

MEETING OF THE HOUSE SELECT COMMITTEE
TO INVESTIGATE ALLEGED MISCONDUCT AND OTHER MATTERS
INCLUDED IN INDICTMENTS REGARDING
REPRESENTATIVE THOMAS E. WRIGHT

TRANSCRIPT OF THE PROCEEDINGS

March 3, 2008

THE SELECT COMMITTEE:

Rep. Rick Glazier, Chair
Rep. Paul Stam, Vice-chair
Rep. Marvin Lucas
Rep. William McGee
Rep. Edith Warren
Rep. Laura Wiley

In Raleigh, N.C.
11:03 A.M.

Reported by:
Katherine M. Becker

1 THE CHAIR: This House Select Committee
2 to Investigate the Alleged Misconduct and Other
3 Matters Included in Indictments Against
4 Representative Thomas E. Wright is now in order.
5 It is March 3rd, 2008, at approximately eleven-oh-
6 three A.M. in Room 544 at the Legislative Office
7 Building. This meeting is called to order.
8 Again, as everyone knows, the meeting is
9 being recorded by a court reporter, so I am going
10 to, for the record, ask the people who are on staff
11 to introduce themselves, and as well so that
12 Counsel know who they may need to go to at breaks
13 or otherwise. And I'll begin on the back row with
14 Mr. Gehron.
15 MR. GEHRON: Jake Gehron, office of
16 Representative Glazier.
17 MS. HUNTLEY: Denise Huntley, research
18 staff.
19 MR. REAGAN: Walker Reagan, Committee
20 co-counsel.
21 MR. KREHELY: Brad Krehely, staff
22 attorney with the Research Division, and Committee
23 co-counsel.
24 MS. GOLDSMITH: Kory Goldsmith, Committee

1 co-counsel and staff attorney.
2 MS. FENNELL: Heather Fennell, Committee
3 co-counsel and staff attorney.
4 THE CHAIR: Ms. Savel?
5 THE CLERK: Carin Savel, Committee clerk.
6 THE CHAIR: Members of the Committee?
7 REP. STAM: Paul Stam, Vice-Chair.
8 THE CHAIR: Rick Glazier, Chairman.
9 REP. WARREN: Edith Warren, Committee
10 Member.
11 REP. MCGEE: Bill McGee, Committee
12 Member.
13 REP. LUCAS: Marvin Lucas, Committee
14 Member.
15 REP. WILEY: Laura Wiley, Committee
16 Member.
17 THE CHAIR: Counsel, please. Mr. Hart?
18 MR. HART: William Hart, Special Counsel.
19 MR. PETERS: Alexander Peters, Special
20 Counsel.
21 PROF. JOYNER: Irving Joyner, attorney
22 for Representative Wright.
23 REP. WRIGHT: Representative Thomas
24 Wright.

1 MR. HARRIS: Doug Harris, attorney for
2 Representative Wright.
3 THE CHAIR: And to my right is Katherine
4 Becker, court reporter, as has been at previous
5 hearings.
6 All right. Members of the Committee, I'm
7 going to give you some instructions now as we start
8 our process. We have now reached the evidentiary
9 stage of our investigation into the allegations
10 against Representative Wright of unethical conduct.
11 In accord with the Committee rules, I have asked
12 Committee's outside legal counsel, Bill Hart and
13 Alec Peters, to prepare the presentation of
14 evidence against Representative Wright to be
15 presented to you today.
16 In accord with the Rules, Representative
17 Wright has been supplied with a list of witnesses
18 Mr. Hart and Mr. Peters have considered calling.
19 He has also been presented with a copy of all
20 documents Mr. Hart and Mr. Peters might want to
21 offer into evidence at this hearing.
22 Representative Wright was requested to
23 present the Committee with a list of witnesses he
24 might want to call in his defense, but has not done

so at this time, arguing that to do so would violate his Constitutional rights.

Under the Rules, Mr. Hart and Mr. Peters will have the burden of proving by clear and convincing evidence that the allegations contained in Counts 1 through 8 as adopted by the Committee and sent to Representative Wright are true. Representative Wright will have the opportunity to cross-examine the witnesses and to ask the Committee to consider witnesses and any other evidence he might want the Committee to consider.

Our consideration in this hearing will be in two parts. The first part will be to hear the testimony of all the witnesses and consideration of all evidence on both the fact-finding and potential dispositional issues. After all the evidence is presented, the Committee will then be asked to consider for each outstanding count that remains whether the conduct alleged in the count was committed and whether that conduct that was committed constitutes unethical conduct. Both questions must be proved by clear and convincing evidence for there to be a finding against Representative Wright. If they are not, there will

be a finding in his favor.

If the Committee finds that one or more of the counts are true, the second consideration will be to determine what the appropriate sanction for the unethical conduct is. The Committee will then hear arguments from the Committee's outside legal counsel and Representative Wright on what the appropriate sanction or sanctions should be for the conduct. The Committee would then decide its recommendation to the House of Representatives on sanctions.

Legal counsel will be permitted to make opening statements before the evidence is presented and closing arguments after all of the evidence is heard. In accord with the Rules, legal counsel for both sides will be permitted to question each witness first, with direct examination, cross-examination, redirect examination, and recross-examination.

After that process is completed, each Committee Member will be permitted to ask a series of questions in the order set out on the sheet that I have provided to you and that is in front of your desk. After each Committee Member has been given

an opportunity to ask questions, Committee Members will then be given a chance to ask additional follow-up questions.

Under the Rules, all questions to be asked of the witness must be relevant, they must have probative value as to some substantive issue in the case, and may not be a waste of time or redundant. Committee outside legal counsel, Representative Wright's counsel, and any member of the Committee may object to a question before the question is answered. If a question is objected to, the Chair will rule on whether or not the witness should now be allowed or should not be allowed to answer the question. The witness shall not answer the question until the ruling is issued, so, Counsel, would you please instruct any of your witnesses--in fact, all of your witnesses--in that regard?

After the Chair's rule, any Committee member who disagrees with the ruling of the Chair may object to the ruling by simply making a motion that the ruling of the Chair be overruled. You have been provided with information on the procedure for objecting to a question and for

objecting to the ruling of the Chair.

Are there any questions at this point from any Committee members or counsel on those procedures that we will follow?

Seeing none, Members, you now have two notebooks in front of you today. One is your regular Committee notebook. Much of the information you need is found behind the last tab marked "3-3-08 Meeting." Behind this tab is a copy of the amended counts or charges against Representative Wright. Additionally, there is a revised chart of prior disciplinary actions against legislators in other states, and there is also a copy of the North Carolina Constitution behind this tab.

The other notebook is an exhibits notebook. Currently this notebook contains all of the evidence that Mr. Hart and Mr. Peters might ask to be introduced and considered as part of this proceeding. This evidence has been previously supplied to Representative Wright and his counsel.

The exhibits from Mr. Hart and Mr. Peters are currently marked in your notebook as Exhibits 1 through 19. If Representative Wright offers any

evidence for introduction, his exhibits will be marked as Exhibits A through Z, as necessary, and will be placed in your notebooks behind the white exhibits tab. Since a notebook of the exhibits will be available to the witnesses who will testify to my left, the exhibits will not be handed out, but will be referred to merely by their exhibit number or their exhibit letter.

Any questions about the exhibit notebook?

All right. Seeing none, before we begin opening statements, I had asked Brad Krehely, Committee co-counsel, to give you some short background on the evidentiary standard of proof that will apply in this proceeding. After Mr. Krehely's presentation is completed, we'll have one procedural matter to undertake, and then we'll go and move into opening statements.

Mr. Krehely?

MR. KREHELY: Thank you, Mr. Chairman. members of the Committee, good morning. My name is Brad Krehely, and I'm a staff attorney with the research division and co-counsel to this Committee. The Chair has asked me to give you a brief educational presentation about the clear and

indicates that in North Carolina, these standards generally mean the same thing, and I will try to use the terminology "clear and convincing evidence" because that's the standard that's mentioned in our rules.

Now, there are three levels or degrees of proof in North Carolina, and I'm going to tell you about all three so that you have some context for how "clear and convincing evidence" fits into the bigger picture.

Clear and convincing evidence is not proof beyond a reasonable doubt. That's the standard you would need to apply to convict someone of a crime, and that standard would be too high for this proceeding, because this Committee is not a criminal court of law. Reasonable doubt is a doubt based on reason and common sense arising out of some or all of the evidence that has been presented, or lack or insufficiency of the evidence, as the case may be. Proof beyond a reasonable doubt is proof that fully satisfies or entirely convinces you of the defendant's guilt. Now, once again, that's the standard you use in a criminal case, and so that would be too high for

convincing evidence standard. I've handed out a one-page document entitled "Definition of Clear and Convincing Evidence," and it's in your notebooks behind the March 3rd, 2008, tab after the agenda and the amended counts.

The clear and convincing evidence standard arises under Rule C.14 of the Committee's Rules. That rule states, "After hearing evidence on the substantive issues of the alleged unethical and unlawful conduct by the accused legislator, the Committee shall address, one, whether by clear and convincing evidence one or more of the charges against the accused legislator is true; and two, if so, what action will be taken by the Committee.

So, what is clear and convincing evidence? First, clear and convincing evidence is not defined in the Committee's rules. However, the standard is a standard of evidence in some situations in North Carolina. Second, this standard of proof is labeled in three different ways under North Carolina law: One is "clear, strong, and convincing evidence"; two is "clear, cogent, and convincing evidence"; and three is "clear and convincing evidence." Our research

this proceeding.

Now, on the other end of the spectrum, clear and convincing evidence is not simply the preponderance, or greater weight, of the evidence. The preponderance, or greater weight, of the evidence is the standard used in most civil cases, and you'll hear both of those terms used, and they mean the same thing. The preponderance, or greater weight, of the evidence does not refer to the quantity of the evidence, but rather to the quality or convincing force of the evidence. It means that you must be persuaded, considering all of the evidence, that the necessary facts are more likely than not to exist. And once again, this standard is lower than the clear and convincing evidence standard.

Now, in those situations where a clear and convincing evidence standard applies, North Carolina courts have explained what that standard means. For example, in a juvenile abuse, neglect, or dependency proceeding, the allegations must be proved by clear and convincing evidence. In those cases, North Carolina courts have described "clear and convincing evidence" as evidence which should

fully convince. Similarly, in attorney discipline proceedings, the standard is "clear, cogent, and convincing evidence." And this has also been described as the evidence which should fully convince.

Finally, there is a pattern jury instruction for clear, strong, and convincing evidence which instructs jurors in the following way: "Clear, strong, and convincing evidence is evidence which, in its character or weight, establishes what the party with the burden of proof seeks to prove in a clear, strong, and convincing fashion. The jury shall interpret and apply the words--and apply the words 'clear,' 'strong,' and 'convincing' in accordance with their commonly-understood and accepted meanings in everyday speech."

So, to summarize, the clear and convincing evidence standard is the middle standard; it's stricter than the preponderance, or greater weight, of the evidence, which is the regular civil standard, but it's not as high as the criminal burden of proof beyond a reasonable doubt; North Carolina appellate courts have described

clear and convincing evidence as evidence which should fully convince; and finally, the pattern jury instructions emphasize giving clear and convincing evidence their commonly used and under--excuse me--their commonly understood and accepted meanings in everyday speech.

Mr. Chairman, this concludes my remarks about the clear and convincing evidence standard.

THE CHAIR: All right. Thank you very much, Mr. Krehely. With that, we are now going to move to one logistical matter that we have. Before we move to opening statements from the lawyers, I understand, Mr. Hart, that you would like to be heard with regard to Count 6 of the charges against Representative Wright.

Mr. Hart, you're recognized.

MR. HART: Thank you, Mr. Chairman. As the Committee is aware, during the pendency of this investigation, we have been at times unable to conduct a--a complete investigation of some matters because we never had a copy of the complete SBI file, and still--still do not, although we have had access to a--to most of it. We are in a position where we are recommending that the Committee

withdraw Count 6 from consideration at this hearing, and would like to reserve the right to bring evidence on this count before the Committee at a later time if that's warranted.

Over the weekend was the first time that I was actually able to speak to Teresa Hill Williams, a former employee of Southeast Community Credit Union, who I understood, from reading her report and talking to investigators, would be able to provide us with all of the testimony that we would need to proceed on that count. After talking with Ms. Williams, I now realize that we would need some other witnesses, who have not been subpoenaed and who cannot be at this hearing. And I would ask that the Committee would withdraw that count and sever it from consideration at--at this hearing.

THE CHAIR: All right. We'll--Vice-Chairman Stam?

REP. STAM: Mr. Chairman, I move that Count 6 be withdrawn without prejudice from consideration at this evidentiary hearing.

THE CHAIR: All right. Dr. Joyner, Mr. Harris, response to the motion to withdraw Count 6 from consideration at this hearing?

PROF. JOYNER: No--no--no response.

THE CHAIR: No response? All right. There's a motion by Representative Stam to withdraw Count 6 without prejudice from consideration at this hearing. Is there a second?

REP. WILEY: Second.

THE CHAIR: Second by Representative Wiley. Discussion or debate? Seeing none, all those in favor will vote 'aye,' all those opposed will vote 'no.' The clerk will call the roll.

THE CLERK: Chairman Glazier?

THE CHAIR: Aye.

THE CLERK: Vice-Chairman Stam?

REP. STAM: Aye.

THE CLERK: Representative Lucas?

REP. LUCAS: Aye.

THE CLERK: Representative McGee?

REP. MCGEE: Aye.

THE CLERK: Representative Warren?

REP. WARREN: Aye.

THE CLERK: Representative Wiley?

REP. WILEY: Aye.

THE CHAIR: That is unanimous, and we will not be proceeding in this proceedings on

1 Count 6. It will be reserved and held without
2 prejudice.
3 We now move to the beginning of the
4 hearing with regard to the charges pending before
5 us. In accord with the Rules, I instruct the
6 members of Committee that counsel for both sides
7 are now permitted to make opening statements. An
8 opening statement is a forecast of what the
9 attorney believes the evidence will be in the
10 hearing. By their opening statements, the
11 attorneys set forth the grounds for their
12 respective claims or defenses.
13 You should not consider an opening
14 statement as evidence. The evidence will come
15 instead in the form of sworn testimony of witnesses
16 or other evidence that may be introduced into
17 evidence as exhibits by the parties.
18 All right. Opening statement is first
19 with Committee counsel, Mr. Hart or Mr. Peters.
20 MR. HARRIS: Mr. Chairman--
21 THE CHAIR: Yes. I'm sorry. Mr. Harris?
22 MR. HARRIS: Before we commence on
23 opening statements, I--I wanted to address several
24 issues. The first is I wanted the Chair and the

1 Committee to be aware that there is a change of
2 circumstance since the ruling of the Chair, and
3 that changed circumstance is that a superior court
4 judge ruled last week that Thomas Wright and his
5 counsel had not had adequate time to prepare for
6 answering these charges. It was a ruling from a
7 superior court judge that substantially the same
8 charges before you have--have not--there has not
9 been adequate time for--for myself, for Mr. Joyner,
10 for Tom Wright to go over these matters, to conform
11 an adequate defense. And as the Chairman himself
12 noted, we--we, in fact, don't even have a defense
13 together yet.
14 Among other things, as I noted in court
15 last week, these matters are so old, dating from,
16 at times, 2001 and 2002, that, for example, I've
17 had to send for--I've had Tom Wright send for his
18 credit-card records to show things that he spent
19 money on related to these foundations. We don't
20 have those yet, don't expect to have those during
21 this hearing.
22 It makes it impossible for this Committee
23 to get a full picture and makes it impossible for
24 it to be a full hearing. And--and a judge so ruled

1 last week. And therefore, if there is to be a full
2 and fair hearing, we respectfully renew our motion.
3 THE CHAIR: And the renewed motion is to
4 continue this matter--is that the motion we're
5 referring to--hold it in abeyance?
6 MR. HARRIS: It--it is.
7 THE CHAIR: All right. Mr. Hart,
8 response, or Mr. Peters?
9 MR. HART: Mr. Chairman, I have not heard
10 anything presented that was different from what was
11 presented to this Committee the last time we were
12 here, and I don't feel there's any need to further
13 respond.
14 MR. HARRIS: What is different is a
15 superior court judge has so ruled.
16 THE CHAIR: I--I understand the--and
17 we're talking about Judge Hight, correct?
18 MR. HARRIS: Judge Hight.
19 THE CHAIR: Yes. If y'all will give me a
20 minute, I want to re-read your motion from the last
21 time. (Examines paperwritings.) Correct me if I'm
22 wrong: Mr. Hart, am I correct that the amount of
23 material that you have set out in your exhibits is
24 approximately two hundred and fifty to three

1 hundred pages of material--is that correct--of the
2 some seven thousand pages that may have existed in
3 the criminal discovery?
4 MR. HART: That's correct, Mr. Chairman,
5 not including what's on the CDs, which are
6 Representative Wright's bank accounts.
7 THE CHAIR: I understand. Am I also
8 correct that you have limited the case to ten
9 witnesses now? Is that correct?
10 MR. HART: It actually may be less than
11 that. We may not present more than seven or eight
12 witnesses.
13 THE CHAIR: But that--but those witnesses
14 were listed on the February 12th disclosure to
15 Representative Wright?
16 MR. HART: Yes, sir. That's correct.
17 THE CHAIR: All right.
18 MR. HART: And let me--if I may, let me
19 add this: Many of the allegations that are before
20 the Committee were before Representative Wright
21 since May of last year with the Board of Elections
22 hearing. In the fall, there was the inquiry by the
23 Legislative Ethics Committee, again with many of
24 the same allegations being involved, and

Representative Wright was aware of those and had an opportunity to respond to those allegations at that time, and then again before this Committee, when it began reviewing it in--in December, and Representative Wright has been aware of those allegations since--since that time.

THE CHAIR: All right. This matter is before the Chair of the Committee on motion by Representative Wright to renew his previous motion to continue or hold in--in abeyance the hearing on this matter on grounds that there's been inadequate time to prepare for the charges as--and relies in making that motion on the decision a week ago by Judge Hight in Wake County Superior Court as related to the criminal trial. Number--the issue's been argued by both counsel and is ready to be ruled upon.

Number 2, the criminal trial on the six felony counts pending against Representative Wright was scheduled to be heard in the Wake County Superior Court beginning on March 3, 2008, comma, but was continued by Superior Court Judge Hight until a time uncertain in the future this spring or summer, period.

the finding from the order on Motion 12. The ethics proceeding began in the Legislative Ethics Committee. The Legislative Ethics Committee withheld any action in the ethics case for a number of months to allow the criminal investigation and prosecution to make its determination of whether to proceed. The Legislative Ethics Committee determined there were grounds to refer this matter to the House for disciplinary considerations and withheld judgment on one count over which it retained jurisdiction.

The matter came to the House, and the Speaker appointed this Committee in December of 2007. The Committee established its rules on December 18, 2007, and probable cause was found on the eight counts, now seven counts, pending on January 9, 2008. Representative Wright at that time was provided a detailed list of the charges against him and a full opportunity to file a written response and prepare for any evidentiary hearing.

The Rules that have been established by the Committee detailed a reasonable time frame for the exchange of witnesses, the exchange of a

Number 3, the ethics case pending before this Committee differs both in quantity and quality from the criminal trial in superior court on a number of grounds. First, this is not a court of law; it is a Legislative Committee hearing. Second, the Legislative Committee process has been pending either at the LEC or before this Committee since May of 2007, while the criminal proceedings have been pending in Wake County Superior Court only since indictment in December of 2007.

Second, the Wake County discovery includes somewhere between seven and eight thousand pages of material, which has been reduced to a maximum of three hundred pages of material to be used by Committee counsel.

Third, the number of witnesses appears to be potentially extensive in the Wake Superior Court trial. It has been limited to between seven and ten witnesses on the Committee counsel's case in chief in this proceeding.

Next, the ethics proceeding in this case has moved at a very deliberate pace to protect the rights of all involved, and most particularly those of Representative Wright. And I'm going to re-read

summary of their testimony, the exchange of documents, the subpoenaing of witnesses, and the time to prepare for any hearing. And at this hearing, Representative Wright is assured the right to testify, present evidence, cross-examine witnesses, and fully defend the charges. Those Rules and the time table are consistent with nearly every set of state ethics rules that were identified as those rules were developed in the United States.

Next finding: Most of the information received and that is contained in the three hundred pages are Representative Wright's own bank records or records related to transactions that were alleged to have been conducted by Representative Wright. Nearly all of the documents, the vast majority of the documents are and have been for some time available to Representative Wright even outside the context of any proceeding in this case or in the Wake County Superior Court.

None of--next finding: None of the counts pending are any different than counts that were alleged throughout 2007, either before the State Board of Elections or in information received

from a Health and Human Services investigation, or in matters pending before the Wake County grand jury.

Accordingly, I find that it--that the motion today to continue this hearing should be denied and any claim of inability to prepare for this hearing is not of merit. The motion is denied. Exception is noted.

Does any Member of the Committee seek to overrule the decision of the Chair? All right. Those--that will be reduced into writing so it's available. Your exception is noted.

Mr. Harris, next matter?

MR. HARRIS: Mr. Chairman, and while we're talking about exceptions, I wish to elaborate on our exception to the--to the rulings from the--from the other session.

THE CHAIR: Sure.

MR. HARRIS: I noted, Mr. Chairman, that we were allowed oral arguments, which presumably the point of oral arguments is to persuade, and presumably they would be listened to and--and there might be some hope of winning. And I also noted that without hesitation or delay or time for

consideration, not for ten minutes, not for ten seconds, at the end of each time when poor Professor Joyner would argue, that the Chair would proceed to read from three and four and five pages of prepared remarks that had already been done, already been ruled upon.

And it--it seemed more than obvious to me and, indeed, the press noted that these decisions were written out in advance, to that point where our participating in oral argument was a mere charade. And Professor Joyner was arguing very strong legal points, very well-considered points. For that matter, I was arguing points and I wished to be listened to, and I found it very disturbing that the Chairman had prepared remarks already written out that had obviously been decided in advance.

And I know that judges oftentimes say "Let us take--I'll this into advisement," or they'll say, "Let me step back in chambers and consider this for a few minutes." And you know, whether they do or they don't, I don't know, but they at least have--they at least have the appearance of propriety. And this had the

appearance of impropriety, because it was apparent that these decisions were made before we even argued.

And if the Chair and this Committee felt that we weren't worth being listened to, then the Chair should have ruled based on the written arguments and told them [phonetic] they wouldn't entertain oral arguments. But if the Chair truly entertained oral arguments, the decisions should not have been written out all in advance. Thank you.

THE CHAIR: Thank you very much. Your objection is overruled. Exception is noted.

For the record, not a single one of my rulings was written out in advance. However, like any good presiding officer, I spent days preparing. I had read all the cases, I'd made notes, I'd read your motions, I'd read the response, and I had notes of questions I was going to ask and notes of points I felt I needed to make.

So you have made--you made your point. The Chair understands it, and it is overruled. It is simply factually totally incorrect, and those on this staff understand that, since I then spent the

next week and a half trying to put those written orders together. Your objection's overruled. Does the--exception is noted. Does the Chair's ruling cause any Member of Committee to seek to overrule to Chair?

All right. Thank you. Any other further points?

MR. HARRIS: Yes, Mr. Chairman. The next point I'd like to renew--and this is the most important point--

THE CHAIR: Sure.

MR. HARRIS: --is I'd like to renew my call for this matter to be continued so that we not pollute the jury pool and not have an adverse effect upon the criminal trial.

The criminal trial has now been rescheduled for March 31st, meaning it will fall a few weeks on the heel of the conclusion of this matter. And it's inevitable that things will be said in here that will be played on the press and played out over--over the airwaves and in--in the newspapers that will have an undeniable adverse effect upon a jury pool.

I note that all of you are State

officials, whether elected or employed. All of you are acting under color of state law. And this is not a mere opinion expressed by an individual or as a--as it might be in a newspaper editorial or under the guise of--under the normal operation of free speech, but this is a formal operation of the State.

And I--I note further in this particular instance my client has been exposed in an unusual way to--to an extra dose of adverse publicity. A moment ago, the Chair made reference to the fact there was a hearing before the Legislative Ethics Committee. The Chair will remember the Legislative Ethics Committee eventually ruled that there was no jurisdiction, which, indeed, there's not. And the reason for that is because of the very thing Professor Joyner noted, which is that these matters come from a prior legislative session.

Now, indeed, during this same time period, Fern Shubert, a former representative that you all know and a former state senator that you all know, made a complaint against Pryor Gibson. She made it in January 2007--

THE CHAIR: Well, we're not going to

get--we're not going to get into prior complaints, Mr. Harris.

MR. HARRIS: I'm not getting into a prior complaint. I'm pointing out the difference in what we have right here.

THE CHAIR: We're not going to get into a prior complaint before the Legislative Ethics Commission [sic]. If you have some point to argue with regard to Mr. Wright, you may do that.

MR. HARRIS: My point is that in a letter signed by you, Mr. Chairman, you said that there was no jurisdiction to hear that, and--and indeed--

THE CHAIR: Mr. Wright--Mr. Harris, we are not going to get into any discussion of anybody else's complaint before any other forum. Now, if you want to make an argument as to Mr. Wright, in Representative Wright's case, that's fine; otherwise, no argument as to--

MR. HARRIS: My--

THE CHAIR: --any other complaint.

MR. HARRIS: My argument, sir, is that in--in this instance, you as Chairman held no hearing, no--no adverse publicity was had, whereas--knowing there was no jurisdiction, whereas

in Tom Wright's case, an extra hearing was held before the Legislative Ethics Committee, and therefore my client was exposed to an extra week's worth of bad publicity, when--when you as Chairman knew or should have known there was no jurisdiction, because you signed the letter on July 24th, 2007, demonstrating there was--

THE CHAIR: Mr. Harris, your objection is overruled. Do not go there again. I am instructing you I will not hear argument as to any other complaint. If you want to argue as to Representative Wright and renewing your motion on--I'm speaking--

MR. HARRIS: Yes.

THE CHAIR: --as to polluting the jury pool, I'll be glad to hear you.

If you argue again as to a complaint outside the jurisdiction, your right as to this motion will be denied, and we will move on. Now, if you've got an argument, I'll hear you on it. Do not refer again to any matters outside of Representative Wright's case, please.

MR. HARRIS: I do have an argument. Representative Wright is a black man from New

Hanover County, and he is being tried both in the Legislative Ethics Committee and in this Committee, and a white man in exactly the same position was not. And that is a--that is a direct violation of the federal statutes, general--the U.S. statutes, 1981 and 1866 Civil Rights Act. When similar people are in similar situations, they must be treated the same, and what we have here is a white man being treated one way and a black man being treated another.

And I find it ironic that Representative Wright represents New Hanover County, Wrightsville, which is the very place where the 1898--the very place where the 1898 race--race riot took place, which began the Jim Crow era, and this is a Jim Crow proceeding if he gets treated differently. And I object to my client being treated in a Jim Crow manner in a hearing in 2008. It's totally against the law, and I'm saying that this ought not go forward. He ought to be treated the same.

THE CHAIR: All right. Mr. Hart? Thank you, Mr. Harris. Mr. Hart?

MR. HART: Mr. Chairman, much of the same argument that is being--is being presented on this

particular motion was presented before Judge Paul Ridgeway in Wake County Superior Court last week on a request for a temporary restraining order to prevent this Committee from moving forward. After the hearing and arguments of counsel, Judge Ridgeway made specific findings in Wake County Superior Court on the record, which he has reduced to writing and intends to sign a--an order this morning reflecting those--those findings.

Some of those findings include as--as follows: "The Court next considers the position of the Appellant that even if this matter is not justiciable under the Political Question Doctrine, the Court should nonetheless intervene by staying the proceedings of the House Select Committee because Representative Wright's Constitutional rights as a criminal defendant will be adversely affected in the parallel criminal case pending in Wake County. Allowing the House Select Committee's proceeding to continue, Representative-- Representative Wright argues, would cause irreparable harm by depriving him of a right to a fair trial in criminal court.

"Next, while it is axiomatic that a

criminal defendant is entitled to a fair trial by an impartial jury free from outside influence, the law also provides adequate remedies to protect defendants from having these rights abridged. For example, to the extent that Representative Wright is concerned that his testimony at a hearing before the House Select Committee will be used against him at a subsequent criminal trial, an adequate remedy already exists in the Constitutional privilege against self-incrimination.

"Likewise, N.C. General Statute 15A-957 provides the means by which a criminal defendant can petition the Court to change venue of a criminal trial if the defendant believes that pretrial publicity or other factors have caused so great a prejudice that he cannot receive a fair jury trial."

The Court went on to say as follows: "Moreover, it is not unusual for a criminal defendant to be subjected to parallel proceedings, such as civil trials or administrative hearings, involving the same subject matter as the criminal trial." He then cited several cases from the United States Supreme Court and various federal

circuits.

The Court went on as follows: "While the decision on whether to participate in the parallel proceedings or invoke one's Constitutional privilege against self-incrimination may present a difficult choice for a criminal defendant, the fact that this choice must be made does not in and of itself deprive the defendant of Constitutional rights. For these reasons, the Court finds that Representative has--Wright has not, for the purposes of his application for a temporary restraining order, demonstrated that he is likely to sustain irreparable harm unless the application is granted."

The Court went on to conclude that Representative Wright had not demonstrated a like--likelihood of success on the merits and had not demonstrated that he is likely to suffer irreparable harm which can only be prevented by an issuance of an injunction.

So many of the same arguments about the pollution of the jury pool were made before Judge Ridgeway, and Judge Ridgeway found that there was not--not a sufficient basis to restrain this

Committee from moving forward.

PROF. JOYNER: Mr. Chairman?

THE CHAIR: Dr. Joyner?

PROF. JOYNER: If--if I may--

THE CHAIR: Sure.

PROF. JOYNER: --I was involved in the hearing in the Wake County Superior Court, and I certainly acknowledge that we dealt with in that session what we dealt with.

What we did not deal with, however, was the specific claim that Attorney Harris is making of disparate treatment. That was not an issue that was before the Wake County Superior Court, and that is certainly the basis of the claim that Attorney Harris has made this morning before this Committee. And he has made it before this Committee because this is the Committee that is involved in these--in this proceeding. That would not have been a matter that would have been raised in the Wake County Superior Court and was not raised in the Wake County Superior Court.

So my--my point is that the--the--the focus of Attorney Harris' comment is not--has absolutely nothing to do with what we dealt with in

1 the Wake County Superior Court.
 2 THE CHAIR: All right. I think I
 3 understand the--the arguments. First, what I'm
 4 going to do on this--as the motion initially
 5 started out, which was a motion entitled to renew a
 6 prior motion, for all the reasons stated by Judge
 7 Ridgeway and for the reasons we stated in our order
 8 denying it initially, the motion is denied.
 9 Exception is noted.
 10 And does that particular ruling cause any
 11 member of the Committee to seek to overrule the
 12 Chair? That's as to the initial motion.
 13 Dr. Joyner, I do agree with you, though,
 14 that the motion as it was argued by Mr. Harris took
 15 a different twist as it was subsequently argued.
 16 And as to that subsequent motion as it relates to
 17 any claim of disparate treatment, that is a new
 18 motion, a dispositive motion potentially, that was
 19 not ever briefed, ever argued, or given to us
 20 consistent with the scheduling order for
 21 dispositive motions, and it is new. In that matter
 22 and for that reason, I could summarily deny the
 23 motion, but will not.
 24 What I will ask you to do is to submit

1 would be our position we should have been informed
 2 of this information, since it has exact parallels
 3 to Tom Wright--but we heard this as a result of
 4 a--of a contact from former representative--former
 5 senator Fern Shubert. She contacted us on
 6 Thursday. This is brand-new information for us.
 7 And she indicated that she was--although she is a
 8 Republican, that she was disgusted at the treatment
 9 of Tom Wright and she thought there were clear
 10 parallels with Pryor Gibson, and she didn't
 11 understand why he was being treated differently.
 12 So that's how it came to our attention.
 13 THE CHAIR: That's fine. Mr. Harris, I
 14 will receive your written motion on it, allow
 15 Mr. Hart to respond. We'll examine it, and we'll
 16 go from there.
 17 All right. Any further motions? There
 18 being none, we will return to exactly why we are
 19 here, back to the issue, and that issue is whether
 20 or not there is clear and convincing evidence as to
 21 any count. And we will open the hearing on those
 22 matters with opening statement by Mr. Hart.
 23 MR. HART: Mr. Chairman, Members of the
 24 Committee, we are here to present evidence in the

1 that motion in writing, and we will undertake a
 2 discussion of that motion and a ruling on that
 3 motion either at the end of the day, or if it's
 4 impossible to get it done by today, then in the
 5 morning. And I understand the difference, and I
 6 understand the disparity--disparate treatment
 7 argument being made. But if you wish to pursue
 8 that motion, it will be in writing, as dispositive
 9 motions should be. And I will ask you to serve
 10 Mr. Hart and Mr. Peters so they can respond. And I
 11 will hear it as best that I can hear it and make a
 12 decision at a later time in these proceedings as to
 13 that motion--the twist on that motion that came.
 14 But as to the renewed motion as it
 15 started out, nothing is new, nothing different than
 16 from what was argued before that was denied or that
 17 Judge Ridgeway denied, and that is overruled for
 18 the same reasons. And exception's noted. All
 19 right.
 20 Any further motions?
 21 MR. HARRIS: I--I--
 22 THE CHAIR: Mr. Harris?
 23 MR. HARRIS: I wanted to note that we
 24 were not in the possession of this information--it

1 matter of Representative Thomas Wright that will
 2 show you, by clear and convincing evidence, that
 3 between the years 2000 and 2006 Representative
 4 Thomas Wright engaged in a pattern of improper,
 5 unethical, and criminal conduct while a legislator
 6 in this General Assembly.
 7 The types of conduct that are involved in
 8 what we will be showing in evidence involve a
 9 failure to disclose approximately one hundred and
 10 eighty-five thousand dollars (\$185,000) in campaign
 11 contributions during that time period; a failure to
 12 disclose the existence of a number of different
 13 campaign accounts and personal accounts that he
 14 funneled his campaign contributions into during
 15 that time period; solicitation of a letter from a
 16 State employee, Torlen Wade, falsely stating that
 17 funding would be forthcoming for his museum project
 18 in the amount of one hundred fifty and thousand
 19 dollars (\$150,000); fraudulent presentation of that
 20 letter to a representative of Coastal Federal Bank
 21 to obtain a loan in the amount of a hundred and
 22 fifty thousand dollars to purchase property for
 23 that museum project; solicitation of funds from
 24 three different corporations for charitable

1 donations to the Community's Health Foundation,
2 Incorporated, stating that it was a 501(c)(3)
3 corporation, which it was not; and then depositing
4 those charitable deduct--those charitable
5 contributions that came from those three
6 corporations that were intended for charitable
7 purposes into his own account and for his own
8 personal use.

9 As matters of evidence, you will learn
10 that on April 18th, 2001, Representative Thomas
11 Wright filed incorporation papers with the
12 Secretary of State for a corporation entitled the
13 Community's Health Foundation, Incorporated. You
14 will also find out that that particular foundation
15 never had any board meetings, never approved any
16 bylaws, and never approved any of Representative
17 Thomas Wright's activities over the years that we
18 will be going into. You will also find out that it
19 was never approved by the IRS as a 501(c)(3)
20 charitable corporation.

21 You will learn that on March 5th of 2002
22 Representative Thomas Wright applied for a loan at
23 Coastal Federal Bank in the name of the Community's
24 Health Foundation, Incorporated, with the purpose

1 being to purchase a building for an 1898 memorial
2 museum. You will learn that at that time he
3 informed Ronnie Burbank of Coastal Federal Bank
4 that the source of repayment was to be grant money
5 from state and federal government.

6 You will learn that on March 13th,
7 approximately eight days later, in 2002,
8 Representative Thomas Wright called Torlen Wade,
9 then director of the Office of Rural Health, and
10 solicited him to write a letter that committed a
11 hundred and fifty thousand dollars to his museum
12 project, a commitment that Torlen Wade could not
13 make, funding that he did not have available.

14 When Torlen Wade informed Representative
15 Wright that he could not make that kind of a
16 commitment, Representative Wright began to be
17 urgently insistent that there was some way that
18 could be done, and that he would not need to ever
19 get the money that Torlen Wade was committing, that
20 he was going to seek other funding, but he needed
21 to be able to have a letter to go to a financial
22 institution to be able to get a hundred-and-fifty-
23 thousand-dollar loan.

24 You will learn that shortly after that

1 phone call an e-mail came from Representative
2 Wright's office to Torlen Wade with all of the
3 details that needed to be put into the letter that
4 he was asking Torlen Wade to sign and send to him.

5 You will then learn that Torlen Wade did,
6 in fact, comply with the urgings of Representative
7 Wright because Representative Wright--Wright was a
8 legislator, because Representative Wright was the
9 chairman of the main committee that Torlen Wade had
10 to deal with, with the Office of Rural Health, and
11 because Representative Wright was a board member on
12 the--a member of the appropriations committee that
13 also dealt with Torlen Wade's office.

14 You will learn that Torlen Wade did draft
15 and sign a letter and sent it to Representative
16 Wright on March 15th, 2002, putting all the details
17 that Representative Wright asked him to include
18 that he had set forth in the e-mail. And you will
19 learn that Representative Wright provided that
20 letter to Ronnie Burbank at Coastal Federal Loan
21 sometime prior to actually completing the loan to
22 have the loan completed to be able to buy the
23 property for the museum project.

24 You will also learn that on September

1 26th of 2003 Representative Wright, on Foundation
2 stationery for the Community Health Foundation,
3 Incorporated, sent an invoice to AT&T Corporation
4 seeking fifteen hundred dollars (\$1,500), that
5 that--the purpose of that invoice was to seek a
6 charitable contribution.

7 You will learn that on November 14th of
8 2003 Representative Wright sent a letter to
9 AstraZeneca Pharmaceuticals seeking a charitable
10 contribution to the Community Health Foundation, a
11 letter signed by Representative Wright and seeking
12 twenty-four hundred dollars (\$2,400) as a
13 charitable contribution to help him provide for
14 healthcare services for the underserved population
15 in the Wilmington/New Hanover County area.

16 You will learn that on December 15th of
17 2003 AstraZeneca Pharmaceuticals sent a check to
18 the Community Health Foundation, Incorporated, in
19 the amount of twenty-four hundred dollars (\$2,400)
20 in response to Representative Wright's request for
21 a charitable contribution, and that Representative
22 Wright deposited that check in his own personal
23 account.

24 You will learn that on February 6th of

2004 Representative Wright sent another letter, to Anheuser-Busch Companies, Incorporated, seeking a charitable contribution to the Community Health Foundation, a letter on their stationery, signed by him, and asking for a contribution so that he could help build the 1898 Race Riot Museum.

You will learn that on February 12th of 2004 AT&T Corporation sent an order to pay the invoice that had been sent by Representative Wright in September of oh thousand--of 2003 to provide him with a check for fifteen hundred dollars (\$1,500) as a charitable contribution to the Community Health Foundation, Incorporated.

You will learn that on March 5th, 2004, Anheuser-Busch issued a check to the Community Health Foundation for five thousand dollars (\$5,000) and sent it to the Community Health Foundation at the address on the letterhead in the letter provided by Representative Wright, and that Representative Wright deposited that check into his own personal account.

You will also learn that on April 1st, 2004, AT&T Corporation sent a check to the Community Health Foundation, Incorporated, at the

from corporations to the Community Health Foundation, Incorporated, in Representative Wright's accounts. Those three checks are the checks that I spoke about earlier to AT&T--from AT&T, from Anheuser-Busch, and from AstraZeneca Pharmaceuticals.

And, finally, you will hear that on--in September and October of 2007 SBI Agent Johnnie Umphlet requested that Representative Thomas Wright speak to him about the allegations that came up during the investigation, and that Representative Wright agreed to meet with Johnnie Umphlet, that during that--those interviews that Representative Wright videotaped most of the interviews. He asked to be allowed to videotape them; that was granted. Most of the interviews were taped. However, at one point during the interview process--

PROF. JOYNER: Mr. Chairman, we would object to this reference. It's irrelevant to any of the charges that have been filed against Representative Wright.

THE CHAIR: So the objection is relevancy? Mr. Hart, without going further into that, can you tell me what the relevancy is for

address on the invoice that Representative Wright sent to them, a check in the amount of fifteen hundred dollars (\$1,500). That check was deposited by Representative Wright in his own personal account.

You will learn that in the early part of 2007 the North Carolina Board of Elections received a complaint about Representative Wright and that Kim Strach, an investigator with the Board of Elections, began an investigation and compared-- among other things, compared disclosure reports of Representative Wright's campaigns from 2000 to 2006 to his personal and campaign bank accounts, several different bank accounts that she found that he had. And you will learn that by her audit of the campaign disclosure reports and his bank accounts she came up with approximately one hundred and eighty-five thousand dollars (\$185,000) in check contributions that were not reported from 2000 to 2006 but were deposited in one or--in one of Representative Wright's personal or campaign accounts.

You will also learn that as Ms. Strach conducted her investigation she found three checks

purposes of the opening statement?

MR. HART: I'm simply showing the Committee what the counsel's--Special Counsel's evidence is going to show, which includes an interview of Representative Wright where he made certain admissions that deal with the allegations involved in the counts.

THE CHAIR: All right. And--and--all right. I think I understand. For purposes of the opening statement, the objection's overruled. Exception's noted. Thank you.

MR. HART: You will learn that at some points during the interview Representative Wright turned off the videotape and talked with Agent Umphlet off--off tape. You will learn that Representative Wright told Agent Umphlet that he didn't want to answer some questions, that some answers he was going to reserve for future times, and that he wanted to be careful and not say things that would hurt him. You will learn that he wouldn't give copies of certain documents that he had to Agent Umphlet as he showed them to him when the tape--when the videotape was off.

You will learn that initially he told

1 Agent Umphlet that there were no board meetings for
2 the Community Health Foundation, there were no
3 minutes, and there were no bylaws. You will learn
4 that at the next interview Representative Wright
5 said that he had come up with some bylaws, but that
6 he would not give Agent Umphlet a copy of those.

7 You will learn that he could not recall
8 his conversation with Torlen Wade but that he would
9 have authorized the e-mail that he reviewed, though
10 he didn't recall it. You will learn that he told
11 Agent Umphlet that he did not intend for Torlen
12 Wade to be hurt by all this, that he tried to get
13 funding for the property and the loan but couldn't,
14 and that the loan was ultimately defaulted.

