

BEFORE THE STATE OF INDIANA  
CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF NOVEMBER 20, 2009

- - -

PROCEEDINGS

before the Indiana Civil Rights Commission,  
Alpha Blackburn, Chairperson, taken before me, Donna  
T. Thor, a Notary Public in and for the State of  
Indiana, County of Madison, at the Indiana  
Government Center South, Conference Center Room A,  
402 West Washington Street, Indianapolis, Indiana,  
on Friday, the 20th day of November, 2009, at 10:30  
a.m.

WM. F. DANIELS d/b/a  
ACCURATE REPORTING OF INDIANA  
12922 BRIGHTON AVENUE  
CARMEL, IN 46032  
(317) 848-0088

**ORIGINAL**

A P P E A R A N C E S

COMMISSIONERS:

Ms. Alpha Blackburn, Chairperson  
Mr. David Carter, Vice Chairman  
Ms. Tehiji G. Crenshaw  
Mr. Barry Baynard

STAFF MEMBERS:

Mr. Tony Kirkland, Executive Director  
Ms. Joan T. Essex, Chief Financial Officer  
Judge Robert D. Lange  
Ms. Tawanda Sharp

Donna T. Thor,  
Court Reporter

1 10:30 a.m.  
2 November 20, 2009

3 CHAIRPERSON BLACKBURN: Good morning. The  
4 Indiana Civil Rights Commission is now in  
5 public meeting, and having established a  
6 quorum, you have some minutes to approve that  
7 we need to approve. May I have a motion to  
8 approve the minutes?

9 COMMISSIONER CRENSHAW: So moved.

10 CHAIRPERSON BLACKBURN: So moved.

11 COMMISSIONER CARTER: Second.

12 CHAIRPERSON BLACKBURN: All in favor?

13 (Unanimous in favor.)

14 CHAIRPERSON BLACKBURN: Anyone opposed?

15 (None opposed.)

16 CHAIRPERSON BLACKBURN: We'll move next to  
17 the financial report then.

18 MS. ESSEX: Good morning. I do not have a  
19 financial report in your packet. As some of  
20 you may know, we have switched over to a new  
21 accounting system, and the information was not  
22 available in time to make it into the packet,  
23 so we will have two months' financial  
24 statements in the next -- at the next meeting.

25 The one thing that I do want to make you

1 aware of is I'm sure you've heard the news  
2 then that there is a budget crunch or an  
3 economic crunch in the State of Indiana, and  
4 revenues are down some \$310 million from  
5 projections. The governor has asked that  
6 agencies who were previously asked to revert  
7 five percent of their annual appropriation to  
8 now revert 10 percent of that annual  
9 appropriation, and we are poised to be able to  
10 hit that 10 percent mark.

11 At the beginning of the year, of the  
12 fiscal year in July, we made a conscious  
13 decision to try to look at our overall  
14 spending with the anticipation that five  
15 percent was not going to carry through to the  
16 end of the year, so we are still looking at  
17 cost-saving measures where we can, things as  
18 simple as double siding on our printing, using  
19 our main copiers instead of personal copiers  
20 that use more ink and cost more money.

21 CHAIRPERSON BLACKBURN: Not replacing the  
22 toner quickly.

23 COMMISSIONER CRENSHAW: Once you get them  
24 streaks.

25 MS. ESSEX: Yes. So we're doing what we

1 can, and we will be able to make our 10  
2 percent reversion target. Hopefully 10  
3 percent is where it stays, but if it isn't,  
4 then we will continue to do what we can. And  
5 if anyone has any questions, I would be glad  
6 to take them.

7 COMMISSIONER BAYNARD: Will there be any  
8 layoffs because of this?

9 MS. ESSEX: Right now, that has not been  
10 stated. I think that everyone has a feeling  
11 that it is possible. We're hoping that --  
12 There is a furlough program that has been put  
13 into place asking employees to take time off  
14 with no pay. Some agencies --

15 MR. KIRKLAND: They don't want us to use  
16 that word, furlough.

17 MS. ESSEX: Right. I'm sorry.

18 MR. KIRKLAND: They want us to call it  
19 unpaid leave.

20 MS. ESSEX: Unpaid leave.

21 MR. KIRKLAND: Well, as you all know, of  
22 course Department of Administration did have a  
23 layoff last week, and each agency has been  
24 asked to evaluate. We are in the middle of  
25 evaluating all the positions that we have.

