: Second.

11 CHAIRMAN CASTRO: Okay. Any discussion,  
12 questions? Hearing none I'll call it for a vote.  
13 Commissioner Kirsanow, how do you vote?

14 COMMISSIONER KIRSANOW: Yes.

15 CHAIRMAN CASTRO: Commissioner Heriot, how  
16 do you vote?

17 COMMISSIONER HERIOT: Yes.

18 CHAIRMAN CASTRO: Commissioner Achtenberg,  
19 how do you vote?

20 COMMISSIONER ACHTENBERG: Yes.

21 CHAIRMAN CASTRO: Commissioner Kladney,  
22 how do you vote?

23 COMMISSIONER KLADNEY: Yes.

24 CHAIRMAN CASTRO: Commissioner Yaki, how do  
25 you vote? Commissioner Yaki?

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1 COMMISSIONER YAKI: Aye.

2 CHAIRMAN CASTRO: And I vote yes. The slate  
3 passes unanimously.

4 I now make a motion that the Commission  
5 appoint the following individuals to the Nevada State  
6 Advisory Committee based upon the recommendation of our  
7 Staff Director, Bob Beers, Wendell C. Blaylock, Carol  
8 Del Carlo, Debra A. Feemster, David s. Fott, Belen P.  
9 Gabato, Kara M. Jenkins, Kay P. Kindred, Theresa E.  
10 Navarro, Matthew D. Saltzman, Angela D. Taylor, and  
11 Michael V. Zieba.

12 Pursuant to this motion, the Commission  
13 appoints Michael V. Zieba as Chair of the Nevada State  
14 Advisory Committee. These members will serve as  
15 uncompensated government employees.

16 Under this motion, the Commission  
17 authorizes the Staff Director to execute the  
18 appropriate paperwork for the appointments. Is there  
19 a second?

20 COMMISSIONER KLADNEY: Second.

21 CHAIRMAN CASTRO: Okay, any discussion, any  
22 questions? It sounds like one of our Commissioners on  
23 the phone took a cartoon fall out there. Is everybody  
24 okay?

25 (Laughter.)

1 COMMISSIONER KIRSANOW: It wasn't  
2 Kirsanow.

3 CHAIRMAN CASTRO: Okay. Well, we'll take a  
4 vote and find out. So, Commissioner Kirsanow, how do  
5 you vote on this slate?

6 COMMISSIONER KIRSANOW: Yes.

7 CHAIRMAN CASTRO: Commissioner Heriot, how  
8 do you vote?

9 COMMISSIONER HERIOT: Yes.

10 CHAIRMAN CASTRO: Commissioner Achtenberg,  
11 how do you vote?

12 COMMISSIONER ACHTENBERG: Yes

13 CHAIRMAN CASTRO: Commissioner Kladney,  
14 how do you vote?

15 COMMISSIONER KLADNEY: Yes.

16 CHAIRMAN CASTRO: Commissioner Yaki, how do  
17 you vote?

18 COMMISSIONER YAKI: Help me.

19 (Laughter.)

20 CHAIRMAN CASTRO: Is that a yes?

21 COMMISSIONER YAKI: Yes.

22 CHAIRMAN CASTRO: And I vote yes, the slate  
23 passes unanimously. That concludes our business.

24 **V. ADJOURN MEETING**

25 CHAIRMAN CASTRO: With nothing further, I

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1 will move to adjourn the meeting. Is there a second?

2 COMMISSIONER KLADNEY: Second.

3 CHAIRMAN CASTRO: All those in favor say  
4 aye.

5 (Chorus of ayes.)

6 CHAIRMAN CASTRO: All right. The meeting  
7 has adjourned at 2:44 Eastern Time. Thank you,  
8 everybody.

9 (Whereupon, the proceedings went off the  
10 record at 2:45 p.m.)

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