15 You will learn that as Agent Umphlet
16 showed him each one of the letters and--each of the
17 two letters to Anheuser-Busch and AstraZeneca
18 Pharmaceuticals for the charitable contributions
19 that Representative Wright said that he recognized
20 those letters and that he sent those letters to
21 those corporations in order to get charitable
22 contributions; he said, however, that he did not
23 recognize the invoice, but that he did, in fact,
24 seek a charitable contribution from AT&T.

1 probably as good a time as any for us to take just
2 a few minutes of a break before we get started in
3 the evidence. But before I do that, Members of the
4 Committee, I have an instruction, and everyone in
5 the room, please.

6 Before we take our first break, I want to
7 remind members of the Committee, the attorneys for
8 the Committee, and the attorneys for Representative
9 Wright, Representative Wright, and members of the
10 public that because we are now in the deliberative,
11 fact-finding stage, the Chair thinks it would be
12 appropriate that the members of the Committee
13 refrain from discussing this matter with the press,
14 the Committee's outside legal counsel,
15 Representative Wright's attorneys, Representative
16 Wright until the Committee deliberations end up
17 being completed in this case.

18 I will ask Mr. Hart, Mr. Peters,
19 Mr.--Dr. Joyner, Mr. Harris, Representative Wright
20 as well to refrain from discussing the evidence
21 with you individually outside the context of this
22 room and during our time together.

23 I will also ask the members of the public
24 to not approach Committee members or witnesses

1 You will learn that he told Agent Umphlet
2 that he received the three checks that you will see
3 made out to the Community Health Foundation and
4 that he put those checks into his own personal
5 account. He told Agent Umphlet that the use of
6 those checks was not restricted by those three
7 companies and that he considered that sweat equity.

8 That is what the evidence will show,
9 Ladies and Gentlemen of the Committee, and shortly
10 you will hear the witnesses who will testify to
11 those facts.

12 THE CHAIR: All right. Thank you very
13 much, Mr. Hart. Dr. Joyner or Mr. Harris, opening
14 statement?

15 PROF. JOYNER: We will reserve our
16 opening statement.

17 THE CHAIR: All right. And I will allow
18 you to do that pending--and--and just, Members of
19 the Committee, so you know, what Dr. Joyner is
20 doing is reserving the ability to do an opening
21 statement until after the Committee counsel's case
22 is completed before he begins Representative
23 Wright's case.

24 All right. With that, I think it is

1 until the matter is completed, at least as far as
2 Committee deliberations are concerned. I believe
3 that this process will allow the hearing to
4 fair--fair to all parties if we follow these
5 suggestions, and I am requesting the sergeant-at-
6 arms to assist in ensuring compliance with this
7 request.

8 With that, we are in recess for ten
9 minutes, until quarter after. Thank you.

10
11 (SIXTEEN-MINUTE RECESS)
12

13 THE CHAIR: All right. We are back in
14 session. Mr. Hart, we begin--since there's been a
15 waiver of the opening argument by Representative
16 Wright until his case, first witness is with you.

17 MR. HART: Special Counsel would call
18 Torlen Wade.

19 THE CHAIR: Mr. Wade, Torlen Wade, if
20 you'll come up, the witness chair will be to my
21 left. The court reporter will be swearing in all
22 witnesses--okay--Mr. Wade, if you'll be sworn by
23 the court reporter.

24 * * * * *

1
2 Whereupon,
3 TORLEN L. WADE,
4 having been first duly sworn,
5 was examined and testified
6 as follows:
7
8 THE CHAIR: Mr. Wade, if you'll be
9 seated, please. Mr. Hart?
10 DIRECT EXAMINATION BY MR. HART:
11 Q Would you state your name, please, sir?
12 A Torlen L. Wade.
13 Q Mr. Wade, are you currently employed?
14 A I am a consultant right now, private consultant.
15 MR. HART: Mr. Chairman, I don't believe
16 my microphone's working.
17 THE CHAIR: Let's--do you want to try the
18 lapel mic? Oh, that's what you were using? Okay.
19 Let's hold on, and let's see what we can do. We're
20 at ease for a moment.
21 (DISCUSSION OFF RECORD)
22 MR. HART: Mr. Chairman, I'm going to
23 proceed with the button mic while they're working
24 out the mechanical problems.

1 Department of Health and Human Services?
2 A Right, Health and--yes.
3 Q How long were you in that particular office?
4 A I was in that office for thirty-three years.
5 Q And what were your duties in that office?
6 A Well, originally I was a--a community health worker
7 helping communities organize health centers
8 throughout rural--mainly in the western part of the
9 state.
10 Q Okay. At some point, did your emphasis shift to
11 the eastern part of the state?
12 A Well, we were a fairly small staff, so we had to
13 kind of go back and forth. So I--I had projects
14 both--more projects in the west, but I did have
15 projects in the east as well.
16 Q At some point during your time with the Office of
17 Rural Health, did you come to know Representative
18 Thomas Wright?
19 A Yes, I did.
20 Q Tell us about that, please.
21 A It was in approximately 1991. Jim Bernstein, who
22 was then the director of the Office of Rural
23 Health, and myself were invited down to--to
24 Wilmington to meet with a group of medical and, you

1 THE CHAIR: All right. Thank you. And
2 let's try and get that fixed as fast as we can.
3 Mr. Hart, if you need to stop at any point, or if
4 that happens on either side, let me know. But go
5 ahead.
6 Q (By Mr. Hart) Mr. Wade, are you currently
7 employed?
8 A No. I'm a private consultant right now.
9 Q All right. Have you retired from state government,
10 sir?
11 A Yes, I have.
12 Q Would you tell us what position?
13 A I'm retired as a--
14 MR. HART: Hold on just a minute. I
15 don't think this mic is working either.
16 (DISCUSSION OFF RECORD)
17 THE CHAIR: Mr. Hart, the witness is with
18 you.
19 Q (By Mr. Hart) Mr. Wade, would you tell us--you
20 said you retired from state government. What did
21 you do in state government, please, sir?
22 A I was--when I retired, I was director of the Office
23 of Rural Health and Community Care.
24 Q And how long were you with--that's in the

1 know, business and county leaders over the issue of
2 health access, particularly for under-served
3 residents, in--in New Hanover County, and I met
4 Representative Wright. He was part of that group
5 in--in Wilmington, and I met him that--at that
6 time.
7 Q And did he have a position at that time?
8 A He, I believe, was a member of the Wilmington city
9 council.
10 Q From time to time thereafter, did you have occasion
11 to work with Representative Wright?
12 A Well, out of that--out of that meeting in
13 Wilmington there was a decision to--to try to
14 develop a health center mainly for the inner-city
15 area in Wilmington. And our office agreed to work
16 with the leadership down there, and Representative
17 Wright was a--was the--one of the key people on
18 that effort. So I worked very closely with him
19 between 1992 and '94, when we put together a
20 federal application to get a community health
21 center in--in--in New Hanover County, which--which
22 was--which was successful.
23 Q Okay. Sometime thereafter, did you become aware
24 that he was elected to the General Assembly?

1 A Yes. I--I was--I was aware of that.
 2 Q Okay. After that, did you have occasion to again
 3 work with him in any way?
 4 A Well, we--we worked very--very closely, you know,
 5 throughout the '90s, and even the 2000s, because
 6 his--one of his main focus was on--on health care,
 7 getting health care for under-served populations,
 8 which was the mission of our--our office. So we
 9 had a very--we shared--we shared a very common
 10 mission.
 11 Q I want to direct your attention to the time period
 12 of 2002 and ask you, what was your position at that
 13 time with the Office of Rural Health?
 14 A At that time, I--I had become director of the
 15 office.
 16 Q And what were your duties as director of the Office
 17 of Rural Health?
 18 A Mainly providing--you know, over--overseeing
 19 program operations, as well as, you know,
 20 supervising the, you know, staff within the office.
 21 I also did--you know, continued to do some program
 22 work as well, mainly on Medicaid program areas.
 23 Q During that time period, were you continuing to
 24 interact with Representative Wright?

1 how those funds would be--how--how those funds
 2 would be obtained.
 3 And then after that, if--you know, if
 4 that--if that was all in order, then there'd be a
 5 formal contract process that would be typical of
 6 any--you know, any--any State contract before money
 7 could be committed.
 8 Q In your position, were you involved in the approval
 9 of--of the funding?
 10 A Yes, I--I was. And I had--any--any--below two
 11 hundred thousand, I had authority--was delegated
 12 authority to approve those requests. Anything
 13 above two hundred thousand then went--I approved,
 14 but then it also went over to--to the Department's
 15 budget office for--you know, for final approval.
 16 Q Even in the instances where the funding was under
 17 two hundred thousand dollars (\$200,000), was there
 18 still this formal process--
 19 A Yes.
 20 Q --that you're discussing?
 21 A Yes, there was.
 22 Q During this time period of--of early 2000,
 23 specifically in February and March, were you
 24 aware--did Representative Wright hold any positions

1 A Yes.
 2 Q In what ways?
 3 A Well, on--on issues--both on health-center issues
 4 and Medicaid issues. On health-center issues,
 5 Representative Wright asked us to help--help get a
 6 health center into Columbus County, into the--into
 7 the--into Whiteville, town of Whiteville. And so
 8 we worked--we provided the staff, and
 9 Representative Wright helped organize the--the
 10 community pieces down there. And we--we staffed it
 11 and then eventually funded the health center, which
 12 is still in operation today.
 13 Q Now, you mentioned funding. Was there a process in
 14 place for committing funds to different programs?
 15 A Yes, there--there was a process that--you know,
 16 once we--once we had gotten to a point where a
 17 project was--you know, looked like it would be a--a
 18 fund--you know, a good funding possibility, there
 19 would be a requirement, an initial step of having
 20 to submit a formal--you know, a formal request
 21 letter, you know, along with details on the
 22 project, budget, how--you know, what--what State
 23 funds would be needed, you know, where--what other
 24 funds would be coming in to help the project, and

1 in the legislature in terms of committees or
 2 subcommittees?
 3 A Well, as I recall, he--he was chair of the Health
 4 Committee by that point, as well as a member of the
 5 Health and Human Services Appropriations
 6 Subcommittee. That--that's what I recall.
 7 Q Did your office have to deal with either one of
 8 those committees?
 9 A Well, primarily our--our budget and program went
 10 through the appropriation subcommittee. The Health
 11 and Human Services Appropriations Subcommittee
 12 would have to approve any--you know, any budget or,
 13 you know, expansion or continuation.
 14 Q How about the other committee that he was chairman
 15 of?
 16 A That was--that was an important committee for
 17 health issues but was not a--you know, not a money
 18 committee, did not approve--you know, there was no
 19 appropriation with that committee.
 20 Q Did there come a time in 2002, in March of 2002,
 21 that Representative Wright called you about a
 22 project?
 23 A Yes.
 24 Q Do you remember when that was?

1 A I--I don't remember specifically when the--when the
2 call came in, other than it was around the time of
3 the--you know, the letter and so forth.
4 Q I'm going to ask you, if you would--there's a book
5 in front of you. If you would, turn to Document 2,
6 which should be right near the beginning of that
7 book, Exhibit Number 2.
8 A Yes.
9 Q If you--look at the date on the top of that and see
10 if that refreshes your recollection as to when that
11 conversation might have occurred.
12 A Yeah, I mean, based on the, you know, letter and
13 e-mail, it was somewhere around, you know, March
14 13th.
15 Q To the best you can remember, tell us what you
16 recall about--well, let me ask you first, did--you
17 said you received the call from Representative
18 Wright?
19 A Yes.
20 Q To the best that you can, tell us what you remember
21 of that conversation.
22 A You know, as best I can remember, I was in my
23 office that day, and I got--received a call from
24 Representative Wright saying that--that he--he

1 A Well, then it--as I recall, it--it switched over,
2 well, I--could I help do health offices within that
3 facility, 'cause there had been discussion about--
4 about getting additional health offices for the
5 Community Health Center, which was right across the
6 street. And I--I responded that I--I could--I
7 could--I could help on that.
8 Q And, if you would, tell us what--what you remember
9 from that point on.
10 A Well, from that point on, you know, I--as--the best
11 I recall, the discussion was around, well, if--if--
12 before I could do that I would--you know, we'd need
13 to go through this--the formal request process and
14 get information on the project and how the State
15 piece would fit with the museum piece. And--and--
16 and that I--what I recall is that Representative
17 Wright said there, you know, really wasn't time for
18 that, the opportunity was now, "And--and--and plus,
19 I didn't really need the funds, I had the funds
20 coming, I just needed the letter."
21 Q Now, when you said you--to quote you, you said, "I
22 didn't really need the funds." Is that your words
23 or his--
24 A No, that was--

1 needed my help on a--on a--on a project, that he
2 had--he had an opportunity to secure the building
3 that was needed for the museum and that--and while
4 he had funds that were coming to support the
5 project, they were not in hand, and he needed to
6 get this thing jump-started, he needed my help to
7 do that.
8 And as I recall, I--you know, I--we
9 discussed that I couldn't--I didn't have any
10 authority to fund a museum project, even though I
11 supported it, I could not fund that, and that--
12 Q Why is that?
13 A Because my authority was--I had--I had funding that
14 was, you know, for health-related projects and--and
15 for under-served populations. That was my--you
16 know, that was the funding authority that I had.
17 Q And you--you said he told you that he needed your
18 help. Was--can you tell us how he was asking for
19 this?
20 A Well, as I recall, he was--he was asking for, you
21 know, both a letter of commitment for the project
22 as well as a, you know, financial commitment.
23 Q Once you told him that you had no authority to
24 commit to that, did he respond in any way?

1 Q --words?
2 A That was my recollection of--of his words.
3 Q So you--apparently there was some urgency to this
4 letter?
5 A That was the--that was the--
6 PROF. JOYNER: Objection.
7 THE CHAIR: Basis? I'm sorry. The basis
8 for the objection?
9 PROF. JOYNER: Well, it's leading, first
10 of all, putting words in his mouth. I want--want
11 to hear the witness testify. Mr. Hart can get on
12 the stand and testify if he wants to. We can
13 cross-examine him.
14 THE CHAIR: All right. Objection
15 sustained.
16 Q (By Mr. Hart) Did he indicate to you that he might
17 be able to wait for a letter?
18 A No.
19 Q Why not?
20 A Because the opportunity--the opportunity was
21 available right then, and he wanted--you know, he
22 wanted my help then at that point. He needed my
23 help then.
24 Q Now, you--you mentioned that the--the--part of the

1 process, if there was going to be multiple uses for
2 this project, was that you would have to know a
3 breakdown in--in budgets and things like that.
4 What is the reason for that?
5 A Well, we have to have some--you know, some
6 assurance that our--our State funds are going to
7 the purpose that we have--you know, we have
8 authorization to commit funds for. And that--
9 that--that has to be spelled out, you know, in a
10 formal process so that we have a--we have a record
11 in--in our files and--and can see all the different
12 pieces and how they fit together.
13 Q When Representative Wright told you that he needed
14 something now, what did you tell him, sir?
15 A Well, I--I--you know, I told him that it--you know,
16 I really--we had a process, and, you know, we
17 needed to stick to it, and--and--but then the
18 discussion was around that he didn't really need
19 the--the funds, that the fund--the funds for the
20 project were--were--were coming.
21 Q And what did he say he needed the letter for?
22 A To--as I recall, to get--you know, to get a loan
23 to--you know, to purchase the building.
24 Q Did he indicate to you who he was going to present

1 going to submit the--the letter to. Did you know
2 the--the general nature of an agency that he might
3 be submitting the letter to?
4 A Yeah. Yeah. My recollection, yes.
5 Q And what was that?
6 A That was a--you know, a bank.
7 Q Once he told you that, that he would not actually
8 be needing the money, what was your response to
9 that, sir?
10 A Well, it--it didn't change it completely, but it
11 made it a little less--you know, it was--that I
12 was, you know, more open to, you know, help
13 with--knowing that I didn't have to put money out
14 to the project.
15 Q You knew, I take it, at that point, that you
16 weren't going through the usual process?
17 A Yes.
18 Q Did that concern you?
19 A Yes.
20 Q Then why did you agree to do the letter?
21 A Well, it was a combination of--you know, it was the
22 urgency and pressure from Representative Wright
23 to--you know, to--this is very important to him and
24 he--he made it very clear he needed my help on

1 the letter to?
2 A Not that I recall.
3 Q Did--did he indicate that it was a financial
4 institution of some sort?
5 A That's my recollection, yes.
6 PROF. JOYNER: Objection. I'm going to--
7 this is leading.
8 THE CHAIR: Well, the--
9 PROF. JOYNER: He's putting words in his
10 mouth.
11 THE CHAIR: The--the objection comes a
12 little late. The answer's already given.
13 PROF. JOYNER: Well, move to strike.
14 THE CHAIR: Are you moving me--are you
15 moving to strike?
16 PROF. JOYNER: Moving to strike the
17 answer.
18 THE CHAIR: All right. I'm going to
19 allow the motion to strike the answer, and will ask
20 Mr. Hart if you'll rephrase the question. Thank
21 you.
22 Q (By Mr. Hart) Mr. Wade, I take it from your
23 earlier answer that you didn't know a particular
24 organization or--or agency that--that he might be

1 this--and it was the combination of that plus, with
2 the other funding coming, I thought it was more,
3 you know, I was helping jump-start it, then, you
4 know, the money--the money would be there and the
5 project would go on.
6 Q You thought no one would be hurt?
7 A Yes.
8 Q Do you remember anything else about the phone
9 conversation?
10 A No.
11 Q Okay. After the phone conversation, what, if
12 anything, happened?
13 A The next--next thing I--you know, I recall is that
14 an e-mail from Represen--Representative Wright's
15 office came over with the, you know, details on
16 the--what should be in the letter.
17 Q All right, sir. I'd ask you, if you would, if
18 you'll look at Exhibit Number 2 in the book in
19 front of you there, do you recognize what that is,
20 sir?
21 A Yes.
22 Q And what is that?
23 A That is--that's the e-mail that was--was sent from
24 Representative Wright's office to--to me.

1 Q Okay. And that is--that's an accurate copy of what
2 you remember the e-mail to be?
3 A Yes, it is.
4 Q Have you had a chance to examine that?
5 A Yes.
6 Q After you received that e-mail, what, if anything,
7 did you do?
8 A After I--after I received that e-mail, I--I drafted
9 the, you know, commitment letter to Representative
10 Wright.
11 Q If you'd turn the page, sir, to Exhibit Number 3,
12 I'd ask you if you recognize that document.
13 A Yes, I do.
14 Q And what is that?
15 A That's--that's a letter that I wrote on March 15th,
16 you know, to--to Thomas Wright as chairman of the
17 Community Health Foundation.
18 Q And is that your signature on that page?
19 A Yes, it is.
20 Q And is that an accurate copy of the letter that you
21 sent to Representative Wright after your
22 conversation with him and after his e-mail?
23 A Yes, it is.
24 Q At the time that you sent that letter to

1 Representative Wright, Mr. Wade, had you gone
2 through the formal process that you go through to
3 approve such a commitment?
4 A No.
5 Q Was this letter an accurate statement, that you
6 were committing a hundred and fifty thousand
7 dollars (\$150,000) to the project?
8 A No.
9 Q Why did you send that false document to
10 Representative Wright, sir?
11 A 'Cause I--I--the funds that were needed for the
12 project were coming, and so I thought I was--you
13 know, no--no--no foul, no harm--no harm, no foul.
14 Q And he had assured you, as you said, that--that he
15 was going to be able to get other funding; is that
16 correct?
17 A That's correct.
18 Q Mr. Wade, would you have short-circuited the formal
19 process and sent this letter if Representative
20 Wright had not been a legislator?
21 A No.
22 Q Mr. Wade, did you ever--did Representative Wright
23 ever come back for the funding in the letter?
24 A No.

1 Q Did you have any contact from the bank or anybody
2 regarding the letter?
3 A Not that I recall.
4 Q Did you ever become aware of what happened with the
5 project?
6 A Many, many months later I--I heard--and I'm not
7 sure from whom I heard this--
8 PROF. JOYNER: Objection to what he
9 heard.
10 THE CHAIR: All right. And I'm assuming
11 that the basis of the objection's hearsay?
12 PROF. JOYNER: That's correct.
13 THE CHAIR: All right. Mr. Hart, any
14 response?
15 MR. HART: I'll withdraw the question.
16 TH CHAIR: Question's withdrawn.
17 MR. HART: That's all the questions I
18 have, Mr. Chairman.
19 THE CHAIR: All right. Cross-
20 examination? And will that be you, Dr. Joyner?
21 PROF. JOYNER: Yes.
22 THE CHAIR: All right. Cross?
23 CROSS-EXAMINATION BY PROF. JOYNER:
24 Q Yes. Mr. Wade, my understanding is that at some

1 point you had a discussion about these events with
2 an agent of the State Bureau of Investigation. Is
3 that correct?
4 A Yes.
5 Q How--how many conversations did you have with SBI
6 agents about this?
7 A Just one--
8 Q Just one?
9 A --that I recall.
10 Q Okay. Do you recall when that conversation was
11 held?
12 A Sometime in--in December. I don't remember exactly
13 when.
14 Q Is that December of 2007?
15 A Yes.
16 Q All right. Now, do--do you recall if during that
17 conversation the agent prepared notes of the
18 conversation?
19 A Yes, they did.
20 Q And after preparing notes, were you given an
21 opportunity to review those notes?
22 A Yeah. Later on, I was.
23 Q Okay. And by--by "later on," when--when do you
24 mean?

1 A About, you know, a week ago.
2 Q About a week ago?
3 A Yes.
4 Q Could--could you just kind of describe the
5 circumstances under which you had a chance to
6 review those notes?
7 A I was--it was at the courthouse, in the DA's
8 office, and was given copy of the--of the notes,
9 the SBI notes, and--and was asked to go through
10 them and see if they were accurate.
11 Q All right. And were--did you determine that the
12 notes accurately reflected what you told the--the
13 SBI agent at that time?
14 A Yes.
15 PROF. JOYNER: Mr. Chairman, I'd like to
16 get a copy of that--those notes.
17 THE CHAIR: Well, do we have a copy of
18 those notes, Mr. Hart?
19 MR. HART: Mr. Chairman, my understanding
20 is that the interview of Torlen Wade was provided
21 to Representative Wright in discovery by Colon
22 Willoughby. I don't have a copy of that interview.
23 THE CHAIR: All right. Well, then either
24 we--either you have it--if you don't have it,

1 THE CHAIR: Mr. Hart?
2 MR. HART: This may be a situation that
3 we had earlier where Mr. Harris and Mr. Joyner may
4 need to confer about this, as we have understood
5 all along Mr. Willoughby provided some seven
6 thousand pages--Mr. Harris has--has talked about
7 this in two different forums, both Wake County
8 Superior Court and here, about the--having a
9 complete copy of the SBI report. Mr. Joyner
10 indicated to the Chair one other time that we were
11 here that he did not have that report. However,
12 Mr. Harris certainly did, and therefore
13 Representative Wright did.
14 THE CHAIR: Mr. Harris, do you have a
15 copy of the full SBI report for Torlen Wade--with
16 the notes from the interview of Torlen Wade?
17 MR. HARRIS: I think, Mr. Chairman, this
18 goes to the heart of my motion earlier that we
19 haven't had adequate time to prepare, because when
20 you're looking through seven thousand pages it's
21 difficult to judge what you have and what you don't
22 have. I will state that I have seen--I have seen a
23 summary of what Mr. Wade said taken by the head of
24 the elections board, which is not the statement

1 counsel for the Committee--
2 PROF. JOYNER: I don't have it.
3 THE CHAIR: --Committee for [sic] counsel
4 doesn't have it, so it is not available to us.
5 PROF. JOYNER: Well, Mr. Chairman, I'm
6 under the impression that those notes would be
7 available to us for the purpose of cross-examining
8 witnesses. I mean, it certainly isn't sufficient
9 to say, "I don't have them" when they exist. And
10 this witness has indicated that as late as last
11 week he was given these notes to--to review. And
12 it would seem to me that it wouldn't take the
13 movement of a mountain to get a copy of--of those
14 notes.
15 THE CHAIR: Well, we'll see what we can
16 do, but I'm indicating what I've been told, which
17 is the Committee doesn't have it, Mr. Hart doesn't
18 have it. If you don't have it, then I'm assuming
19 that the notes lie and sit totally with
20 Mr. Willoughby's office, as a result. But at this
21 point I'm going to have you to continue to proceed,
22 and we'll do what we can to see if we can get the
23 notes.
24 MR. HART: Mr. Chairman?

1 we're talking about here.
2 Interestingly enough, I received the
3 corrections from Colon Willoughby's office this
4 past week, and so I'm aware there is such a
5 statement, 'cause I got the corrections, but--but I
6 don't have the original statement, either. I
7 understand there should be handwritten notes and
8 there should be some kind of summary, and I don't
9 have either one.
10 THE CHAIR: Well, let me--well, let me
11 ask--now, you've indicated you don't have it, but
12 then you first indicated that you don't know if you
13 had it, because you haven't had the chance to go
14 through it. So I need to know which it is. Do you
15 not have it and you know that you don't have it, or
16 are you not sure whether you have it?
17 MR. HARRIS: I don't believe that I do
18 have it. I've looked through the--I've looked
19 through the notes, and it's--I mean, it's--I don't
20 know how long it is, how many pages it is. I guess
21 it's remotely conceivable it got stuck in the
22 middle of something else. For example--I have
23 already noticed this: In the course of looking
24 through hundreds of checks, I'd be flipping along

1 and all of a sudden there'd be a statement right in
2 the middle of it. So we could have a situation
3 like that where I--it's stuck to another page or
4 something like that. But I--I haven't seen it.
5 I'll put it that way.
6 THE CHAIR: All right. Let's do this:
7 We're going to continue with the cross-examination.
8 Obviously, we may have more cross-examination after
9 lunch. Over the lunchtime break, Mr. Hart, if
10 you'll call Mr. Willoughby's office and see if he
11 can assure that the documents were or were not a
12 part of the discovery package sent, Mr. Harris, if
13 you can check with your office and see if we can be
14 sure that--that in the section you've marked for
15 Torlen Wade that these documents do or do not
16 exist, we'll see if we can iron it out right after
17 lunch.
18 MR. HARRIS: I guess we're talking about
19 four or five pages. It may be smarter just to ask
20 the district attorney to ship them on over or fax
21 them on over. That would be simpler. That way
22 we'd have them--
23 THE CHAIR: Well, I'm going to ask the
24 district attorney if they've been shipped over, and

1 that's the first question, because I don't have
2 authority to order him to ship them over. But I
3 want to find out whether we've got them or not, and
4 we'll go from there.
5 All right. Well, let's continue
6 cross-examination for a few more minutes. Thank
7 you. Dr. Joyner?
8 PROF. JOYNER: I'm assuming, then,
9 Mr. Chairman, that this witness will still be
10 available--
11 THE CHAIR: Sure.
12 PROF. JOYNER: --at such time that we
13 receive those notes.
14 THE CHAIR: I absolutely will make the
15 witness available after--you know, I will not
16 relieve him from the subpoena until after you
17 finish your examination after lunch.
18 PROF. JOYNER: All right.
19 Q (By Prof. Joyner) All right. Mr. Wade, you
20 indicated in your direct testimony that your first
21 meeting with Thomas Wright was somewhere around
22 1991; is that correct?
23 A That's my recollection, yes.
24 Q All right. Now, the purpose of that contact had to

1 do with health-related matters; is that correct?
2 A That's correct.
3 Q And since that time, basically your contacts with
4 him have been around health-related matters,
5 issues, and concerns?
6 A Yes.
7 Q And some of those issues and concerns had some
8 impact or--impacted the legislative process, but
9 many of them didn't?
10 A Correct.
11 Q Now, in addition to that, did not the two of you
12 form a personal relationship?
13 A Yes.
14 Q You were friends?
15 A Yes.
16 Q Right. And you had interactions with each other
17 as--as friends?
18 A Uh-huh (yes).
19 Q And if you'd just say "yes"--
20 A Yes.
21 Q --for the record, that would--
22 A Yes, sir.
23 Q Okay. All right. And--and this friendship
24 continued from--from 1991 right up until, I guess,

1 just recently; is that correct?
2 A That's correct.
3 Q Now, when did you actually leave the Office of
4 Health--was it Healthcare--
5 A Office of Rural Health and Community Care.
6 Q Rural--Rural Health and Community Care?
7 A Yes.
8 Q Okay. When did you actually leave--leave that
9 position?
10 A June 30th of 2007.
11 Q Okay. During that time--now, you--you mentioned
12 that--that Representative Wright was a member of
13 two health-related committees, one having
14 appropriation responsibilities or authority; the
15 other one did not have those type of appropriation
16 authorities. Is that correct?
17 A That's correct.
18 Q Now, was it unusual for Representative Wright to
19 come to you outside of the legislative process or
20 outside of his role as a member of either of these
21 committees to discuss health-related issues and
22 concerns?
23 A No. That was not--not unusual.
24 Q That would not be unusual?

1 A No.
2 Q And it happened quite often--
3 A Yes.
4 Q --is that correct?
5 All right. Now, in your conversation
6 with him on or around March 13th of 2002--well, let
7 me ask you this first: How fresh is your
8 recollection of those events?
9 A You know, it's six years, so it's not terribly
10 fresh.
11 Q All right. How positive are you of the
12 conversation and the dialogue that the two of you
13 had?
14 A I'm--I'm fairly--I'm very positive about the--the--
15 you know, the basic key pieces of the conversation,
16 yes.
17 Q All right. But the--the specific conversation
18 you're kind of vague on; is that correct?
19 A Yes.
20 Q Okay. Now--and the reason I raise that is that you
21 indicated in a response to Mister--Attorney Hart's
22 question that you authored or responded positively
23 to Representative Wright's request because he was a
24 legislator?

1 exhibited to you about getting the building--
2 A Uh-huh (yes).
3 Q --that you wanted to help him?
4 A Yes.
5 Q All right. Why did you want to help him?
6 A Well, I--I mean, I recognized it was a very--you
7 know, a very important project to Representative
8 Wright, and, I mean, I also supported the project
9 personally. And--but I was, you know, inclined to,
10 you know, want to help him get what was important
11 to him done.
12 Q All right. Do you recall his description of what
13 it was that he was trying to do with--with this
14 building?
15 A Well, I recall--as best I recall, it was, you know,
16 two-part. The main part was the--you know, the
17 black history museum, and then there was the part
18 about the health offices in the--in the upstairs
19 part of the building and the Foundation offices in
20 the upstairs. That was my recollection.
21 Q All right. Now, he--at the time, Representative
22 Wright was the chairperson of the Community Health
23 Center, I believe, in Wilmington?
24 A Yeah, that's my--that was my recollection, too.

1 A Yes.
2 Q Is that your recollection as to why you responded
3 positively?
4 A Why it was--you know, why--he asked me about
5 being--as a legislator, yes, also as a person I
6 worked with for ten years on health issues. So the
7 personal side was important, too.
8 Q Someone you trusted?
9 A Yes.
10 Q Right. And--and y'all had a relationship, and in
11 the past you felt that you--you could trust what he
12 had to say and what he was doing?
13 A Absolutely.
14 Q Okay. So in that conversation, Representative
15 Wright never threatened you that your department
16 was going to lose any funds or anything if you
17 didn't write this letter?
18 A That's correct.
19 Q So he didn't put any pressure on you at any point
20 vis-a-vis his legislative position to get you to do
21 what you did?
22 A Yeah, that's correct.
23 Q Okay. Now, you indicated in your testimony that
24 because of the urgency which Representative Wright

1 Q Okay. Now, are you familiar with the Community
2 Health Center?
3 A Yeah, I'm very familiar with it.
4 Q Okay. Could you just--just explain to the members
5 of this Committee exactly what the Community Health
6 Center did and was?
7 A The Community Health Center was--it's a federally
8 funded, you know, community health center. It is
9 set up to--to provide health care, fairly
10 comprehensive basic care to residents in
11 particularly the low-income, African-American areas
12 of New Hanover County, and it provided basic
13 primary medical care, dental care, pharmacy care,
14 and provided a lot of social support for patients
15 beyond that.
16 Q And you were aware that Representative Wright had
17 helped to put that--that organization into
18 existence?
19 A Yes. I worked with him on it.
20 Q Right. And, indeed, at that point he was serving
21 as the chair of the board of that organization; is
22 that correct?
23 A That's correct.
24 Q Now, what was your role specifically in helping to

1 start that--that organization?
2 A Well, I worked--our office, basically committed,
3 you know, some of my time to work with, you know,
4 Representative Wright and other folks in Wilmington
5 to put together a federal application to get those
6 federal funds to get the center developed and--and
7 operated. And, again, as I said earlier, that--
8 that happened in, I think, 1994. It was
9 successfully funded and--and then developed.
10 Q All right. And, in fact, your office also provided
11 some funds to that--to that operation, did it not?
12 A After--after it became operational, we provided--
13 the best I recall, we provided some funds to--both
14 on the facility piece, to do some expansion, and on
15 operation, where they--they wanted to bring in a
16 other physician and we provided some seed money to
17 do that. And--so, you know, we had provided funds
18 several times since the Center started, yes.
19 Q And as a part of--of that expansion that you--you
20 just mentioned, you were aware, were you not,
21 that--that the organization had kind of outgrown
22 its capacity?
23 A Yes.
24 Q And that they needed some additional space to be

1 recess I spoke with Bill Dowdy, who is present in
2 the room, who is an investigator for Colon
3 Willoughby at the Wake County District Attorney's
4 office. He checked with Colon Willoughby and
5 people from his office, and he has assured me that
6 the entire district attorney's file, which includes
7 every bit of the SBI file has, in fact, been turned
8 over to Representative Wright, and that
9 specifically Torlen Wade's interview reports are
10 Bates-stamped pages 6799 through 6804, and that was
11 part of the material that was turned over at the
12 end of December of 2007.
13 THE CHAIR: All right. Thank you very
14 much. I think that concludes that matter.
15 Cross-examination will continue. Dr. Joyner?
16 PROF. JOYNER: Well, let--I still don't
17 have the statement, so it doesn't conclude it, to
18 that extent. The request that we had was to have
19 it.
20 THE CHAIR: Dr. Joyner, are--I
21 understand, though, that the material was handed
22 over to you, to Mr. Harris. So I--it seems to me
23 that concludes the matter. It's in your files, and
24 I--I don't know what else to do. I'm not--

1 able to maximize the program effort that they were
2 engaged in at that time?
3 A Yes, I was certainly aware of that.
4 Q Right. What--
5 THE CHAIR: I'm going to interrupt you a
6 minute, Dr. Joyner. I think--unless you want to go
7 with a few more questions, is this a good time to
8 take a break for lunch, since we need to do that at
9 some point?
10 PROF. JOYNER: It's always a good time to
11 break for lunch.
12 THE CHAIR: All right. What we're going
13 to do, then, is--Mr. Wade, your subpoena continues.
14 We'll need you back right after lunch.
15 We're going to take a break for one hour,
16 and we'll be resuming at two o'clock. This
17 Committee stands in recess until two P.M.
18
19 (LUNCH RECESS)
20
21 THE CHAIR: All right. Mr. Wade, just a
22 reminder that you are under oath. And cross--I'm
23 sorry. Mr. Hart?
24 MR. HART: Mr. Chairman, during the lunch

1 PROF. JOYNER: No, it's--it's not--it's
2 not in my files. Mr. Chairman, we have--and this
3 is not the Wake County Superior Court. This is the
4 North Carolina General Assembly, working with the
5 rules that you created. And among the rules that
6 you created was a discovery one which said that you
7 had to provide me with that information, not that
8 Colon Willoughby had to provide it.
9 Now, I presume that if you used that
10 information as the basis for getting these charges
11 that you have that information from the--from the
12 outset. But at any rate, I'm still entitled to get
13 from this body that information so that I can
14 complete my examination--cross-examination of this
15 and other witnesses.
16 I mean, if--if the investigator came from
17 Colon Willoughby's office, all he had to do was
18 make a copy of the document and bring it up--and
19 bring it up here and deliver it.
20 THE CHAIR: Mr. Hart, would you please
21 repeat for Mr. Harris the copy of the statement and
22 the pages--the Bates stamps that are in their file
23 that has been handed to them in December of 2007?
24 MR. HART: Yes, sir. The Bates-stamp

1 numbers are 6799 through 6804, and that information
2 was actually provided to Representative Wright, I
3 believe, on December 31st of 2007.

4 THE CHAIR: The statement is in your
5 possession. It is in Representative Wright's
6 possession. It has been for months. We are moving
7 on. Cross-examination, Dr. Joyner.

8 PROF. JOYNER: Well, I'm still going to
9 state my objection to this Committee not providing
10 me with a copy of the statement that the rules of
11 this Committee indicate that I am entitled to
12 receive.

13 THE CHAIR: Objection is--I'm sorry.
14 Mr. Hart?

15 MR. HART: Mr. Chairman, the rules
16 actually provide that we have to provide
17 Representative Wright with a copy of everything we
18 intend to introduce. We have done that.

19 THE CHAIR: I understand and agree.
20 Dr. Joyner, cross--I mean, I'm sorry--your
21 objection is--

22 PROF. JOYNER: Mr. Chairman--

23 THE CHAIR: Dr. Joyner, your objection is
24 overruled. The exception is noted. Does any

1 member of the Committee seek to overrule the ruling
2 of the Chair? Seeing none, please proceed with
3 cross-examination.

4 PROF. JOYNER: Mr. Chairman, I want to
5 respond. This witness has testified that the basis
6 of his testimony was recorded in a statement that
7 presumably was in the possession of this Committee.
8 Now, to suggest that that statement is irrelevant
9 to our going forward belies the reality. Now, you
10 can--you're the Chair. You can do whatever you
11 want to do. But I want to note my objection to
12 these proceedings and the failure of this Committee
13 to live up to the obligation and requirements of
14 the rules that it established.

15 THE CHAIR: The objection is overruled.
16 The Chair finds that the Committee counsel has
17 fully complied with the rules set out. It also
18 finds that the statement that is being referred to
19 has been and is in the possession of Representative
20 Wright for the last three months. The objection is
21 overruled. The objection is noted as frivolous.
22 Exception to the ruling is noted. You may continue
23 your cross-examination.

24 MR. HARRIS: Before you go any further,

1 when you say "to Representative Wright," I suppose
2 you're really talking about to me. And Colon
3 Willoughby has repeatedly sent me letters and said
4 that if I notice anything that's missing, to let
5 him know, and he'll supply it. Now, I'd like to
6 note that in order to determine where these matters
7 were, they would have had to go through--they would
8 have had to go in a file, look at the numbers, flip
9 through and see it went from this number to that
10 number, then--then a man has come all the way down
11 here from Colon Willoughby's office, which is some
12 blocks away.

13 So in the time we've spent messing with
14 this, they could have Photostatted the thing and
15 brought the doggone thing, just to be just a tiny
16 bit fair--just a tiny bit fair. Now, I've said
17 repeatedly I don't have that. I'm going to ask for
18 it. I don't have it. I've looked at his file.
19 And I don't like the Chair repeatedly saying we--we
20 have it when we say we don't have it.

21 THE CHAIR: Mr. Hart?

22 MR. HART: Mr. Chairman, first of all,
23 Mr. Dowdy was here in the hearing room, and I
24 simply talked with him at--at the lunch recess. He

1 conferred with Mr. Willoughby to confirm what he
2 already believed to be true, and that is that the
3 entire district attorney's file had been turned
4 over.

5 I'd also let the Chair know that on
6 Friday, as Mr. Harris has indicated, he received a
7 faxed communication from Mr. Willoughby which not
8 only included the fact that he was going to try to
9 reset the trial for March 31st, included the
10 corrections that Torlen Wade--a couple of minor
11 corrections, apparently, to the statement that
12 Mr. Willoughby had that Mr. Wade reviewed, and he
13 also at that time told him that if there was
14 anything that he did not have, to please let him
15 know. And as of lunch today Mr. Willoughby had not
16 heard anything from Mr. Harris or Mr. Joyner as to
17 not having Mr. Wade's statement or any other item.

18 THE CHAIR: Mr. Harris?

19 MR. HARRIS: As noted, I received that
20 Friday. In fact, just for the record, because I
21 was occupied in other cases, I received my mail
22 very late Friday, after--after the close of
23 business. Am I to understand that in the midst of
24 this hearing I was supposed to run over there to

1 Mr. Willoughby and tell him what I've already told
2 this Chair, that we need that?
3 I mean, this Chair requested it. It
4 could be provided to us if--if we hadn't been
5 provided. And instead of being provided, we're
6 getting a little song and dance about why it can't
7 be provided. Now, we're talking about fifty pages
8 here. Can nobody run a Photostat machine? I
9 mean--I mean, how far are we prepared to go in this
10 sham to make this look like a fake hearing? How
11 far are we prepared to go?
12 THE CHAIR: Mr. Harris, do you have your
13 Bates-stamped file present in the courtroom--in
14 this room?
15 MR. HARRIS: I've got such portions of
16 the file as I needed for this hearing, and that--
17 we're talking about--we're talking about, at this
18 point, four boxes of stuff. No, I haven't brought
19 the whole Bates-stamped file, no.
20 THE CHAIR: Well, my understanding, and
21 my question, is this: I know that you spent a good
22 portion of your holiday break reviewing that
23 discovery that came in December and January from
24 Mr. Colon Willoughby's office. I assume that at a

1 minimum you've gone and just made sure that the
2 Bates-stamped pages are sequenced.
3 If you could let me know specifically
4 which pages of the Bates-stamped pages are missing
5 sequentially, I would appreciate that. And if you
6 will let me know that in the morning, we'll proceed
7 to seeing what we need to do. But if you will
8 check your file just to find out what pages are
9 missing by number--I don't know what's on them,
10 don't care what's on them, just want to know the
11 sequencing numbers that are missing.
12 MR. HARRIS: The numbers you were just
13 given, I don't have. If--if somebody will get us
14 those numbers you were just given just a moment
15 ago, that's what I need.
16 THE CHAIR: Do you have any other numbers
17 in the seven thousand pages that are missing?
18 MR. HARRIS: Yes.
19 THE CHAIR: Will you please get us the
20 numbers of the pages that are missing in addition?
21 Thank you. Now, we'll proceed again with cross-
22 examination. Thank you.
23 Q (By Prof. Joyner) Mr. Wade, you indicated earlier
24 that you've worked with Representative Wright and

1 Dr. Gottovi, I believe it was, in work with the
2 Community Health Center in--in Wilmington. How
3 extensive was your contact with the two of them
4 around the specific healthcare needs existing
5 in--in Wilmington?
6 A Yeah, it was very extensive during the period '92
7 through '94.
8 Q All right. Well, subsequent to '94 and up until
9 2006--2005, what kind of contact did you have with
10 the--with the two of them?
11 A After that it was more sporadic. I had, you know,
12 contact here in the General Assembly with, you
13 know, Representative Wright on different issues.
14 And as I mentioned earlier, we also, you know,
15 helped getting a health center down in Columbus
16 County, and I worked with him on that. And I've
17 worked with Dr. Gottovi off and on for, you know,
18 twenty--twenty plus years.
19 Q All right. And Dr. Gottovi was also involved in
20 the Columbus County--
21 A No, he was not involved in that.
22 Q He was not involved in that?
23 A No. But he's very involved in New Hanover
24 Community Health Center.