1 And as I met with the staff this week to let  
2 them know that, you know, as we talk about  
3 cost-cutting saving measures, you know, me and  
4 Joan and Ruby have been and Josh has been hard  
5 at work trying to make sure that we send in a  
6 justification according to the stats upon each  
7 and everyone's position. Even though with  
8 that right now, we hope that we're not asked.

9 If the layoff does come, it will be from  
10 Budget. Budget will be making that  
11 determination, you know, because as each  
12 agency is looked upon, just like IDOA, IDOA  
13 didn't even come up on the radar even though  
14 33 people were laid off. Also, the 33 removed  
15 recreates 1.6 million bucks in savings that  
16 they needed to get up under the budget.

17 So Budget is still reviewing everyone's  
18 budget and things that we're looking at trying  
19 to do. Me and Joan went before the Budget  
20 hearing two weeks ago, as we said, with many  
21 of the other agencies, and they was grilling  
22 the hard questions, okay, what you can live  
23 with, what you can live without, justify, you  
24 know, some of the things that we might be  
25 doing.

1           One of the things that we are trying to do  
2           in doing that, we definitely are trying to get  
3           our public awareness campaign back out that we  
4           are doing, you know, cases, because if we  
5           don't do the public awareness piece, if we  
6           don't get enough cases coming in, that starts  
7           to affect overall the bottom-line figure for  
8           us because that's how we make it, off of EEOC  
9           and HUD contracts. So definitely in the EEOC  
10          category, we're doing great. In our HUD  
11          category, we could still use some more cases  
12          and fan out.

13           MS. ESSEX: And we did just start an  
14           advertising, a small advertising campaign with  
15           IndyGo buses. That started on the 16th of  
16           November, and it will run for about 24 weeks.  
17           So we're hoping -- And that is just geared  
18           towards housing, so we're hoping that that  
19           will bring in some cases from the housing  
20           area.

21           COMMISSIONER BAYNARD: In the past we've  
22           done radio and television. Are we doing this  
23           that time?

24           MS. ESSEX: We are not, and the reason  
25           being that it is so terribly expensive, and we

1 just don't have the budget to support that,  
2 and we don't have -- In the past when we have  
3 run those types of ads on radio and TV, we  
4 were fortunate enough to have HUD grant  
5 dollars to help us do that. HUD has backed  
6 away from the advertising portion because they  
7 can't justify those expenditures any longer  
8 and putting those out in grants. We do have a  
9 Fair Housing Initiative Program grant in with  
10 HUD right now through the SuperNOFA. We  
11 should be hearing something on that I would  
12 say hopefully before January. That grant that  
13 we submitted was for regional forums to inform  
14 people of what housing discrimination is and  
15 their rights in foreclosure and different  
16 things like that, which is what HUD is gearing  
17 more towards now in getting away from the  
18 advertisement.

19 COMMISSIONER CRENSHAW: Well, I hope  
20 they'll think about it, because as you said,  
21 foreclosure, more and more people are losing  
22 their homes.

23 CHAIRPERSON BLACKBURN: Yeah.

24 COMMISSIONER CRENSHAW: This is the  
25 primary time for a landlord to say, "No, not



1           you group of people," and if they get away  
2           from that --

3           MS. ESSEX: Well, they're wanting us to  
4           basically go out and personally talk to  
5           individuals more so than using the airwaves  
6           and billboards and different things like that.

7           COMMISSIONER CRENSHAW: So more grass  
8           roots.

9           MS. ESSEX: More grass roots.

10          COMMISSIONER CRENSHAW: So are we looking  
11          at maybe doing some of these meetings next  
12          year around the state?

13          MS. ESSEX: If the grant goes through, we  
14          have six regional meetings scheduled as well  
15          as a housing forum in central Indiana, so the  
16          six regional will be in the six -- In fact,  
17          there are eight regions in the state. It's  
18          laid out through one of the housing  
19          partnerships. We even put in our prospectus  
20          that we would be willing to do eight and do  
21          one in each of the eight regions throughout  
22          the state.

23          CHAIRPERSON BLACKBURN: It will be  
24          interesting to see how that plays out because  
25          it sounds great, but I don't know about the

1 efficacy of that, of trying to reach people  
2 one on one in that way, because we have tried  
3 moving our meetings around. It's very  
4 difficult to get people with their normal  
5 day-to-day schedules to show up for a  
6 meeting --

7 MR. KIRKLAND: Right.

8 MS. ESSEX: Right.

9 CHAIRPERSON BLACKBURN: -- even if the  
10 information is valuable to them.

11 MS. ESSEX: And we've struggled with that  
12 as well. You think, okay, should we have this  
13 in the evening, should we have it on Saturday,  
14 should we have it during the week, and people  
15 work such different hours, and then there are  
16 child care concerns and things as that. So  
17 it's very difficult to try to find the time  
18 when you're assured that you're going to be  
19 able to get the most folks, and so we're going  
20 to try to do what we can in that area.

21 CHAIRPERSON BLACKBURN: So there's no  
22 money for radio, there's no money to show up  
23 during the morning show to let people know  
24 what the real deal is, which is where they're  
25 listening.

1 MS. ESSEX: Right.

2 CHAIRPERSON BLACKBURN: You know, you need  
3 to get people where they are.

4 MS. ESSEX: Right.

5 MR. KIRKLAND: It's just like, you know,  
6 just like with the one case we got with the  
7 borough out there. I think we've gotten more  
8 popularity here over the last three weeks just  
9 in general. Josh was on Amos. I'm on Terri  
10 Dee's Sunday morning. You know, but also I'm  
11 talking not just about that particular  
12 incident. You know, I'm talking about what  
13 Civil Rights, what are we doing --

14 CHAIRPERSON BLACKBURN: Exactly.

15 MR. KIRKLAND: -- things that are needed  
16 so when we get these one-on-ones, these  
17 opportunities, like you have one shot to try  
18 to put out what actually -- what this office  
19 does. So that could be a challenge. Then  
20 usually you get those callers, but what you  
21 want to do, like I was doing Saturday, you go  
22 ahead with the concerned clergy because you're  
23 trying to explain to them, hey, if there's  
24 individuals that's having problems with  
25 discrimination in housing as well as in

1 unemployment, you know, please give our office  
2 a call, you know, because you've got to try to  
3 go out and drum up business.

4 CHAIRPERSON BLACKBURN: Okay, very  
5 interesting. Is there any old business?

6 Under new business, we have the meeting  
7 scheduled for 2011. It's like Oprah's notice.

8 JUDGE LANGE: Well, we have to get the  
9 room. To get a room this size, we need to  
10 have asked for it quite some time ago.

11 CHAIRPERSON BLACKBURN: We have to tease  
12 you just a little bit for getting these  
13 schedules out two years out, but it's helpful.

14 Findings of fact. Oh, we have a consent  
15 agreement, sorry, under E. No?

16 COMMISSIONER CARTER: I don't think we  
17 have any.

18 CHAIRPERSON BLACKBURN: Then we are on to  
19 findings of fact, conclusions of law, and  
20 order. Based on your agenda, it's Abney  
21 versus Deluxe Coatings, Inc. Do we have a  
22 motion to accept the findings?

23 COMMISSIONER CARTER: So moved.

24 COMMISSIONER CRENSHAW: Second.

25 CHAIRPERSON BLACKBURN: All in favor?

1 (Unanimous in favor.)

2 CHAIRPERSON BLACKBURN: Anyone opposed?

3 (None opposed.)

4 CHAIRPERSON BLACKBURN: Thank you. And  
5 move now then to report by commissioners on  
6 the complaint appeals.

7 Commissioner Carter.

8 COMMISSIONER CARTER: Madam Chair, in the  
9 case of Anderson versus Northwest Properties,  
10 LLC, I recommend that we accept the deputy  
11 director's finding of no probable cause.

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

14 COMMISSIONER BAYNARD: I'll make the  
15 motion to accept the recommendation.

16 CHAIRPERSON BLACKBURN: And a second?

17 COMMISSIONER CRENSHAW: So moved -- or  
18 second, I'm sorry.

19 CHAIRPERSON BLACKBURN: All in favor?

20 (Unanimous in favor.)