1 Q Has Dr. Gottovi worked with you as a--as a health
2 consultant--
3 A Yes.
4 Q --on projects?
5 A Yes.
6 Q And in what counties did that work cover?
7 A That--that work covered a five-county area, New
8 Hanover, Columbus, Pender, Bladen, and Brunswick
9 County, around developing a Medicaid network in
10 that--in that area.
11 Q Now, do you recall having some conversations with
12 both Representative Wright and Dr. Gottovi about
13 the 1898 Wilmington race rebellion issues and
14 concerns?
15 A Yes, I do.
16 Q And--and in those conversations, I believe you
17 indicated that you were supportive of their efforts
18 and the kinds of things that they were doing around
19 those issues. Is that correct?
20 A That's correct.
21 Q Do--do--do you recall how much--how extensive your
22 conversations with the two of them were about--
23 around those issues?
24 A Well, I don't--I don't remember discussing it with

1 Dr. Gottovi. I do remember discussing it with
 2 Representative Wright and--and did have--at one
 3 point I recall him taking me over and showing me
 4 the building and talking about his--you know, his
 5 plans and so forth.
 6 Q Okay. And this was down--down in Wilmington?
 7 A Yes, that was in Wilmington.
 8 Q So you actually saw the building--
 9 A Oh, yes.
 10 Q --that--that they were talking about?
 11 And did you go into the building?
 12 A I--I think so. I can't--I don't remember for sure,
 13 but I think so.
 14 Q All right. Now, did this occur before there was
 15 the request for this letter--
 16 A Yes.
 17 Q --from--from you?
 18 A That's my recollection, yes.
 19 Q Do you--can you say about how long before you had
 20 those conversations you went down to see the--the
 21 building?
 22 A My recollection was, you know, a month or so before
 23 or something like that.
 24 Q And you knew that--that not only was the Community

1 on the purchase of the building and the conversion
 2 into the museum, and then the use of additional
 3 space for the Community Health Center and the
 4 Community Health Foundation?
 5 A Yes.
 6 Q Okay. So when Representative Wright came to you to
 7 talk about the need for this letter and the urgency
 8 as--as--as you've described it, you were fully
 9 familiar with the background of the building and
 10 the people who were going to be involved in it?
 11 A I wouldn't say "fully." You know, it was at that
 12 point still, you know, an idea. It wasn't--there
 13 wasn't a firm plan as to what was going to go where
 14 and--I mean, that had not been, you know, laid out
 15 at that point.
 16 Q Well, I guess in its broader--in a broader sense,
 17 you were familiar with what the goal of the
 18 individuals and organizations were with respect to
 19 securing this building?
 20 A Yes.
 21 Q Okay. Now, in the past--and I'm referring now from
 22 1991 up to 2001--had you received other requests
 23 from Representative Wright for grants or support,
 24 assistance in other projects and programs that he

1 Health Center involved, at least in the plans
 2 around this--in the securing of this building ,but
 3 also was the Community Health Foundation?
 4 A Well, I don't--I don't recall--the Community Health
 5 Center had--was trying to get additional space
 6 'cause of crowding. So the issue of space was
 7 certainly on their agenda. I don't know if they
 8 specifically had any involvement in the--in the--in
 9 the building, though.
 10 Q All right. Now, the--the building that we're
 11 talking about is right across the street from the
 12 Community Health Center; is that correct?
 13 A Correct. Yes.
 14 Q All right. Now--and you are familiar with the--at
 15 least some of the work of the Community Health
 16 Foundation, are you not?
 17 A Not--I'm not familiar with the work. I don't--you
 18 know, the point I knew about it, I think it was
 19 still being put together.
 20 Q You knew about its--well, at the time that you knew
 21 about it, it was in a formative state?
 22 A Correct.
 23 Q All right. And the formative state, as you
 24 understood it, had to do with--or had--was focused

1 was involved in?
 2 A The only two requests that I recall were for the
 3 New Hanover Community Health Center, for help on
 4 operations, and then, you know, a capital project,
 5 and then the request for help to put together a
 6 health center in Columbus County.
 7 Q All right. And--and on occasions when
 8 Representative Wright had come to you to make
 9 requests for assistance or support or help, on some
 10 occasions you--you've had to turn him down; isn't
 11 that correct?
 12 A I--probably. I don't recall, you know, any
 13 incidents, though, right now.
 14 Q All right. But you have a general recollection
 15 that on some occasions you've said "no" to him?
 16 A I can't recall any specific right now.
 17 Q All right. Now, you indicated that once the letter
 18 was prepared--and this tracked what you identified
 19 as Exhibit 2 in the--in the book--that you then
 20 sent the letter--well, let me--did you mail the
 21 letter to Representative Wright, or did you
 22 physically hand it to him?
 23 THE CHAIR: Let me interrupt for one
 24 second. Are we talking Exhibit 2 or Exhibit 3?

1 PROF. JOYNER: Well, I'm using Exhibit 2
2 as the basis for what Exhibit 3 is.
3 THE CHAIR: All right. Thank you.
4 A I recall giving it to my secretary, who typed it,
5 and then she, I think, sent it to, you know,
6 Representative Wright.
7 Q (By Prof. Joyner) Okay. Do you recall if she put
8 it in--in--in the mail and mailed it to him?
9 A I--that's my recollection, but I do not--it wasn't
10 hand--hand-delivered, no.
11 Q Okay. And that letter is--is basically Exhibit 3?
12 A Yes.
13 Q All right. Now, you indicated in that letter that
14 the funding will be awarded by June 30th, 2002.
15 Now, at the time, were you under the impression
16 when you wrote that--that letter that funding would
17 be acquired by Representative Wright by that time?
18 A That was my understanding.
19 Q All right. But you knew that that--whatever the
20 funding was, it was not a commitment that binded
21 [phonetic] you in any way?
22 A Well, it certainly wasn't--was not an expectation
23 that--that I would pay this money, right.
24 Q All right. So then to say that--to suggest that

1 All I know is that--my work with him, he always--
2 when he said he would do something, he did it.
3 And--and so that's what I was basing it on.
4 Q And in the past, he had been able to get
5 appropriations and grants and other financial
6 support that undergirded or supported the
7 organizational efforts that he was engaged in--
8 A Yes.
9 Q --is that correct?
10 All right. And that was the history that
11 you had had with him?
12 A Correct.
13 Q And there was no reason at this point for you not
14 to believe that he could, in fact, do that?
15 A Correct.
16 Q So the only part about this letter that is not
17 truthful is the--your endorsement that your office
18 was committing a hundred and fifty thousand dollars
19 (\$150,000) in funding?
20 A Correct.
21 Q Okay. You indicated, I believe, that as far as you
22 know, the letter was sent only to Representative
23 Wright?
24 A That--that's my understanding.

1 the money would be awarded by June 30th--that was
2 then based upon what Representative Wright had said
3 to you about his ability to obtain these funds by
4 that date?
5 A Well, that plus the--you know, my commitment is
6 based on a fiscal year, so I couldn't--I had funds
7 during this fiscal year that I could commit.
8 Beyond June 30th, I had no--you know, I had--I
9 didn't know what kind of funds I'd have at that
10 point. So it's probably a standard--you know, a
11 standard commitment letter, as well.
12 Q All right. Now--well, what I'm asking you now is,
13 it was your understanding that Representative
14 Wright was going to be able to get this money from
15 some other source; is that correct?
16 A That's correct.
17 Q And you were operating under the assumption that he
18 was going to be able to get this money from some
19 other source?
20 A Yes.
21 Q Had--in the past, had Representative Wright
22 demonstrated his ability to get large sums of money
23 for various projects?
24 A I--I don't know, you know, large sums of money.

1 Q And you don't have any information about what
2 happened with that letter once it was received by
3 him?
4 A No, I don't.
5 Q And did you have any other conversation with him
6 about this letter?
7 A Not that I recall.
8 PROF. JOYNER: Mr. Chairman, could I just
9 have a moment?
10 THE CHAIR: Sure.
11 (DISCUSSION OFF RECORD)
12 PROF. JOYNER: Mr. Chairman, we have no
13 further questions of this witness at this time. We
14 do want him to remain on standby until we can
15 resolve this question about the prior statement and
16 if there is to be some further questioning of him
17 pursuant to that.
18 THE CHAIR: Well, we're--and--and we'll
19 get to that, actually, when we get through the rest
20 of the questions on him, so I appreciate that.
21 Redirect examination, Mr. Hart?
22 MR. HART: Thank you, Mr. Chairman.
23 REDIRECT EXAMINATION BY MR. HART:
24 Q Mr. Wade, you said that, in response to

1 Mr. Joyner's question, that the only part of the
2 letter that was not true was the commitment of a
3 hundred and fifty thousand dollars (\$150,000) in
4 funds; is that--is that correct?
5 A No, I mean, the part that wasn't true was the
6 funding would be awarded by June 30th.
7 Q Okay. You never attended to award funding by
8 June 30th, did you?
9 A No.
10 Q And that was in his e-mail to you, that it had to
11 be--that the funds would be forthcoming by June
12 30th, correct?
13 A Well, I don't know.
14 Q You can refer back to the e-mail.
15 A Yeah, it says no later than July or--or August.
16 Q Okay. So that statement that you put in the letter
17 which was false, that the funding would be awarded
18 by June 30th, was in response to that portion of
19 the e-mail that the funding would be forthcoming by
20 July or August, correct?
21 A That, plus, as I said to Mister--Dr. Joyner, that
22 our fiscal year ends June 30th, so our
23 commitment--you know, I could commit funds beyond
24 that. So it was a combination of, you know, our

1 it. Overruled for the time being.
2 Q (By Mr. Hart) Mr. Wade?
3 A I was--I was given--after this Board of Elections
4 hearing, I was put on administrative leave and then
5 given--basically given the option of retiring or
6 going on leave without pay. But that was not
7 open-ended and not--so I elected to--with--with
8 strong encouragement, elected to retire.
9 Q And was--and was that based upon your having given
10 Representative Wright this false letter?
11 A Yes.
12 MR. HART: That's all the questions I
13 have, Mr. Chairman.
14 THE CHAIR: Recross? Thank you.
15 RECROSS-EXAMINATION BY PROF. JOYNER:
16 Q Mr. Wade, in--in your conversations with
17 Representative Wright, do you recall a conversation
18 in which he indicated that it was his intention to
19 be able to get an appropriation to cover the
20 hundred and fifty thousand dollars (\$150,000)?
21 A No, I don't recall what--the source of the money
22 that he--he said he had lined up, I don't recall
23 that.
24 Q But he did indicate that it was his intention to

1 process plus the request from Representative
2 Wright.
3 Q Okay. So that commitment was false, not only in
4 the amount of a hundred and fifty thousand, but
5 that it was going to be done by June 30th?
6 A (Nods head.)
7 Q And you conveyed--I'm sorry. You need to answer
8 that question--
9 A Yes.
10 Q All right. And you had conveyed that information
11 to Representative Wright, correct, that that was
12 false, that there would be no money forthcoming
13 from you?
14 A Well, he--he expressly said he didn't need the
15 money, so I didn't--I didn't restate that.
16 Q Okay. Now, Mr. Wade, what is the reason you're no
17 longer with state government?
18 PROF. JOYNER: Objection. Objection.
19 THE CHAIR: Basis?
20 PROF. JOYNER: Irrelevant.
21 THE CHAIR: Mr. Hart?
22 MR. HART: I think if you allow him to
23 answer, Your Honor, you'll see that it is relevant.
24 THE CHAIR: I will allow you to connect

1 have that by the--by July or August?
2 A Correct.
3 Q And you--as to--as to--as to that promise, you had
4 no reason to believe that he was not able to--he
5 was not going to be able to deliver on that?
6 A Correct.
7 PROF. JOYNER: I have no other questions.
8 THE CHAIR: All right. That concludes
9 the counsel's examination. I'll now go in order of
10 the Committee members. And, Mr. Wade, we're in
11 a--since it's a Committee hearing, the Committee
12 members also get to ask questions, and then we'll
13 conclude with one last round of counsel, questions
14 if there are any.
15 First, Representative Stam.
16 REP. STAM: No questions.
17 THE CHAIR: All right. Representative
18 Lucas?
19 REP. LUCAS: No questions.
20 THE CHAIR: All right. Representative
21 McGee?
22 REP. MCGEE: No questions.
23 THE CHAIR: Representative Warren?
24 REP. WARREN: No questions.

1 THE CHAIR: Representative Wiley?
2 REP. WILEY: One question.
3 THE CHAIR: Certainly.
4 REP. WILEY: And this may be--I'm not
5 sure who to direct this to.
6 On this letter, Exhibit 3, is that a
7 legally binding letter if Representative Wright
8 insisted on the hundred and fifty thousand dollars
9 (\$150,000) in funding?
10 THE CHAIR: If you can answer, Mr. Wade--
11 THE WITNESS: It's not a--it would not be
12 sufficient to convey the funds, no.
13 THE CHAIR: Further questions,
14 Representative Wiley?
15 REP. WILEY: No. Thank you,
16 Mr. Chairman.
17 THE CHAIR: All right. And the Chair has
18 several questions, Mr. Wade.
19 If you'll look at Exhibit Number 3, in
20 the first paragraph you note that you're
21 enthusiastically endorsing the effort of the
22 Community Health Foundation to move into the
23 Foundation offices, the health center, and a
24 museum. Did you have any capacity to endorse, in

1 THE CHAIR: And that was never done?
2 THE WITNESS: No.
3 THE CHAIR: All right. Thank you. Any
4 questions that that leaves--Mr. Hart, any further
5 from you?
6 MR. HART: No, sir.
7 THE CHAIR: Dr. Joyner, any further from
8 you?
9 PROF. JOYNER: Yes, Mr. Chairman.
10 FURTHER RE-CROSS-EXAMINATION BY PROF. JOYNER:
11 Q And I just want to--just for clarification, in
12 terms of your ability and your authority as the
13 director of the Office of Rural Health Development,
14 you were able, had you chosen to do so, make a
15 commitment to fund the Community Health Center?
16 A Correct.
17 Q And efforts, programs under the rubric of the
18 Community Health Center?
19 A Yes.
20 Q But you were not able in the capacity that you were
21 in to provide funding for the renovation of the
22 building or the purchase of the building--well, the
23 renovation of the building to a history museum or
24 the purchase of the building?

1 your position, the history museum?
2 THE WITNESS: No.
3 THE CHAIR: So that also was something
4 outside of the ability of your office to engage in
5 any letter?
6 THE WITNESS: Well, definitely awarding
7 funds for it. If--I guess I could--I could write a
8 letter of support for a history museum and, you
9 know, there's no commitment beyond that.
10 THE CHAIR: All right. In your
11 conversation with Mr. Wright--Representative Wright
12 early on, just so that I'm clear in my notes, I
13 think you indicated, did you not, that you told him
14 that funds would not be available for this project.
15 Is that correct?
16 THE WITNESS: Well, I told him that--that
17 funds could not be made available for the museum
18 part, but of the health pieces, I had authority and
19 funds to do that.
20 THE CHAIR: And that was based on filing
21 for the process that you laid out--
22 THE WITNESS: Correct.
23 THE CHAIR: --in order to get that?
24 THE WITNESS: Correct.

1 A Corr--yes. I could not.
2 Q But you were able to provide and had the present
3 ability to provide funds to support the Community
4 Health Center?
5 A Yes.
6 Q Okay.
7 PROF. JOYNER: Thank you.
8 THE CHAIR: I think that's all the--I'm
9 sorry. Mr. Hart?
10 MR. HART: I have a couple of questions
11 based on the new area that Mr. Joyner went into.
12 THE CHAIR: Re-redirect.
13 FURTHER REDIRECT EXAMINATION BY MR. HART:
14 Q Mr. Wade, you had authority to fund projects for
15 the Community Health Center, but only if you went
16 through the proper process that your office had set
17 up; is that correct?
18 A That's correct.
19 Q So in doing this letter, you were actually outside
20 of that proper--
21 A Yes.
22 Q --process and had no authority to fund that Center,
23 even though you stated so in the letter, correct?
24 A I could not convey the funds based on that letter,

1 right.
2 Q So that was a false letter, regardless of whether
3 it was for the Community Health Center or the
4 museum?
5 A Yes.
6 THE CHAIR: All right.
7 MR. HART: That's all.
8 THE CHAIR: Any re-recross?
9 PROF. JOYNER: No.
10 THE CHAIR: Thank you, Mr. Wade. You may
11 step down. Mr. Hart, if you'll call your next
12 witness please--
13 MR. HART: Before doing that, sir, I'd
14 like to move to introduce Exhibits Number 2 and 3
15 that were identified by Mr. Wade.
16 THE CHAIR: Any objection, Dr. Joyner?
17 PROF. JOYNER: No objection.
18 THE CHAIR: No objection. Both Exhibits
19 2 and 3 are admitted.
20 MR. HART: The next witness for Special
21 Counsel is Dan Rose.
22 THE CHAIR: All right. The court
23 reporter will swear the witness, please.
24 * * * * *

1 A Yes, sir.
2 Q Tell--tell the Committee a little bit about what
3 that involves.
4 A Well, IRC Section 501(c)(3) allows exempt from--
5 exemption from federal income taxes based on their
6 activities such as charitable, educational,
7 literary, scientific research, that type of thing.
8 Q Okay. And what exactly does "IRC" mean?
9 A Internal Revenue Code. I'm sorry.
10 Q All right. And essentially, does that allow a
11 corporation that wants to be a charitable
12 corporation to receive contributions from anyone
13 and have those contributions be tax-exempt--
14 A Well, it allows--
15 Q --or deductible for tax purposes?
16 A It allows donor deductibility for those
17 contributions for those purposes, correct.
18 Q Okay. What does a corporation that wants to be a
19 charitable corporation, a 501(c)(3) corporation,
20 have to do to obtain that status?
21 A In general, organizations that want to be exempt as
22 described in Section 501(c)(3) are required to fill
23 in a Form 1023 and submit it to the Internal
24 Revenue Service for consideration.

1 _____
2 Whereupon,
3 DAN ROSE,
4 having been first duly sworn,
5 was examined and testified
6 as follows:
7 _____
8 THE CHAIR: All right. Thank you.
9 Mr. Hart?
10 DIRECT EXAMINATION BY MR. HART:
11 Q Would you tell us your name, please, sir?
12 A My name is Daniel Rose.
13 Q Mr. Rose, how are you employed?
14 A I'm employed at the Internal Revenue Service.
15 Q And what is your job with the Internal Revenue
16 Service?
17 A I'm the group manager of the Internal Revenue
18 agents in Greensboro, North Carolina, and in South
19 Carolina that examine exempt organizations.
20 Q All right. And how long have you been with the
21 Internal Revenue Service?
22 A Nineteen eighty-six (1986), very end of it.
23 Q Are you familiar, sir, with charitable corporations
24 under 501(c)(3)?

1 Q And is--is--does that have anything to do with
2 obtaining an identification number?
3 A No.
4 Q What does--tell us about an identification number.
5 A An employer identification number is--it's
6 analogous to a Social Security number for an
7 individual. It identifies the entity by number.
8 So it's--that's all. But they can be obtained--
9 it's an SS-4 form, I believe. It's not something I
10 normally get involved in, but I've seen the form.
11 It can be obtained through submitting that form.
12 It can be obtained--or it could have been obtained
13 years ago through a telephone number and this kind
14 of thing. But it's simply an identification
15 number.
16 Q Okay. So if a corporation--someone forming a
17 corporation were to send in an SS-4 number--an SS-4
18 form or call a certain location, they could get an
19 identification number, but that would not make them
20 a 501(c)(3) corporation; is that correct?
21 A That's correct.
22 Q You indicated a Form 1023, 1-0-2-3; is that
23 correct?
24 A Yes, sir.

1 Q What--what exactly is that form?
2 A It's a form that is submitted that identifies the
3 organization by name and address and--and gives
4 them the general outline of their activities, their
5 purposes, and this kind of thing so they can be--
6 that would purport them to follow the guidelines as
7 described in 501(c)(3).
8 Q Okay. Once a corporation submits that Form 1023,
9 is there an approval process that has to be gone
10 through at the IRS?
11 A There is. It's considered as to whether their
12 activities conform to those guidelines, and they're
13 either approved or denied.
14 Q And if--if that process is approved, how is--how
15 would we know that?
16 A There are various public places where the
17 organizations identified--the Internal Revenue
18 Service has a publication that's probably as thick
19 as a phone book called the Publication 78, and the
20 501(c)(3) organizations are listed there. There
21 are, you know, in recent years Web sites--public
22 access Web sites have come available that you can
23 look organizations up there. And I use those Web
24 sites regularly.

1 filed and it is not granted exempt status, there is
2 no record of that filing.
3 Q Okay.
4 MR. HART: That's all the questions I
5 have of Mr. Rose.
6 THE CHAIR: Cross-examination,
7 Dr. Joyner?
8 CROSS-EXAMINATION BY PROF. JOYNER:
9 Q Yes, Mr. Rose. Just for clarity, first of all, you
10 said that you checked the records for "The
11 Community Health Center"?
12 A It's the Community's Health Center, yeah,
13 Foundation.
14 Q Okay. Now, are--are--
15 A I've got it written down if you--
16 Q Okay. Do you want to look at your notes, then, and
17 figure out which one it is?
18 A The Community's Health Foundation, Incorporated.
19 Q The Community's--
20 A The Community's, T-Y, apostrophe, S.
21 Q You didn't look under "The Community"--
22 A I'm sorry.
23 Q Did you look under "The Community Health
24 Foundation"?

1 Q Okay. I'm going to ask you if you--if there's come
2 a time where you have been asked to look to
3 determine whether or not a corporation called the
4 Community Health Foundation, Incorporated, in
5 Wilmington, North Carolina, ever filed for
6 501(c)(3) status.
7 A Yes.
8 Q And what did you determine from that investigation?
9 A There's a--the determinations process is centered
10 in Cincinnati, Ohio. That's what we call our
11 records unit, and I have reason to call them every
12 once in a while. And I've called and asked about
13 this--it's Community's Health Center, I believe.
14 We have no record of that organization being given
15 exempt status under 501(c)(3).
16 Q Have you checked through other means, as well?
17 A I checked on the Web sites, and they don't show up
18 there. We've looked in Publication 78 that--the
19 Internal Revenue Service document. It does not
20 show up there.
21 Q Do you have any way of determining whether or not
22 anything was ever even filed to obtain that status?
23 A Well, I was wondering about that, and I asked the
24 records unit. Apparently, if an application is

1 A I looked under several variations. At first I
2 thought it was "Communities," as in plural. We
3 looked under that. We looked under "Community."
4 We looked under "Community's," as in possessive.
5 And there was no record--no record of it.
6 Q Okay. So you didn't find a record of that?
7 A Correct.
8 Q Now, you said you've been an IRS agent for how
9 long?
10 A Well, I've been with the Internal Revenue Service
11 since 12-29 of '86. I became a Revenue agent in
12 May of '94. I came to North Carolina July 1st of
13 '05.
14 Q And, now, 501(c)(3) status, as--as you understand
15 it, is conferred upon organizations that are
16 engaged in charitable and community activities; is
17 that correct? Or at least it meets the criteria
18 for a 501(c)(3) status?
19 A Well, the--Section 501(c)(3) has several areas that
20 it confers the exempt status on. It's--
21 Q Well--
22 A I can't promise you I remember every one of them,
23 but they're such as charitable, educational,
24 scientific research, literary, this kind of thing,

1 med--medical care, this kind of thing.
2 Q But 501(c)(3)--
3 A Right.
4 Q --is specific as to corporations that are operated
5 exclusively for religious, charitable, scientific,
6 testing for public safety, literary, or educational
7 purposes; is that correct?
8 A Yes, if it's awarded.
9 Q And if a corporation meets that criteria, then it
10 is a 501(c)(3) organization?
11 A No.
12 Q It's not?
13 A No. That's the--that's the reason for the
14 application process. It comes in, and we--we--it's
15 a letter called a determination letter that is sent
16 out once we have determined that the application
17 meets the criteria.
18 Now, there's--the first one you mentioned
19 was a religious organization, and churches, I
20 believe, are the only ones that do not--are not
21 required to file an application. It's the
22 separation-of-church-and-state thing. So churches
23 don't have to file a Form 990, which is the
24 information return, and they do not have to apply

1 about a piece of paper, should they not be given a
2 copy of the piece of paper?
3 THE CHAIR: Well, I'm going to let
4 Dr. Joyner ask his question, and then if we think
5 that--that it will help Mr. Rose to see that, then
6 we can do that. But I'll let Dr. Joyner go ahead
7 and ask his question.
8 PROF. JOYNER: Well, I'll let him--I only
9 have one copy of this, but I'll let him see it. I
10 mean, he's supposed to be an expert. That's what I
11 understand.
12 A Well, let me explain something--
13 PROF. JOYNER: But I'll let him see it.
14 THE CHAIR: No, no, no. Let's let there
15 be a question first.
16 THE WITNESS: I'm sorry.
17 THE CHAIR: So why don't we go ahead and
18 let him take a look at the paper and then--let him
19 read it for a minute, and then if you'll--after you
20 read it, let me know--return it to Dr. Joyner, and
21 we can proceed with the questions. Thank you.
22 A (Examines paperwritings.) I guess whether I'm
23 familiar--
24 THE CHAIR: Are you done reading?

1 for exempt status, but all of the others do.
2 Q Well, are you familiar with Section 508(a) of
3 the--of the Code?
4 A Not very much, no.
5 Q You're not familiar with that?
6 A No.
7 Q 508(a) says that new organizations must notify the
8 Secretary that they are applying for recognition of
9 501(c)(3) status. Are you familiar with that?
10 A Well, I'm familiar with the requirement, yeah.
11 Q And--
12 A That's what the Form 1023 is for.
13 Q But this notification procedure in--in the--by law
14 creates two mandatory exceptions, does it not?
15 A Well, you asked me if I was familiar with it, and
16 I'm not that much, so--
17 Q Oh, you're not. Okay. Well, let me--
18 A 508(a) or (e), you said?
19 Q Well, five--let's look at 508(c).
20 A Okay.
21 Q 26 USCA 508(c)(1)--
22 REP. STAM: Mr. Chairman, I have a--
23 THE CHAIR: Representative Stam?
24 REP. STAM: If someone's being asked

1 THE WITNESS: Yeah, but I can't remember
2 everything I've read here. This is not a section
3 we deal with. That's what I'm trying to tell you.
4 THE CHAIR: Let's hang on for a minute.
5 All right. If you'll return that to Dr. Joyner,
6 please--all right. Dr. Joyner, if you'll go ahead
7 and pose the question, Mr. Rose, then you can
8 answer the question.
9 Q (By Prof. Joyner) All right. Let me--let me start
10 with this, then. 26 USCA 508--that is a statute
11 enacted by Congress dealing with Internal Revenue
12 matters; is that correct?
13 A Yes, looks to be.
14 Q And specifically it refers back to the recognition
15 of 501(c)(3) organizations; is that correct?
16 A It looks to, yes.
17 Q All right. And that is under 501--508--I'm sorry--
18 (c), a section called "Exceptions to the
19 Notification Process." Do you recall seeing that?
20 A Yes.
21 Q And one of those exceptions, as you indicated,
22 deals with churches, their integrated auxiliaries,
23 conventions, and associations; is that correct?
24 A Church organizations, yes.

1 Q And as to them, they need not file or notify the
2 Secretary of the claim of 501(c)(3) status. Is
3 that your understanding?
4 A Yes.
5 Q And--because there is a presumption--well, not that
6 there's a presumption, but they are treated
7 differently, and if challenged, then they have to
8 establish their--the fact that they are a
9 legitimate 501(c)(3) organization; is that correct?
10 Or you're not familiar with that, either?
11 A No. You say if they're challenged--I don't
12 understand your question, if you'd restate it.
13 Q You do understand that religious organizations,
14 based on the statute--
15 A Yes.
16 Q --don't have to notify or apply--
17 A Correct.
18 Q --for 501(c)(3) recognition?
19 A Correct.
20 Q And in addition to that, it says any organization
21 which is not a private foundation and the gross
22 receipts of which in each taxable year are normally
23 not more than five thousand dollars (\$5,000), they
24 need not apply for recognition either, doesn't it?

1 Q And I'm talking about now organizations.
2 A Other than churches?
3 Q Isn't that what the statute says, Mr. Rose?
4 THE CHAIR: All right. We're--
5 A It says--it looks like there's two exceptions
6 there. One is churches.
7 THE CHAIR: We're going to take a break
8 at this point. I'm going to recess us for ten
9 minutes, staff, sergeant-at-arms, if you'll make
10 copies, please, of that statute, give it to
11 Mr. Rose, to Mr. Hart, to the Committee members.
12 We're in recess for ten minutes until a copy of the
13 statute can be made.
14
15 (TWELVE-MINUTE RECESS)
16
17 THE CHAIR: All right. We'll come back
18 to order, and I'm going to take my coat off, so I'm
19 certainly going to allow anybody else who wants to
20 to do that. All right. We're back on cross-
21 examination with Dr. Joyner. I think everyone has
22 a copy of the statute. Committee members should
23 have it. Mr. Hart and Mr. Peters should have it.
24 Dr. Joyner, the witness is back with you.

1 A I remember seeing that just now, yes.
2 Q All right. And that's what--and that's what the
3 statute says?
4 A I remember seeing that just now, yes.
5 Q Okay. And is that what the statute says?
6 A It's what it says there, yes.
7 Q All right. Is there anywhere else that this
8 information would be?
9 A Well, see, this is the determination process. You
10 know, to put this into context, when we go to find
11 if an organization has been granted exempt status,
12 we look it up in various places. We might even
13 call that records unit that I was mentioning. But
14 this is not an area that our group gets into, you
15 know. We're not in the determination process.
16 Q Okay.
17 A That's centralized in Cincinnati.
18 Q Okay. Well, I wasn't asking you about that. I was
19 just asking, is there not, based on United States
20 Code Annotated statutes, an exception for
21 organizations, just like churches, that they need
22 not register for 501(c)(3) status?
23 A Correct. Churches do not need to register or
24 apply.

1 Q (By Prof. Joyner) All right. Mr. Rose, have you
2 had a chance now to review the federal law?
3 A I'm looking at it, yes.
4 Q You're looking at it now? Have you had a chance to
5 read it?
6 A This part, yes.
7 THE CHAIR: Hang on. You're going to
8 need to speak into the microphone so the court
9 reporter can hear. Thank you.
10 A Yes.
11 Q Do you see 508(b)?
12 A 508(b), yes.
13 Q (B). All right. And does not that section
14 basically stand for the proposition that if--if the
15 notification of 501(c)(3) status is not given to
16 the Secretary, that there should be a presumption
17 that the organization is a private foundation?
18 A Yes. That's what it says.
19 Q All right. And by giving notification of 501(c)(3)
20 eligibility, that authorizes the Secretary to
21 designate the organization as a public or a
22 charitable foundation; is that correct?
23 A There are two designations of 501(c)(3). On is a
24 private foundation. One is a public charity.

1 They're determined by the range of donations coming
2 in. So organizations are private foundations until
3 they're determined to be public charities. That's
4 what 509(a) talks about, yes.
5 Q But if it's deemed to be a private foundation
6 without notifying the Secretary of 501(c)(3)
7 status, then it is not tax-deductible--tax-exempt?
8 A Yes. I believe you're correct.
9 Q I mean, the law is right there in front of you.
10 A Yeah, but the way you said it is what I'm
11 questioning.
12 Q Well, a private foundation that has been designated
13 as a 501(c)(3) organization is tax-exempt?
14 A Yes.
15 Q And a private foundation which has not received a
16 501(c)(3) notification is not tax-exempt?
17 A Correct.
18 Q All right. And the private foundation becomes
19 tax-exempt because it gives notice to the Secretary
20 in the form of your Form 1023; is that correct?
21 A It applies for exempt status through Form 1023.
22 Q Then the statute goes on to make mandatory
23 exceptions to that requirement?
24 A Yes.

1 A If they do not apply, then they're presumed to be a
2 private foundation and--which negates 508(c)(b).
3 Q Well, let's see if I can help you with your--with
4 your reading of this. Do you see (c)(1)?
5 A Yes.
6 Q And do you see right next to the term "mandatory
7 exceptions"?
8 A Sure.
9 Q What does--what does that say?
10 A "Subsections (a) and (b) shall not apply to."
11 Q Okay. So that means those two organizations need
12 not comply with either 508(a) or 508(b)?
13 A Correct.
14 Q So that's correct?
15 A That is correct.
16 Q Okay.
17 A That's what it says.
18 Q So all we have to do is to show that the
19 organization fits into the (c)(1)(b) designation,
20 and it need not file a Form 1023?
21 A It does not need to file a 1023 if it doesn't wish
22 to have exempt status, correct.
23 Q Mr. Rose, you're--you're trying to redraft in your
24 mind--

1 Q One is for religious organizations or churches,
2 because it really doesn't say "religious
3 organizations," it says "churches"--
4 A Correct.
5 Q --right?
6 And for any organization which is not a
7 private foundation and the gross receipts of which
8 is--in each taxable year are normally not more than
9 five thousand dollars (\$5,000)--
10 A Yes.
11 Q Do you see that there?
12 A Yes.
13 Q So those two groupings would not be required to
14 notify the Secretary for 501(c)(3) classification;
15 is that correct, based on the statute?
16 A Well, I think you're missing that 508--508(b) says
17 that if you do not--"does not notify the Secretary
18 that it is not a private foundation shall be
19 presumed to be a private foundation"--and the
20 exceptions--you're saying that an organization that
21 is not a private foundation--now, if they do not
22 apply, they're presumed to be a private foundation.
23 This is the way I'm reading this.
24 Q Well--

1 A No, I'm trying to understand--
2 Q --the statute.
3 A --your questions, sir.
4 Q Do you want me to go back again?
5 A Well, let's start from the section where it says,
6 "Subsections (a) and (b) shall not apply to (a) and
7 (b)."
8 Q All right. Well, let's--let's--let's--let me ask
9 you this way: When it says, "Subsection (a) and
10 (b) shall not apply," that means that it is
11 mandatory from Congress--
12 A Right.
13 Q --that those two groupings need not file a Form
14 1023?
15 A Correct. You're right. Okay. All right.
16 Q So once we have determined that the organization
17 fits into the (c)(1)(b) exception, it need not file
18 a Form 1023?
19 A Doesn't need to file one, no.
20 Q So the fact that you looked for and did not find a
21 designation for the Community Health Foundation, if
22 it received less than five thousand dollars
23 (\$5,000) normally per year, means absolutely
24 nothing with respect to a determination of whether

1 it's a 501(c)(3) organization?
2 A See, I'm getting hung up on where it says--in (b)
3 it says, "Any organization which is not a private
4 foundation and the gross receipts of which in each
5 taxable year are normally not more than five
6 thousand dollars (\$5,000)"--"any organization which
7 is not a private foundation"--but when you look
8 under 508(b), if they do not notify the Secretary
9 that it is not a private foundation, it shall be
10 presumed to be a private foundation.
11 And I also want to tell you--I'm trying
12 to answer this the best I can, but this is not an
13 area we get into. But by the reading of this, it
14 seems, honestly--it seems they have to tell us that
15 they are not a private foundation before exception
16 (b) fits.
17 Q Well, let's--let's go back, because I know this
18 reading sometimes is hard. I understand--
19 A Sorry.
20 Q --it's hard sometimes.
21 A I'm trying to follow you.
22 Q All right. 508(c), 508(c)(1)--
23 A Yes.
24 Q --says, "Subsections (a) and (b) shall not apply."

1 are normally not more than five thousand dollars
2 (\$5,000)." I have no idea what the revenue of this
3 organization was, so the five thousand dollars to
4 me doesn't mean anything.
5 But it says, "Subsections (a) and (b)
6 shall not apply to any organization which is not a
7 private foundation." If--(b) says that if they do
8 not notify us that it is not a private foundation,
9 it shall be presumed to be a private foundation.
10 So an organization that does not apply
11 for (c)(3) status is presumed to be a private
12 foundation. And (c)(b) looks to me to be--the
13 conditions are not met. That's the way I'm
14 reading.
15 Q All right. Mr. Rose, let's work through this
16 again, now.
17 A All right.
18 Q Subsection (1)(b)--(c)(1)(b)--
19 A (C)(1)(b). Yes.
20 Q --relates to an organization which is not a private
21 foundation as defined--you do see that there, don't
22 you--
23 A Sure.
24 Q --in Section 509(a)?

1 So in spite of that mandatory language,
2 now you want to read into this statute some
3 requirement that it apply or that it utilize
4 Section (b) when the statute says that it shall not
5 apply? Do you see that section that says
6 "Subsections (a) and (b) shall not apply"?
7 A Yeah.
8 Q So if it says "shall not apply," then how can you
9 go back to (b) and use that as justification for a
10 requirement that there be some notification?
11 A What I'm questioning is whether (b) is met. It
12 says, "Mandatory exceptions. Subsections (a) and
13 (b) shall not apply to." Let's leave (a) alone. I
14 think we can agree (a) is irrelevant; is that
15 right?
16 Q Well, we--we--however you want to read it.
17 THE CHAIR: Okay. And, Mr. Rose, you
18 answer the question, but we're not going to engage
19 in--
20 MR. ROSE: I'm sorry.
21 THE CHAIR: Okay. Thank you.
22 A All right. "Subsection (b) shall not apply to any
23 organization which is not a private foundation and
24 the gross receipts of which in each taxable year

1 A Correct.
2 Q Now, do you know what 509(a) says?
3 A 509(a) says that an organization is presumed to be
4 a private foundation unless it fits one of the
5 criteria of (a) (1), (2), (3), or (4). And (a)(1)
6 and (2) have to do with the type of funding that
7 they receive.
8 Q Well, do you have 509(a) there in front of you?
9 A No. I've seen it.
10 Q Oh, you've seen it?
11 A That one I'm--
12 Q Well, do I need to show you a copy of that?
13 A No. What do you feel it says? Which--I'm not
14 understanding your question about 509(a).
15 Q Well, "any organization which is not a foundation
16 as defined by 509(a)"--
17 A Right.
18 Q --that's one criteria--"and the gross receipts of
19 which in each taxable year are normally not more
20 than five thousand dollars (\$5,000)"--
21 A Uh-huh (yes).
22 Q --and my question was, assuming that the income in
23 each taxable year is normally not more than five
24 thousand dollars, would that organization be

1 required to file a Form 1023?
2 A Well, there's two conditions in (b), and you're
3 only alluding to the second one. It says, "Any
4 organization which is not a private foundation and
5 the gross receipts"--I don't know what the gross
6 receipts--if the gross receipts--if it's not a
7 private foundation and gross receipts are not more
8 than five thousand dollars (\$5,000), you're
9 correct, they do not have to apply.
10 Q All right. So you do agree--
11 A Yes, sir.
12 Q --you do agree that that--that that would apply and
13 you would not have to file--
14 A If they--
15 Q --a Form 1023?
16 A If they meet both of those criteria, I agree with
17 you.
18 Q Okay. So--so those are at least two mandatory
19 exceptions?
20 A Yeah, (a) and (b) you're talking about. Yes.
21 Q And then the statute goes on to say that the
22 Secretary may, by regulation, exempt other
23 organizations. Have you checked the Secretary's
24 exemptions to see if they might apply in this

1 those exceptions?
2 A I'm looking at Number 2 here. Just a moment,
3 please. (Examines paperwritings.) Well, it says
4 it may exempt from those provisions (a) and (b) or
5 both, educational organizations, which is, a,
6 described in 170(b)(1)(A)(iii), and, b, any other
7 class of organizations with respect to which the
8 Secretary determines the full compliance with the
9 provisions of Subsections (a) and (b) is not
10 necessary to the efficient administration of the
11 provisions--okay. Okay. Well, to answer your
12 question, now that I read this, no, I have not
13 looked at the regulations.
14 Q Okay. And that--and that--and that--and that was
15 my question.
16 A Okay.
17 PROF. JOYNER: Mr. Chairman, I don't have
18 any other questions.
19 MR. CHAIR: I'm sorry. Redirect
20 examination?
21 MR. HART: No questions, sir.
22 THE CHAIR: All right. Actually, we've
23 got a slightly different process. Hang with me.
24 You may or may not be done. Question,

1 situation?
2 A The regulations? Well, where it says--no, I
3 haven't looked at the regulations recently. To be
4 honest with you, when these things come up, I read
5 the regulations. I don't try to commit--
6 Q So if an organization--
7 REP. STAM: Dr. Joyner, let's let him
8 finish his answer.
9 A To be honest with you, when these things come up, I
10 look at the regulations. I don't try to commit
11 them to memory.
12 Q And looking at this statute--
13 A Yes.
14 Q --which is not a regulation--
15 A Correct.
16 Q --but the law--
17 A Yes.
18 Q --it says that the Secretary can exempt other
19 organizations not mentioned and not covered by (a)
20 and (b); is that correct?
21 A Yes.
22 Q And you have not checked the Secretary's
23 regulations to see how the Community Health
24 Foundation might or might not apply to those--to

1 Representative Stam?
2 REP. STAM: Thank you, Mr. Chair. In
3 looking at Exhibit 1, which is the name of the
4 entity in question, the Community's Health
5 Foundation, Inc., my question is this: We've had a
6 forecast of evidence that this corporation, the
7 board of directors never met, that the--there were
8 no bylaws and that the chairman--that the chairman,
9 Mr. Wright, Representative Wright, deposited in his
10 own personal bank account contributions of several
11 thousand dollars to his own account. Could a
12 corporation like that qualify as a corporation to
13 which contributions are tax-deductible under
14 501(c)(3)?
15 PROF. JOYNER: Objection.
16 THE CHAIR: Basis for the objection?
17 PROF. JOYNER: One, I don't know that
18 this--this witness is qualified to interpret the
19 statute and to make designations of--of tax-exempt
20 status. That's not what he was represented to be
21 able to do when he was presented as a witness.
22 THE CHAIR: Mr. Hart?
23 MR. HART: He's just spent twenty minutes
24 asking the witness for his interpretation of the

statutes, Mr. Chairman.