21 CHAIRPERSON BLACKBURN: Anyone opposed?

22 (None opposed.)

23 CHAIRPERSON BLACKBURN: Thank you.

24 Commissioner Baynard?

25 COMMISSIONER BAYNARD: Yes, Madam Chair.

1 In the case of Ukpai versus Quail Run  
2 Associates, I would recommend that we accept  
3 the director's finding of no probable cause.

4 CHAIRPERSON BLACKBURN: May I have a  
5 motion to accept that recommendation?

6 COMMISSIONER CARTER: So moved.

7 COMMISSIONER CRENSHAW: Second.

8 CHAIRPERSON BLACKBURN: All in favor?

9 (Unanimous in favor.)

10 CHAIRPERSON BLACKBURN: Anyone opposed?

11 (None opposed.)

12 CHAIRPERSON BLACKBURN: Okay.

13 Commissioner Gidney.

14 MS. SHARP: We have no report from  
15 Commissioner Gidney nor from Commissioner  
16 Ramos.

17 CHAIRPERSON BLACKBURN: All right. I'd  
18 like to then assign commissioners for review  
19 of these appeals.

20 Commissioner Carter, Gavin versus City of  
21 Marion and Hoffman versus Willow Lake  
22 Condominium Association.

23 Commissioner Baynard, Morrison versus East  
24 Washington Rural Water Corporation.

25 Commissioner Crenshaw, Artis versus

1 Wal-Mart, and if you would also review  
2 Thompson versus Joseph Hartsough & Preferred  
3 Real Estate.

4 And I will review Streeter versus State  
5 Farm Insurance and Ross versus Mt. Vernon  
6 Community Schools.

7 Did we assign all of them?

8 COMMISSIONER CRENSHAW: Yes.

9 CHAIRPERSON BLACKBURN: Okay. An  
10 administrative update, please.

11 MR. KIRKLAND: Okay. As you all have  
12 before you, you do have the monthly production  
13 report. As I said, it seemed like we picked  
14 up a little bit of spending in the intake area  
15 where we're getting a lot of calls. A lot of  
16 calls are starting to come in just due to the  
17 nature I guess of one particular case, but we  
18 hope to continue that. We do have another  
19 case as relates to the State Fairgrounds  
20 that's starting to brew, so we've got to see  
21 how this shapes out. Those are some -- and  
22 I've noticing that the phone is steadily  
23 ringing.

24 We also have adjusted the office hours due  
25 to the fact that trying to hone in and trying

1 to make sure that we have -- I guess the best  
2 way to put it is that we are being utilized to  
3 the best of our ability and making sure that  
4 the office is functional. Our office hours  
5 have now went from 8:00 to 5:30 where we have  
6 shifts that starts from 7:30 to 4:00, and we  
7 have individuals that are there till 5:30, so  
8 we have some overlapping to make sure that we  
9 can be effective and do what we need to do.

10 The deputy director is pretty much on  
11 track with our cases and contracts with EEOC  
12 as well as HUD. So we seem to be on target to  
13 make those contracts, and right now we seem to  
14 be ahead in particular with EEOC. But EEOC,  
15 we have the largest number of volume of cases  
16 that need to be investigated here. So the  
17 average we have, average case load of  
18 individuals that's working on the employment  
19 side is running about 72 per employee. In our  
20 housing unit, we are looking at approximately  
21 about 26 per investigator, but of course  
22 housing takes a longer time to investigate.

23 So hopefully with that, we also are -- Our  
24 mediation is picking up. We have a contract  
25 with the City of Indianapolis. We also have



1 submitted contracts to Bloomington as well as  
2 Evansville as well as South Bend because one  
3 of the things, the services that we are  
4 starting to offer is our mediation. Plus we  
5 also have a contract with EEOC to do regular  
6 mediation, but this is outside, and those  
7 dollars are coming again to the agency.  
8 They're looking towards the general budget.  
9 So we had our first case we mediated for the  
10 City of Indianapolis what, two weeks ago,  
11 which turned out to be a pretty nice, sizable  
12 amount that they mediated and settled for. So  
13 we're really trying to make sure that we get  
14 an opportunity for individuals to get a chance  
15 to mediate a case as opposed to going through  
16 the long process. And, you know, it works  
17 good when both the complainant and the  
18 respondent --

19 CHAIRPERSON BLACKBURN: It's a more costly  
20 process.

21 MR. KIRKLAND: Right. When they realize,  
22 okay, we need to come to a happy medium, that  
23 works out real good. So hopefully we can keep  
24 that going.