THE CHAIR: I agree, and the objection on that grounds is overruled. You can answer the question if you can.

THE WITNESS: Organizations are required to provide organizational documents--there's--there's two tests to be designated an exempt organization. One is the organizational test. One is the operational test.

The organizational test is demonstrated by organizational documents. We require the organizational documents to identify the purpose of the organization, and it has to comply with the purposes described in the particular subsection. So if they don't have bylaws, I don't--I don't--that's not fatal to their exempt status.

501(c)(3) goes on, after it describes the various purposes of the--the section or organizations described in the section--it goes on to ban certain activities. There's an absolute ban on political activities. There's a ban on substantial legislative activities, and there's a ban on inurement of funds to any shareholder--is the word they use, but it means that--inurement

fifteen hundred dollars that went straight into the pocket of Representative Thomas Wright, would that mean that this corporation--that contributions to this corporation would not be tax-exempt under federal tax law?

THE WITNESS: Contributions would be not tax-exempt--I think--would they be not deductible?

REP. STAM: I'm sorry. Not be deductible against the income tax.

THE WITNESS: Well, the--what happens when an organization applies for exempt status and is granted the exempt status, the--as I alluded to before, the organization's identified in Publication 78 and--and other various places. If an organization gives a donation to--if a company, Anheuser-Busch, whoever, gives a donation to an organization that is listed by the Service in its Publication 78, for example, they get the donation. They get the donation because they're taking the Service's word that it is an exempt organization under 501(c)(3).

REP. STAM: A final question, if I could?

THE CHAIR: Certainly.

REP. STAM: Well, in this case where

means excess benefit or benefit beyond reasonable benefit to people that have control of the organization.

We have--you know, we do examinations of these organizations, and several--often what we find is the people that control the organizations use the money for their own purposes. This is what inurement is. And this is what can cause the exempt status of the organization to be--proposed to be revoked.

THE CHAIR: Representative Stam?

REP. STAM: Looking at Page 2 of Exhibit 1, if you look under "Prohibited Activities"--and this is the articles filed by Representative Thomas E. Wright--is that what you're referring to, "No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its members, directors, officers, or other private persons"?

THE WITNESS: Yes.

REP. STAM: So if--if the testimony that's to come later under the forecast of evidence would be that AstraZeneca gave twenty-four hundred and Anheuser-Busch gave five thousand and AT&T gave

there is no listing, if these corporations had given this money thinking that it was going for the charitable purpose, would they now have to amend their returns and instead of claiming charitable contributions, just not claim that deduction?

THE WITNESS: I don't examine for-profit organizations, sir. I--I believe you're correct, but--but I don't examine for-profit corporations.

THE CHAIR: Any further questions, Representative Stam?

REP. STAM: No, sir.

THE CHAIR: All right. Representative Lucas?

REP. LUCAS: No, sir.

THE CHAIR: Representative McGee?

REP. MCGEE: No questions.

THE CHAIR: Thank you. Representative Warren?

REP. WARREN: No questions.

THE CHAIR: Representative Wiley?

REP. WILEY: No questions.

THE CHAIR: All right. And the Chair has no questions. Now, redirect examination as the result of any questions asked by Committee members,

1 Mr. Hart?

2 MR. HART: No questions.

3 THE CHAIR: All right. Thank you.

4 Any recross, Dr. Joyner?

5 RECROSS-EXAMINATION BY PROF. JOYNER:

6 Q Mr. Rose--

7 A Yes, sir.

8 Q --in your search of the records, did you find any

9 record which showed that the 501(c)(3) status of

10 the Community Health Foundation had been revoked?

11 A Had been revoked?

12 Q Right.

13 A No, sir.

14 Q Now, my understanding of the law is that once the

15 501(c)(3) status is granted--

16 A Yes.

17 Q --by whatever method it's granted, that the

18 organization keeps it until such time as it's been

19 revoked; is that correct?

20 A Yes.

21 Q Okay.

22 PROF. JOYNER: No further questions.

23 THE CHAIR: All right. Thank you very

24 much, Mr. Rose. You may step down.

1 THE CHAIR: Mr. Burbank, if--when you

2 speak, you will need to speak into the mic, since

3 everyone needs to hear you and the court reporter

4 is taking it down. Thank you. Mr. Hart?

5 DIRECT EXAMINATION BY MR. HART:

6 Q Would you tell us your name, please, sir?

7 A Ronnie L. Burbank.

8 Q Mr. Burbank, how are you employed?

9 A I'm currently employed with North State Bank as a

10 commercial lender.

11 Q And prior to North State Bank, how were you

12 employed?

13 A I was employed by Coastal Federal Bank from October

14 2001 until February 2007.

15 Q And where is that located, sir?

16 A It--our office was located at 109 Market Street in

17 Wilmington. It's since been closed.

18 Q All right. While you were with Coastal Federal

19 Bank, did you have occasion to come into contact

20 with Representative Thomas Wright?

21 A I did.

22 Q At some point in the year 2002, have conversations

23 with him about a piece of land that he wanted to

24 purchase?

1 The next witness, Mr. Hart?

2 MR. HART: May Agent Rose be excused,

3 please?

4 THE CHAIR: Let me--hang on, Agent Rose.

5 Any reason, Dr. Joyner, he cannot be excused?

6 PROF. JOYNER: There's no reason he can't

7 be excused.

8 THE CHAIR: And Mr. Hart?

9 MR. HART: Yes.

10 THE CHAIR: Thank you very much. You're

11 excused from your subpoena. Thank you, Agent Rose.

12 Next witness, please?

13 MR. HART: Special Counsel calls Ronnie

14 Burbank.

15 THE CHAIR: Mr. Burbank? If the court

16 reporter will go ahead and swear Mr. Burbank in,

17 please?

18 * * * * *

19

20 Whereupon,

21 RONNIE L. BURBANK,

22 having been first duly sworn,

23 was examined and testified

24 as follows:

1 A I did.

2 Q Do you remember about when that was in that year?

3 A January, maybe. It could have actually been late

4 2006, November or December. I'm not real certain

5 on the date.

6 Q Two--2001?

7 A I'm sorry. Yes, 2001.

8 Q Okay. All right. And tell us--tell us a little

9 bit about that. How did you know Representative

10 Wright, and how did you come to have conversations

11 with him about that property?

12 A Well, I had met Representative Wright through a

13 couple of social functions. I had served on the

14 board of a nonprofit organization called Wilmington

15 Downtown, Incorporated, and I had the pleasure to

16 meet him on a couple of social occasions. So

17 that's really how I was introduced to

18 Representative Wright.

19 Q Okay. And in regard to the possible purchases of

20 land and a loan, how did that come about? Did you

21 approach him, or did he approach you?

22 A I'm not real sure. I know that at one point we did

23 tour the Community Health Center. I had been

24 calling in that area on North Fourth Street trying

1 to develop business, and so he was gracious to give
2 us a tour of that one afternoon. And I think this
3 came about as a--as part of that visit.
4 Eventually, he called me when he had a need to
5 purchase some property.
6 Q Okay. And do you remember much about the
7 conversation when he did call about the purchase?
8 A No, sir. I really can't give a lot of detail other
9 than he did want to buy a building to eventually
10 renovate and commemorate--commemorate the 1898 race
11 riots, and to use it for some office space for the
12 health center.
13 Q Okay. And after that conversation, did you become
14 interested in possibly providing a loan for that
15 purpose?
16 A I did.
17 Q And can you tell us about that? What--what kind of
18 a process did you go through, and what transpired
19 between you and Representative Wright?
20 A Well, we took a look at the request and--and
21 overall need for purchasing the building and the
22 fact that it would be good for the neighborhood.
23 And certainly we asked for how we were going to get
24 repaid, how it would be collateralized, obviously.

1 along with an offer to purchase and contract on the
2 subject property. And the determination to make
3 the loan was made either by a loan officer with the
4 appropriate loan authority or a committee. In this
5 case, it was me. I had the authority to approve
6 the loan request.
7 Q All right. And did you have a--an amount limit
8 that you could--could approve by yourself, or--
9 A Yes, I did. I can't give you the specifics, but it
10 certainly was at least a hundred fifty thousand
11 dollars (\$150,000) at the time.
12 Q Okay. All right. I want to ask you, if you would,
13 sir, if you'll look at the notebook in front of you
14 and go to Exhibit Number 4. Do you recognize that
15 one-page document, sir?
16 A I do.
17 Q And what do you recognize that as being?
18 A That is our Report of Loan. That is my basic loan
19 application, if you will.
20 Q All right. And is that particular document,
21 Exhibit Number 4, regarding the loan that you have
22 begun--begun to discuss with us here today about
23 Representative Wright?
24 A It is.

1 And--and the conversations went on to where we
2 ended up approving the loan.
3 Q All right. Now, you said the conversation included
4 how the loan was going to be collateralized. What
5 do you mean by that?
6 A Well, obviously we were going to have a deed of
7 trust on the property that was being purchased.
8 The bank was secured by first deed of trust on the
9 property that ultimately was purchased by the
10 Community Health Foundation.
11 Q Okay. And was--well, let me just back you up just
12 a little bit. When you talk about collateral for a
13 loan, for those of us who may not fully understand
14 that process, what--what is the purpose of
15 collateral for a loan?
16 A Well, it's protection for the bank in the event
17 the--the loan defaults.
18 Q Okay. And by a loan defaulting, that's the
19 borrower does not pay the payments; is that
20 correct?
21 A That's--that's correct.
22 Q Okay. And at--how did--how did the loan process
23 work at Coastal Federal Bank?
24 A Well, the--the loan request was submitted to me,

1 Q And is that your signature in the lower left-hand
2 corner of that document?
3 A It is.
4 Q All right. If you would, walk us through that--
5 well, let me ask you this: Is that an accurate
6 copy of the actual document that you filled out
7 regarding the loan that you discussed with
8 Representative Wright?
9 A It does appear to be, yes.
10 Q All right.
11 MR. HART: Your Honor--Mr. Chairman, at
12 this time I would move to introduce Exhibit
13 Number 4.
14 THE CHAIR: Any objection, Dr. Joyner?
15 PROF. JOYNER: No objection.
16 THE CHAIR: Without objection, it is
17 admitted. Thank you.
18 Q (By Mr. Hart) If you would, sir, walk us through
19 that document, and--and tell us a little bit about
20 what's in there. For instance, the--the purpose of
21 the credit and amount, what--what did you put in
22 there, and what does that mean?
23 A Well, the purpose of the credit states that it is
24 to purchase a lot and building for the 1898

1 memorial on North Fourth Street.
2 Q And what was the loan amount?
3 A One hundred and fifty thousand dollars (\$150,000).
4 Q And the next block is "Source of Repayment," is
5 that correct?
6 A That is correct.
7 Q And you have a primary and a secondary source.
8 What is--was the primary source that was indicated
9 as the loan?
10 A Grant money from state and federal government.
11 Q And the secondary source?
12 A Conversion of assets.
13 Q And when you say "conversion of assets," what does
14 that mean?
15 A Well, basically, liquidation of the collateral.
16 Q Foreclosure on the property?
17 A Yes, sir.
18 Q Okay. But at least for the primary source, you
19 were looking for, according to here, grant money
20 from state and federal government?
21 A That is correct.
22 Q Is that information that was provided to you from
23 Representative Wright?
24 A That is correct.

1 A It is, indeed.
2 Q You did not require a guarantor on this particular
3 loan, did you?
4 A No, sir, I did not.
5 Q And why is that?
6 A Because it was to a nonprofit, and it was for
7 community development. At this stage, I didn't
8 think one was necessary.
9 Q All right. And was it also based, in part, on your
10 knowledge of Representative Wright?
11 A In part. I--I can't say that I knew Representative
12 Wright that well at that time, but, in part, yes.
13 Q Okay. All right. You said this--this was the
14 paperwork that you filled out initially, and you
15 signed it. Did you have to submit that to anyone
16 else for approval?
17 A No, sir.
18 Q And you--was that because this was within your
19 limits?
20 A That is correct.
21 Q All right. The--the actual loan and the purchase
22 of the property took--was about another month
23 later; is that correct?
24 A I think that's correct, yes.

1 Q At the time that you filled out this particular
2 paper, was that March 5th, 2002, as indicated on
3 the top of that sheet?
4 A It is.
5 Q Was that the first part of the loan application
6 process?
7 A Yes.
8 Q At that time, did you know what the grant was going
9 to be?
10 A Specifically, I'm not certain. Yes, I knew that it
11 was going to be from a state agency, but I can't
12 say specifically the agency at that time, on the
13 5th of March.
14 Q Okay. On some loans, sir, do you have a--what's
15 called a guarantor?
16 A Yes, we do.
17 Q Tell us what a guarantor is.
18 A A guarantor is someone who will pledge personal
19 assets, in essence, to--in case the loan to the
20 company defaults, they guarantee repayment of the
21 loan.
22 Q And what is the reason for having a guarantor?
23 A Well, it's additional security for the bank.
24 Q All right. Is that pretty important?

1 Q Early April?
2 A I think that's correct.
3 Q Okay. Was there further discussion between you and
4 Representative Wright about the grants and any kind
5 of documentation of the grants?
6 A At some point prior to closing, I received a copy
7 of the letter from Mr. Wade.
8 Q All right. And when you speak of "the letter," I
9 want to ask you to look at Exhibit Number 3 that's
10 before you. Have you had a chance to look at that,
11 sir?
12 A Yes, sir, I have.
13 Q And do you recognize that?
14 A I do.
15 Q What do you recognize that as being?
16 A That appears to be the letter that I received to
17 confirm grant money was the primary source of
18 repayment for our loan request.
19 Q All right. And you did receive that letter or see
20 that letter from--received it from Representative
21 Wright; is that correct?
22 A I--I recall receiving the letter. I can't
23 specifically say that Representative Wright handed
24 it to me or delivered it to me, but I do recall

1 getting a copy, as I stated in my interview.
 2 Q All right. And did you take that letter at face
 3 value?
 4 A I did.
 5 Q Did you call, in any way, to check with the
 6 Department of Health and Human Services, or Torlen
 7 Wade, or anybody else?
 8 A I did not.
 9 Q And why is that?
 10 A I didn't feel the need to do so.
 11 Q Did you--did you trust Representative Wright to be
 12 giving that to you in good faith?
 13 A I did.
 14 PROF. JOYNER: Objection.
 15 THE CHAIR: Overruled.
 16 Q Mr. Burbank, would you have authorized this loan
 17 without a guarantor if it had not been for that
 18 letter, Exhibit Number 3?
 19 A Possibly not. I don't think so. I really can't
 20 answer that, because I had the letter. I--
 21 Q All right. Let me ask you this: As--as a banker
 22 and as someone concerned with repayments,
 23 collateral, as you said, guaranteeing the loan, was
 24 this letter at least a factor in your approval

1 problem with payment of the--the loan amount?
 2 A There did, yes.
 3 Q And what--what happened on that?
 4 A It--we were not paid at maturity. So therefore--I
 5 think it--we may have renewed the note a couple of
 6 times past maturity, waiting on the grant money to
 7 come in. But ultimately it never did, and, of
 8 course, the loan was declared in default. And I
 9 had no further contact with the loan at that time.
 10 Q Okay. So--and when you say the loan went into
 11 default, that means that the loan was not paid
 12 back, and--and Coastal Federal Bank was out that
 13 money unless it foreclosed on the property; is that
 14 correct?
 15 A That's correct. At some point, interest payments
 16 were no longer being made to renew, and we
 17 defaulted the loan, yes.
 18 Q Okay. You indicated that there was some efforts
 19 during that time period of the default to try to
 20 keep the--the loan going; is that right?
 21 A Indeed, yes.
 22 Q And was that both Representative Wright and Dan
 23 Gottovi, Dr. Gottovi?
 24 A I believe that would be correct, yes.

1 process?
 2 A Yes.
 3 Q Did you rely upon this letter to grant the loan?
 4 A Yes.
 5 Q And I believe you indicated earlier that at some
 6 point the loan was, in fact, granted and the
 7 property was purchased. Is that correct?
 8 A That is correct.
 9 Q At some point after that, sir--now, this--this was
 10 not a thirty-year mortgage or a fifteen-year
 11 mortgage, as we usually think about it; is that
 12 correct?
 13 A That is correct. It was a short-term note.
 14 Q And was that a ninety-day note?
 15 A I believe. I'm trying to get back to my exhibit,
 16 but I do believe that was correct, yes.
 17 Q So that the note would have come due sometime in
 18 July and August--July or August of 2002?
 19 A Excuse me. The schedule of repayment on the March
 20 5th note was a hundred and eighty days, which would
 21 have made it a six-month loan.
 22 Q Six-month loan? Okay.
 23 A Yes.
 24 Q All right. Did there come a time where there was a

1 Q All right. And as--as you indicated, there was
 2 still some discussion about still trying to get
 3 grant money; is that correct?
 4 A Yes, that's correct.
 5 Q If you would, sir, look at Exhibit Number 5, which
 6 is the next exhibit. That one-page document,
 7 "Notice of Foreclosure," is that a document that
 8 was from your bank?
 9 A It appears to be, yes.
 10 Q And that's the foreclosure notice that you
 11 indicated on the--the actual property because of
 12 nonpayment on the loan; is that correct?
 13 A It does appear to be, yes.
 14 MR. HART: Your Honor, please, I
 15 introduce Exhibit Number 5.
 16 THE CHAIR: I appreciate the promotion,
 17 but--Dr. Joyner, any--any objection?
 18 PROF. JOYNER: No objection.
 19 THE CHAIR: No objection? Without
 20 objection, Exhibit 5 is admitted. Thank you.
 21 MR. HART: Sorry, Mr. Chairman. Force of
 22 habit. That's all the questions I have for this
 23 witness, Your Honor.
 24 THE CHAIR: Thank you very much,

1 Mr. Hart. Dr. Joyner, cross-examination?
2 CROSS-EXAMINATION BY PROF. JOYNER:
3 Q Mr. Burbank, with respect to the loan process
4 involved here, did you have an independent
5 recollection of your conversations with the people
6 who were involved in conversations with you about
7 this--this loan?
8 A Other than Representative Wright?
9 Q No, I said did you have an independent--did you
10 have an independent recollection of your
11 conversations with people who were involved in this
12 loan process?
13 A Other than what I've testified to, no. I can't--
14 Q Well, now, did--is your recollection of what
15 happened based on your review of the file?
16 A Yes, sir. Most of my memory was from the review of
17 the file, yes.
18 Q All right. So without referring to the file
19 itself, you didn't have an independent recollection
20 of any conversations that you had with people
21 involved with this loan?
22 A Not in great detail.
23 Q Not in great detail?
24 A Not in great detail, no.

1 done business with Wayne prior to Coastal Federal.
2 Q Okay. And what was your previous bank?
3 A It was Carolina First Bank.
4 Q And--and, in fact, you and Mr. Loftin had, I guess,
5 contact outside of the banking business; is that
6 correct?
7 A Occasionally we would play golf, yes.
8 Q All right. So you had a--a personal relationship,
9 as well?
10 A Yes.
11 Q All right. And the--the property that was the
12 subject of this mortgage was property owned by
13 Mr. Loftin's parents?
14 A That is correct.
15 Q All right. And--and, in fact, Mr. Loftin was
16 intimately involved in the discussions leading to
17 the granting of this loan; isn't that correct?
18 A He may have been involved, but he had nothing to do
19 with the loan approval.
20 Q Well, did not Mr. Loftin make the initial contact
21 with you about securing a mortgage for this
22 building?
23 A That's very possible, yes.
24 Q And is it not true that you had some discussion

1 Q Okay.
2 A It had been--
3 Q Let me--
4 A --six years.
5 Q Let me just kind of walk through this just a little
6 bit. Did Representative Wright have a banking
7 relationship with the Coastal Federal Bank?
8 A Not at the time, no, sir.
9 Q And your testimony was that prior to this time you
10 had met Representative Wright at a couple of
11 social--social events in Wilmington?
12 A Yes, sir.
13 Q All right. And did you have any extended
14 conversations with him on any of these occasions?
15 A I wouldn't say "extended," just general
16 conversations about Wilmington, and particularly
17 North Fourth Street and that area. Yes.
18 Q Now, are you familiar with Wayne Loftin [phonetic]?
19 A I am.
20 Q And how are you familiar with Wayne Loftin?
21 A Wayne was a customer of mine at the time.
22 Q So Wayne Loftin had a banking relationship at the
23 Coastal Federal Bank; is that correct?
24 A That is correct, and at my previous bank. I had

1 with him about the particulars of this purchase and
2 the--the particulars of the purchase and the
3 purpose for the building being purchased from--from
4 his family?
5 A We did have that discussion, yes.
6 Q All right. And the--well, in the bank file, did
7 you have a copy of the offer to purchase?
8 A I'm assuming, sir. I--I don't have the file here.
9 I would think there would be a copy in there, yes.
10 Q All right. So you don't have a copy of that with
11 you?
12 A No, sir, not that I'm aware of. No.
13 Q Do you recall if you gave a copy of that to the
14 investigator involved in--in--in questioning you
15 about this matter?
16 A I provided nothing to anyone during this
17 investigation. The bank was--the bank that I
18 formerly worked for, I assume, provided the loan
19 file to the investigators. I've not provided
20 anything to anyone.
21 Q At the point that you--I think you were interviewed
22 by Mr. Umphlet?
23 A Umphlet. Yes.
24 Q Did he provide you with the documents which

1 purported to come from the file in this--for this
2 loan?
3 A I'm not certain, at the initial interview. I think
4 when another interview took place with Agent Rufus
5 Brown, I do believe at that time they had the file
6 documents or some of the file documents at that
7 time.
8 Q Okay. But you don't--you don't remember that?
9 A I remember the interview when they did have some of
10 the loan documents. It was not the initial
11 interview. It may have been the second interview
12 that we had.
13 Q All right.
14 A But they did come to Wilmington with some of the
15 loan files.
16 Q Okay. And in that second interview, did they
17 provide you with a copy of the offer--offer to
18 purchase and contract?
19 A Sir, I would--I'm not sure if it was in the
20 documents that they showed me. I do not have
21 copies of any documents. But it may have been in
22 there. I'm not certain.
23 Q Okay. What about the--the item that's been
24 introduced as Exhibit 4, was that provided to you

1 as a part of the file?
2 A Yes, sir, it was. I recall seeing this Report of
3 Loan.
4 Q Okay. So you specifically remember the
5 investigator providing you with that document?
6 A Yes, I do.
7 Q And you can identify that document as one
8 that--that you--that you completed?
9 A Yes, sir.
10 Q All right. Now, the title of that report is the
11 "Report of Loan"?
12 A That is correct.
13 Q Right. This--this is not the loan application?
14 A Technically, no, it is not. It's an internal bank
15 document to identify what the loan is.
16 Q All right. Now, where is the loan application?
17 A There is no loan application.
18 Q There is no loan application?
19 A For a commercial loan, we typically did not take a
20 loan application as you would for a consumer loan
21 or a credit card or mortgage loan. No.
22 Q All right. Now, looking further now at Exhibit
23 Number 4, it indicates at the bottom of this that
24 the loan was approved; is that correct?

1 A That is correct.
2 Q All right. And does your signature here attest to
3 the fact that the loan was approved?
4 A It does.
5 Q And it was approved on the date given on the--on
6 this document; is that correct?
7 A That appears correct.
8 Q Okay. And it was for a hundred and fifty thousand
9 dollars (\$150,000), which was the amount of the
10 loan?
11 A Yes, sir.
12 Q All right. Now, you indicated that--well, in the
13 file, the bank file dealing with this loan, did you
14 have a--did you have closing documents?
15 A Yes.
16 Q And do you recall who closed the loan?
17 A The attorney may have been Alan Solana. He did
18 some work for our bank at the time. I'm not real
19 confident of that, though. But it's possible.
20 Q And in the--in the closing process, there is
21 typically closing instructions?
22 A That is correct.
23 Q And--and those closing instructions are given to
24 the closing attorney. So you're not involved in

1 the--in the--I'm sorry--you need to answer that
2 question.
3 A Yes. That is correct.
4 Q Okay. And you're not involved in the closing of
5 the loan?
6 A That is correct.
7 Q Okay. So it was the closing of the loan that took
8 place a month later; is that correct?
9 A Yes. That's correct.
10 Q All right. And in that--in those closing
11 instructions, you would have any requirements that
12 the person who was receiving the loan had to
13 provide to the closing attorney?
14 A Correct.
15 Q Okay. Now, I want to just kind of take us back.
16 You had indicated that you had seen a copy of this
17 letter identified here as Exhibit 3?
18 A Yes, sir.
19 Q Okay. When did you see that letter?
20 A As I told the Agent, I can't pin that down. I
21 don't recall. I believe it was between March the
22 5th and the closing, however, 'cause it confirmed
23 the repayment source of the loan as being grant
24 money.

1 Q Well--
2 A But I can't give you a date. I--I--it's been six
3 years. I really cannot recall.
4 Q Okay. Now, you don't have with you the closing
5 instructions for this loan?
6 A No, sir, I do not.
7 Q Okay. And you don't have a present recollection of
8 what the closing instructions were?
9 A Other than the general things that go in it, no,
10 sir, I do not.
11 Q Okay. And so you--you're not able to say that a
12 condition of the closing or a closing instruction
13 was that this letter be provided?
14 A It would typically not have been in the closing
15 letter. No, sir.
16 Q That would not have been in the closing letter?
17 A No, sir. That is not something I would have
18 typically required to be in a closing letter.
19 Q All right. Now, do you recall the date that this
20 loan was closed?
21 A Sir, I cannot without looking at the loan
22 documents.
23 Q Just to refresh my recollection--
24 A Sure.

1 not have discussed any of those loan deals with
2 him.
3 Q But he was the one who first approached you about
4 making the loan?
5 A That could be the case, yes. Or providing loan
6 funding for it, yes.
7 Q And you were aware that--that the Loftins took a
8 second position on the--on--on the security for
9 this loan?
10 A Yes, I was made aware of that.
11 Q Okay. Now what--just explain to the members of the
12 Committee what that means.
13 A Well, that means they took a second deed of trust
14 for typically your equity portion in the property,
15 which is, again--I don't know how to explain it any
16 better than that. They--they basically put their
17 interest behind the bank to allow us to make the
18 loan.
19 Q All right. So that was a--now, typically it's done
20 the other way?
21 A Meaning? I'm not sure--
22 Q That--that the--the seller, if there is an equity
23 deed of trust, would take the first position?
24 A Not with bank funding. I would not have done that

1 Q --did--did you see those closing documents--
2 A Did I see the closing--
3 Q You don't have a present recollection that you saw
4 those closing documents?
5 A Since the loan was done, no, sir. I--I think that
6 maybe the note and security agreement may have been
7 provided by the agents in the file when they came
8 for the second interview. They may have had the
9 complete file, but I don't recall all the documents
10 that were in it. I do believe that the note,
11 security agreement, and so forth, maybe the deed of
12 trust, was in that file, along with the Report of
13 Loan that we've already discussed.
14 Q Now, during this--this process, this loan-granting
15 process, can you identify how many conversations
16 you had with Wayne Loftin about it?
17 A No, sir, I cannot.
18 Q But you do know that there were several
19 conversations that you had with him?
20 A I wouldn't say "several." I would probably say
21 that we certainly had the one to get the detail as
22 to what the transaction was about, but he had
23 absolutely nothing to do with the loan that I made
24 to Community Health Foundation. Therefore I would

1 in a second position, no.
2 Q You would not have done that?
3 A No, sir. I would not have made the loan in a
4 second position.
5 Q Okay. But typically that's--that's the way it's
6 done?
7 A Well, it can be done that way, but I don't know
8 that many banks will follow a second on a
9 commercial mortgage.
10 Q All right. So that means basically that if there
11 was a problem with the loan, the bank would have
12 the first dibs at any recovery of funds from the
13 sale, and then the person with the second deed of
14 trust would then come in to take what was left?
15 A That is correct.
16 Q All right. And then in this instance, the Loftins
17 had the second position?
18 A That is correct.
19 Q Now, did--did the Loftin family also bank at
20 Coastal Federal?
21 A No, sir.
22 Q Okay. So just Wayne Loftin was the only one?
23 A That is my recollection.
24 Q Okay. And did not Wayne Loftin sign the offer to

1 purchase?
2 A Sir, I'm not sure. I don't know. Until I saw the
3 offer to purchase, I couldn't say. I can't
4 remember who signed it.
5 Q Now, you indicated that you--you saw the letter,
6 but you don't know where the letter came from?
7 A That is correct.
8 Q Or when you saw the letter?
9 A That is correct.
10 Q Okay. So you don't have a present recollection
11 that Representative Wright gave you that letter?
12 A That's correct, sir.
13 Q You also indicated that the--the initial loan was
14 for a six-month period?
15 A Yes.
16 Q And this was a interest-only loan?
17 A A single-pay note with all principal and interest
18 due at maturity.
19 Q Okay. So at--so at the outset, at the end of six
20 months, then the entire hundred and fifty thousand
21 dollars (\$150,000) plus interest was due?
22 A That's correct.
23 Q And when the hundred and fifty thousand dollars was
24 not available at the end, then it was extended by

1 he came in and paid the interest for it. So I--
2 that's the only one I can specifically remember.
3 Q Okay. And you don't have a recollection of meeting
4 specifically with Representative Wright and his
5 paying the--the interest?
6 A It's very possible. I just can't recall that
7 specifically, no.
8 Q All right. Now, is it possible that the extension
9 would have been three times?
10 A It's very possible, yes.
11 Q All right. The extensions would have covered
12 ninety days, or six--six months?
13 A I would suspect ninety days, though, again, without
14 looking at the documentation, I can't say.
15 Q All right. Now, do you recall if those documents
16 were in the file that the investigators provided to
17 you?
18 A Sir, they should have been. If they had the
19 complete file, they should have been. I can't
20 specifically say I recall seeing them during my
21 interview with them, but they should have been in
22 the file. Yes.
23 Q All right. But you were given the file to look
24 through for the various documents in there; is that

1 the payment of the interest?
2 A That is correct.
3 Q All right. Do you recall how many times the loan
4 was extended?
5 A Without the file, my best recollection is maybe
6 twice.
7 Q All right. And do you--do you recall how it was
8 extended?
9 A Well, the interest was paid, and of course, a
10 modification agreement would have been done at that
11 time to extend it for an additional period of time.
12 Q Okay. And do you have a present recollection of
13 extending that--of providing that modification?
14 A Yes, sir, I do.
15 Q And whom did you provide that with?
16 A Representative Wright, and Dr. Gottovi, I think,
17 signed the modification agreement.
18 Q All right. And did they come in and provide the
19 interest--monies for the interest on that loan?
20 A Yes, sir. That would have had to have been done.
21 Q Okay. Now, do you have a present recollection of
22 either or both of them coming in to provide
23 the--the interest payment?
24 A I can only recall one meeting with Dr. Gottovi when

1 correct?
2 A I was given the file to review some documents, yes.
3 Q Right. And--but you don't have a credible
4 recollection that any of those documents were in
5 it?
6 A I can't recall those--no, sir--specifically.
7 Q So the answer to that is that--
8 A No.
9 Q --no, you don't have a present recollection?
10 A No.
11 Q Okay. Now, with respect to--I just want to take
12 you back to Exhibit 4. Do you have a present
13 recollection of the specifics of the conversation
14 that you had with Representative Wright
15 regarding--regarding the source of repayment?
16 A No.
17 Q Just in general you have a notion, from looking at
18 what's on the document, that that was the
19 information that was provided?
20 A That is correct.
21 Q All right. So the specific conversation you don't
22 remember?
23 A No.
24 Q Is--was there anything other than--than this

1 document in the file that would have refreshed your
2 recollection about the specific conversation that
3 you had with Representative Wright?
4 A Unless there were some handwritten notes, which I
5 don't recall seeing, no.
6 Q Now, in this loan, the value of the--the building
7 far exceeded the loan amount; is that correct?
8 A That is correct.
9 Q And that's why it was a good source of security for
10 the--for this loan?
11 A Well, I'm not real certain as to the value on this
12 Report of Loan, other than I knew the tax value by
13 New Hanover County tax assessed records at the time
14 was a hundred and nine--a hundred and eighty-four
15 or a hundred and eighty-five thousand dollars,
16 which gave us a very good margin at a hundred-and-
17 fifty-thousand-dollar loan, yes.
18 Q And you also required, based on the report--your
19 loan report--your loan approval form, that the
20 Foundation open an account at the Coastal Federal
21 Bank?
22 A Yes. We were hoping to establish a relationship
23 with the Foundation and asked for their checking
24 account to be a part of the loan process.

1 held with the Foundation.
2 Q Well, and did you have conversations with both of
3 them regarding this--this loan?
4 A I don't recall any pre-conversations with
5 Dr. Gottovi till he signed the loan documents.
6 Q All right. And by signing the loan documents,
7 what--what are you referring to, the closing?
8 A I believe at closing they were required-- I know
9 one, possibly both, were required to sign the loan
10 documents.
11 Q So you don't recall any individual conversation
12 with--with Dr. Gottovi, but you do recall--well,
13 let me just ask you that first. You don't recall
14 any individual conversation that you had with
15 Dr. Gottovi before the loan closed?
16 A No.
17 Q And your recollection of Dr. Gottovi's involvement
18 in the loan was at the point that he signed the
19 closing documents, which would have been with
20 the--with the closing attorney?
21 A That is correct.
22 Q Now, you weren't present at the closing?
23 A No, sir, I was not.
24 Q Typically, you're not there for that?

1 Q All right. Well, in the--do you have Exhibit 4 in
2 front of you?
3 A Yes, sir. I--yes, sir, I do.
4 Q And would you just look down at the section dealing
5 with required accounts relationship?
6 A Yes.
7 Q Now, are you--is your testimony here that that was
8 not a requirement but a suggestion?
9 A It was a requirement, but unenforceable. We can't
10 force them to do that, but we did ask that the
11 account be opened at Coastal Federal Bank, yes.
12 Q But you couldn't require that, so it was required
13 that they open up an account at the Coastal Federal
14 Bank?
15 A That's just boilerplate language on the bank form,
16 and so that was put into the proper section on the
17 form.
18 Q Now, you have listed as the principals on the loan
19 Thomas Wright and Dan Gottovi. What--what does
20 that mean?
21 A They were the ones that were part of the
22 Foundation. I'm--I'm assuming that we had
23 Foundation incorporation documents or something
24 that would identify those were the positions they

1 A No, sir, I'm not.
2 Q So you didn't actually see anyone sign the closing
3 document?
4 A No, sir, I did not.
5 Q And, in fact, you didn't have--you didn't review
6 the documents involved in the closing in this
7 matter until the SBI agent brought it to you; is
8 that correct?
9 A No. I think--I would say that we probably reviewed
10 them post-closing to ensure if my signature was in
11 the proper places. I had a loan assistant who did
12 doc preparation for us on loan closings and so
13 forth, so it would have been reviewed by her to
14 make sure all signatures were in place and so forth
15 before it was sent to--to our home office.
16 PROF. JOYNER: Could I have a moment--
17 THE CHAIR: Sure.
18 PROF. JOYNER: --Mr. Chairman?
19 (DISCUSSION OFF RECORD)
20 Q (By Prof. Joyner) All right. Mister--Mr. Burbank,
21 do you have a present recollection regarding the
22 distribution of the funds from the--in the closing
23 of this loan?
24 A Without reviewing the HUD statement, I'm certain

1 some of the funds went to pay off a previous
2 mortgage on the subject property.
3 Q Okay. But you--you don't have an independent
4 recollection?
5 A No, sir, I--no.
6 Q You're just speculating on that?
7 A Yes.
8 Q Okay. So you--you don't know how the loan proceeds
9 were divided?
10 A No.
11 Q And so you can't say Representative Wright received
12 any of the loan proceeds?
13 A No, I cannot.
14 Q Okay. Would--would that information have been in
15 the file?
16 A It should be on the HUD-1 statement from the
17 closing.
18 Q Oh, so there was a HUD-1 statement that should have
19 been in the file that should be available for--for
20 everybody to see?
21 A And that would--yes. That's correct.
22 PROF. JOYNER: No further questions at
23 this time.
24 THE CHAIR: Thank you. Redirect

1 yes.
2 Q Okay. And so I take it that the letter that you
3 said you got from Representative Wright was one of
4 the things that occurred between the time you
5 filled out this paper and the time of closing; is
6 that correct?
7 A That's correct.
8 Q And Mr. Joyner asked you some questions about
9 the--the letter. Did you get this from someone
10 other than Representative Wright?
11 A Sir, as I told Agent Umphlet, I can't be certain
12 who gave it to me. I'm assuming it came from
13 Representative Wright or his office, but I cannot
14 specifically say.
15 Q Okay. And it came sometime prior to the actual
16 closing, correct?
17 A Yes, to confirm my repayment source. Yes.
18 Q Okay.
19 MR. HART: That's all I have,
20 Mr. Chairman.
21 THE CHAIR: I'm sorry. Recross?
22 RECROSS-EXAMINATION BY PROF. JOYNER:
23 Q Mr. Burbank, when you--when you reviewed the
24 file--when you reviewed the file provided by the

1 examination?
2 MR. HART: Thank you, Mr. Chairman.
3 REDIRECT EXAMINATION BY MR. HART:
4 Q Mr. Burbank, do you know the date of default of the
5 loan?
6 A No, sir, I do not. That was not handled by me.
7 Our collections department makes that
8 determination, not me.
9 Q How long before notice of foreclosure would--would
10 that actually be? Is there a set time?
11 A I--I'm not certain. There is a time period where
12 the borrower is notified of default, and they have
13 a period of time to correct the default before
14 proceedings are taken. But I can't give you the
15 specific time frame.
16 Q Okay. The application, Exhibit Number 4, the--not
17 an application, but the form that you filled out,
18 the Report of Loan, that's a contingency; is that
19 correct? You fill that out, but there are still
20 things that have to be done before a loan will
21 actually be processed; is that right?
22 A It's actually--it was an internal bank requirement
23 that it be filled out, but, yes, there were things
24 that had to take place beyond this to--to close,

1 SBI officers when they were investigating this
2 matter, was a copy of this letter in the file?
3 A No, sir, it was not.
4 Q Now, typically, all of those documents that are
5 important and required and involved in a closing
6 would be in the file; isn't that correct?
7 A Yes, sir, it is.
8 Q But this letter was not in the file?
9 A No, sir, I did not see it in the file.
10 Q With respect to this Report of Loan form, now, you
11 indicated--and I'm--and I'm somewhat confused--that
12 even though the loan--this form, says "approved,"
13 that it was now--it's now contingent. In response
14 to Mr. Hart's question, you say that this was a
15 contingent report, yet the form itself says that it
16 was approved.
17 A Sir, I don't--semantics. The letter--the loan was
18 not--trying to word this correctly. There's
19 nothing--there's nothing on this form that says
20 there's any contingencies to close a loan. Does
21 that answer your question?
22 Q Right.
23 A Yes, sir. That would be a correct statement.
24 Q Right. So the document does not require from its

1 face the presentation of anything else to effect
2 the approval of it?
3 A That's correct. If you'll pay attention to the
4 bottom right-hand corner of that document, where it
5 says "conditions of approval," had there been any
6 contingencies that were required to be met, I would
7 have put them in that box.
8 Q All right.
9 PROF. JOYNER: No further questions.
10 THE CHAIR: Representative Stam?
11 REP. STAM: Thank you, Mr. Chairman.
12 Recommended Risk Grade 5, what does that
13 mean?
14 THE WITNESS: Loans are graded based on
15 risk for our loan-loss provision. Risk Grade 5 was
16 based on the risk in the loan, which we knew that--
17 I knew that there was some going into the loan, was
18 the lowest risk grade possible without putting it
19 on the watch list. So again, that just indicates
20 the level of risk that I assess in a particular
21 debtor.
22 REP. STAM: All right. Low risk, and
23 then the interest rate is prime--looks like prime
24 plus one and a half.

1 REP. STAM: --we've seen the indication
2 about the state grant money.
3 Why do you have the federal grant money
4 there?
5 THE WITNESS: I can't recall, unless it
6 was part of the conversation I had with
7 Representative Wright. But I can't honestly answer
8 that question.
9 REP. STAM: Well, did you talk to anybody
10 other than the borrower about the sort--would you
11 have talked to anybody other than the borrower
12 about the source of repayment?
13 THE WITNESS: No.
14 REP. STAM: Okay. When you have, at the
15 bottom left, "loan policy exceptions requested,"
16 you mentioned non-recourse financing, what is that?
17 THE WITNESS: That we required no
18 guarantors on the loan.
19 REP. STAM: Okay. Was the sellers, the
20 Loftins, who took a second deed of trust?
21 THE WITNESS: I think that's correct,
22 yes.
23 REP. STAM: All right. Is that maybe the
24 non-recourse financing for the secondary financing?

1 THE WITNESS: That would be correct, I
2 think. Yes.
3 REP. STAM: So that reflects fairly low
4 risk; is that--
5 THE WITNESS: No, that--that reflects
6 fairly high risk. Risk Grade 1 is the lowest risk
7 loan. That's basically secured by cash or CDs.
8 And then, of course, they go down accordingly so.
9 Risk grade does have a reflection in the pricing.
10 REP. STAM: Oh. When you say recommended
11 risk grade is low, you mean low risk or low--low--
12 THE WITNESS: No. Five (5) would be not
13 necessarily a high-risk loan, but it is certainly
14 one of the more risky loans that we would do.
15 REP. STAM: Okay. More risky?
16 THE WITNESS: Yes.
17 REP. STAM: Okay.
18 THE WITNESS: The lower the number.
19 Number 1 would be no risk whatsoever.
20 REP. STAM: All right. I understand.
21 Now, two places I see state and federal grant
22 money, both under "Source of Repayment" and under
23 "Debt Service Coverage"--
24 THE WITNESS: Yes.

1 THE WITNESS: That has nothing to do with
2 that.
3 REP. STAM: So, no guarantors?
4 THE WITNESS: That just meant I did not
5 require Representative Wright or anyone else to
6 give a personal guarantee.
7 REP. STAM: All right. The sales price
8 was three hundred and fifty thousand, apparent--
9 according to the item about two-thirds of the way
10 down on the left, which I guess you got from the
11 contract?
12 THE WITNESS: Sir, I can't say at this
13 point in time. Yeah, that's what it says on this
14 form. But I'm assuming that's where I got that
15 number, yes, sir.
16 REP. STAM: Did--did the borrower,
17 Community Health Foundation, put any money into it
18 at all, or was it all hundred and fifty from you
19 and seller financing from the seller?
20 THE WITNESS: I can't answer that
21 question without reviewing the HUD.
22 REP. STAM: Okay. The--I want to talk
23 about the gross receipts for this corporation for
24 this year and the following year. At closing,

1 y'all provided, I presume, a loan check of a
2 hundred and fifty thousand; is that correct?
3 THE WITNESS: It would have been provided
4 to the closing attorney, yes.
5 REP. STAM: And the corporation received
6 that hundred and fifty thousand; is that right?
7 Maybe that's redundant.
8 THE WITNESS: I don't think that would be
9 the case.
10 REP. STAM: Well, it was provided on or
11 on behalf of it to purchase property?
12 THE WITNESS: Well, yes. But--
13 REP. STAM: I'm not saying that a check
14 was written to them.
15 THE WITNESS: Yes, sir. The check was
16 provided to the trustee in trust for the Community
17 Health Foundation.
18 REP. STAM: In order to provide property?
19 THE WITNESS: That's correct.
20 REP. STAM: All right. So the
21 corporation received it. Now, in approximately--I
22 understand that they went into default in the fall
23 of '02. Is that right?
24 THE WITNESS: Looking at the--

1 remember?
2 THE WITNESS: Sir, without my calculator,
3 I could not. And not knowing what prime rate at
4 the time was, there'd be no way for me to--to do
5 that.
6 REP. STAM: All right. But it would be
7 more than five thousand dollars (\$5,000), wouldn't
8 it?
9 THE WITNESS: I'm not certain that that
10 would be the case, again. I rely--I rely on a
11 calculator for that. I really am not good enough
12 at math to calculate it in my head. So I'm very
13 sorry. I don't know that it would have been five
14 thousand dollars. It could have been, sir. I
15 don't know. I can't answer your question without
16 my calculator.
17 REP. STAM: I would think it would
18 just--it could not be less than, or it would be
19 below zero.
20 So the only source of repayment was grant
21 money, that you know of?
22 THE WITNESS: That would be incorrect.
23 The secondary source would have been the
24 liquidation of collateral. That's something that

1 REP. STAM: It was a six-month note, and
2 they immediately went into default?
3 THE WITNESS: That doesn't constitute
4 default, because the loan was not paid in six
5 months. Yeah, it was extended on multiple
6 occasions; therefore, the loan would not be in
7 default due to the extensions that we gave at the
8 time.
9 REP. STAM: Okay. The time, then, when
10 they paid the--when Dr. Gottovi and Representative
11 Wright paid, do you recall, was that the next year,
12 in 2003?
13 THE WITNESS: I would guess the first one
14 had to have been six months or shortly thereafter
15 the original note date. Again, looking at the
16 modifications, whatever dates the modifications are
17 dated would be when the interest was paid.
18 REP. STAM: And they did that--the
19 foreclosure was mid-2004, so as far as you know,
20 they also paid the interest in 2003?
21 THE WITNESS: Yes, sir.
22 REP. STAM: All right. Well, what is the
23 yearly interest, prime plus one and a half, on a
24 hundred and fifty thousand, back in 2003? Do you

1 all bankers take in consideration.
2 REP. STAM: Okay.
3 THE WITNESS: Not that we wanted to, but
4 certainly it was a consideration.
5 REP. STAM: No bank--no bank looks only
6 at foreclosure in deciding whether to--
7 PROF. JOYNER: Objection--objection to
8 what no bank--
9 REP. STAM: Well, your bank. I'll ask--
10 I'll withdraw that and make it to your bank.
11 THE CHAIR: Yeah. Sustained.
12 REP. STAM: Your bank, for any loan, you
13 would never grant a loan where your only source of
14 repayment was foreclosure?
15 THE WITNESS: That's correct.
16 REP. STAM: All right. No further
17 questions.
18 THE CHAIR: All right. Thank you.
19 Representative Lucas?
20 REP. LUCAS: No questions.
21 THE CHAIR: Representative McGee?
22 REP. MCGEE: One question, if I may.
23 THE CHAIR: Certainly.
24 REP. MCGEE: I think that we have that

1 Wayne Loftin was one of the guarantors.
 2 THE WITNESS: No, sir, he was not. He
 3 was--his family, I think, was the seller of the
 4 property, but he had nothing to do with this loan.
 5 REP. McGEE: One further question: I
 6 noticed that--that one of the officers or the
 7 incorporators was James Loftin. Is James Loftin
 8 and Wayne Loftin one and the same, or are they not?
 9 THE WITNESS: Sir, I don't think so. I
 10 think that may be his father, but I'm not certain.
 11 REP. McGEE: Thank you.
 12 THE CHAIR: Is that it, Representative
 13 McGee?
 14 REP. McGEE: Yes, sir.
 15 THE CHAIR: All right. Representative
 16 Warren?
 17 REP. WARREN: No questions.
 18 THE CHAIR: Representative Wiley.
 19 REP. WILEY: Thank you, Mr. Chair. I'm
 20 not an attorney, so I may be a little more clumsy
 21 at this. I'm trying to go back and establish in
 22 between when this--it's not an application, but
 23 your notes here stated that the basis of credit
 24 here was going to be grant money from the state--

1 receive?
 2 THE WITNESS: Well, that funding would
 3 still be forthcoming, so we continued to extend the
 4 note. I--at that point, we were already into the
 5 loan. And it was my hope that we would eventually
 6 get repaid with grant money or any source of funds
 7 so that we didn't have to go to foreclosure. So
 8 the extensions were done to--to give time for the
 9 funding to take place.
 10 REP. WILEY: Okay. Who told you that the
 11 grant money was still possibly forthcoming?
 12 THE WITNESS: Well, Representative
 13 Wright, in our conversations, had indicated grant
 14 money was forthcoming, so we agreed to extend--
 15 REP. WILEY: One last question--I'm
 16 sorry--
 17 THE WITNESS: --from what--from what
 18 source--what source I can't specify at that time,
 19 but there would be funding forthcoming.
 20 REP. WILEY: I guess it'd be more
 21 accurate--did anybody call Mr. Wade to verify that
 22 those monies were forthcoming?
 23 THE WITNESS: No, ma'am. By that time,
 24 there would be no need. We didn't--it was already

1 THE WITNESS: Yes, ma'am.
 2 REP. WILEY: --and federal, correct?
 3 THE WITNESS: Yes, ma'am.
 4 REP. WILEY: In between that time and
 5 filing, would it be accurate to say that that
 6 letter would have been presented to someone in
 7 order to facilitate that closing as proof of
 8 monies?
 9 THE WITNESS: That would be accurate.
 10 REP. WILEY: Third question, if I may.
 11 THE CHAIR: Yeah.
 12 REP. WILEY: At the first extension, I--
 13 let me back up. I would assume this is part of the
 14 record now, this letter. At the first extension,
 15 would it be a normal course of banking business to
 16 look down and say the--read the letter--"The
 17 funding will be awarded by June 30th, 2002." Would
 18 someone question why that grant did not come
 19 through before granting the extension? Would
 20 someone question that?
 21 THE WITNESS: Yes.
 22 REP. WILEY: Did anyone question that?
 23 THE WITNESS: Yes. I did.
 24 REP. WILEY: And what answer did you

1 past the date of the letter, so--
 2 REP. WILEY: Thank you.
 3 THE CHAIR: The Chair has several
 4 questions.
 5 Did you ever, at any occasion, speak to
 6 Torlen Wade?
 7 THE WITNESS: No, sir. I do not recall
 8 ever speaking to Mr. Wade.
 9 THE CHAIR: Have you ever met him
 10 physically, other than seeing him in the courtroom
 11 today?
 12 THE WITNESS: No, sir. I do not.
 13 THE CHAIR: Do you recall ever receiving
 14 a fax or letter from Mr. Wade, directly from him?
 15 THE WITNESS: No, sir. I can't say that
 16 I have.
 17 THE CHAIR: All right. When you put on
 18 the Exhibit 4 that you have, "grant money"--and we
 19 later saw a copy of the letter from Mr. Wade--did
 20 you understand that that letter was committing
 21 funds for the project consistent with what you were
 22 told would be grant funds?
 23 THE WITNESS: Yes, sir.
 24 THE CHAIR: Were you ever dissuaded of

1 that notion by anything that Representative Wright
2 said to you?
3 THE WITNESS: No, sir.
4 THE CHAIR: Was it Representative Wright
5 who told you that grant money would be forthcoming?
6 THE WITNESS: In our initial
7 conversations, yes.
8 THE CHAIR: That's all the questions the
9 Chair has. Did my questions lead to any questions
10 further, Mr. Hart?
11 MR. HART: No, sir.
12 THE CHAIR: Dr. Joyner?
13 PROF. JOYNER: Yes, Mr. Chairman.
14 THE CHAIR: I'm sorry. No--no--
15 PROF. JOYNER: Yes.
16 THE CHAIR: Oh, I'm sorry. Go ahead.
17 FURTHER RECROSS-EXAMINATION BY PROF. JOYNER:
18 Q Okay. I'll just try to get some clarifications
19 here again, and this is with respect--when you say
20 that Representative Wright told you that grant
21 monies would be forthcoming, is that statement
22 based on your review of the notes that's here as
23 opposed to your present recollection of the
24 conversation that you had with Representative

1 have been grant money.
2 Q Okay. And that specifically Representative Wright
3 told you that?
4 A Yes. During our initial conversation about how we
5 were going to finance the building, yes.
6 Q Did he indicate that that--that that--that they
7 had--that he was trying to get an appropriation for
8 this money?
9 A Correct.
10 Q Okay. He did not indicate that he had the grant
11 money in hand?
12 A No. And that I did not have a specific agency at
13 this time that was going to provide it.
14 Q And--but your recollection is that he told you that
15 he was seeking an appropriation that would cover
16 this--this amount?
17 A That is correct.
18 Q Okay. Now, when you answered the question
19 regarding the risk grade at 5, it--did not that
20 risk--that determination--was not that
21 determination based on the fact that grant money
22 had not been received at that point?
23 A No, sir, not necessarily. The risk was based on my
24 assessment of--we were making a loan to a nonprofit

1 Wright?
2 A I'm not sure--when you say "present recollection,"
3 I remember our initial conversation, sir, to know
4 that grant monies were going to be a source of our
5 repayment. I'm not sure if I answered your
6 question properly, but--
7 Q No, I'm just saying if your testimony today
8 regarding grant money is based upon your review of
9 the document and the reference here to "grant
10 money" under "primary source"--or is it based on
11 your present recollection of the conversation that
12 you had with Representative Wright at that time?
13 THE CHAIR: I'm sorry. Let me ask, do
14 you understand the question, of what he means by
15 "present recollection"?
16 THE WITNESS: I'm not sure I do, sir, no.
17 No.
18 THE CHAIR: All right. All right. Could
19 you explain a little better to him in the question,
20 Doctor--
21 Q Is this based on your personal memory, or on your
22 review of the document?
23 A Well, I have a personal memory that when the loan
24 requests began, that the source of repayment would

1 that didn't have cash flow, didn't have a typical
2 stream of operating cash flow, and that the source
3 of repayment was a little unusual. And therefore,
4 there was some risk involved, and that's why it was
5 graded accordingly.
6 Q Well, let me ask you, do you have a present
7 recollection that you asked Representative Wright,
8 "What source of payment do you have if the
9 appropriation doesn't come through?"
10 A I can't give you a--no, I don't recall a present
11 recollection of that.
12 Q So you don't recall asking him that?
13 A No, sir. I can't say that.
14 Q But you were aware that he was seeking an
15 appropriation for this?
16 A That is correct.
17 Q All right. Now, when you got to the modifications
18 of the loan, the extensions of the loan, which, I
19 guess, ran somewhere from April 2002 through June
20 2004, did you have further inquiries about the
21 presence of the--of the appropriation?
22 A Beyond the first renewal, I can't say, no.
23 Q All right. Were you--were you aware that the
24 legislative session had ended in August 2002?

1 A Sir, I can't say that I was aware of that, no.
2 Q Okay. At some point when this loan went into
3 foreclosure, you had some conversation with Wayne
4 Loftin and his mother; is that correct?
5 THE CHAIR: And I'm going to issue my own
6 sustained objection on that. I think we're, at
7 this point, only asking questions that follow the
8 questions of the Committee as opposed to engaging
9 in new territory. So unless you can explain to me
10 where we questioned that--
11 PROF. JOYNER: Well, the--the question
12 was raised about Wayne Loftin or James Loftin and
13 their association with this loan--
14 THE CHAIR: I think the only question
15 that was asked on Committee questions was James
16 Loftin and Wayne Loftin the same person. And the
17 answer was no, I think it was not. Now, if your
18 question goes directly to that, I'll be glad to
19 allow it. But if it's engaging a new area, I don't
20 want to reopen it--
21 PROF. JOYNER: Well--
22 THE CHAIR: --after everybody's
23 questioning.
24 PROF. JOYNER: Well--

1 Loftin, no.
2 Q Okay. So you--so the conversations you had did not
3 include James Loftin?
4 A That is correct.
5 PROF. JOYNER: That's my questions.
6 THE CHAIR: Oh, I'm sorry. Anything
7 further--I'm sorry. Did you say you were finished?
8 I'm sorry.
9 PROF. JOYNER: I mean, I could go on.
10 THE CHAIR: No, no. No, no. That's
11 okay. If that's it, then we are--we are done with
12 this witness. And thank you very much. You may
13 step down.
14 MR. HART: May this--may this witness be
15 excused, Mr. Chairman?
16 THE CHAIR: Let me just ask. Is there
17 any reason that this witness may not be released
18 from the subpoena? All right. And--
19 PROF. JOYNER: I know of no reason.
20 THE CHAIR: And Mr. Hart?
21 All right. Thank you very much,
22 Mr. Burbank. You're released from the subpoena. I
23 just want to ask this before we take a break: I do
24 want to try and get through one more witness if we

1 THE CHAIR: But go ahead, if--
2 PROF. JOYNER: That's what I was hoping--
3 hoping to do.
4 THE CHAIR: Okay. But--I'll let you ask
5 it again and see if it just focuses on that.
6 Thanks.
7 Q (By Prof. Joyner) You had conversation with
8 Wayne--Wayne Loftin, and his mother about the
9 foreclosure; is that correct?
10 A I do recall a conversation with them, yes.
11 Q All right. And this was sometime--this was after
12 the foreclosure had occurred, or at least the
13 property had gone into foreclosure?
14 THE CHAIR: Well, again, I don't--the
15 objection is sustained. We're--again, if it just
16 relates to--
17 PROF. JOYNER: If I can ask my next
18 question, Mr. Chairman--
19 THE CHAIR: All right. Don't answer that
20 question. Go ahead and ask your next question,
21 Doctor.
22 Q (By Prof. Joyner) Did you have--well, first, do
23 you know who James Loftin is?
24 A I'm not sure I've ever met Mr. Loftin, James

1 can, but only if it's going to be a fairly short
2 witness. Mr. Hart, can we do that?
3 MR. HART: I do have one witness who I
4 think will take a very short period of time, at
5 least for my questioning.
6 THE CHAIR: All right. Well, let's take
7 a ten-minute break to--for everybody, and then
8 we'll be back to try to do one more witness today,
9 and then we'll finish up. Thank you.
10
11 (FOURTEEN-MINUTE RECESS)
12
13 THE CHAIR: All right. And we are all
14 back. A couple of logistics matters. This is the
15 last witness of the day that we're going to do.
16 Secondly, what we're going to do this evening is
17 this room, after everyone clears, will be locked,
18 so you can leave anything that you want in here in
19 the positions that they're in. There'll be no one
20 and no access to it until tomorrow morning when we
21 reconvene. That'll save everybody from having to
22 pull everything and move everything that they don't
23 want to take home.
24 Third, Committee members, if you'll leave

1 your notebooks here, there's one document that we
2 need to redact some information from, and we'll
3 deal with that overnight so that we do that.
4 Number 4, as to the motion to dismiss
5 that was made earlier today on the basis of
6 disparate treatment, Dr. Joyner, if you want to
7 pursue that motion, if you will file, please, by
8 tomorrow morning at nine A.M., the motion in the
9 clerk's office that sets out those grounds--I don't
10 expect--you don't have time to be briefing the
11 motion, but I certainly would want it in writing to
12 be able to set it out. You can attach whatever
13 evidentiary material you want us to consider.
14 Mr. Hart, it will then be available and
15 served, I'm sure, on you at that point. I know
16 there won't be time for you to respond before ten
17 o'clock. I'll take a look at it between nine and
18 ten. If I think that a response is needed, then
19 I'm going to set it for either the end of the day
20 or Wednesday morning to be heard and--and dealt
21 with, but giving you time to--to at least formulate
22 an oral response. If I--if I think that it--it is
23 not something that needs a formal response, then
24 we'll proceed from there. But at this point, I

1 DIRECT EXAMINATION BY MR. HART:
2 Q Will you state your name, please, sir?
3 A Yes. T. John Policastro.
4 Q Mr. Policastro, how are you employed?
5 A I'm currently employed with the North Carolina
6 Automobile Dealers' Association as general counsel.
7 Q All right. And that is--is that here in Wake
8 County?
9 A It is.
10 Q When were you employed there?
11 A Beginning January of 2006, January 1st or 2nd,
12 2006.
13 Q Prior to that, at some point did you work for the
14 corporation called AT&T?
15 A I did.
16 Q And do you recall the time period that you worked
17 for them?
18 A Yes. It would have been some point in late 1997
19 through December of 2004.
20 Q Okay. What was your position with the--with AT&T
21 while you were with them?
22 A I held various positions. I started as a
23 legislative manager representing AT&T, or assisting
24 in representing AT&T, before the North Carolina

1 obviously don't have anything before me. So we'll
2 do that, and I think that takes care of the
3 logistics matters so that when we're clear with
4 this witness, everyone can actually leave and we
5 can get the room locked.
6 Is there any other logistics matter I
7 need to note? Mr. Reagan, Miss--anybody? Anything
8 else?
9 REP. STAM: I believe we start at ten
10 tomorrow.
11 THE CHAIR: We do start--we do start at
12 ten o'clock tomorrow in this room. All right.
13 With that, Mr. Hart, your next witness?
14 MR. HART: Thomas John Policastro,
15 please.
16 THE CHAIR: And the court reporter will
17 swear Mr. Policastro.
18 * * * * *
19
20 Whereupon,
21 THOMAS JOHN POLICASTRO,
22 having been first duly sworn,
23 was examined and testified
24 as follows:

1 General Assembly, but quickly took on regulatory
2 duties, as well, representing the company in North
3 Carolina before the North Carolina Utilities
4 Commission, and then at some point, I think in
5 2003, became the state director of--of AT&T's Law
6 and Government Affairs Department here in the
7 state.
8 Q And what did that position entail?
9 A It basically entailed the same duties. I ended up
10 pretty much taking on that role as the sole person
11 remaining in the government affairs office of North
12 Carolina. It was pretty much the same role.
13 Q All right. During the time that you were with
14 AT&T, did you come to know the respondent in this
15 action, Representative Thomas Wright?
16 A Yes, I did.
17 Q And in what capacity did you come to know him?
18 A As a member of the North Carolina General Assembly.
19 Q Did you have much interaction with him?
20 A From time to time. I'm not sure what "much" would
21 be, but from time to time, sure, certainly.
22 Q All right. Did there come a time when you became
23 aware that he had in some way sought a charitable
24 contribution from AT&T to a group called the

1 Community's Health Foundation, Incorporated?
 2 A Yes, sir.
 3 Q Do you recall about when you became aware of that?
 4 A I think it would be in the late fall, September
 5 time frame of 2003.
 6 Q And what--what do you remember--how--how do you
 7 remember finding out about that?
 8 A I recall--the best of my recollection is that
 9 the--an inquiry or a recommendation into this
 10 entity was relayed to me through one of our outside
 11 consultants at the time, with the--with the query
 12 being along the lines of what was needed to make a
 13 formal request. I recall vaguely relaying that
 14 back, that certain things were needed to do that,
 15 and then receiving documentation after that with
 16 that formal request.
 17 Q All right. And was--was that--the information you
 18 had and relayed to the person you were talking to,
 19 was it with the idea that it would be sent back to
 20 the person making the request?
 21 A That or the underlying entity.
 22 Q Okay.
 23 A It was--our understanding that--that it was for the
 24 Community Health Center in Wilmington.

1 the payment system, to establish a kind of vendor
 2 ID number and that kind of thing, and then also a
 3 tax ID number to be identified on an IRS W-9 form.
 4 Q All right. And at--at some point did you become
 5 aware that an invoice had been submitted by the
 6 Community Health Foundation, Incorporated?
 7 A Yes. At some--at some point in that time frame, I
 8 did receive this.
 9 Q All right. I want to point you to Exhibit Number
 10 11 in the book that's before you, a single-page
 11 document. Do you recognize that, sir?
 12 A I do.
 13 Q What do you recognize that to be?
 14 A I recognize this as being the invoice that we
 15 received at that time to process this formal
 16 request for this--this contribution.
 17 Q All right. Now, when you first observed that, had
 18 you personally had any conversation with anybody
 19 from the Community Health Foundation, Incorporated,
 20 or specifically, Thomas Wright?
 21 A I don't recall specifically talking to
 22 Representative Wright about this particular--this
 23 particular donation. I recall it coming through
 24 this--this third party. I'm not sure if--I don't

1 Q Okay. Was it Community Health Center, or the
 2 Community's Health Foundation, Incorporated?
 3 A Well, I--it--it ended up being the Community's
 4 Health Foundation. When it was first relayed to
 5 me, it was described as, as I recall, as being on
 6 behalf of the--of the Community Health Center down
 7 there.
 8 Q Okay.
 9 A And then these--the information that was received
 10 specifically identified the organization's name.
 11 Q All right. And the formal request that you had
 12 indicated, how did you indicate that that should be
 13 made?
 14 A AT&T's process at the time was to--for these kind
 15 of things was when--when it was--certainly, when it
 16 was an obvious thing, like a health center, or we
 17 had given to other small entities like a battered
 18 women's shelter, soup kitchens, homeless shelters,
 19 that kind of thing--was to acquire an invoice to be
 20 submitted. It didn't have to be detailed. It
 21 could be simple, it could be extensive, whatever.
 22 It just needed to be--it was required, it's my
 23 understanding, through the corporate requirements,
 24 in order to establish the--the entity in the--in

1 recall ever having a specific conversation. That
 2 doesn't mean down the road it wasn't mentioned as
 3 a, you know, "thank you for--for contributing to
 4 that organization," that kind of thing. But I
 5 don't recall discussing it specifically. I just
 6 recall getting this--getting this back from them.
 7 Q All right. Were you involved in the approval
 8 process for this charitable contribution to that
 9 foundation?
 10 A Not specifically in the approval process. I--I
 11 would have sent this on up to our folks--the people
 12 who handle contributions like this from, basically,
 13 AT&T's corporate, I guess, accounts, so to speak,
 14 and--or AT&T's foundation. Our direct liaisons
 15 were our public--public relations department, so
 16 this would have been passed on to our--our PR folks
 17 in the normal process. And then that would be
 18 submitted on up--up the chain, up AT&T's corporate
 19 levels for approval.
 20 Q All right. Looking at Exhibit Number 11, is that
 21 an accurate copy of the document that--that you
 22 observed at that time?
 23 A It is without the handwriting with the circling.
 24 Q And did--did you make those notations--

1 A No, I did not.
2 Q --or were those done after you--
3 A I did--I don't--no, I did not make these. I
4 think--I believe these were done at some point in
5 the approval process.
6 Q All right. I'd also ask you to look at Exhibit
7 Number 12. Do you recognize that document, sir?
8 A I don't specifically recognize it. I recognize
9 what it is.
10 Q And what is that?
11 A The--what it--what it reads to be is a supplier
12 order to pay accounts payable third-party request.
13 This, I believe, is a form that--well, I don't--we
14 didn't usually receive it our--back at our level.
15 This was kind of an internal--appears to be
16 internal documentation on this request that--after
17 it went on up the chain.
18 Q All right.
19 A So I would not have received a copy of--of this--
20 Q All right.
21 A --necessarily.
22 Q All right. Was that a form that was typically used
23 to authorize payments, charitable contributions, to
24 agencies--

1 being one of the people who would authorize--
2 A Yes.
3 Q --payments of charitable contributions?
4 A Yes. I had seen his name on other documents that--
5 PROF. JOYNER: Objection to the
6 characterization of approving charitable
7 contributions.
8 THE CHAIR: Can you rephrase the
9 question?
10 Q (By Mr. Hart) Did you recognize him as being a
11 person within AT&T who authorized charitable
12 contributions to various agencies?
13 A Yes.
14 PROF. JOYNER: Objection.
15 THE CHAIR: Basis?
16 PROF. JOYNER: The characterization as
17 someone who would approve contributions to
18 charitable organizations.
19 THE CHAIR: Overruled.
20 A I--I recognize him as--as--the--the name that was
21 usually on these--on these forms for approval,
22 on--on forms beyond this form here.
23 Q All right. I'd ask you to look at Exhibit Number
24 13. And do you recognize that particular document,

1 A I believe it was.
2 Q --by AT&T?
3 A I--I believe it was.
4 PROF. JOYNER: Objection to what he
5 believes.
6 THE CHAIR: I'm sorry. Objection--
7 PROF. JOYNER: Objection to what he
8 believes. If he knows, he can answer.
9 THE CHAIR: Sustained. Do you know?
10 THE WITNESS: I don't specifically know.
11 THE CHAIR: All right, sir.
12 THE WITNESS: But--
13 THE CHAIR: Thank you.
14 A I do recognize one of the names on here.
15 Q (By Mr. Hart) All right. And--and what name is
16 that?
17 A I don't know the--I never met the gentleman
18 specifically, but I do remem--recognize Robert
19 Show--Shower's [phonetic] name as being an
20 upper-level person in the AT&T public relations
21 department at that time, a very higher-level
22 off--not officer, but a higher-level person in the
23 corporation.
24 Q All right. And do you--do you recognize him as

1 sir?
2 A I can't say I recognize this--this particular
3 document. I don't know for certain if I ever
4 received this check back in--
5 PROF. JOYNER: Objection.
6 THE CHAIR: I'm sorry. Basis?
7 PROF. JOYNER: He said he didn't know.
8 THE CHAIR: Would you repeat the
9 question, please, Mr. Hart?
10 MR. HART: Yes, sir.
11 Q Mr. Policastro, do you recognize the document
12 that's shown in State's--in Special Counsel's
13 Exhibit 13?
14 A Yes. It appears to be a check written--
15 PROF. JOYNER: Objection as to what it
16 appears to be. Does he know that this is what it
17 is?
18 THE CHAIR: Objection is overruled. I'm
19 going to let him answer, but I will hear you on a
20 motion to strike if it's not hooked up. Go ahead.
21 You can answer, Mr. Policastro.
22 A It appears to be a check from AT&T's corporate
23 account, or one of AT&T's corporate accounts,
24 written to the "Community's Health Foundation, I."

1 I suppose the line was too long, and it was
2 supposed to be "Incorporated."
3 Q Okay. And did you--
4 PROF. JOYNER: Move to strike.
5 THE CHAIR: Denied.
6 Q Do you recognize that as being the form that checks
7 issued by AT&T came in during that time period?
8 PROF. JOYNER: Objection to what form the
9 checks came in.
10 THE CHAIR: Do you know, Mr. Policastro,
11 the form--
12 THE WITNESS: I have seen--I--yes. Yes,
13 Mr. Chairman, I have seen other checks in other
14 circumstances beyond charitable contributions that
15 look like this check.
16 THE CHAIR: All right. Overruled.
17 Q (By Mr. Hart) Mr. Policastro, are you aware, was,
18 in fact, an approval made for a fifteen-hundred-
19 dollar donation, charitable contribution, to the
20 Community Health Foundation, Incorporated, by AT&T
21 back in April of 2004?
22 A I know the approval was--was openly made. I'm not
23 sure the--I'm not sure--aware of the specific date.
24 Q Okay.

1 organizations for being a board member?
2 PROF. JOYNER: Objection, Mr. Chairman.
3 Relevancy.
4 THE CHAIR: I'm not--I'm not sure it's
5 extraordinarily relevant, but I will allow it to go
6 at least to the witness' credibility for whatever
7 purpose it has for this testimony. I'll allow it
8 for right now. Overruled.
9 A No.
10 THE CHAIR: I'm sorry. Would you repeat
11 the--
12 A I'm sorry. No. No.
13 PROF. JOYNER: Move to strike.
14 THE CHAIR: Denied.
15 Q (By Mr. Hart) Mr. Policastro, from your knowledge
16 involving this particular contribution, was it
17 intended to be a charitable contribution to a
18 501(c)(3) corporation?
19 A Yes, sir.
20 PROF. JOYNER: Objection--
21 THE CHAIR: Basis?
22 PROF. JOYNER: --unless he knows, but he
23 said he knew.
24 THE CHAIR: Well, could--let me ask.

1 A But, obviously, the check was written on that date.
2 Q All right.
3 A The approval could have happened some time before.
4 Q Okay.
5 MR. HART: Mr. Chairman, at this time I
6 would move to introduce to Exhibit Number 11.
7 THE CHAIR: Any objection to Exhibit
8 Number 11, Dr. Joyner?
9 PROF. JOYNER: No.
10 THE CHAIR: All right. Without
11 objection, Exhibit Number 11 is admitted.
12 Q (By Mr. Hart) Mr. Policastro, over the years, have
13 you been a board member in any charitable
14 organizations?
15 A I've been a board member in nonprofit
16 organizations, not necessarily charitable.
17 Q Okay. Any--approximately how many different
18 nonprofit organizations have you been a board
19 member in?
20 A I'd say one or two.
21 Q Okay. In that capacity, were you a volunteer board
22 member?
23 A Yes.
24 Q Did you ever receive any compensation from those

1 Again, the question was, Did you intend it to be a
2 contribution to a 501(c)(3)? And I understand you
3 to say, "Yes." Is that correct?
4 THE WITNESS: Yes.
5 THE CHAIR: All right. Then that
6 question subsumes that he does know and did then,
7 so it's overruled.
8 Q (By Mr. Hart) Regardless of whether it was a--
9 specifically a 501(c)(3), did you intend it to be a
10 charitable contribution to the Community's Health
11 Foundation, Incorporated?
12 A Yes, sir.
13 MR. HART: That's all the questions I
14 have, Mr. Chairman.
15 THE CHAIR: All right. Cross-
16 examination, Dr. Joyner?
17 CROSS-EXAMINATION BY PROF. JOYNER:
18 Q Mr. Policastro, I just need some--some
19 clarification here. My understanding is that
20 you--you did not approve this request. Is that
21 correct?
22 A That is correct, sir.
23 Q All right. So what you intended to do is
24 irrelevant, then?

1 A I'm not sure it's irrel--I'm not sure how to
2 answer--
3 Q You didn't approve this request?
4 A That's correct.
5 Q All right. You merely passed it on?
6 A That's correct.
7 Q And it was approved by someone who's not here
8 today--
9 A That is correct.
10 Q --as far as you know, somebody that you don't know?
11 A I know the name, but no, I don't know him
12 personally, sir.
13 Q Okay. Now, the general information is that AT&T
14 makes grants to community groups, nonprofit groups,
15 and charitable organizations; is that correct?
16 A I believe--the overall corporation, not just in
17 North Carolina?
18 Q Yes, AT&T.
19 A That's--that's my--I'm sure they do, yes. I'm sure
20 they do--
21 Q Well, I mean, this check was paid out of Illinois;
22 is that correct?
23 A (Examines paperwritings.) That--that is the
24 address of the bank, yes, sir.

1 Q All right. So--
2 A --I can't--I can't confirm that.
3 Q So you can't confirm any of that?
4 A That it was a nonprofit?
5 Q That it--
6 A No, sir.
7 Q --was a nonprofit or charitable organization or--
8 A No. I--I relied on the representations that were
9 made to us.
10 Q And the representation that was made--the
11 representations that were made is contained--are
12 contained in Exhibit 11; is that correct?
13 A Those were not all the representations. Like I
14 indicated earlier, when the--when the--when it was
15 first relayed to me through our--through our
16 outside consultant, it was described as a non--
17 Q Well, let me--because, I mean, I don't know who
18 your outside consultant was. Let me just ask--
19 MR. HART: I ask he be allowed to finish
20 his answer.
21 THE CHAIR: The witness may allow--is
22 allowed to finish his answer before--
23 PROF. JOYNER: Well, Your Honor, to the
24 extent that he is--

1 Q All right. So you make contributions to community
2 groups, nonpublic groups, and nonprofit groups,
3 charitable groups, as well?
4 A Yes, sir.
5 Q Is the approval process the same for each of the
6 groups?
7 A Not necessarily. I'm not sure--charitable
8 contributions, I think, at times require different
9 internal documentations. Not necessarily.
10 Q All right. Let me just direct your attention to
11 Exhibit Number 11 and ask you to identify what part
12 of that document indicates that this is a 501(c)(3)
13 organization.
14 A There's no part of this particular document that
15 does.
16 Q Is there any part of this document which would
17 indicate that this is a charitable organization?
18 A Just the word "Foundation, Incorporated," would
19 give me that--that thought.
20 Q And is there anything about this document that
21 would indicate this is a nonprofit?
22 A Again, just the word "Foundation" would seem
23 to--would give me the impression that it was a
24 nonprofit, but--

1 THE CHAIR: No, sir. I want the witness
2 to finish his answer, and then I'll hear you.
3 PROF. JOYNER: Well, I want to object to
4 the hearsay that the witness is preparing to
5 testify to.
6 THE CHAIR: All right. Go ahead and
7 finish your answer, and then if he starts into the
8 hearsay, I'll hear you on the objection. Go ahead.
9 A What I was saying was that when it was first
10 relayed to us what this entity was, was that--
11 PROF. JOYNER: Objection.
12 A --it was a nonprofit.
13 PROF. JOYNER: It's hearsay.
14 THE CHAIR: All right. Hold on. The
15 objection's hearsay. Mr. Hart?
16 MR. HART: Mr. Chairman, it doesn't go to
17 the truth of the matter asserted. It goes to his
18 understanding.
19 THE CHAIR: I agree completely.
20 Objection is overruled. It's not hearsay. You may
21 answer.
22 A I'm not sure where I finished. I'll start from the
23 beginning again.
24 When we--when it was first relayed to me

1 as to--as to what this was, was the--on behalf of
 2 the Community Health Center down there. I didn't
 3 see the Foundation's name, or for that matter,
 4 Representative Wright's name on this until we
 5 received the invoice. I mean, at the time I knew
 6 there was some connection with Representative
 7 Wright, but I didn't realize there was a direct
 8 connection till the invoice was--was received.
 9 It was--I'm not sure it specifically said
 10 it was a 501(c)(3), but the terminology used was a
 11 non--charitable nonprofit, and that, to me, is a
 12 501(c)(3). We've seen other ones before.
 13 PROF. JOYNER: Mr. Chairman, I would
 14 object and move to strike.
 15 THE CHAIR: Basis?
 16 PROF. JOYNER: It was hearsay--
 17 THE CHAIR: All right.
 18 PROF. JOYNER: --and it was offered for
 19 the assertion of the truth of the matter--it was
 20 offered for the truthfulness of the matter
 21 asserted.
 22 THE CHAIR: Mr. Hart?
 23 MR. HART: A response is before you
 24 [phonetic].

1 questions.
 2 THE CHAIR: Redirect?
 3 MR. HART: Nothing, Mr. Chairman.
 4 THE CHAIR: All right. Representative
 5 Stam?
 6 REP. STAM: Thank you, Mr. Chairman.
 7 Just a couple of things.
 8 Who was the outside consultant?
 9 THE WITNESS: It's a Mr. Lawrence Beally
 10 [phonetic].
 11 REP. STAM: And had the Community Health
 12 Foundation, as far as you know, provided any
 13 services to AT&T for which Mr. Wright was asking
 14 for payment?
 15 THE WITNESS: No, sir. No, sir.
 16 REP. STAM: Had the Community Health
 17 Center provided services to AT&T for which you were
 18 recommending payment for services?
 19 THE WITNESS: No, sir.
 20 REP. STAM: And I--at the time you
 21 approved the invoice, did you understand the
 22 difference between the Community Health Center,
 23 which was an operating, functioning health
 24 provider, as opposed to the Foundation, from which

1 THE CHAIR: All right. The objection is
 2 overruled. Motion to strike is denied.
 3 Q (By Prof. Joyner) Looking at Exhibit 11, that does
 4 not request a grant from AT&T, does it?
 5 A It does not.
 6 Q Okay. And you don't have a present recollection
 7 that you've ever had any conversation with
 8 Representative Wright about this invoice?
 9 A That's correct.
 10 Q And the only thing that remotely ties
 11 Representative Wright into this request is that he
 12 is listed and identified on the letterhead as the
 13 president?
 14 A Well, on this particular document, that's correct.
 15 My understanding, as I indicated earlier, was that
 16 I had information beyond this document as to that.
 17 Q And that was from this unidentified person that
 18 you've referred to?
 19 A Certainly. Yes, sir.
 20 Q Now, you in--(pauses)--
 21 PROF. JOYNER: If I could have a moment--
 22 THE CHAIR: Certainly.
 23 (DISCUSSION OFF RECORD)
 24 PROF. JOYNER: We have no further

1 you got the invoice, which did not have assets
 2 except one that was in foreclosure?
 3 PROF. JOYNER: Objection.
 4 THE CHAIR: Sustained. Representative
 5 Stam, you may want to--
 6 REP. STAM: Shorten that?
 7 THE CHAIR: --shorten that, yeah.
 8 REP. STAM: At the time you--okay. At
 9 the time you approved the--
 10 PROF. JOYNER: Mr. Chairman, I'm going to
 11 object to that because he testified he didn't
 12 approve anything.
 13 THE CHAIR: Sustained.
 14 REP. STAM: Excuse me. At the time you
 15 passed on the request to higher levels, did you
 16 understand the difference between the Community
 17 Health Center and the Community Health Foundation?
 18 THE WITNESS: I'm not sure I could say I
 19 understood the difference. It was my impression
 20 this was directly related to it. And my thought
 21 was it was the fundraising arm or the charitable
 22 arm of that--of that entity.
 23 REP. STAM: Would it have made a
 24 difference in your passing this on to higher levels

1 if--if AT&T knew through you that, in fact, this
 2 foundation had not received a charitable tax
 3 determination from the IRS?
 4 PROF. JOYNER: Objection. Speculation.
 5 THE CHAIR: I'm going to--I'm going to
 6 overrule it and let you answer, if you can answer
 7 with some certainty about whether it would have
 8 made a difference. If you cannot, please say so.
 9 THE WITNESS: Yes, sir. I would not
 10 have--I would've not passed this along had I not
 11 thought it was a 501(c)(3) charitable organization.
 12 REP. STAM: And finally--
 13 PROF. JOYNER: Move to strike.
 14 THE CHAIR: Denied.
 15 REP. STAM: Finally, in the notice-of-
 16 witness list, there was a statement of your
 17 proposed testimony that Mr. Policastro--"he
 18 recommended through AT&T's approval process that
 19 the contribution be approved to support Wright as
 20 a legislator by supporting Wright's local
 21 charity." How--
 22 PROF. JOYNER: Objection.
 23 REP. STAM: My question is, if that was
 24 why you did it, how does this support

1 Representative Wright as a legislator by
 2 supporting his charity?
 3 THE CHAIR: Okay. Let's--objection
 4 sustained. Let's break it up, if we can. First,
 5 do you want to break that into several questions?
 6 REP. STAM: First--yeah.
 7 The first question is, did, in fact, you
 8 tell the Special Counsel that you recommended
 9 through AT&T's approval process that the
 10 contribution be approved to support Wright as a
 11 legislator by supporting Wright's local charity?
 12 THE WITNESS: No, I did not.
 13 REP. STAM: Okay. No further questions,
 14 then.
 15 THE CHAIR: All right. Representative--I
 16 don't have my list. I'll just go in this order.
 17 Representative Warren?
 18 REP. WARREN: No questions.
 19 THE CHAIR: Representative McGee?
 20 REP. MCGEE: No questions.
 21 THE CHAIR: Representative Lucas?
 22 REP. LUCAS: No questions.
 23 THE CHAIR: Representative Wiley?
 24 REP. WILEY: No questions.

1 THE CHAIR: All right. Did the questions
 2 that were asked cause any further questions,
 3 Mr. Hart?
 4 MR. HART: No, Mr. Chairman.
 5 THE CHAIR: All right. Dr. Joyner?
 6 PROF. JOYNER: Yes.
 7 RE-CROSS-EXAMINATION BY PROF. JOYNER:
 8 Q You mentioned Mr. Beully [phonetic]?
 9 A Yes, sir.
 10 Q Is that someone different than the source of
 11 information that you were not able to identify
 12 earlier?
 13 A I wasn't asked to identify him. I mentioned he was
 14 an outside consultant. It is the same person.
 15 Q Okay. So you don't have any information that he
 16 was involved in any way in--in procuring this--
 17 this money?
 18 A Procuring the money?
 19 Q Right.
 20 A No, sir. I testified that, without mentioning his
 21 name until I was asked by Representative Stam--
 22 that it was my recollection that the initial
 23 inquiry into how this would--how formal requests
 24 would be made did come through Mr. Beully

1 [phonetic] to--to AT&T--to myself at AT&T.
 2 Q Okay. And is Mr. Beully [phonetic] still with
 3 AT&T?
 4 A No, he's--I do not believe he's a registered
 5 lobbyist for AT&T, or--or a consultant with AT&T.
 6 Q Do you know if he's alive?
 7 A Yes, sir, he is.
 8 Q But he's not here.
 9 A That's correct.
 10 PROF. JOYNER: No further questions.
 11 THE CHAIR: All right. That, actually,
 12 leaves the Chair having one other question, if the
 13 mic will--Mr. Poli--Mr. Policastro, are you aware
 14 from any conversations you've had with any other
 15 governmental relations colleagues--and I use that
 16 term broadly--of any other requests that your
 17 colleagues received for similar amounts of money
 18 or similar donations to the Community Health
 19 Foundation, Inc., in Wilmington?
 20 A Not through direct conversations. I've seen some
 21 of the evidence that's--
 22 Q Okay.
 23 A No. No, sir.
 24 Q All right. Thank you.