25 Outside the agency functions, we're still

1 involved with being involved with Project  
2 Census. As you know, IDO Commissioner Everson  
3 has been assigned to represent the state.  
4 We've been assigned to work with Commissioner  
5 Everson, Office of Civil Rights, so we're  
6 trying to work it, see how that layout goes as  
7 we try to get the word out about being counted  
8 for for the census. So hopefully that is  
9 going. And Ruby Bowman is heading that up for  
10 us, so I hope that works out pretty good. So  
11 other than that, that's it. We're staying  
12 busy.

13 CHAIRPERSON BLACKBURN: Is the census  
14 activity focused on public information or are  
15 we actually having people --

16 MR. KIRKLAND: No, public information.

17 CHAIRPERSON BLACKBURN: Oh, okay.

18 MR. KIRKLAND: No, we're not actually  
19 doing it.

20 CHAIRPERSON BLACKBURN: Counting heads.  
21 You're not counting heads?

22 MR. KIRKLAND: No, we're not doing that.

23 CHAIRPERSON BLACKBURN: All right.

24 MR. KIRKLAND: No, we're not doing that.

25 CHAIRPERSON BLACKBURN: All right. Very

1 good.

2 Are there any announcements? Nothing  
3 going on?

4 MR. KIRKLAND: January 14th, the Martin  
5 Luther King Holiday Commission will be having  
6 the Martin Luther King celebration here at the  
7 State House Rotunda. We'll have -- actually  
8 have for the youth program, which will take  
9 place at 9:00 -- Is that correct?

10 MS. ESSEX: 9:30.

11 MR. KIRKLAND: 9:30. And Chelsea Hulleman  
12 is the youth speaker. And for the noon day  
13 speaker, which will be held at the Rotunda,  
14 will be Mayor Young from Philadelphia,  
15 Mississippi, so he will be here.

16 You're supposed to get documentation on  
17 Monday he said.

18 MS. ESSEX: Oh, okay.

19 MR. KIRKLAND: I talked to him this  
20 morning, because he called. So he's looking  
21 forward to being here, and I think that will  
22 be a great program. I think Joan and the  
23 committee have worked hard along with the  
24 Martin Luther King Commission to make sure  
25 that that works out.

1           Are you available in particular, Madam  
2 Chair? Because I need to get that on your  
3 radar.

4           CHAIRPERSON BLACKBURN: I'm going to put  
5 it on my radar right now.

6           MR. KIRKLAND: Well, you know, because I  
7 know he told me this morning that he talked  
8 with people at CNN, and he was asking for his  
9 schedule layout, so he told me he's supposed  
10 to be here in Indianapolis. So, you know, if  
11 he's -- if CNN is following him around on the  
12 first year of the elections, you know the  
13 magnitude of it.

14           For those that don't know, Philadelphia,  
15 Mississippi, was the heat of one of the places  
16 where the civil rights was at an all-time  
17 high, also the same place where the three  
18 civil rights workers were killed. And  
19 Philadelphia made history this year with the  
20 first black mayor, and I guess, yes, they had  
21 other towns in Mississippi with black mayors,  
22 but the thought of Philadelphia, Mississippi,  
23 having one is like a long shot, you know. And  
24 the other thing I'm excited about is me being  
25 from that area, it's exciting, so.

1 MS. ESSEX: And the youth summit or the  
2 youth educational piece will be at the state  
3 museum from 9:30 to 11:30, 12:00 at the very  
4 latest, and then the Rotunda is strictly the  
5 state employee celebration, and that will run  
6 from 12:30 to 1:30.

7 CHAIRPERSON BLACKBURN: What time do you  
8 want us there? And do you have a part for me  
9 to play or you just want me to be there?

10 MR. KIRKLAND: Strongly, it could be.  
11 There may be some photo ops with the governor  
12 and you. That's the reason why I was asking,  
13 and if the CNN guys show up, you know.