1 PROF. JOYNER: Move to strike his answer
2 and the question.
3 THE CHAIR: I'll certainly strike the
4 part about he's seen any--any in evidence. The
5 answer, as far as I take it, was, no, he does not
6 know that from any colleagues.
7 All right. I think that--thank you, Mr.
8 Policastro. Any--any reason Mr. Policastro cannot
9 be released from his subpoena, Dr. Joyner?
10 PROF. JOYNER: No.
11 THE CHAIR: Mr. Hart?
12 MR. HART: No, sir.
13 THE CHAIR: All right. You're released
14 from the subpoena. Thank you, Mr. Policastro.
15 All right. Anything before we adjourn
16 for the evening till tomorrow--or recess for the
17 evening until tomorrow? Anything else? No?
18 Okay. Yeah, let me do this. If I could,
19 Members of the Committee--I want to remind the
20 members of the Committee and the attorneys for the
21 Committee and Representative Wright,
22 Representative Wright and members of the public--
23 and I use the term "members of the public" in its
24 broadest sense--that because we are now in--

1 because we are now in deliberative, fact-finding
2 stage, I think it would be appropriate that the
3 members of the Committee refrain from discussing
4 this matter with the press, the Committee's
5 outside legal counsel, Representative Wright's
6 counsel, Representative Wright, until after the
7 Committee deliberations are completed.
8 And I will also ask all of those folks to
9 refrain from discussing evidence in the case with
10 Committee members other than the Chair during this
11 period of time.
12 I will also ask members of the public, in
13 its broadest sense, do not approach the Committee
14 members or witnesses in this matter until after
15 the deliberations are completed. I believe that
16 this hearing can proceed fairly to all parties
17 involved if we all follow these suggestions, and I
18 will ask the sergeant-at-arms to assist in
19 assuring compliance with this request.
20 With that, we are in recess until ten
21 o'clock tomorrow morning. Thank you.
22
23 (WHEREUPON, THE PROCEEDINGS WERE ADJOURNED AT 5:21 P.M.)
24

STATE OF NORTH CAROLINA
COUNTY OF WAKE

-235-

C E R T I F I C A T E

I, Katherine M. Becker, a Notary Public in and for
the State of North Carolina, duly commissioned and
authorized to administer oaths and to take and certify
hearings, do hereby certify that these proceedings were
held before me at the time and place aforesaid, that all
parties were present as hereinbefore stated, and that the
record as set forth in the preceding Pages 2 through 234
represents a true and accurate transcription of the
proceedings, to the best of my ability and understanding.

IN WITNESS WHEREOF, I have hereto set my hand this
the 4th day of March, 2008.

Notary Public
Notary Public No. 20023570191

My Commission Expires 12-29-2012

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A L S O I N A T T E N D A N C E

Rep. Thomas E. Wright
Prof. Irving Joyner, Counsel to Rep. Wright
Mr. Douglas Harris, Counsel to Rep. Wright
Mr. William Hart, Outside Counsel to the Committee
Mr. Alexander Peters, Outside Counsel to the Committee

Ms. Carin Savel, Committee Clerk
Mr. O. Walker Reagan, Staff Attorney
Ms. Kory Goldsmith, Staff Attorney
Mr. Brad Krehely, Staff Attorney
Ms. Heather Fennell, Staff Attorney
Ms. Denise Huntley, Research Assistant
Ms. Amanda Smith, Research Assistant

E X A M I N A T I O N I N D E X

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MEETING OF THE HOUSE SELECT COMMITTEE
TO INVESTIGATE ALLEGED MISCONDUCT AND OTHER MATTERS
INCLUDED IN INDICTMENTS REGARDING
REPRESENTATIVE THOMAS E. WRIGHT

TRANSCRIPT OF THE PROCEEDINGS

(Volume II)

March 4, 2008

THE SELECT COMMITTEE:

Rep. Rick Glazier, Chair
Rep. Paul Stam, Vice-chair
Rep. Marvin Lucas
Rep. William McGee
Rep. Edith Warren
Rep. Laura Wiley

In Raleigh, N.C.
9:59 A.M.

Reported by:
Katherine M. Becker

1 THE CHAIR: If I could, I'm going to
2 very, very briefly call this meeting to order only
3 to do this: There's been a motion this morning
4 that I think that was just filed, and we need--I
5 think Mr. Harris hasn't arrived yet and will be
6 arguing the motion. Mr. Hart and Mr. Peters need a
7 little bit of time to read the motion and formulate
8 a response, so we will be in recess until
9 ten-thirty. And if we need a little more time
10 after that, we'll do it, but right now, we're in
11 recess until ten-thirty, and we'll pick up the
12 motion at that point. Thank you.

(THIRTY-SEVEN-MINUTE RECESS)

16 THE CHAIR: All right. This Committee is
17 now officially back in session at ten-thirty-seven
18 on Tuesday.

19 There was filed this morning--and I
20 appreciate the prompt filing of the motion by
21 Mr. Harris and Dr. Joyner--for Representative
22 Wright a motion for the Chairman to recuse himself
23 and for the Committee to stay this matter and refer
24 to the Speaker for further action. And with that,

1 what I will do at this point--I think since it's a
2 recusal motion, it ought to be heard up front.
3 And Mr. Harris, we waited for you,
4 obviously, and also to give counsel time to
5 prepare. What I'm going to do is let you go ahead
6 and argue that motion. I know there were
7 attachments. Committee members have received it,
8 so that they've had an opportunity to start looking
9 at it. Then what we'll do, Mr. Hart and
10 Mr. Peters, I'll have you respond, and then I'm
11 going to take a few minutes to read through
12 everything and--and rule, so that we can either
13 move on with a new chairman or otherwise move on.
14 Mr. Harris? You'll need to put that--
15 there you go.
16 MR. HARRIS: Thank you. Mr. Chairman,
17 Members of the Committee, sometimes something new
18 and different happens in the world, and when it
19 does, it's time to sit up and take notice. And
20 when you see Republicans coming forward to help
21 Democrats, as when you see cats coming forward to
22 help dogs, it's something new and different, and
23 you ought to--you ought to pay attention.
24 I was speaking to Fern Shubert this

1 morning, and I--I said to her, "I don't mean to
2 embarrass you, but this is something of a *Profiles*
3 *in Courage* moment, because, you know--for a
4 Republican to come out like this, and I know you
5 don't have anything great going with Representative
6 Wright. I know you've fought many times on the
7 floor, and you've--you've opposed each other almost
8 always. For you to come forward and help
9 Representative Wright under these circumstances
10 is--is really quite remarkable. I admire you for
11 it."
12 And she said, "Well, you know, what
13 they're doing to Representative Wright is just
14 wrong. To take a situation where--she--she was
15 speaking--said, "When I make a complaint about
16 somebody, and I as a representative and as a former
17 senator come forward and say that somebody has
18 misled by written document all the--all the people
19 in the House, all--all the legislators in the
20 House, and there's not even a hearing, it's not
21 even anything, it's just dismissed for lack of
22 jurisdiction, and that person's white, and
23 then--and then Tom Wright comes along and the same
24 situation exists, there is no jurisdiction"--

MR. HART: Mr. Chairman, I object to the testimony that Counsel is apparently trying to put into the record.

MR. HARRIS: I'm not putting any testimony. I'm--

THE CHAIR: Let--let me rule on the objection, please, Mr. Harris.

MR. HARRIS: All right.

THE CHAIR: And I understand the objection, and I--I'll--I'm going to give Mr. Harris some significant leeway to make his argument. But I would ask you if you would try to limit it to matters that you do have in evidence in terms of what's filed--and there's plenty, I think, that's filed--

MR. HARRIS: Yes.

THE CHAIR: --and attached--okay.

MR. HARRIS: And then you take Representative Wright, who is in the same situation, without jurisdiction--as--as the members of the Committee will remember, that your--your Committee, when you were sitting as the Legislative Ethics Committee, ruled there was no jurisdiction--and take two people in identical situations and

treat them differently--one has a great, big hearing, one even has a conclusion that he's probably guilty, and the other has nothing, it makes the most stark contrast.

And when you look for the difference, it's hard to find any difference anywhere except that one is white and one is black.

And that is what we lawyers call *prima facie* evidence. And what that means is it may not be true, but it puts the burden on the other side to say why it's not true, to bring out some satisfying explanation as to why somehow something else is true other than black and white.

And when we look at the gravity of what we are doing here, we are taking an elected representative of the people who was put in his place by the people from New Hanover County, as each--as each of you were put in your place by--by the people in your district, and we are proposing, at least, to take him out of that seat, to take him out of what the people--where the people put him, I think it's important in that instance particularly not only to have propriety, but not to have the appearance--even the appearance of impropriety.

And I suggest to you that this is a strong appearance of impropriety, if it is nothing else.

And I doubt very seriously that if, indeed, there is some kind of explanation, lame [phonetic] or otherwise, offered today as to why this is okay--I doubt very seriously that--that explanation will be very satisfying to the black citizens of North Carolina. I doubt very seriously it will be very satisfying to Fern Shubert and a lot of Republicans that can see that this is internecine war--warfare in the Democratic Party and it ought not be conducted unfairly. And it certainly won't be satisfying to me.

And a solution is at hand which I propose which is very simple, and that is that this Committee recognize that, unfortunately, you've gone down this road too far. You've gone down this road so far that no matter what you do, it's going to have an appearance of impropriety. It will be embarrassing to all concerned. It will be something talked about for years, things people for years say, "Look what they did to that black man who got in a position of power from New Hanover County. Look what they did to him, and look

what--how nothing happened to his counterpart who was white." We don't need that in North Carolina. We don't need it.

The easiest way to handle this is for you to vote to say, "We think that this is a mistake. We don't want the appearance of impropriety." I'm not going to ask any of you to say that you did anything wrong, just acknowledge that there is an appearance of impropriety here.

This often happens to lawyers. It often happens to judges. Sometimes we have to withdraw, not because we did anything wrong, but because it looks bad. For example, if I talked to--if I talked to a client and, unbeknownst to me, I inadvertently talked to someone on the other side, I've got to get out of that case. It's an appearance of impropriety. And that's what we have here on--on different grounds.

And so what I'm asking this Committee to do is to refer this back to Speaker Hackney and say, "Because of what has occurred here, which we did not intend, but because of what has occurred here, we think, Speaker Hackney, you need to appoint a brand-new committee, one that was not

involved with the Legislative Ethics Committee that--that made this double-standard error. We think that the Committee should not be chaired by the--by the--by the Chairman who made rulings that directly contradicted one another. We don't want the appearance of impropriety over something this important, taking someone out of office who was elected. And therefore, Speaker Hackney, we would like you to do one of two things. Either appoint a brand-new committee that has none of the taint of being associated with the Legislative Ethics Committee and--and decisions that went both ways, or, in the alternative, refer this in the legislature and let the legislature give guidance as to what they want."

Now, what could the legislature do? Well, they could do what was done down in Georgia. They could pass an act specially appointing a committee to consider this. They did that for Julian Bond [phonetic] many years ago. Now, that happened to be a free-speech issue, and maybe not the best example, because it turns out that that was a discriminatory act, too. But the fact is the Georgia legislature did go about it in a proper way

and--so that there can be a response.

First, complaints and actions on complaints filed with the Legislative Ethics Committee, which is a joint House and Senate Committee, are confidential, and they are not matters of public record until the matter is referred to the appropriate house or an evidentiary hearing before the Legislative Ethics Committee commences. As a matter of law, no member of the Legislative Ethics Committee can disclose the existence of the complaint or the contents of the complaint that is not of the public record.

Two. The confidentiality of the complaint lies with the respondent legislator and can only be waived by that respondent.

Three. Under North Carolina General Statute 120-103.1(g), if the Joint Legislative Ethics Committee determines at the end of its preliminary inquiry that the complaint does not allege facts sufficient to constitute a violation of matters over which the Committee has jurisdiction, the Committee must dismiss the complaint and provide written notice of the dismissal to the complainant and to the respondent.

in the sense that the legislature passed a law and made a committee, and a committee was specially made by the legislature. There could be no doubt, and they considered it from the first.

Now, whether you wish to do that or have Speaker Hackney take care of it, that's your business. But it is certainly somewhat beyond your business where we find ourselves. If you vote in this fashion, this will be a tainted decision. It will be a decision that's embarrassing. It could be a decision that makes us look like racists that we are not, make it look like a state we are not. And we don't need this in North Carolina.

So I ask you respectfully to look over these documents. I ask you respectfully to realize that they are--they have far too much in common to ignore and--and to vote accordingly. Thank you.

THE CHAIR: Thank you, Mr. Harris.

Mr. Hart or Mr. Peters? Mr. Hart? Yes. Let me--let me--before Mr. Hart responds, obviously yesterday in the oral motion that was discussed, it discussed a particular member, and again the written motion today discusses a particular member. So let me make the following preliminary notes,

Four. Fern Shubert was the complainant in the case of Representative Pryor Gibson. She was not bound by the confidentiality limitations and was free to disclose the Legislative Ethics Committee disposition, and apparently did so. The Legislative Ethics Committee could only release the information and can only release the information upon Representative Gibson's waiver of his confidentiality right.

In order to--next number. In order to allow the Legislative Ethics Committee to respond today to Representative Wright's motion alleging disparate treatment based on race, Representative Gibson as the respondent has waived confidentiality with respect to certain documents contained in the Legislative Ethics Committee complaint entitled C-LEC-2007-001.

Next number. The jurisdiction of the Legislative Ethics Committee is defined by General Statute 120-103.1.

And at this point, I am going to hold at that. And I've given and told Mr. Hart and Mr. Peters of Representative Gibson's decision. They, therefore, are able to argue consistent with

Representative Gibson's waiver what--the action involved and the consequences of that action, just as Mr. Harris was able to based on what Ms. Shubert alleged.

So with that, we'll hear a response from Mr. Hart or Mr. Peters. Yes, please.

PROF. JOYNER: Mr. Chairman? We've--

THE CHAIR: Dr. Joyner?

PROF. JOYNER: Yes. We've not been served with the response. Has--has--

THE CHAIR: There's been no--there's been no written response.

PROF. JOYNER: No formal--okay.

THE CHAIR: Right. This is just strictly--I've asked them to do an oral response.

MR. HART: Mr. Chairman, Members of the Committee, we received this response just about forty minutes ago, and so we have not had an opportunity to provide a written response, but I will be presenting our argument against the--the motion.

Essentially, I think Mr. Harris did in a nutshell what his motion says, and that is same circumstances, one is white and one is black,

there's disparate treatment and therefore a strong appearance of impropriety. We contend to you that that's simply not the case. All this is is a bald allegation of race without any--any facts to support it. There's absolutely no similarities in the two situations, and I'll address that--I believe you may be getting copies of--of the complaint disposition.

THE CHAIR: It is, and you may want to wait till everyone gets that for a moment. I apologize. You may proceed. Thank you, Mr. Hart.

MR. HART: Thank you, Mr. Chairman. First of all, there--there are some distinctions that need to be drawn between the Gibson case that has been raised and the Wright case. And that is that the LEC actually had a hearing and made a disposition in the Gibson case, and there has been no hearing--the matter of the--of Representative Wright--there has been one matter, as you know, retained by the LEC, but a decision was made by the LEC that it did not have jurisdiction over the matters that are pending before this Committee, and the matters were referred to the House for any possible treatment by the House. So there is a

distinction there just in terms of procedure and how things were dealt with.

The importance then moves to the actual disposition of the complaint against Representative Pryor Gibson. A review of the materials there will show that, first of all, the LEC found that it did not have jurisdiction over a House Rules violation due to the statutory constraints that were involved. This Committee does not have statutory restraints. We--we have discussed that in various motions both before the LEC and the--and this Committee in prior hearings. But the LEC did have constraints of statutory provisions as to what it could and couldn't consider.

The second situation that--that you need to be aware of--and that's when you review the actual disposition--is that the LEC determined that there was insufficient basis to proceed forward on any kind of an ethics violation because of the confusion about what ethical standards were out there regarding this kind of a representation of a bill not being controversial and no specific guidelines.

In the Wright case, on the contrary, you

had a situation where the LEC determined that it did not have jurisdiction of the matters that were set forth in the charges that had been brought by the Wake County grand jury, but the LEC was aware that not--that the Wake County grand jury had found probable cause as to six serious felony charges against Representative Wright, and that certainly was more basis to proceed to send this matter to the--to the House Committee than in the situation that was present in the Gibson case.

In addition, the LEC was aware that there had already been probable cause for further investigation by the Board of Elections and was also aware of the findings by the DHHS audit.

The next thing that I would ask you to look at is the difference in the nature of the charges. And again, Mr. Harris argues that these are similar situations. These situations could be further from similarity. There's absolutely no relationship, whatsoever.

I would contend to you that in the Gibson matter, what you have is at least, at best, an opinion that the bill was not controversial and then a dispute about that opinion. In the Wright

case we have, again, probable cause having been found by the Wake County grand jury that Representative Wright has committed six serious felony charges that are now before this Committee in similar form of drafting of the counts before the Committee.

On the claim of disparate treatment, the courts in looking at Constitutional violations have determined that more has to be involved than what Mr. Harris has told you. It's not simply one is white and one is black and there's an allegation of disparate treatment and an allegation that there are same circumstances. There actually have to be similar circumstances. And that is not present in this case. There actually has to be some *prima facie* case shown by the complaining party that--that there are similar circumstances, and that's not been shown. There simply are not similar circumstances here.

There's no pattern of conduct. That's another thing that--that the courts have looked to, whether there is a pattern of conduct on behalf of the particular person or body that's being alleged to--being involved in disparate treatment. And

pretrial rulings on motions involving different defendants or even the same defendants and appellate courts who sometimes consider cases involving the same defendant or similar defendants.

What the courts have held is that there must actually be shown some actual bias or some evidence that a judge cannot be fair and impartial, that there is an appearance of impropriety. And I suggest to that there has--has actually been no showing that anyone on this Committee or the Chair has in any way shown that it cannot be fair and impartial in this situation or that it has been involved in any kind of disparate treatment.

I'd like to cite a couple of cases, if I might. The first is the case of *State versus Mitchell John Pakulski*, which is a Court of Appeals case. And this--the Court of Appeals opinion was--was later appealed to the North Carolina Supreme Court and--or petitioned, and the petition was denied, no review. But in that case, the defendant made an allegation that the judge had made a statement prior to trial to the effect that the defense counsel needed to go ahead and--and plead his clients guilty because they--they were--

there simply is none. There's no showing by the--by Representative Wright that there is any pattern of conduct by the LEC, by Representative Glazier, or by any members on this Committee in their actions at the LEC or--or here that would show that there's any kind of disparate treatment between blacks and whites.

The third factor the courts have looked at to determine whether there's disparate treatment that would be a Constitutional violation is any evidence of insidious comments, that is any statements made by the accused party that would show that there was any kind of racial bias. There--there simply has been no showing to that effect as to Representative Glazier or any other member of this Committee or any member of the LEC.

The final thing that I want to discuss is the standard that the courts have used in terms of recusal motions for judges and some of the--some of the law regarding recusal. And first of all, I would argue that this is--this is similar, certainly, to the Judicial Standards Commission procedures. This is similar to situations where trial judges rule in cases every day and may make

they were guilty.

And a motion to recuse was filed in the--during the trial of the case, and the judge held a hearing and specifically found that he did not make the comments that the defendant had related. There were also other witnesses that testified that--that those comments were not made. And the Court held that the trial judge properly denied the recusal motion and that there was no necessity for that motion to be heard by another trial judge, since the judge was able to determine that the allegations were--were frivolous and had no merit.

And I think that's the same situation you have here. I think this--this Committee can determine, based on the lack of evidence that's been presented to the Committee, that there simply is no basis for any kind of finding of disparate treatment.

I'll simply cite a couple of other cases, also, to the Committee. One is *Love versus Pressley* in 34 N.C. Appeals 503, a 1977 case in which the Court found that rulings by a trial judge that were adverse to a defendant were no basis for

finding that the trial judge could not be fair and impartial from that point forward.

And I know there has--have been a lot of allegations in--in this case that the Committee has already made determinations and has already decided what it's going to do. I think coupled with the allegations of disparate treatment, this Committee can certainly find that there's absolutely no basis to find that any of those allegations are true and find no reason to find disparate treatment or that anyone should be recused.

The last case I would cite is *State versus Fie*, a Supreme Court case, 320 N.C. 626, and that is simply the basic law dealing with recusal motions. But again, it supports the--the same basic findings that these other cases have--have cited, and that is that there--there has to be some legitimate basis, some evidence to show that there is impropriety in continuing forward.

And I would submit to you the comparison of these two cases should convince you that there's simply no basis for a finding of disparate treatment, no reason for recusal, and no reason for this Committee to continue forward.

an ethical violation, then why wasn't it dealt with? The Attorney General seems to be saying it's--it's permissible to tell a lie to all the legislators, and that's no problem. If that's not an ethical problem, we've got a problem.

Next, it was represented there was a hearing, and it was passed out this sheet saying there were conclusions. Well, here's the difference. There wasn't any sort of hearing. A hearing is when the cameras are there and your dirty laundry, for better or worse, is laid out in front of everybody to see, and--and witnesses come and witnesses testify on both sides. That's a hearing.

Fern Shubert didn't know anything about this. She didn't know when it was. She didn't get a chance to tell her side of the story. The legislators who were--represented that they had given permission for him to introduce that local bill, they weren't given an opportunity to testify. This was not a hearing. It's just a private meeting.

And so the fact remains that with the allegation of serious ethical violations, one man,

THE CHAIR: All right. Thank you, Mr. Hart. Any response, Mr. Harris?

MR. HARRIS: Yes, sir. Since Representative Gibson has--Pryor Gibson has waived his rights under this and we can discuss it, I--it would be--it would be important to note precisely what it is that he was accused of doing.

What was said was on the local bill, which you're all familiar with, of course, that he represented that he'd gotten permission from the other people in his district to put that--to put that bill out there in a--in a special session, in a short session. How it came to light was that when the bill came on the floor, members of the House rose up and said, "Wait a minute. We don't know anything about that. You don't have our permission." That's how it came to light.

And you know, of course, what that means. It means that in a written document, he told a lie to his fellow legislators and all of them, to the entire House, as to what was going on.

Now, I say to you that if it is the Attorney General's position that that's not an ethical violation, then why isn't it? And if it is

a black man, had to have a hearing out in public, and there were conclusions out in public; the other man, a white man, didn't have to have a hearing, wasn't any hearing of any variety, any public variety, and there were no conclusions.

And in each case, there was a finding there was no jurisdiction. Well, if there's no jurisdiction, what do you even--what are you even having a hearing for? If there's no jurisdiction, what kind of legal entity has a hearing and reaches conclusions on something they've got no jurisdiction on?

Because after all, you know--in the package, you see there's a letter written by the Chairman and signed by the Chairman to--to--to Speaker Hackney, and it says, "This Committee has no jurisdiction." And a day before that, also in your packet, there is a letter also signed by this Chairman saying that--that charges had been brought and conclusions had been reached about Thomas Wright. Well, there's either jurisdiction or there's not. If there's not jurisdiction, what are we reaching conclusions for? And if--and if there is, why did it have to be moved over here because

1 there wasn't any jurisdiction?

2 And wasn't one man told--wasn't Pryor

3 told in the summertime, on July 24th of 2007, just

4 this past year, that "with no jurisdiction, we

5 can't do anything"? Well, wasn't Thomas Wright--

6 said, "Well, with no jurisdiction, we can do

7 something, by golly. We can rake you over the

8 coals. We can have you out in front of the TV

9 cameras. We can make conclusions. We can pass out

10 stuff to the press. We can do a lot with no

11 jurisdiction"--wasn't Thomas Wright told that?

12 And you have the power. If you want the

13 power, you can keep on going, if you think that's

14 the wise choice. You've got the power. But you

15 know, they say that discretion is the better part

16 of valor, and I would suggest to you respectfully

17 that discretion is the better part of the

18 appearance of impropriety, too. I don't see how

19 you get out of this thing untainted.

20 I heard what the Attorney General had to

21 say. Maybe it'll satisfy some people, maybe it

22 won't. But wouldn't it be better--wouldn't it be

23 better for all concerned if a different committee

24 was to hear this and a different committee was to

1 (DISCUSSION OFF RECORD)

2 THE CHAIR: All right. The Chair is

3 ready to rule. Again I'm going to ask the

4 Committee's indulgence. My ruling will be oral and

5 going through a series of findings. Obviously, I'm

6 going to reserve the right to add citations or

7 change grammar or text within the writing. And

8 I'll reduce this to a written form at a later date

9 when I've had more opportunity to do that, but

10 you'll get the general tenor of it so that we can

11 make the decision and--and move on, one way or the

12 other.

13 The Chair has taken account--going to

14 take into account the filings which he read this

15 morning by Representative Wright, as well as the

16 oral--brief oral motion yesterday, a review today

17 and for a great deal of time last night of the full

18 record in this case, the record in the Gibson

19 matter, the law on recusal and disparate treatment,

20 as I worked on with my clerk last night and again

21 this morning, the cases cited.

22 And with that, the first finding: This

23 matter is before the Chair on motion of the

24 Chairman to recuse himself and for the Committee to

1 make its own conclusions without any of this stuff

2 involved here that I've just named? 'Cause we can

3 eliminate this entire issue just by a different

4 committee hearing it, another two or three days

5 with that committee instead of this committee.

6 Thank you.

7 THE CHAIR: Thank you, Mr. Harris. Any

8 member of the Committee wish to be recognized

9 before the Chair considers--Representative Stam?

10 REP. STAM: Yeah, Mr. Chairman, just very

11 briefly before you rule, essentially the motion

12 says that you should recuse yourself because of

13 racial bias. And knowing the House, I would just

14 like to posit the thought that I don't think

15 there's any member of the House that would put any

16 credence in an allegation that you are racially

17 biased, and there's certainly been no evidence of

18 it.

19 THE CHAIR: Any other member of the

20 Committee need to say anything or want to say

21 anything at this point before I rule?

22 All right. I want to take a moment, if

23 you don't mind, to put some things together, so

24 we're at ease for a moment.

1 stay this matter and refer to the Speaker for

2 further action filed this morning at eight-fifty-

3 nine A.M. by Representative Wright. The motion has

4 been argued by both sides expertly and is ripe for

5 disposition.

6 Number 2. Representative Wright

7 essentially argues that he is being treated

8 differently than another representative, Pryor

9 Gibson, against whom a complaint had been lodged in

10 the LEC, with Representative Gibson's complaint

11 being dismissed and Representative Wright's

12 complaint being referred to the House of

13 Representatives and this Committee being formed and

14 prosecuting the case before us today. He argues

15 that that is disparate treatment and, in addition,

16 that that's a basis to--for the Chair, who was

17 Chair of both this Committee and the LEC, to

18 recuse.

19 Number 3. Mr. Hart argues that there is

20 no evidence of a need to recuse as the cases are

21 not comparable and, in addition, that there is no

22 basis under the law for a recusal to take place of

23 either the Chair or the Committee, since there's no

24 evidence that inappropriate decisions have been

made and, in addition, no evidence of racial bias or prejudice exists.

Number 4. The issue, therefore, is whether the ethics prosecution of Representative Thomas Wright is disparately selective on the basis of race in violation of the Equal Protection Clause and similar North Carolina Constitutional provisions, a subissue of which is whether for almost identical basis and for any violation of procedure the Chair or the Committee as a whole should be recused.

Number 5. The only evidence presented in support of the motion is the evidence with regard to the prior complaint before the LEC of the Representative Pryor Gibson.

Number 6. Representative Gibson is Caucasian and Representative Wright is African-American.

Number 7. No evidence has been proffered that any member of the Committee, including the Chair, is otherwise racially biased or prejudiced. And in fact, the record will reflect that two weeks ago--and the transcript will show--that that specific issue was asked of Mr. Harris and

any member of the State Board of Elections was racially biased, prejudiced, or in any way unfair or impartial.

Next number. A second investigation was conducted against Representative Wright by the Department of Health and Human Resources [sic]. A referral was made for consideration of prosecution from that investigation. Again, no allegation, let alone proof, exists today or filed in any motion that any member of the HHS investigative team was racially prejudiced, biased, or motivated to make that conclusion.

Next number. The grand jury of Wake County, made up of diverse citizens of Wake County, found probable cause to believe that Thomas Wright was--should be charged with six counts of a violation of criminal law. No allegation has been made, let alone proved, that any member of the Wake County grand jury or the grand jury as a whole was racially motivated, biased, or in any way unfair and partial in their determination.

Next number. The Joint House and Senate Legislative Ethics Committee met and found probable cause to believe--probable cause to exist as to one

Mr. Harris conceded that there was no evidence of racial prejudice or bias by any member of the Committee. Nothing has occurred in the interim which would change that, and no evidence was presented today to show that.

Number--next number. The evidentiary issue on this motion becomes how to view the Gibson case, that is, is it a likely comparable. This requires an examination of the Gibson file, which you now show, as the waiver of his confidentiality, the basis of that decision, the makeup of the LEC, and the determination that was made.

In this case before us, Representative Wright is charged with eight counts alleging conduct of fraud, corruption, and in most counts, a violation of the criminal law.

Next number. This conduct was found to be questionable after full and fair hearings before the State Board of Elections, who found probable cause to believe that a number of state-law violations had occurred by Representative Wright and referred the matter for review for prosecution. No allegation, let alone proof, has been made today or exists in any motion filed that suggests that

count with regard to Thomas Wright and held that the remaining counts against Thomas Wright before the LEC they were without jurisdiction to proceed on, but they should be referred to the House Select Committee for--should be referred--I'm sorry--to the House of Representatives for action by the Speaker of the House of Representatives, who then formed this Select Committee to proceed. The LEC's referral indicated that they believed that the conduct alleged before the LEC, if proven, would constitute probable cause for further counts, which is what the House Select Committee then found.

Next number. This Committee, which contains three Democrats and three Republicans and is diverse, then unanimously found probable cause on eight counts of alleged misconduct, seven of which are being proceeded on in this hearing.

Next number. As to the Pryor Gibson matter, the Pryor Gibson matter was before the LEC on a complaint from Former Senator Fern Shubert, who filed a complaint with the Committee on January 9, 2007, by delivery to Senator Dan Clodfelter and Representative Nelson Cole, co-chairs of the 2005 Committee. The complaint

alleged two things with regard to Representative Gibson, and it was all with respect to a House bill, 2726, that was filed on May 17, 2006.

Specifically, the complaint alleged, number one, that Representative Gibson had filed House Bill 2726 for personal benefit. The allegation was a conflict of interest occurred in that Representative Gibson introduced the bill to move the date of a public referendum on the meals tax to a year in which he was not up for re-election; second, that in conjunction with the filing of the bill, Representative Gibson had falsified a local bill certificate for House Bill 2726 in that he said the bill was not controversial when it, in fact, was, and that each member of the local delegation had not approved the introduction of the bill when the certification indicated that there was no controversy.

Number 3 as to--I'm sorry. Next number as to Representative Gibson's complaint. The law defining jurisdiction and investigative procedures of the Joint Legislative Ethics Committee changed effective January 1, 2007. SL 2006-201, which changed the law in this area, provided that the new

represented the western part of Union County, which encompassed the towns of Wingate and Marshall [phonetic] and the western half of Monroe. Representative Blackwood, Curtis Blackwood, represented the eastern part of Union County, which encompassed the eastern half of Monroe. Senator Goodall represented the entirety of Union County and was the only senator to represent Union County.

Next number. The complaint by Senator Shubert alleged that at the time the bill was filed, the other members of the Union County delegation did not approve the filing. Representative Blackwood wrote an e-mail to the House Principal Clerk on May 30, 2006, stating his opposition to the bill. Subsequently, so did Senator Goodall to the House Principal Clerk.

Next number. Senate Joint Resolution 1184 of the 2005 session, the adjournment resolution at the end of--for the 2005 session, stated in part that "any local bill that had been submitted to bill drafting must be accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, that the bill is not

law would apply to offenses committed on or after January 1, 2007, and prosecutions for offenses or ethic violations committed before January 1, 2007, were not abated or affected by the new law. The statutes that were in effect prior to the effective date of the new law would remain applicable to prosecutions arising on or before January 1, 2007. All of the allegations against Representative Gibson arose from conduct committed before January 1, 2007.

Next number. Representative Gibson introduced House Bill 2726 on May 17, 2006, and the bill had two provisions: First, that Section 1 would have allowed the Towns of Wingate and Marshville to exercise extraterritorial jurisdiction within one mile of their municipal borders without a vote of the Board of Commissioners of Union County, and second, Section 2 have allowed the Town of Monroe to hold a referendum on the prepared food and beverage tax authorized under Senate Law 2005-261 in either 2006 or 2007. Senate Law 2005-261 required the referendum to be in 2006.

Next number. Representative Gibson

controversial, and that the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies."

Next number. The House principal clerk attached a local bill and certificate to House Bill 2726 which Representative Gibson signed.

The conclusions--next number. The conclusions that were made following any prolonged discussion in the Legislative Ethics Committee on this issue was, Number 1, that the law in effect prior to January 1, 2007, would apply to the matter; Number 2, that the conflict of interest under General Statute 120-88 is present when a legislator has an economic interest in the legislation. It would not be a conflict of interest as then defined under 120-88 for a legislator to act on legislation affecting issues on a ballot merely because the legislator is a candidate on the ballot. Acting on legislation that might result in possible political gain but no financial gain to a legislator did not present a conflict of interest under law for the legislator.

Number 3. The local bill certificate

signed by Representative Gibson was required by a joint resolution of both the House and Senate. The rule concerning the introduction of local bills in the adjournment resolution was a rule of procedure and not a rule of ethics. The Committee lacked jurisdiction to consider whether a violation of a procedural rule would arise under old law to an ethical violation.

Next number. N.C. Gen. Stat. 121-03(a) directs the Committee on its own motion or in response to a sworn complaint to inquire into any alleged violation of the provisions of the Legislative Ethics Act, which is the bribery statute, the use of the legislative position to effect personnel actions, disclosure of confidential information, conflicts of interest, statements of economic interest [phonetic] violations, and the rules of ethics adopted by the House and Senate, or the criminal law by a legislator while acting in the legislator's capacity or participant in the lawmaking--as a participant in the lawmaking process.

Next number. The jurisdiction of the Committee did not include, found the LEC, the

application and enforcements of rules of procedure in each individual house. Issues instead arising from the application of rules of procedure are within the exclusive jurisdiction of the house of which the legislator is a member, and an alleged violation of a rule or procedure is fundamentally subject to a point of order, which is subject to appeal in either the House or the Senate, an issue which is debatable and requires a vote of the chamber.

The Committee--the LEC then, by a unanimous vote of all present and voting, which included senators and representatives, Republicans and Democrats, black and white, voted, Number 1, that Allegation Number 1 against Pryor Gibson was to be dismissed, as alleging conduct that even if true would not constitute an ethics violation, and Number 2, Allegation Number 2 was dismissed as not being within the jurisdiction of the Committee.

Number 3. The complaint against Representative Gibson as filed by Fern Shubert was dismissed by the LEC with no further action by the Committee.

Now--next number--the law in this case

and the motion before us is clear. First, as to the disparate treatment, in a disparate-treatment case, the movant attempts to demonstrate that he is the victim of intentional and often covert discrimination, that is, that he is being treated less favorably than others because of his race or, in other cases, color, religion, sex, or national origin.

Next number. In a disparate-treatment case, proof of discriminatory intent is critical, and the ultimate factual inquiry in this type of case is whether the defendant or, in our case, whether the House or this Committee intentionally discriminated against Representative Wright. Representative Wright maintains the burden of proof from which any fact-finder can infer that if the conduct remains unexplained, then more likely than not the action was based on discriminatory, illegal criterion. In other words, to establish discrimination on the basis of disparate treatment, it must be shown that the person being alleged as the discriminating official bore a racially discriminatory animus against Representative Wright and that the animus manifested itself in the

challenged action.

Next number. The analytical framework for claims governing--governing disparate treatment has been set forth at length by the United States Supreme Court in the case of *McDonnell Douglas Corporation v. Green*, as well as the *Fernco*, *Burdine* and *Aikens* [phonetic] cases that succeeded it. These cases suggest several ways that a plaintiff alleging discrimination may show and a court or, in this case, a Committee may find liability exists for disparate treatment.

First, Representative Wright could show discriminatory intent through direct evidence of discrimination, that is, by introducing invidious statements of any one of the Committee members, the Chair, or a member of the House of Representatives.

Second--or--second, since discriminatory intent is seldom capable of proof by direct evidence, indirect or circumstantial evidence can also be used to prove state of mind. Thus, the second method of establishing the *prima facie* case referred to by Mr. Harris is through the use of indirect evidence whose cumulative, probative force, apart from the operation of any presumption,

shows that as a reasonable probability, but for the--in this case, Representative Wright's race, he would not have suffered an adverse action.

The Supreme Court has also provided explicit guidance for the order of proof in that circumstance, and it goes like this--next number. The plaintiff has the burden, in this case, Representative Wright, of proving by a preponderance of the evidence a *prima facie* case of discrimination. If he succeeds, second, in proving the *prima facie* case, the burden shifts to the Committee and Committee counsel to articulate some legitimate, nondiscriminatory reason for the Committee's action.

And third, should the Committee counsel have carried that burden, then the ultimate burden is on Representative Wright to have an opportunity to prove by a preponderance of the evidence that the legitimate reasons offered were pretextual.

The burden of going forward--next number. The burden of going forward and establishing a *prima facie* case on behalf of Representative Wright is not a heavy one. He need satisfy that burden only by raising an inference that the Committee

acted with discriminatory intent, that is, that the adverse action occurred under conditions which more likely than not were based on impermissible racial considerations.

Various circumstances can give rise to this inference of discrimination, including evidence of irregular or suspect procedures, evidence of a general pattern of racial discrimination within the decision-making process of the Committee. In addition, an inference of discrimination adequate to create *prima facie* case of disparate treatment can be shown by meaningful statistical evidence or by showing that decisions that were made by the Committee depended largely on excessively subjective factors.

Most frequently, however, the basis is the *McDonnell Douglas* test, and that is to show simply that Representative Wright is a member of the protected class, that he was treated differently because of his race, and that someone of a different race was treated in a same category in a different manner.

Next number. Applying that law to this case, the Chair finds, first, the two cases cited,

that of Representative Gibson and that with Representative Wright, are so incomparable that any argument suggesting otherwise is profoundly absurd. The rule-making authority issue in the House that was the subject of the Gibson case was essentially a political vote. This case involves allegations of criminal misconduct, fraud, failure to report campaign contributions, and corruption in office.

The Gibson case involved one incident in one session regarding one House bill. This case literally contains allegations of violations of hundreds of campaign violations over twenty-two reporting periods and seven years.

The Gibson case involves an interpretation of what the Committee found to be an ambiguous requirement on what is controversial and, in fact, then issued a remedial order, which is called a P and G [phonetic], which was circulated to all members of the House and Senate following that hearing to clarify what is meant by "noncontroversial" and what the requirements are for all House and Senate members to respond.

Here, campaign-contribution reporting requirements at issue have been clear for years.

And the law, so far as I know, of fraud and corruption has been in the civil law since the common law. There is no ambiguity about the requirements.

Thus, the two cases are not remotely comparable on any plane, and even a cursory review of the Gibson complaint would and should have revealed to any reasoned observer their utter lack of comparability.

Next number. I find under *McDonnell Douglas* that Representative Wright has not met his *prima facie* case of showing disparate treatment.

Next number. Even assuming he did so, the House proceeding in the Gibson case--I'm sorry--the House proceeding in the Wright case is based on a patently legitimate, nondiscriminatory basis, that is, probable-cause findings by three prior investigating groups, the Board of Elections, Health and Human Services, and the Wake County grand jury, not to mention the issues and findings of the Joint House and Senate LEC. No such finding existed in any capacity in the Gibson case.

Next number. And it goes without saying that no evidence of pretext has been produced

1 against any member of this Committee, against the
2 House, or against the House leadership in pursuing
3 this investigation.

4 A few final comments are in order, I
5 think, at this point, as I conclude my order, and
6 then we'll turn it over to the Committee. First,
7 let me make--I'm sorry--two other findings.

8 As to the issue of recusal, the law with
9 regard to the issue of recusal as set out in the
10 cases cited by Committee counsel, that is the cases
11 of *Fie, Paluski* [phonetic], and *Love versus*
12 *Pressley*, it requires essentially that there be
13 some showing that the presiding officer or the
14 particular Committee have made or relied on
15 evidence outside of the proceedings or be so unfair
16 and impartial that their judgment is thus skewed
17 and unable to give a fair hearing to the particular
18 person involved. No such showing has been made in
19 this case.

20 Now, returning to my final comments--you
21 know, written some time ago, and thought I'd never
22 have to give this--these comments in a different
23 context, but I will.

24 Racism and all its collateral effects is

1 a doctrine abhorrent to any modern, civilized
2 society. And at its core, it is an act of violence
3 and a denial of another's right to equal dignity.
4 We all know, sitting here, that, unfortunately, in
5 the not very distant past racism was openly
6 acknowledged as an official policy of the United
7 States and North Carolina governments, and laws
8 designed to ensure the inferiority of black
9 citizens remained on the books until well into this
10 century and last century.

11 Fortunately, the policy of both
12 governments has changed. And notwithstanding that
13 fact, significant effects and results of previous
14 policies still linger. Prior state-condoned racism
15 encouraged similar attitudes among our citizens
16 which have persisted long after state policy has
17 been reversed. Many claims of discrimination today
18 deal with systemic and subtle and stereotypical
19 practices which developed when overt discrimination
20 was lawful and remained embedded in basic
21 institutional structures.

22 Invidious discrimination in the form of
23 racial prejudice is the result of subjective,
24 irrational perceptions which drain individuals of

1 their dignity because of their perceived
2 equivalence as members of a racial group and the
3 misperception that lies at the heart of prejudice,
4 and the animus formed of that ignorance shows
5 malice and hatred wherever it operates without
6 restriction.

7 Notwithstanding this, this nation, in my
8 opinion, can point with some pride to the
9 remarkable progress made in the last decades in
10 overcoming the effects of past discrimination, and
11 some of that improvement is directly attributable
12 to the anti-discrimination laws passed by this
13 legislature and Congress, but more so from the
14 educative institutions, substantially more powerful
15 than the courts or the political branches of
16 government, that is, schools and churches and
17 synagogues of this nation, as well as enlightened
18 public leaders representing all aspects of society.

19 And with notable exceptions, widespread
20 segregation in the nation's academic institutions,
21 public facilities, in the legislature, and in
22 places of employment has ended. Racial
23 discrimination at the ballot box and in the halls
24 of justice is not tolerated. And equal academic,

1 equal employment opportunities, and this year,
2 finally, in many respects, equal political
3 opportunity, has become the rule rather than the
4 exception.

5 Race, however, remains one of the most
6 divisive problems in our society, despite all of
7 that. And thus, whatever prejudice continues to
8 manifest itself in society at large, we have all in
9 the legislature and in Congress flatly ruled it
10 will not be allowed with prejudice to operate,
11 whether blatant or subtle, practiced by black or
12 white, invoked by those wearing blue or white
13 collars or wearing an officer's uniform or a gray
14 flannel suit.

15 Having said that, I have been a lawyer as
16 a defense lawyer and a civil-rights lawyer for many
17 years, and I think I understand fairly well the
18 issues of discrimination. I am a minority member
19 of a religion and have been discriminated against
20 in that capacity a number of times in my life, and
21 I understand the pain that goes with it. And thus
22 it is my view that it is up to all of us in public
23 office to fight wherever bigotry exists, wherever
24 hatred exists, and wherever intolerance exists by

1 confronting that and educating. And I find acts of
2 racism abhorrent and an utter denial of a person's
3 right to equal protection and equal dignity.
4 Now, I find equally abhorrent racism
5 labels tossed out capriciously and discrimination
6 allegations charged against people where no good-
7 faith basis exists in law and fact to do so. An
8 individual may hold the keys to the litigation
9 door, but it does not imply that he or she may
10 enter with disregard for their actions or disain
11 of the rights of everyone else.
12 Charges of racism, if proved, carry an
13 enormously stigmatizing effect, and they should
14 only be leveled after careful investigation,
15 thoughtful deliberation, and always with a
16 reasonable basis in law and in fact.
17 I find in this case that the filing of
18 this motion was patently without a good-faith basis
19 in law and fact and is, in my opinion, beneath the
20 dignity of those who raise it. I deny the motion
21 as frivolous, groundless, and meritless. Exception
22 is noted.
23 This Committee is now asked, do you wish
24 to overrule the ruling of the Chair? Seeing none,

1 MR. HART: Thank you, Mr. Chair.
2 DIRECT EXAMINATION BY MR. HART:
3 Q Would you tell us your name, please, sir?
4 A It's Daniel Gottovi. That's G as in "gun," O, T as
5 in "Tom," T as in "Tom," O, V as in "Victor," I.
6 Q And Mr.--Dr.--it's Dr. Gottovi; is that correct?
7 A Yes. Either one is fine.
8 Q All right. And you are a medical professional; is
9 that correct?
10 A Yes.
11 Q What--what exactly was--are you still practicing
12 medicine?
13 A Yes.
14 Q What is your--what is your practice?
15 A I'm an internist with a specialty in pulmonary
16 medicine.
17 Q All right. And you are currently practicing in the
18 Raleigh area?
19 A Yes.
20 Q How long have you been practicing in the Raleigh
21 area?
22 A Since--I practiced in Wilmington for thirty-four
23 years. I retired from my--the practice that I
24 started there in 1971. Karen was still working in

1 we are in recess for ten minutes.
2
3 (FIFTEEN-MINUTE RECESS)
4
5 THE CHAIR: All right. Mr. Hart, we're
6 back in session. I believe that the next witness
7 is yours to be called.
8 MR. HART: The next witness is Daniel
9 Gottovi.
10 THE CHAIR: Mr.--Dr. Gottovi?
11 MR. HART: Dr. Gottovi.
12 THE CHAIR: Okay. Dr. Gottovi, if you'd
13 come on up. Dr. Gottovi, if you'll be sworn in by
14 the court reporter, please.
15 * * * * *
16
17 Whereupon,
18 DANIEL GOTTOVI,
19 having been first duly sworn,
20 was examined and testified
21 as follows:
22
23 THE CHAIR: Mr. Hart, the witness is with
24 you.

1 Raleigh, so I came here, and I've been--my clinical
2 practice is at the Open Door Clinic, a free clinic
3 at--run by Urban Ministries in the old Budweiser
4 plant on Capital Boulevard.
5 And I also do--I'm working on a hospital
6 harm study for IHI. I'm still doing some work with
7 Denise Levis--now that Torc [phonetic] Wade has
8 left, still working on the Medicaid access program
9 with Denise.
10 Q Now, you indicated that for thirty-four years you
11 were practicing medicine in the Wilmington area,
12 correct?
13 A Yes.
14 Q During that time period, at some point did you come
15 to know the Respondent, Representative Thomas
16 Wright?
17 A Yes, I did. Knew him well.
18 Q And tell us about that. How did you come to know
19 him?
20 A Actually, I came to meet his--his brother, Joe,
21 first, and his sister, who taught my son some
22 skills--some acting skills, and then--and then
23 Thomas probably within a few years of arrival
24 there. I remember meeting him in the emergency

1 room. He was an EMT. And--and that's--that was
 2 our first--
 3 Q You said when he was an EMT?
 4 A Yes.
 5 Q Okay. And do you remember about when that was?
 6 A I'm not sure. I think when we moved there in '71--
 7 I don't think--I think it was probably '72 or '73.
 8 I'm not sure exactly when he started working as an
 9 EMT, but I would say in the early '70s.
 10 Q All right. Did you have any kind of business
 11 dealings with him at all?
 12 A Over the year--early on, not, but we became
 13 involved in his--Karen and I both took a day off to
 14 work the phone bank when he ran for city council.
 15 He lost by seven votes, unfortunately, but--and
 16 then later on he was very involved in--in inner
 17 city--particularly in healthcare issues, and we
 18 worked together over probably a ten-year period on
 19 what became the New Hanover Community Health
 20 Center, and then worked on the Access III of the
 21 Lower Cape Fear, which is the now six-county
 22 Medicaid--managed Medicaid program in southeastern
 23 North Carolina. So we worked hard together on
 24 that.

1 it was presented to me.
 2 Q Okay. At some point did he ask you to be a member
 3 of the board of directors of the Community's Health
 4 Foundation, Incorporated?
 5 A Yes, he did.
 6 Q Would that have been sometime in early 2001?
 7 A I think so. I'm not sure exactly.
 8 Q Okay. All right. I'll ask you, if you would--
 9 there's a notebook in front of you there.
 10 A Right.
 11 Q If you would, look at the first document. It's
 12 Exhibit Number 1 by number there.
 13 A Okay. I have it.
 14 Q Do you recognize that, sir?
 15 A I don't think I've seen it before, but I recognize
 16 it as articles of incorporation of the Community's
 17 Health Foundation.
 18 Q Okay. That--that particular document lists you
 19 as--as being one of the board of directors, does it
 20 not?
 21 A Correct.
 22 Q And you indicated that he--Representative Wright
 23 did ask you to be part of that. Did you agree to
 24 be part of the board of directors?

1 Q All right. And at some point, Dr. Gottovi, did
 2 Representative Wright talk with you about being
 3 part of the Community's Health Foundation,
 4 Incorporated?
 5 A Yes, he did.
 6 Q Tell us about that, please.
 7 A Well, he--I can't remember exactly where the
 8 conversation was, whether--it probably was in my
 9 office. I was very aware of the healthcare needs
 10 in his district. In addition to working on the
 11 community health center in New Hanover County, I
 12 had helped him with the community health center
 13 that he established in Columbus County. I had made
 14 a presentation to the medical staff at Columbus
 15 County Hospital, as I recall.
 16 And I--he told me that he had formed this
 17 foundation to help provide funds for the indigent
 18 medical needs in his district and--which I knew
 19 very well were certainly there and felt that was an
 20 important thing to do.
 21 He also said, though, that a separate--a
 22 project in part of that was the museum that he had
 23 hoped to establish commemorating the atrocities
 24 committed in Wilmington in 1898. And so that's how

1 A Yes, I did.
 2 Q Did you know any of the other members of the board?
 3 A Yes. At the time we talked about it, Bessie
 4 Funderburg, who was again another close political
 5 friend of ours and who had been involved in the
 6 formation of the Community Health Center--at the
 7 time, I understood that Bessie and I and Thomas
 8 were to be the board. I didn't--I didn't--I don't
 9 recall James Lofton. I knew James Lofton, but I
 10 don't recall--I didn't recall his being on that
 11 board, but I know that from the articles of
 12 incorporation that he was, as well.
 13 THE CHAIR: Mr. Hart, let me interrupt
 14 you just so I'm clear on what we're looking at. On
 15 Exhibit Number 1, your question was whether he--
 16 this shows that he's a member of the board of
 17 directors. But I think that the--Number 6 says an
 18 "address of an incorporator." Am I correct that it
 19 was an incorporator as opposed to the--on that
 20 Exhibit 1?
 21 MR. HART: That--that's correct, as to
 22 the exhibit.
 23 THE CHAIR: Okay. Thank you.
 24 MR. HART: Yes.

1 Q (By Mr. Hart) So you're listed as one of those
2 incorporators on Exhibit 1--
3 A Yes.
4 Q --is that correct?
5 A Yes, that is correct.
6 Q Were you also supposed to be part of the board of
7 directors of the--
8 A Yes.
9 Q --corporation?
10 A Yes. That's what I--how I understood it.
11 Q Okay. And--
12 A Bessie, he, and I were going to make up this board,
13 was my understanding.
14 Q All right. Did you have--were you told what your
15 title was going to be on the board?
16 A I think I was to be treasurer, Bessie was to be
17 secretary, Thomas was to be president.
18 Q All right. Now, as--as you note, your signature
19 is--is not on this document, correct?
20 A It is not.
21 Q Okay. Were you part of the filing of that document
22 with the Secretary of State?
23 A Only in my name being there. I knew--I was sure
24 that it was being done. Thomas and I had

1 think at about this same time--excuse me--at about
2 this same time--at about this same time--I'm sorry.
3 I sort of lost my train of thought here with my
4 spilling of coffee.
5 THE WITNESS: Thanks.
6 A I'm sorry. Just give me a second here.
7 I'm sorry. I sort of lost where I was in
8 that--
9 Q I'll--I'll bring you back.
10 A Okay.
11 Q I may have misunderstood. I--I thought I heard you
12 say "Access Three." Is it Access Free, F-R-E-E?
13 A No, Access III of the Lower Cape Fear.
14 Q Is that the number three?
15 A A-C-C-E-S-S Three. There was Access I--
16 Q Okay.
17 A This is how the Medicaid--managed Medicaid started
18 out with Access I. That was requiring Medicaid
19 recipients to pick a doctor. Access II involved
20 some funding into--well, involved some per-patient,
21 per-month funding to the doctors who would sign up
22 for Medicaid. It also involved some funding
23 flowing to the 501(c)(3), or in Duke's case, to
24 Duke, and in East Carolina's case, to East

1 incorporated, too--the New Hanover Community Health
2 Center was a 501(c)(3), and we had gone through the
3 steps of doing that together, having attorneys
4 prepare the papers, having accountants prepare the
5 work with the IRS. And then for the Access III of
6 the Lower Cape Fear, we had gone through that
7 process together, as well. And I knew that he was
8 familiar with how--how to do that, so I--my
9 understanding was that that was in process.
10 Q Okay. So you have actually been involved with two
11 other incorporations and two other boards with him,
12 as well?
13 A That's correct.
14 Q And that was the New Hanover Community Health
15 Center?
16 A Center.
17 Q And you also said Access III--
18 A Of the Lower Cape Fear. That's--that's the
19 Medicaid--the managed Medicaid program that started
20 out in two pilots, one in the Greenville--well,
21 three, one in Cabarrus County, one in the
22 Greenville area, one in--in Asheville. And the
23 Secretary was anxious that it be a statewide
24 program, which is--which it is now. But in--I

1 Carolina's foundation. There are different models
2 of this around the state. Most of them, though,
3 are--have involved the formation of 501(c)(3)s in
4 an area.
5 Ours started out with New Hanover,
6 Pender, Brunswick, Columbus, and Bladen Counties,
7 and then we later added Onslow County. That was
8 added later.
9 Q Okay. Let me make sure I understand. Did you say
10 that you were both involved in the incorporation of
11 each of those agencies as well as being on the
12 board of directors of each of those?
13 A Well, I'm sure--I've been through a lot of startup
14 community organizations. The Hospice program in
15 our area was the first. The Community Health
16 Center was the second, and then Access III the
17 third major one that I--that I helped with.
18 And you start these out with a steering
19 committee for--and Thomas and Bessie Funderburg and
20 other folks along North Fourth Street, where the
21 Center ended up being, were involved in a steering
22 committee for that. While you're getting the legal
23 help and the--the accounting help, it takes about a
24 year. And the same is true with Access III of the

1 Lower Cape Fear.
 2 Thomas and Torlen Wade and Jim Bernstein
 3 and Bill Atkinson, who's now here in Raleigh, were
 4 the--and I were the steering committee that sort of
 5 started that effort. It started out we were going
 6 to do New Hanover-Pender, 'cause that's where the
 7 hospital had--and the medical society had its
 8 overlap. Bladen County was already working on it.
 9 And Bill Atkinson, who's a blue-sky thinker, said,
 10 "Well, let's just do the whole southeastern corner
 11 of the state." So we did. But it took about a
 12 year, and Thomas and I traveled all over those five
 13 counties visiting health departments.
 14 We had--on the board was made up of a
 15 representative of the health department, a
 16 representative from DSS, a physician, and a
 17 representative from the hospital in each of those
 18 five counties. So it was a twenty-person board.
 19 Representative Wright asked early on that
 20 he not be on that board. And--and I was in process
 21 of making the steps to end my practice in
 22 Wilmington over the next few years, and so I chose
 23 not to be on that board, as well. I chaired the
 24 steering committee.

1 Flood and some other folks, residents of the
 2 community there in the inner city of Wilmington,
 3 were involved in that steering committee, got
 4 through, again, those legal hurdles and accounting
 5 hurdles to get it set up and established.
 6 And in that situation, I did become
 7 chairman of that board, and Thomas was vice-
 8 chairman, and so we did--we worked as the steering
 9 committee. We both were on that board as
 10 volunteers. There was no compensation involved in
 11 that.
 12 Q Okay. Is--that's your understanding of--of most
 13 boards of directors, that--and I believe you've
 14 been on a number of boards of directors over your
 15 time?
 16 A Correct, yeah.
 17 Q And they don't--do not involve compensation to the
 18 board members, correct?
 19 A Usually not. There are some instances where they
 20 do.
 21 Q Okay. Now, you said you and Representative Wright
 22 were both involved in the New Hanover Health Center
 23 as incorporators. Did--did you prepare and approve
 24 bylaws for that organization?

1 And it took us, really, an even year. I
 2 can still remember the first meeting at my office
 3 with those people I just mentioned, and then a
 4 meeting--our final meeting after multiple drafts of
 5 bylaws at the library in Bladen County--Ed Nye was
 6 there as a speaker that day, just--he was very
 7 supportive of the effort--and finally adopting
 8 those bylaws.
 9 But at that point-- neither of us were on
 10 that board at that point--
 11 Q And that--
 12 A --but we'd been on the steering committee that got
 13 it going.
 14 Q And that's as to Access III?
 15 A Access III of the Lower Cape Fear, yes.
 16 Q Okay. But you--you and Representative Wright were
 17 both involved in the--the planning, the--
 18 A Exactly.
 19 Q --preparation of bylaws, approval of bylaws?
 20 A Yes. Exactly.
 21 Q Okay. And on the New Hanover Health Center, were
 22 you--the same kind of process, you were involved
 23 in--
 24 A Same thing there. He and I and Bessie and Dallas

1 A Yes. Yes, we did.
 2 Q Did you have regular meetings of the board of
 3 directors?
 4 A Yes.
 5 Q Did you approve money issues that came up as far as
 6 expenditures and donations and things of that
 7 nature?
 8 A Yes.
 9 Q When it came time that you were involved in the
 10 incorporation of the Community's Health Foundation,
 11 Incorporated, with Representative Wright, was there
 12 a similar process as what you had gone through in
 13 these other two?
 14 A I think that--this was not my project, so I wasn't
 15 really focused on that. This was Thomas's project.
 16 And I--and I knew it would take about a year or
 17 more to get through the--I assumed that that
 18 was--was going on.
 19 Q Did you participate in any preparation of bylaws
 20 for the Community Health Foundation, Incorporated?
 21 A I did not.
 22 Q Was there any passage of bylaws for that--
 23 A Not during that--
 24 Q --organization?

1 A --that year or eighteen months that I was involved.
2 Apparently--there was testimony yesterday
3 that they do exist--
4 THE CHAIR: No, no, no, no--
5 THE WITNESS: I'm sorry.
6 A Okay.
7 Q At least factoring 2001, 2002, 2003, were you aware
8 of--of any meetings of the board of directors of
9 the Community Health Foundation?
10 A Only the meetings that--that Thomas and I had.
11 Bessie Funderburg became very ill late in that
12 period, and actually died, unfortunately, so--but
13 we did not--we did not meet other than issues--
14 Thomas and I met regarding the building that was
15 purchased.
16 Q Okay. But were there actually any board meetings,
17 as such?
18 A No.
19 Q Were there any bylaws passed by you and
20 Representative Wright?
21 A No.
22 Q Were you asked by Representative Wright at any time
23 about approval of any expenditures or how to
24 receive contributions, any of that--anything like

1 Center, and had some historic significance in
2 that--at least urban legend in Wilmington is that
3 the first black person murdered and shot in the
4 streets was shot right there between the Community
5 Health Center and that building. So--(pauses)--
6 Q And to the best you can recall, was that the first
7 time that you were asked to do anything as
8 treasurer?
9 A Yes.
10 Q Tell us--tell us what you remember about that
11 particular experience.
12 A Well, it was a--a typical closing. I guess I've
13 sat there through most of them with Karen over the
14 years--you know, there's a big pile of papers that
15 the lawyer hands you, and you sign it and
16 hope--hope for the best--has been what I've done
17 for the most part. And it's turned out pretty
18 well. So--so it was one of those occasions. There
19 were huge piles of paper that I--I signed and
20 Thomas signed and--
21 Q All right. So you were simply there to sign your
22 name as treasurer of the organization--
23 A That's--that's correct.
24 Q --the Community Health Foundation, Incorporated?

1 that?
2 A I don't recall being asked to do that.
3 Q Now, at some point--you--you--you spoke of this as
4 being Representative Wright's organization. And
5 what do you--what did you mean by that?
6 A Well, this is--I had--well, there were lots of
7 people involved, but--in the Hospice project that
8 I'd worked on and the Community Health Center
9 project, and I had been involved as a--in a major
10 way and took responsibility for getting the legal
11 help, getting the contributions in to fund the
12 legal help, to fund the accounting help, that sort
13 of thing. And I was not in that role in this
14 situation.
15 This was Thomas's project, and--and I
16 felt that he was carrying out those roles that I
17 had carried out in those other projects.
18 Q All right. Were you ever asked by Representative
19 Wright to do any act as treasurer of the Community
20 Health Foundation, Incorporated?
21 A Yes, we--I was asked to meet him at an attorney's
22 office to sign the loan papers for the building--
23 for a building on North Fourth Street, which was
24 right across the street from the Community Health

1 That's correct. And I felt good about doing that.
2 I--I was--I felt that it was an important thing to
3 do and was certainly very enthusiastic and
4 sympathetic with what Thomas was trying to do
5 there.
6 Q And I take it in addition to signing the--the
7 papers for the purchase of the property, you also
8 signed the loan papers for Coastal Federal Bank.
9 Is that correct?
10 A I--I guess so. I--I--I guess they were part of
11 that.
12 Q Okay. Were you involved in any way in the loan
13 application process at Coastal Federal Bank?
14 A I was not. When I--when Thomas called me about
15 "It's time to get on with this," that was all in
16 place, and I just went and met him and got on with
17 that act.
18 Q All right. During the time preceding you going and
19 signing the papers, had you had any discussions
20 with Representative Wright as to how he was going
21 to be able to pay the payments for the loan?
22 A No. But I did--after--I remember walking out of
23 the lawyer's office, 'cause I, you know,
24 signed--the practice that a friend of mine and I

1 from Chapel Hill started in '71 when I retired had,
2 you know, over seventy doctors and twenty-five Pas,
3 and during the course of thirty-four years, I had
4 put my name on a lot of loans. I tried not to ever
5 sign anything that I couldn't pay off myself. And
6 the--I certainly could have paid this off myself,
7 but--so I asked him as we left, you know, "Thomas,
8 how are we going to pay for this?"
9 And--and he said that he felt that
10 he--there would be a combination of three things,
11 that--some State appropriations that he was working
12 on; he was working with the federal government, the
13 Parks Service, on their historic--I'm not sure what
14 the actual name of it is, but it has to do with
15 historic properties, and hoping to have some grant
16 funds from them, and then was hoping for private
17 donations and corporate donations to the
18 Community's Health Foundation that would end up
19 putting together enough funds to take care of this
20 money that we had just borrowed.
21 And--so I felt--I'd--I had worked
22 on--with him for a long time, and I felt confident
23 that that would happen. So--
24 Q Okay. You were here yesterday during the

1 Q Okay. And was--that was a short-term loan, was it
2 not, a six-month loan, hundred and eighty days? Do
3 you--you recall--
4 A Yes, I--when the--Agent Umphlet went over things
5 with me, apparently midway through the year I had
6 signed a renewal of that loan. And I think--I--I
7 think it was renewed without any request at that
8 point for further funds. So I had signed
9 something--I think it was six months, and then at
10 the end of twelve months is when I think the--the
11 bank became concerned that no money had flowed in
12 to pay on the interest or the principal on the
13 loan. And that's when they sent out a letter to me
14 and I--and, I guess, the other board members that
15 it was in default, or going into default.
16 Q All right. And what happened at that time?
17 A Well, I--I--I called Thomas. And--and he said, you
18 know, "I'm still working on it," that it had not--
19 "This was not a good year in the legislature," and
20 I know that that happens, and there weren't a whole
21 lot of funds to draw on for special projects. So
22 that--those funds had not come through. And it
23 did--didn't surprise me that--that a black
24 legislator, Democratic legislator was probably not

1 testimony?
2 A Yes.
3 Q You--were you able to hear the testimony of Torlen
4 Wade and the letter that--hear about the letter
5 that he wrote--
6 A Yeah.
7 Q --for Representative Wright?
8 A Yes.
9 Q Were you aware of that letter at all prior to the
10 time you signed the loan application?
11 A No, I was not.
12 Q Did there come a time, Dr. Gottovi, that you became
13 aware that the--the loan was not being repaid?
14 A Yes.
15 Q Tell us how you first became aware of that.
16 A I went home from work one day and went out to the
17 mailbox and got the mail, and there was a certified
18 letter from the bank saying that the loan was
19 overdue and going into foreclosure. That was the
20 first that I was aware that there was a problem
21 there. I had assumed that what had been proposed
22 was happening during the course of the year, and it
23 hadn't. So that's when I became aware that there
24 was a problem.

1 having a whole lot of success with the Department
2 of the Interior, which was controlled by others.
3 And so, you know, the--there was still a
4 grant process going on there with the historic--
5 people that did historic properties, but that--
6 those funds did not come through. And I think at
7 that point there had been no personal or corporate
8 contributions to the Foundation either.
9 Q Okay. At some point, were you asked to pay some
10 monies on the loan?
11 A No, I wasn't asked to. I--after talking to Thomas,
12 I went--I never had defaulted on anything in my--in
13 life. I'm not a very good financial person. Karen
14 knows I balance my checkbook at the ATM machine.
15 But I had never defaulted on anything. I'd
16 always--you know, sort of basic rules of life, you
17 know, pay your mortgage and your utilities, and
18 then pay your lawyers and your accountants--that's
19 in--in business--and keep on their good side.
20 But any--anyway, no, I went down and--and
21 talked to--to the gentleman that was here yesterday
22 to see--
23 Q Is that Ronnie Burbank?
24 A Yes. Yes. That was the first time I'd ever met

1 him. He was not at the closings. In the closings,
2 all that paperwork had been done in an attorney's
3 office.

4 So, anyway I said, "What--what can we do
5 about this?" And he said, well, he would--you
6 know, that was a branch of a bank--I think the bank
7 is South Carolina-based--"I'm just getting some
8 pressure--I did this in good faith 'cause I felt it
9 was a--a good project, and I knew it was somewhat
10 risky"--and he talked--I'm sorry. I'm not supposed
11 to talk about what was said yesterday.

12 But, well, he--he did say to me, "I--I
13 wanted to do something--our bank wanted to do
14 something in this community, and that's why I
15 willing to do this."

16 So I--I asked if there was any way we
17 could extend it. And I volunteered--I wasn't
18 asked, 'cause--it's interesting. I--in all that
19 pile of paper flying by, I wasn't sure that I
20 hadn't signed a personal guarantee. But he hadn't
21 required--as he said yesterday, he had not required
22 a personal guarantee.

23 So--but I asked if I could extend the
24 loan. So I--I did--I paid the interest personally.

1 that--the developers--it really didn't fit with
2 their business plan. The mayor was not able to
3 come up with any funds.

4 So at the end of the ninety-day period it
5 was going to go--I'd sort of done what I was
6 willing to put into that personally. And at the
7 end of the ninety-day period the bank was actually
8 going to put it up on the auction block at the
9 courthouse. And I--I think the inner-city
10 developers were going to go down and probably try
11 to steal it at that point, but the bank decided to
12 take over the ownership and--of the building. And
13 that's--that's how it was left.

14 Q All right. The--the time period where you said you
15 paid the forty-six hundred dollars (\$4,600) in
16 interest, you said that was twelve months after the
17 original loan?

18 A About that, yeah.

19 Q And that would put it at about spring of 2003?

20 A I--I guess so, right.

21 Q And then it--there was another ninety-day
22 extension?

23 A Right.

24 Q And then after that was when it was--

1 I--again, I--those papers--between our move from
2 Wilmington here, we've got storage units in three
3 places, I think, and--I--I haven't been able to
4 find--but--but Agent Umphlet was able to find those
5 documents.

6 So, I think it ended up about--let's
7 see--forty-six hundred dollars (\$4,600) or so to
8 get a ninety--that was the interest to extend the
9 loan for ninety days, because I wanted to give
10 Thomas some more time and--and--and felt that we
11 might be able to intro--interest some of the folks
12 in Wilmington. There's a very active development--
13 was very active development going on along the
14 North Fourth Street corridor. I felt the, you
15 know, developers, inner-city developers that I knew
16 well might be interested in helping with this or
17 taking over this property.

18 The mayor of Wilmington at the time was
19 a--is a downtown businessman, has several
20 restaurants, several businesses. I talked to him.
21 He was actually very excited and tried to put
22 together a group to consider it.

23 So anyway, the ninety days was to give
24 some time to do that. Unfortunately, none of

1 A Exactly. Exactly.

2 Q Okay. And you didn't make any further payments
3 after that?

4 A No. No.

5 Q Okay. And is that--that's when it went into
6 default?

7 A Yes.

8 Q Okay. During the time period from when you first
9 became involved in signing the loan papers and
10 there were all these issues about whether you'd be
11 able to pay the loan, were the any board meetings
12 of the Community Health Foundation, Incorporated?
13 A There were not as such. I mean, I had times with
14 Bessie Funderburg. I had times with Thomas. I
15 don't think we were ever necessarily together at a
16 time we talked about these matters the three of us,
17 though. So I think--I think not.

18 Q Aside from being asked to sign the--the loan papers
19 and the property purchase papers, were you ever
20 asked to anything as far as treasurer of the
21 Community Health Foundation, Incorporated?

22 A No, no, not that I can recall doing.

23 Q I'm going to ask you, sir, if you'd look at Exhibit
24 Number 6 in your notebook.

1 A Okay.
2 Q Would you take a look at--at that letter? Have you
3 ever seen it before?
4 A I--I have not.
5 Q Okay. Did you have anything to do with authorizing
6 or sending that letter to Anheuser-Busch,
7 Incorporated?
8 A I did not.
9 Q Okay. If you'd look at Exhibit Number 7, please--
10 A I have it.
11 Q You've not seen that before?
12 A No.
13 Q Did--did there come a time in March or April of
14 2004 that you became aware that Anheuser-Busch had
15 contributed five thousand dollars (\$5,000) to the
16 Community Health Foundation, Incorporated?
17 A No.
18 Q You were never aware of this contribution?
19 A No.
20 Q Did you or the board approve Thomas Wright putting
21 that money in his own account?
22 PROF. JOYNER: Objection.
23 THE CHAIR: Basis?
24 PROF. JOYNER: Speculation.

1 Representative Wright being able to take this check
2 and deposit it into his own personal account,
3 correct?
4 PROF. JOYNER: Objection. Same
5 objection.
6 THE CHAIR: Overruled as to that. Please
7 answer.
8 A I'm not aware of it.
9 Q Okay. You were not part of any approval process?
10 A No.
11 Q And you were still on the board at that time and
12 still treasurer, as far as you know?
13 A I didn't think I was. I thought that when this
14 building project collapsed that--that the
15 Foundation had as well. So--but I never, you know,
16 checked with the Secretary of State or submitted a
17 formal letter of resignation, even after I had
18 moved up here. So I--I--
19 Q Was part of the reason that you thought that the
20 Foundation had essentially ended the fact that
21 there were no board meetings?
22 A No, I--I just felt the main project that we had
23 taken on had--had failed, and I--I really didn't
24 think much more about it. I was involved in lots

1 THE CHAIR: Overruled. You may answer
2 the question.
3 A We did not, but I--I do not know--there may well
4 have been bylaws that allow him to do that. So
5 I--I can't say that there weren't contingencies or
6 bylaws in place that allowed him to do that. I
7 don't know.
8 Q Okay. Well, let--let me ask you this, Dr. Gottovi:
9 You told me that the board never met?
10 A That's--that--that's correct, not in a formal way.
11 Correct.
12 Q And never prepared or approved any bylaws?
13 A That's--that's correct.
14 Q So there couldn't be any bylaws that would allow
15 him to do this, correct?
16 A I--I don't know the--
17 PROF. JOYNER: Objection.
18 A I--
19 THE CHAIR: Wait a minute. Basis?
20 PROF. JOYNER: Because his answer--the
21 answer speaks for itself.
22 THE CHAIR: Yeah, I'm--that--that one's
23 sustained.
24 Q But at least you're not aware of any approval of

1 of other things, sort of closing down my practice
2 there, mending a relationship with my wife--just
3 had a lot of other things on my mind.
4 Q Okay. I'll ask you, if you would, to look at
5 Exhibit Number 8.
6 A Okay.
7 Q Do you recognize that particular document, sir?
8 A No.
9 Q Were you as a board member, as the treasurer,
10 involved in sending a letter to AstraZeneca
11 Pharmaceuticals, Mr. Brian Shank, requesting a
12 charitable contribution for the Community Health
13 Foundation?
14 A I was not.
15 Q Okay. I'll ask you, if you would, sir, to look at
16 Exhibit Number 10. Do you recognize that document,
17 sir?
18 A No.
19 Q Did you at any time handle that particular check?
20 A No.
21 Q At any time, did you become aware that AstraZeneca
22 Pharmaceuticals in 2003 or 2004 had contributed
23 twenty-four hundred dollars (\$2,400) to the
24 Community Health Foundation, Incorporated?

1 A No, I did not, not until SBI Agent Umphlet met with
2 me and asked me that same question.
3 Q All right. As to that particular contribution and
4 that particular check, sir, did you or the board
5 ever approve Representative Wright cashing that
6 check or putting that check in his own personal
7 account?
8 A No, we did not.
9 Q I'll ask you to look at Exhibit Number 11, sir.
10 A I have it.
11 Q Do you recognize that document?
12 A No.
13 Q Were you in September of 2003 or thereabouts
14 involved in seeking a charitable contribution from
15 AT&T for the Community Health Foundation,
16 Incorporated?
17 A I was not, personally.
18 Q Did--did you or the board approve that request?
19 A I did not.
20 Q Okay. I'll ask you to look at Exhibit Number 13,
21 sir.
22 A I have it.
23 Q Do you recognize that particular check?
24 A No.

1 had worked on the files to obtain 501(c)(3)
2 recognition, correct?
3 A That's correct.
4 Q Were you aware of any similar planning and
5 preparation, working with attorneys or accountants,
6 on the Community Health Foundation, Incorporated?
7 A I assumed it was going on. I wasn't aware of it,
8 though. I wasn't involved in any conversations,
9 but--
10 Q All right. When you were involved in those
11 conversations and the other two organizations, was
12 Representative Wright also involved in that as
13 well?
14 A I--I--I believe so. We worked really as a team on
15 those--both of those projects. So I--I think, in
16 terms of picking attorneys and picking accounting
17 firms--we tried to--tried to use firms that either
18 were minority firms or had minorities involved in
19 them in a major way. So I--yes. I'm sorry.
20 Q Okay. Earlier you indicated that usually board
21 members are not entitled to compensation. Have
22 there been--it leads me to ask you whether or not
23 there have been some occasions where you were aware
24 that organizations you were involved in--that board

1 Q Do--did you at some point become aware, as
2 treasurer of the Community Health Foundation and as
3 a board member, of the fact that AT&T had sent a
4 check for fifteen hundred dollars (\$1,500) to the
5 Community Health Foundation as a charitable
6 contribution?
7 A I was not aware of that.
8 Q Did you and--and/or the board approve
9 Representative Wright taking that check and putting
10 it into his own personal account?
11 A I did not.
12 Q Are you aware of any board action in doing so?
13 A I am not.
14 Q Okay.
15 MR. HART: Mr. Chairman, we--may I have
16 just a moment?
17 THE CHAIR: Certainly.
18 (DISCUSSION OFF RECORD)
19 Q Dr. Gottovi, earlier you testified that when you
20 were involved in the incorporation of the Community
21 Health Center and Access III that you were involved
22 with the process of--of setting up the
23 organizations. And you spoke about knowing that
24 attorneys had worked on the files and accountants

1 members were entitled to some kind of compensation.
2 A I can't think of any that I was involved in
3 personally.
4 Q Okay. Did you, as treasurer of the Community
5 Health Foundation, ever open a checking account for
6 that organization?
7 A I did, when I was working with the--the banker who
8 was here yesterday, open an account--I mean, I
9 wrote a check for--I think for a hundred dollars
10 out of my checking--our family checking account to
11 get an account under way. And then when I put the
12 funds in to pay for the ninety-day extension, they
13 went in--well, I think they were--it was really
14 pretty much a pass-through.
15 I wrote the checks to the Community's
16 Health Foundation, Inc., there at the desk at the
17 bank and--and signed them over immediately to--to
18 the bank. The hundred dollars did remain in that
19 checking account.
20 Q So the account--the actual checking account that
21 you're talking about you passed the funds through,
22 that was open from the time that you signed the
23 loan papers and purchased the property?
24 A No. There--there may well have been a checking

1 account opened. It was opened at the time that I
2 received the notice that the property was going
3 into default and went down to--to--and arranged
4 with the banker for a ninety-day extension, which I
5 paid for personally.
6 Q Okay. So that's the first time, at least that you
7 were aware, that there was an actual checking
8 account for the Community Health Foundation?
9 A That--that's correct, yes.
10 Q And that would have been in the spring of 2003,
11 approximately somewhere in that range?
12 A I guess so. I'm--I'm--I get those dates--
13 Q Okay. That was that--that twelve months--
14 A Yes. Right.
15 Q --after the original closing?
16 A Exactly. Exactly.
17 Q Okay. Did you at any point thereafter close that
18 account?
19 A No, I did not.
20 Q So as far as you know, that account would still
21 have been open in 2003 and 2004?
22 A I think not. Again, SBI Agent Umphlet actually
23 came back to our house to ask me specifically about
24 that, and--and had the monthly statements on that

1 THE CHAIR: The Chair would be delighted
2 to share those. I'm going to ask us to go to close
3 to one, and then if you have cross to continue,
4 we'll continue it after lunch. I don't anticipate
5 being finished with this witness till after lunch.
6 I know that there will be some Committee questions.
7 The--so I'd like to go ahead and get as much done
8 as we can, but you--if you have questions after
9 lunch, I'll hold the witness.
10 PROF. JOYNER: Well, I was trying to
11 avoid breaking up the examination, but if that's
12 how you want to handle it, that's--that's fine.
13 THE CHAIR: I'd like to at least get as
14 much--since we were delayed in starting and--but
15 I'll be glad to allow you time after lunch as well.
16 PROF. JOYNER: Thank you.
17 THE CHAIR: Sorry, Dr. Gottovi.
18 THE WITNESS: No, that's okay.
19 CROSS-EXAMINATION BY PROF. JOYNER:
20 Q Dr. Gottovi, you indicated that you came to
21 Wilmington around 1971, 1972. And if I'm correct,
22 that was around the time that there was significant
23 racial turmoil in Wilmington; is that correct?
24 A That is--that is very correct.

1 account that, you know, showed the--the bank
2 charges. And over--I'm not sure--I don't remember
3 how many months it was, but over a period of time
4 my hundred dollars was gone in--in bank charges,
5 and I think the bank closed the account at that
6 point. And I'm not--I don't remember what the date
7 was. I know Agent Umphlet has that information.
8 Q Okay. Dr. Gottovi, did you ever seek reimbursement
9 for the forty-six hundred dollars (\$4,600) in
10 interest that you paid from--from the Community
11 Health Foundation, Incorporated?
12 A No, I did not.
13 Q Other than the one-hundred-dollar deposit and the
14 forty-six-hundred-dollar deposit that you made for
15 interest, did you make any deposits or withdrawals
16 from that account?
17 A I did not.
18 MR. HART: That's all the questions I
19 have, Mr. Chairman.
20 THE CHAIR: Thank you very much. Cross--
21 cross-examination?
22 PROF. JOYNER: Dr. Gottovi, thank you for
23 your testimony. Let me--let me--let me just raise
24 with the Chair as to your plans for lunch.

1 Q And--and as a result of or during that turmoil, I
2 believe, you had occasion to meet Representative
3 Wright's brother?
4 A Yes, I did.
5 Q And--and Representative Wright's brother was
6 eventually involved in the Wilmington Ten case?
7 A That's correct. He was hauled out from under his
8 bed, where he was hiding, by the police.
9 Q And you were involved pretty actively in those
10 defense efforts, were you not?
11 A Yes.
12 Q And--and--and as a result of that, you formed a
13 relationship with the Wright family?
14 A I did.
15 Q And pretty close relationship with the Wright
16 family?
17 A Very--very close.
18 Q And you knew Representative Wright's parents well?
19 A Yes.
20 Q As well as his sister, Dale?
21 A Yes.
22 Q And--and I believe at--at that time Representative
23 Wright was a lot younger--
24 A He was.

1 Q --certainly than he is right now?
2 A He had dark black hair all over his head when I
3 first met him in the emergency room.
4 Q And since that time, could you kind of describe
5 your involvement with the Wright family and
6 Representative Wright in particular?
7 A Well, let me speak to the Wright family first.
8 Karen and I were both very upset about the way
9 these ten--ten--I guess nine of them were
10 teenagers, and Mr. Chavis was not a teenager. But
11 Thomas' brother was a teenager when this happened,
12 and--and frightened, and--and sick, too. He had
13 sarcoidosis, and died prematurely because of that
14 disease and our state's inadequate healthcare--
15 well, anyway, that's another matter.
16 But we--we did become involved. We were
17 involved politically with Governor Hunt's campaign
18 and, I know, petitioned Governor Hunt along with a
19 lot of other people over what we felt was
20 inappropriate prolonged incarceration of his
21 brother and--and the others.
22 And--and when--when Joe was finally
23 released, he came back to Wilmington and had a very
24 hard time finding work. Karen was a--I think a

1 county commissioner at the time and helped him get
2 employment through the--at the Department of Social
3 Services. So we were--and one of our mutual
4 friends was a city councilman that--who lived in--a
5 Caucasian city councilman, who lived downtown,
6 though, and had a monthly social gathering at their
7 home. And--and Thomas's mother and Joe and--and
8 Thomas and Dale were often there.
9 So we had a lot of social contact with
10 them in addition to the projects that we--I think
11 the things we've worked on all happened later,
12 after that. But--but it was--it was very--a very
13 close relationship with his family.
14 Q And it was as a result of that close relationship
15 that you formed with the family that you then got
16 involved in these other community self-help efforts
17 that Representative Wright was involved in?
18 A I--I think that's accurate, yes.
19 Q And--and--and with--with respect to--to these
20 efforts, though, some of those were efforts that
21 you initiated, and others were efforts that he
22 initiated; is that right?
23 A Yes. Yes.
24 Q So you both were kind of thinking along the same

1 path?
2 A Yes.
3 Q All right. And he was involved extensively in
4 healthcare issues in the--in the Wilmington
5 community?
6 A Yes.
7 Q Now, you--you talked about--well, let me just--
8 you--you talked about your involvement with the
9 Community Health Center?
10 A Yes.
11 Q Now, is that one of the projects that you and
12 Representative Wright helped to put together?
13 A Yes.
14 Q Okay. Could you talk about how--how that
15 developed?
16 A Sort of several steps involved.
17 Torlen Wade and Jim Bernstein came to the
18 New Hanover/Pender/Brunswick County Medical Society
19 meeting one--I remember it was a pretty cold
20 November night--to talk about--and there was a
21 representative from the State medical society
22 there--talked with--the medical society had an
23 Access program that was developed in the Asheville
24 area that--they talked about that and trying to get

1 more physicians to accept Medicare assignment.
2 And--and the--when the whole issue--and--
3 and Bernstein and Wade were there to talk about,
4 again, trying to get cooperation with this Access
5 I, getting more primary-care doctors to be willing
6 to take on Medicaid recipients into their practice.
7 And one of the pediatricians, actually
8 one of my partners, raised his hand and said, "What
9 if there"--you know, "What if there aren't enough
10 family docs and internists and--and pediatricians
11 in our three counties to take care of them?"
12 And Jim Bernstein, who--and Jim and
13 Torlen Wade are really the heroes of health care
14 for the poor in this state. And Jim Bernstein was
15 the first person to mention in my presence, "Well,
16 some communities form a community health center."
17 And that--you know, that--the meeting
18 ended, and we all went home. And about four months
19 later there was an article in the Wilmington Star-
20 News that inner-city Wilmington had been declared
21 pretty much a federal disaster area by the
22 department--by the public health service, which
23 made it eligible for community health service
24 grants. And Torlen Wade, he and I had worked--he

1 and Jim and I had worked on a project--
 2 interestingly enough, Carolina Beach, which is now
 3 a thriving metropolis, was--was in the '70s still a
 4 rural area. And--and--I'm terrible--I'm trying to
 5 think of the senator's name--but worked with them
 6 to get a rural health center on Carolina Beach.
 7 Anyway, that's--that's--had worked on that.
 8 And--and so--but Torlen called me as he
 9 got the word from the feds as well, "Hey," you
 10 know, "And what about our working on a community
 11 health center?" So, again, the steering
 12 committee--I think there's a famous woman who said,
 13 "Nothing--don't think that great things can't
 14 happen in this world by a small group of people
 15 working on it."
 16 And a steering committee was put
 17 together--this was before Bill Atkinson came, but
 18 the hospital director at the time--Thomas Wright,
 19 who was involved in the part of the community that
 20 was affected. I was there on behalf of the medical
 21 society. The AHEC director, Bill McMillan, was
 22 there. I--we had a group of about five or six
 23 people that, again, became the steering committee
 24 for that effort.