14 MS. ESSEX: So I would say be there 12:00,  
15 quarter till.

16 MR. KIRKLAND: Yeah, quarter till.

17 CHAIRPERSON BLACKBURN: Okay.

18 MS. ESSEX: And we'll be sending  
19 invitations out, formal invitations out to  
20 everyone. After the Thanksgiving holiday,  
21 those will go out.

22 MR. KIRKLAND: Yeah. So we'll have all  
23 the legislators as well, invitations going to  
24 them as well as the city council.

25 COMMISSIONER CARTER: That just all

1 reminded me that on the front page of the  
2 Bloomington paper this morning, there was the  
3 announcement that Jesse Jackson is coming to  
4 Bloomington for the King ceremonies.

5 MS. ESSEX: Really?

6 COMMISSIONER CARTER: So not to upstage or  
7 anything.

8 CHAIRPERSON BLACKBURN: No, but that's  
9 good.

10 COMMISSIONER CARTER: Philadelphia,  
11 Mississippi, is a big deal.

12 MS. ESSEX: If he's in Bloomington, he  
13 might want to come to this event.

14 MR. KIRKLAND: You know the day that they  
15 announced it?

16 COMMISSIONER CARTER: No. I just saw the  
17 headline as I was leaving the house. As I  
18 said, visibility was bad.

19 MR. KIRKLAND: That's true, yeah.

20 CHAIRPERSON BLACKBURN: You just tell  
21 Jesse CNN is going to be here, and he'll be.

22 MR. KIRKLAND: That's exactly what I was  
23 going to say. I'm glad you said that because  
24 that's what I was thinking.

25 COMMISSIONER CRENSHAW: That's still out

1 of line.

2 MR. KIRKLAND: That's what I was just  
3 thinking. It's strange, like you're reading  
4 my mind, all you got to do is tell him CNN is  
5 here, you know, he'll bounce right in.

6 CHAIRPERSON BLACKBURN: It's close enough  
7 that he could come.

8 MS. ESSEX: Yes.

9 MR. KIRKLAND: Yes.

10 CHAIRPERSON BLACKBURN: Put it on his  
11 radar.

12 COMMISSIONER CARTER: Bring his posse with  
13 him.

14 CHAIRPERSON BLACKBURN: All right. Any  
15 other announcements?

16 COMMISSIONER CRENSHAW: Are you inviting  
17 like mayors across the state?

18 MR. KIRKLAND: You know, that's a thought.  
19 We've been trying to get with them. We can do  
20 that.

21 MS. ESSEX: We very well can.

22 COMMISSIONER CARTER: But not sheriffs.

23 CHAIRPERSON BLACKBURN: Huh?

24 MR. KIRKLAND: Not sheriffs.

25 COMMISSIONER CARTER: Sorry. Goodman in

1 Goodman, Schwerner and Cheney was a neighbor  
2 of mine.

3 CHAIRPERSON BLACKBURN: Really?

4 COMMISSIONER CARTER: Yeah.

5 CHAIRPERSON BLACKBURN: You have the dates  
6 of the next meetings, as do I. And if there  
7 are no further announcements, we are  
8 adjourned.

9

- - -

10 (Whereupon the proceedings of November 20,  
11 2009, were concluded at 10:52 a.m.)

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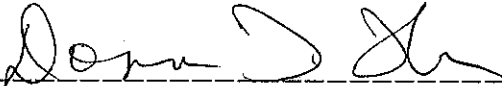


1 STATE OF INDIANA )  
2 COUNTY OF MADISON ) S.S.

3  
4 CERTIFICATE OF COURT REPORTER

5 I, Donna T. Thor, a Notary Public at large in  
6 and for the State of Indiana, do hereby certify that  
7 the above proceedings were taken down in shorthand  
8 notes and reduced to typewriting by me, and that the  
9 typewritten transcript is a true and complete record  
10 of the proceedings taken by me.

11 IN WITNESS WHEREOF, I have hereunto set my hand  
12 and affixed my notarial seal this 23rd day of  
13 November, 2009.

14   
15 -----  
16 DONNA T. THOR, Notary Public  
17 A resident of Madison County, IN

18 My Commission Expires: DONNA T. (BRAVENDER) THOR  
19 August 10, 2013  
20  
21  
22  
23  
24  
25