1 THE CHAIR: Sure.
 2 A Yes.
 3 Q And who is Jim Bernstein?
 4 A Jim Bernstein--again, Jim Bernstein was in--getting
 5 his Ph.D. in public health at Chapel Hill when I
 6 was finishing my pulmonary fellowship there, and we
 7 worked on--started--sort of my legislative lobbying
 8 began then. We worked on day-care regulation,
 9 day-care-center regulation, health regulations,
 10 which were nonexistent in--in North Carolina at
 11 that time. The department of pediatrics and Jim
 12 and I and others worked on that project.
 13 Jim went on to form what became the
 14 Office of Rural Health and Community Development,
 15 and--and Torlen was there in the School of Public
 16 Health at the time, and the two of them then
 17 carried that effort forward.
 18 Jim, unfortunately--he was assistant
 19 secretary for health. Karen and I lob--lobbied
 20 hard to get him to be secretary, but Easley
 21 didn't--or Hunt didn't listen, but anyway-- another
 22 matter. We--
 23 THE CHAIR: I think this is as good a
 24 time as any--

1 Torlen Wade, who's a superior grantsman,
 2 got a grant from the--I think, K.P. [phonetic]
 3 Reynolds for forty thousand dollars to put
 4 together--the application for a federally-qualified
 5 health center is about three--is about that thick.
 6 (Indicating.) And it--it took the forty thousand
 7 dollars to do the paperwork and get all the help to
 8 get that done. So--but Thomas and I worked
 9 intimately. Thomas was pretty much the community
 10 representative from that part of the city that was
 11 involved, and worked on that--again, that was
 12 probably a year's process or more to do that.
 13 So that--that's--that's--that was our
 14 first really close work together, on that project.
 15 Q Okay. Now, did you--the steering committee that
 16 you were referring to, did they engage in the
 17 effort of incorporating the Community Health--
 18 Health Center in conjunction with Torlen Wade and
 19 Jim Bernstein?
 20 A Yes.
 21 Q All right. Now, Torlen Wade, is that the same
 22 Torlen Wade that testified yesterday?
 23 THE WITNESS: Is it all right for me to
 24 answer that?

1 THE WITNESS: I'm sorry. I'm sorry.
 2 THE CHAIR: --to take a break for lunch.
 3 THE WITNESS: Oh, okay. I'm--I'm sorry
 4 to--
 5 THE CHAIR: That's--oh, no, it's really--
 6 THE WITNESS: --to drabble [phonetic] on.
 7 THE CHAIR: Not a problem.
 8 PROF. JOYNER: No, no, no. No, you're
 9 doing fine. You're doing fine.
 10 THE CHAIR: I think that what we'll do,
 11 if we can, is we'll come back--and I would ask that
 12 we kind of just stay to the hour, so we'll come
 13 back at ten of two. That'll give us an hour for
 14 lunch. And we'll pick up with cross-examination at
 15 that time. Thank you.
 16 (DISCUSSION OFF RECORD)
 17 THE CHAIR: I'm sorry. Before we break,
 18 just--Members of the Committee, I need to give you
 19 this admonition: Before we break, I want to again
 20 remind members of the Committee, the attorneys for
 21 the Committee and Representative Wright,
 22 Representative Wright, and members of the public
 23 that because we are now in deliberative, fact-
 24 finding stage, I think it would be appropriate that

1 the members of the Committee refrain from
2 discussing this matter with the press, the
3 Committee's outside legal counsel, Representative
4 Wright's counsel, Representative Wright until after
5 the Committee deliberations are completed.
6 I will also ask Mr. Hart, Mr. Peters,
7 Dr. Joyner, Mr. Harris and Representative Wright to
8 refrain from discussing evidence in the case with
9 Committee members other than the Chair during this
10 time. I will also ask members of the public to not
11 approach Committee members or witnesses in the
12 matter until after deliberations are completed.
13 And I believe that this hearing can proceed fairly
14 to all parties involved if we follow these
15 suggestions. I have asked the sergeant-at-arms to
16 assist in assuring compliance with this request.
17 Have a good lunch. Thank you.
18 _____
19 (LUNCH RECESS)
20 _____
21 THE CHAIR: Dr. Gottovi, if you want to
22 resume the stand, please. And just a reminder that
23 you are under oath. Dr. Joyner, back with
24 cross-examination for you?

1 A Yes, it did.
2 Q And what was Representative Wright's role in that?
3 A He and I--well, we were on the steering committee.
4 Bill Atkinson, Thomas, myself were the local
5 members of that steering committee. We then
6 involved folks from each of the five counties
7 involved on a steering committee that--that went
8 forward. But he was very much involved in putting
9 that together.
10 Q All right. And you and he were really the
11 instigators of that effort; is that correct?
12 A Yes.
13 Q And did a lot of traveling around to meet with
14 people, and you basically chose the people who
15 would become the steering committee, didn't you?
16 A We did. We--the model that was given to us by
17 Jim Bernstein and Torlen Wade that was used in
18 other areas had a representative from Department of
19 Social Services, from the health department, the
20 hospital, and the medical society in--in each
21 community. And so we--and--and Thomas knew,
22 because a lot of these counties were in his
23 district or adjoined it, the rural counties--I
24 didn't know as many of the people in those

1 Q (By Prof. Joyner) Dr. Gottovi, I believe when
2 we--when we broke for lunch we were talking about
3 the creation of the Community Health Center--
4 A I believe so.
5 Q --and your involvement and the involvement of
6 Representative Wright, who I believe at that time
7 was a city councilman; is that correct?
8 A I believe so. It was before his legislative--
9 Q Before he became--
10 A --career, yes.
11 Q But he was--he did have an official position with
12 the City of Wilmington?
13 A I believe so. I don't remember the dates of that,
14 but I believe so.
15 Q Okay.
16 A He was a city councilman, and I don't know if it
17 was at that time or not.
18 Q All right. Now, in--you also indicated that you
19 worked on this Access III--
20 A Yes.
21 Q --venture.
22 A Yes.
23 Q And did--did that involve an incorporation effort,
24 as well?

1 positions. So he did most of the work with health
2 departments and DSS's. I did the work with the
3 hospitals and medical societies to get a
4 representative from each.
5 I think we asked--as I recall, we
6 approached, like, the head of DSS in, say, Bladen
7 County and said--told them what we were doing, "And
8 would you or one of your staff--would you appoint
9 one of your staff people to be on this committee?"
10 And then once we got through the incorporation
11 process, they became the actual board, these
12 representatives from each of those bodies.
13 Q All right. So the people who actually worked on it
14 became the board?
15 A That's--that's correct.
16 Q And during those efforts, both you and he incurred
17 expenses associated with that, did you not?
18 A We did.
19 Q All right. And you were not--you were in private
20 practice, I believe?
21 A Yes.
22 Q All right. And with respect to the expenses that
23 you--that you incurred, how was--how was that
24 handled?

1 A We--Jim Bernstein and Torlen--there was a
2 foundation called the--it's--and still exists in
3 North Carolina--Foundation for Advanced Healthcare.
4 It's a foundation that Bernstein had established.
5 And we submitted monthly invoices to them for--for
6 our time and our travels in--in doing that work.
7 Q All right. So the expenses that you incurred, you
8 were reimbursed for those?
9 A Yes. Yes.
10 Q And that was from a grant that you were able
11 to--well, at least Jim Bernstein and Torlen Wade
12 were able to--to put together; is that correct?
13 A Yes.
14 Q Okay. And, now, there were other efforts as well
15 in which you and--and Representative Wright dealt
16 with the development and incorporation of community
17 efforts; is that correct?
18 A Well, the two that I recall in detail were--were
19 the New Hanover Community Health Center and the
20 Access III of the Lower Cape Fear. Those were the
21 two major ones that--if there were others, I need
22 to be reminded.
23 Q Now, when--once the Community Health Center was
24 established, you and Representative Wright became

1 board members; is that right?
2 A That's correct.
3 Q And--and I believe at some point you became chair
4 of that board?
5 A Yes. Yes.
6 Q Do you recall when you became chair of the board?
7 A I was the initial chair. Thomas was vice-chair. I
8 don't remember what year we actually--that it
9 actually happened. And we hired a--an executive
10 director and hired a medical director and--and
11 had--we had--initial space was near the--what had
12 been the community--not the community hospital--the
13 community hospital was the black hospital in
14 Wilmington--but near the old James Walker Hospital.
15 It was--the hospital had been demolished.
16 The nurses' dorm was there, and there were several
17 doctors' offices across the street. And we rented
18 one of those doctor's offices as--that's where the
19 Community Health Center started functioning.
20 And then with the help of Gene Merritt
21 [phonetic], were able to put together parcels of
22 land on North Fourth Street where the current
23 center--we had a commitment of a million dollars
24 from the New Hanover Regional Medical Center--Bill

1 Atkinson was the head of that at that point--I
2 think a quarter of a million dollars from the City
3 to help with putting through the parcels of land--
4 putting together the parcels of land, and
5 ultimately were able to construct that facility.
6 We had a wonderful, actually, black
7 architect with Ballard, McKim & Sawyer, who was the
8 architect who designed the facility, and--anyway,
9 we finally opened the doors and moved to that
10 center that's--the facility that's the current
11 site.
12 Q And Representative Wright was instrumental in
13 obtaining those funds necessary for the building
14 and purchasing of those parcels of land?
15 A Yes, he was.
16 Q Right. And, in fact, over the years, he was very
17 instrumental in obtaining quite a few grants and
18 appropriations of both state and federal that went
19 into this community health initiative; is that
20 correct?
21 A Yes, he was.
22 Q All right. And you were familiar with the fact
23 that he had a lot of contacts that he was able to
24 utilize that brought in funds for--for the

1 community health effort?
2 A That's--that's correct.
3 Q Now, there was a--well, around this time
4 Representative Wright was elected to the
5 legislature; is that correct?
6 A Yes.
7 Q All right. And as a member of the legislature, did
8 he continue his work in the healthcare area in--in
9 Wilmington and Southern Cape Fear?
10 A Yes, he did.
11 Q All right. And was he, as a result of his position
12 in the legislature, able to then get additional
13 state grants and appropriations for the work that
14 you were doing?
15 A I believe so. I--I couldn't enumerate them, but
16 I--I--I think that probably is the case.
17 Q Right. From time to time, y'all talked about the
18 fact that he was making an attempt to--to get
19 certain appropriations for the Community Health
20 Center?
21 A Yes.
22 Q All right. There was a specific effort involved
23 where the Community Health Center was expanding its
24 facility?

1 A Yes.
2 Q And there was a purchase of a building next door?
3 A Yes. There was a--a hardware store next door,
4 and--that--again, we purchased the land and the
5 store. It was a pretty contentious process, as I
6 recall. So--
7 Q Uh-huh (yes). And for the purpose of that,
8 Representative Wright was able to get State
9 appropriations for--to assist in that purchase and
10 renovation of that building; is that correct?
11 A I believe so. I don't recall those details, but I
12 believe that is the case. We certainly needed that
13 adjoining property. And I don't remember the
14 funding stream that ended up acquiring it, but--
15 Q At--at some point, the Community Health Center, I
16 believe, was involved in an effort to obtain the
17 building across the street as well?
18 A We had conversations about that, because, again, we
19 were--we had added dental services that were--
20 actually--actually, barely had enough space to
21 function, and--and the thought of moving some of
22 the administrative offices across the street to--to
23 the building that--that we attempted to purchase--
24 those conversations definitely were held.

1 THE CHAIR: I'm going to--this is
2 technically cross-examination, so I'm going to
3 allow us to continue to proceed. But--but--
4 obviously Dr. Joyner was creating background, but
5 if--I'm sure he'll be moving fairly quickly to--to
6 points that are related directly to the case, as
7 opposed to just background. But it seems to me
8 that this is fairly important background at this
9 point in the relationship and the understanding of
10 the transactions in Wilmington. Is that where
11 we're--
12 PROF. JOYNER: Well, that's what I'm
13 trying to do, Mr. Chairman.
14 THE CHAIR: Yeah. Okay. So we'll--
15 REP. STAM: I withdraw my objection.
16 THE CHAIR: All right. Thank you. You
17 may proceed.
18 PROF. JOYNER: I mean, apparently I'm
19 losing some--someone if they don't understand where
20 we are.
21 Q (By Prof. Joyner) Dr. Gottovi, the building across
22 the street is--and this is just my terminology--
23 is--was the Lofton building; is that correct?
24 A That's--that's correct.

1 I also--when--when Access III of the
2 Lower Cape Fear finally became an entity, the
3 administrator--administrative--the director that we
4 hired was looking for office space, and we wanted
5 to have that centered in the inner city of
6 Wilmington. And Lydia looked at that space. We
7 didn't--we hadn't--I don't think we had even made
8 the purchase at that point, but I know she looked
9 at it. And it really didn't--wasn't going to work
10 out for her needs for the corps of nurses and
11 social workers that she was hiring, so that--that
12 didn't happen. But I know that we would like to
13 have had the option of office space in that
14 building across the street.
15 Q Okay.
16 REP. STAM: Mr.--Mr. Chairman?
17 THE CHAIR: Yes, sir.
18 REP. STAM: Question. I know we didn't
19 have a forecast of evidence yet, like an opening
20 statement, and we didn't have a forecast of
21 witnesses. Is--is there something we're coming to
22 that will be relevant to the charges?
23 THE CHAIR: Well, I'm going to--
24 PROF. JOYNER: Well--well--

1 Q That's--yeah. And that is the--the same building
2 that Representative Wright, through the Community
3 Health Foundation and yourself, signed the note for
4 the purchase of?
5 A That's--that's correct.
6 Q Okay. Now, do you recall how--the time span
7 between the time that the Community Health Center
8 had discussions about the purchase of that--of
9 that--of the Lofton building and the time that
10 Representative Wright and yourself began to discuss
11 the effort to purchase it for--as a part of the
12 Community Health Foundation?
13 A Yeah. I really don't recall the details of the
14 timing there. I'm sorry.
15 Q But you--you do know that you and Representative
16 Wright had a discussion about creating this
17 Community Health Foundation for the purpose of
18 purchasing the Lofton building, and then using that
19 for an 1989 museum, for office space for the
20 Foundation, and possible office space for the
21 Community Health Center?
22 THE CHAIR: Well, let's hang on one
23 minute. Can we just break that up, 'cause that was
24 a whole lot in one--you might want to ask him a

1 couple questions there--
2 PROF. JOYNER: Okay.
3 THE CHAIR: --just so I'm clear what he's
4 answering.
5 Q (By Prof. Joyner) You and Representative Wright
6 had some discussion regarding the purchase of the
7 Lofton building?
8 A Yes.
9 Q All right. And the purpose of that purchase
10 was--or the projection for that purchase was to use
11 that building for an 1989 museum--Wilmington
12 museum?
13 A Yes. Yes.
14 Q Office space for the Community Health Foundation?
15 A Yes.
16 Q And possible office space for the Community Health
17 Center?
18 A Yes.
19 Q And for other community efforts; is that--
20 A Yes.
21 Q All right. And this was before the actual
22 incorporation of--of that--of that organization; is
23 that correct?
24 A I believe so, but I don't--can't recall that time

1 line in detail. But I believe so.
2 Q But this was an initiative that Representative
3 Wright approached you with?
4 A Yes.
5 Q Now, was that unusual?
6 A No. For him to approach me about something like--
7 Q Right.
8 A No.
9 Q Would it have--would it have been unusual for you
10 to approach him about an idea that you wanted to
11 pursue?
12 A No, not at all.
13 Q All right. So there was nothing out of the
14 ordinary about him coming to you to talk about what
15 his projections were?
16 A No.
17 Q Okay.
18 A That was--
19 Q And what was your response?
20 A I--I was happy to proceed. I had worked with him
21 and respected him and happy to--and still do--and
22 was happy to proceed with the effort.
23 Q And so you have a high level of trust--
24 A Yes.

1 Q --in--in Representative Wright?
2 A Yes.
3 Q All right. Did--did you talk about possible
4 funding sources for this effort?
5 A We did.
6 Q And do you recall what they were?
7 A They were, hopefully, that things were going well
8 with the revenues of the State of North Carolina,
9 to--to try to get some funds appropriated from the
10 legislature, to try to get some grant funds from
11 the federal government's Department of Interior,
12 the Parks Service that had--oversaw--oversaw
13 historic sites in this country, and then from
14 corporate and personal contributions to the
15 Foundation.
16 Q And I believe around that time there was the work
17 of the 1898 Wilmington Race Riot Commission?
18 A Yes. Yes.
19 Q Right. And there was a lot of publicity around the
20 town and in the area about the efforts that they
21 were engaged in?
22 A Yes.
23 Q And were there also a lot of community efforts in
24 the city around this 1898 Wilmington race--race

1 rebellion?
2 A Yes, there were--
3 Q Okay.
4 A --very--very intensive and extensive, lots of
5 community meetings over a period of a year or two,
6 really a--a--a major effort to heal that wound.
7 Q Now, would it be safe to--to say that based on your
8 background, your history with Representative
9 Wright, based on what he had been able to do in
10 prior efforts, that you felt pretty comfortable
11 that he would be able to--to secure the funding for
12 that effort?
13 A Yes, I did.
14 Q All right. And--and that was one of the reasons
15 that you--you signed on with him?
16 A Exactly.
17 Q Now, Mr. Hart asked you about subsequent meetings
18 between you and he regarding this Community Health
19 Foundation, and you indicated that there were--
20 there were not regular meetings. Why--why--was
21 that unusual?
22 A I guess when we started the effort I thought--as
23 I said, I knew from having done this on several
24 occasions that it took a--a year or more to, you

1 know, put together all of the steps for a new
2 foundation. I guess I expected at some point we
3 would--we would meet and we would talk about--I
4 knew there were other things in his district that
5 needed attention. I thought as funds came in we
6 probably would meet and talk about a grant for, you
7 know, a nurse-practitioner clinic in Brunswick
8 County--that--that was what I envisioned.
9 But I also know, from having lived with a
10 legislator, there--this is a complex life, and not
11 everything happens that you would like to happen.
12 So I wasn't--I didn't think about it during the
13 course of that year that that loan was ticking
14 away, because I knew he was a busy man.
15 Q Oh. Well, I'm talking about now the period before
16 you actually obtained the loan. From the period
17 that--that the incorporation in April of 2001 up
18 until the time that you came in to sign the--the
19 loan papers, was it unusual that you and
20 Representative Wright didn't have regular
21 conversations about efforts that he were--he was
22 engaged in to promote the Foundation?
23 A I don't think it would be unusual. I really wasn't
24 involved in that part of the effort. That was, you

1 though.
2 Q But when he called on you to--to advise you
3 that--that he had closed or worked out the plans
4 for this loan, you--you weren't taken by surprise?
5 A No, no. I was not.
6 Q And that's pretty common--commonly the way that
7 you--all had operated in the past?
8 A I would say so, yes.
9 Q Okay. Now, in response to a question from
10 Mr. Hart, you indicated that after you had signed
11 this stack of documents at the lawyer's office in
12 the--in the closing package, you then had some
13 discussion with Representative Wright about "Well,
14 how do you plan to--to come up with the money."
15 A Or how do we plan to come up with the money.
16 Q "How do we plan to come up with the money?"
17 A I felt that it was my responsibility, as well.
18 Q All right.
19 A Yes.
20 Q And what--what is your recollection was his
21 response to that?
22 A That--that he was hoping to be able to obtain some
23 State appropriations, that he was working on a
24 grant with the federal Department of Interior, and

1 know, his--his effort and--more than mine at that
2 point.
3 Q That was his initiative. So you left it to him--
4 A That's correct.
5 Q --to basically work through all of the details?
6 A That's correct.
7 Q All right. And when he approached you, then,
8 around--around March of 2002 to sign loan papers,
9 were you under the impression that he had been
10 working successfully in putting together this
11 Foundation effort?
12 A I was.
13 Q All right. And is that why you went with him to
14 sign the--the mortgage papers?
15 A Yes.
16 Q All right. Did--did you have any discussion at
17 that point about some of the things that--that he
18 had been doing up until that point?
19 A I don't--I don't recall any discussions, but they
20 may well--certainly may well--we were together a
21 lot, and we may--I mean, we traveled a lot together
22 around that five-county area, so we certainly may
23 have talked about some of those things. I don't
24 recall the specifics of those conversations,

1 that he was going to work on private and corporate
2 contributions to the Foundation.
3 Q All right. And was this response consistent with
4 earlier conversation that you had with him about
5 the Community Health Foundation?
6 A Yes.
7 Q All right. So this was in--in line with what the
8 initial projections were?
9 A Yes.
10 Q Now, you indicated that some things happened that
11 made--from your perspective, made that impossible
12 to achieve?
13 A I'm not sure what you're referring to. I'm sorry.
14 Q Well, I don't know--you had--you said something
15 about--in response to a question from Mr. Hart,
16 something about the State budget crisis?
17 A Oh, right. Well, I--when--when--when the--I got
18 the notice that there hadn't been any payments on
19 the loan, I--and talked to Thomas, it turned out, I
20 think if you look at those years, that it was a
21 difficult time in the State budget. There were not
22 readily available funds for special projects. I
23 think that was the--that was the difficulty.
24 Q Okay. And then he was not able to successfully

1 handle the appropriations then with respect to the
2 state and federal grants that he was pursuing at
3 that time?
4 A That's--that's correct.
5 Q All right. And he told you that as--
6 A Yes.
7 Q --as the reason that he had not been successful?
8 A That's correct.
9 Q Okay. Were you familiar with--you know, with any
10 of this, well, with the fact that there were some
11 budget constraints?
12 A Yeah, I'm sure I was at the time. I follow
13 politics pretty carefully both--at both levels, and
14 I'm sure I was aware of revenue issues and--and
15 budget problems. I'm sure I was.
16 Q All right. Now, when you went in to--to sign the
17 loan--the mortgage--well, the closing package--
18 A Yes.
19 Q --did you--did you meet with an attorney?
20 A Yes.
21 Q And do you recall if there was a closing statement
22 prepared and circulated and signed?
23 A I don't remember that. I remember the--that there
24 were a large number of documents that we both had

1 clearly, as we worked closely together on other
2 projects.
3 Q How soon after the--the closing--after you signed
4 the closing documents did you receive a letter--you
5 said a certified letter from the--from the bank?
6 A It was a year later.
7 Q About a year later?
8 A About a year later.
9 Q Now, the initial loan was for six months; is that
10 correct?
11 A That's correct. And I--and I--and I gather--and,
12 again, SBI Agent Umphlet showed me my signature on
13 a document, a renewal of that loan at six months.
14 So I think there probably was a call or a note to
15 come in and--and do that, which I did. I--I--there
16 were--I know there were no funds requested at that
17 time, 'cause I know I didn't provide any funds
18 until the end of that next six-month period, where
19 we extended it for another ninety days.
20 Q All right. Now, at any point--and I think each
21 time you--you paid some down [phonetic] to allow a
22 ninety-day extension?
23 A That was after the year. Right. But the six-month
24 period, I think Thomas and I were both asked to

1 to sign related to both the primary mortgage or
2 primary loan from the bank and also the second
3 mortgage to the Lofton family. There were two
4 separate stacks there. I don't remember a--it
5 probably was in those papers, but I don't remember
6 seeing it.
7 Q All right.
8 A I--we--I signed as quickly as I could to get back
9 to work, to be honest with you.
10 Q All right. And during--and during that--that
11 signing and the review of the documents that--that
12 were placed in front of you, was there any
13 conversation by anyone about the necessity of
14 having a letter from any State agency guaranteeing
15 an appropriation to secure any of the payment of
16 the funds?
17 A No, there was definitely not.
18 Q All right. And you had absolutely no information
19 or no one provided you any information whatsoever
20 about any funds or any letter that had been
21 provided or was to be provided by Torlen Wade?
22 A No.
23 Q And you--and you do know who--
24 A Oh, yes. Yes. I would have known that very

1 sign a six-month extension, which we did. And then
2 there was no more contact, at least with me, from
3 the bank until the end of that six-month period,
4 which was a full year's period, then, since the
5 initial loan, at which time, you know, they were
6 concerned about there not having been any payments
7 on that--
8 Q So this initial renewal document that you signed
9 was also signed by Representative Wright?
10 A I believe so, yes.
11 Q Okay. Were the two of you together, or did you
12 happen to see his signature on it?
13 A I--I--I don't know if we were. Probably not,
14 because I think he was back and forth in the
15 legislative session. I think I probably just went
16 down--it was right downtown near where I liked to
17 go for coffee in the morning, and--and just--I
18 think I probably just went over and took care of it
19 one morning, my signature, the six-month signature.
20 Q All right. At any point, do you know if anyone
21 else paid any interest payments?
22 A I--I don't know.
23 Q You don't know that?
24 A I don't know.

1 Q You just know that you were--at--at one point, that
2 you paid forty-six hundred dollars (\$4,600) to
3 extend for an additional ninety days?
4 A That's correct. That was at the end of the year.
5 Q You indicated that around this time you also
6 had--had a meeting with Mr. Burbank?
7 A That--that was at the end of the year when I got
8 the notice--when we received the notice that they
9 were going to foreclose, essentially. Yes.
10 Q And in that con--in your conversation with
11 Mr. Burbank, he talked to you about his motivation
12 for granting the loan?
13 A As I recall, he did, yes.
14 Q And do you recall what--what basically his
15 motivation was?
16 A It was that his bank wanted to do some things
17 that--to help with developments in the inner city
18 of Wilmington. And he--he indicated that he knew
19 there was some risk to it but that the bank wanted
20 to--to do that. And I--that certainly is my
21 experience with other--some of the other ventures
22 we've talked about. Bankers stepped forward with
23 the Community Health Center, stepped forward with
24 the Hospice program. When they felt that there was

1 up to that point.
2 Q And--but at no point did Mr. Burbank say anything
3 about having received a--a letter from any
4 department of the State of North Carolina
5 indicating that a--an appropriation was
6 forthcoming?
7 A No. He did not.
8 Q And you said eventually the bank took over
9 ownership of the building?
10 A That's correct.
11 Q All right. In response to questions from Mr. Hart
12 about the failure of the--the Board of Directors to
13 meet, you indicated that there were no formal
14 meetings?
15 A That's correct.
16 Q All right. Now, during this time, though, you and
17 Representative Wright did meet?
18 A We did. And I also met with Bessie Funderburg, who
19 was the other board member I was aware of. I
20 wasn't aware that James Lofton was a member of the
21 board. So I--I was with Bessie Funderburg often,
22 and I--I think probably Thomas and I were with her
23 together at least on one--I'm sure on more than one
24 occasion. But this--this is a long time ago.

1 a community need, they were happy to sort of step
2 out there and be a part of it.
3 Q During that conversation, did Mr. Burbank say
4 anything about a letter guarantee--a letter from
5 Torlen Wade--
6 A No. No, he did not.
7 Q So that was never mentioned in any--
8 A No.
9 Q --conversation that you had with him?
10 A No.
11 Q And this was at the point that there was some
12 crisis in the funding for the--for the purchase of
13 that building?
14 A Yes.
15 Q All right. And did you talk with him about
16 the--the failure to be--to obtain appropriations to
17 pay for that?
18 A I did. I mean, we talked about the fact that
19 Thomas had--had tried and not been able to get the
20 State funds. I think the grant request for the
21 feds was still out there but not likely to be
22 honored because of his political affiliation.
23 And--and the--you know, there hadn't been any
24 contributions, corporate or private, to the effort

1 Q All right. And do you recall that during those
2 meetings, or any of those meetings, that y'all
3 discussed this effort of the Community Health
4 Foundation?
5 A I--I don't remember that we did, but we may have.
6 Q Let me just ask you, as far you knew, who were the
7 board members?
8 A I thought Thomas and Bessie--Thomas Wright and
9 Bessie Funderburg and I were the board members.
10 Q So if there was to be a meeting, it would have been
11 just the three of y'all?
12 A That's correct.
13 Q And once she--after her death, the board--the only
14 members of the board that would meet would be you
15 and Representative Wright?
16 A That--that's correct.
17 Q That's--that's your understanding?
18 A That was my understanding.
19 Q Now, at a later point, you--you found out that
20 Mr. James Lofton was also listed as an
21 incorporator?
22 A That's correct.
23 Q Do--did--did you know if he was a designated member
24 of the board?

1 A I--I did not.
2 Q Okay. You had no information that he was a member
3 of the board?
4 A No. In fact, I did not think he was. I think--I
5 thought Thomas, when we talked about it, said that
6 he and Bessie Funderburg and I would be the board.
7 Q So at any point that you and Representative Wright
8 met and talked about this building, that was, in
9 essence, a board meeting?
10 A I guess, in essence, it was.
11 Q I mean, you were the only members of it, right?
12 A That's--that's correct.
13 Q All right. Just for the--this Committee's
14 information, who is James Lofton?
15 A James Lofton is a retired longshoreman.
16 And--(pauses)--
17 Q Well, what is his--do--do you know his relationship
18 to the building that you were seeking to purchase?
19 A Right. His wife--I believe the building was in
20 James and Helen's name. Helen Lofton is a--a nurse
21 that I had worked with on the medical ward at New
22 Hanover Regional Medical Center since day one for
23 thirty-four years. And Helen is currently on the
24 board of trustees of the hospital down there. I

1 Q Now, you indicated in response to a question from
2 Mr. Hart that--that at some point you opened a bank
3 account for the Community Health Foundation?
4 A That's correct.
5 Q Well, would you explain how that happened and when
6 that happened?
7 A Yes. When I received the notice that the loan was
8 going into default, I talked to Thomas and found
9 out that we weren't likely to have any sources of
10 revenue in the near term. I went down and talked
11 to Mr. Burbank about looking at some other options.
12 I really felt that if we could get a little more
13 time, there might be some investors in the
14 inner-city development community who would be
15 interested. So I--I asked if there was any way of
16 extending the loan.
17 He said, "Yes, as long as you pay"--or
18 someone pays the interest, which I was willing to
19 do for a ninety-day extension, which I did. And
20 that's when the account was opened so that there
21 would be a account in the name of the Community
22 Health Foundation.
23 Q All right. And when you had this conversation with
24 Mr. Burbank, was Representative Wright with you?

1 mean, she's a--just a substantial, respected woman
2 in the community.
3 Q All right. But James and Helen Lofton were the
4 owners of--of the building that you were trying to
5 purchase?
6 A Yeah, I believe so. I can't remember if Wayne--
7 their son Wayne was an owner or not. I know he had
8 his business offices there, at least for a while.
9 Q Okay. Now, we were talking about James and Helen,
10 and you--you interjected Wayne. Now, who--who is
11 Wayne? Is--
12 A Wayne is their son.
13 Q Wayne is their son?
14 A Yes.
15 Q All right. And Wayne had an office in the--in the
16 Lofton building?
17 A That's correct.
18 Q All right. So with respect to the work of the
19 Community Health Foundation, one of its
20 incorporators was the owner of the building?
21 A That's correct.
22 Q But based on the information that--that you had at
23 the time, he was not a member of the board?
24 A That's correct.

1 A I--I don't believe so. I don't believe--we did--I
2 know we were together at the bank on at least one
3 occasion. And I know--in fact, I think when that
4 account was opened, we may have been there
5 together. And I know I was there--the Loftons were
6 there on at least one occasion. But I can't
7 remember if--the day I opened the account whether
8 Thomas was there or not.
9 Q All right. Well, with respect to the opening of
10 the account, who was the signatory on that account?
11 A I think--I think Thomas and I both had signatures
12 on the account. I know I did.
13 Q All right. Now, do you--do you have a present
14 recollection that Representative Wright was with
15 you when you actually physically opened that
16 account?
17 A I--I--I know we were there at the bank together.
18 Whether it was that--that day or not, I don't--I
19 don't remember. He may well have been.
20 Q Okay. But you're not--you're not sure?
21 A I'm not--I'm not sure.
22 Q Okay. And the information that you received from
23 the SBI officer was that there was never any
24 activity in that account, and it was closed out by

1 the bank?
2 A That's correct.
3 Q Or the bank used up the fees--
4 A Exactly. Exactly.
5 Q --consumed the fees that were--
6 A Over several months, maybe about six months, yeah.
7 Q You indicated to the SBI officer that you were
8 surprised that there was not a guarantor for
9 the--for the loan from the Coastal Federal Bank.
10 A I don't know--I mean, I was relieved that there
11 wasn't, because I felt that I was the--I felt that
12 I was the guarantor to some degree, and I was
13 relieved to find that I hadn't signed a personal
14 guarantee.
15 Q Okay. But--but as far as you knew prior to that
16 time, you didn't know if--if--well, did you ever
17 see any of the--let me just--do you have the
18 notebook there in front of you?
19 A Yes.
20 Q All right. Would you look at Exhibit 4?
21 A I have it.
22 Q Okay. Have you ever seen that document before?
23 A I don't recall seeing it. It may well have been in
24 that--those big piles at the lawyer's office that

1 Q All right. Would it have been necessary in his
2 running of the affairs of the Community Health
3 Foundation to come back to you on a regular basis
4 to get approval for the day-to-day activities that
5 he was involved in with this?
6 A No.
7 Q Was that an expectation that you had on your part?
8 A No.
9 Q All right. And, in fact, you ended up signing the
10 mortgage--that was an indication of the faith that
11 you had placed in him to handle the day-to-day
12 operations of the this organization--
13 A Yes.
14 Q --is that correct?
15 A Yes.
16 Q So there was never any expectation on your part
17 that before Representative Wright could receive any
18 funds or expend any funds that he had to have the
19 approval of yourself or any other member of the
20 board?
21 A No.
22 Q All right. Who--do you know who paid the expenses
23 associated with the development of the Community
24 Health Foundation?

1 day, but I don't--I don't recall seeing it before.
2 Q Okay. Did--did this document--was this document
3 provided to you by the SBI officer when he came to
4 see you?
5 A I don't believe so. I don't think this is one of
6 the--I don't remember our looking at this.
7 Q Okay. On the top right of that document in the
8 right-hand column, you are listed there as the
9 treasurer. The SBI officer didn't ask you about
10 how your name ended up being listed there as the
11 treasurer?
12 A I don't--I mean, I acknowledged being the
13 treasurer. I knew that I was the treasurer. I
14 don't--I don't remember him asking me that, but
15 I--
16 Q Okay.
17 A --I did--I was the treasurer, and Thomas was the
18 president, and Bessie Funderburg, until she died,
19 was the secretary, as I recall.
20 Q Now, as--as the president of the Community Health
21 Foundation, did--did not Representative Wright
22 basically run the affairs of the Community Health
23 Foundation?
24 A He did.

1 A I do not.
2 Q You know that you didn't?
3 A I did not.
4 Q All right. And none of those expenses came from
5 the checking account that you--that you set up; is
6 that correct?
7 A No. No, they did not.
8 Q All right. Were you aware that there were some
9 expenses associated with this effort?
10 A I wasn't aware in detail. I knew that when we had
11 set up the other organizations there were several
12 thousand dollars of legal fees and several thousand
13 dollars of accounting fees involved in setting up a
14 foundation.
15 Q All right. In the--
16 A But I don't know the details of the expensership
17 [phonetic] on this foundation.
18 Q In the closing package that you had with the--that
19 you signed for the Coastal Federal Bank, do you
20 recall seeing an appraisal?
21 A I do not, but I--there probably was one there.
22 Q Okay. Do you recall if there was a survey done for
23 the property?
24 A I do not, but I--I know that banks will not loan

1 money without a survey and without an appraisal, so
 2 I suspect those documents, if not there, were
 3 available. I didn't see--I don't remember seeing
 4 them.
 5 Q All right. So you would expect, though, that those
 6 expenses associated with just the putting together
 7 of the loan package and securing of the loan would
 8 have been handled by--by someone?
 9 A Yes.
 10 Q All right.
 11 PROF. JOYNER: Could I have a moment,
 12 Mr. Chair?
 13 THE CHAIR: Certainly.
 14 (DISCUSSION OFF RECORD)
 15 Q (By Prof. Joyner) Dr. Gottovi, in that--in that
 16 loan package, do you recall there being an
 17 architectural drawing?
 18 A I don't recall.
 19 Q You don't recall that--that item?
 20 A No.
 21 Q Did you and Representative Wright have some
 22 discussion prior to the closing or after the
 23 closing of the desire to renovate or have some
 24 renovations done for the building?

1 MR. HART: Thank you, Mr. Chairman.
 2 REDIRECT EXAMINATION BY MR. HART:
 3 Q Dr. Gottovi, have you ever been a part of any other
 4 nonprofit organization that never met as a board?
 5 A I don't--I don't believe so.
 6 Q And have you ever been a part of any other
 7 nonprofit board besides the Community Health
 8 Foundation that didn't have bylaws?
 9 A I don't--I don't believe so.
 10 Q When you were answering Mr. Joyner's questions, you
 11 said that you guessed whenever you and Bessie and
 12 Representative Wright got together that that was a
 13 board meeting?
 14 A I--I think it could be construed as one. I don't
 15 recall--I know that we were together--actually,
 16 Bessie was on the board for the Community Health
 17 Center, and we were together at least once a month
 18 for those meetings, and--and we often met at Bessie
 19 Funderburg's home over political matters. I--I
 20 don't recall specific discussions of the Foundation
 21 on those occasions, but they may have occurred.
 22 They may have occurred. I don't--I don't know.
 23 Q Well, it would be hard to classify those as board
 24 meetings if you didn't discuss anything to do

1 A Yes. They were definitely going to be needed. I
 2 don't remember the details, but they definitely
 3 were going to be needed for it to be functional
 4 as--as office space.
 5 Q And you--all did discuss that?
 6 A I'm sure we did.
 7 Q All right. And--
 8 A I know when--when the developers looked at it
 9 that--that that clearly was going to be a major
 10 need, that it was going to require some major
 11 renovations, yes.
 12 Q All right. And in order for there to be these
 13 renovations, there would have to have been some
 14 type of architectural plan?
 15 A Right. And I sort of--I believe there was, and I
 16 don't remember the details, though, of what kind of
 17 changes were proposed. But I--I believe there were
 18 plans for major renovations. I know they had to be
 19 done.
 20 Q Okay.
 21 PROF. JOYNER: All right. We have no
 22 further questions. Thank you, Dr. Gottovi.
 23 THE CHAIR: Thank you very much.
 24 Redirect examination, Mr. Hart?

1 with--
 2 PROF. JOYNER: Objection.
 3 Q --board business.
 4 PROF. JOYNER: It's argumentative.
 5 THE CHAIR: I'll sustain the objection.
 6 If you want to rephrase--thank you, Mr. Hart.
 7 Q (By Mr. Hart) Dr. Gottovi, were those board
 8 meetings?
 9 A I wouldn't have thought of them as board meetings.
 10 Q Okay. So you're not saying that every time the
 11 three of you got together in Wilmington or Raleigh
 12 or wherever for dinner or any other matter, that
 13 that was necessarily a board meeting?
 14 A Not necessarily, but there may have been some where
 15 we did discuss these matters. I don't recall,
 16 though.
 17 Q And--
 18 A I don't recall them specifically.
 19 Q I take it, then, that you would agree with your
 20 earlier testimony that the Community Health
 21 Foundation, Incorporated, board never met
 22 officially?
 23 A I don't recall specific meetings where we gathered
 24 and Thomas called the meeting to order and we had

1 formal discussions. I can't recall anything like
2 that.
3 Q When did--were there ever any minutes for any of
4 the meetings that you might have had?
5 A Not that I recall. Bessie was the secretary and
6 had been on the Community Health Center board, but
7 a staffperson usually, you know, took the minutes
8 and had them recorded and presented.
9 Q But there was never anything like that?
10 A I don't--I don't recall approval of minutes, no.
11 Q Okay. Now, you say that both you and
12 Representative Wright were signatories on the
13 Community Health Foundation account; is that
14 correct?
15 A I believe he was. I know that I was, and I think
16 he was, as well.
17 Q When was it that Bessie Funderburg died?
18 A I--I'm not sure of that date. I know Karen--Karen
19 was still commuting back and forth to Wilmington.
20 Her ninety-year-old mother was still living there
21 in an apartment near my office, and I know she came
22 back for Bessie's funeral. I don't--I don't
23 remember the date, though. I'm sure that's in the
24 public records, though.

1 A I did not.
2 Q When you were chairman, was it, of the board of the
3 Health Center--
4 A Yes.
5 Q --did you feel that you could make expenditures of
6 funds without board approval?
7 A I did not.
8 Q Was there any reason for you to believe that it was
9 appropriate for Representative Wright to do that as
10 president of the Community Health Foundation,
11 Incorporated?
12 A It was a different organization, and so I don't
13 know what the limitations were. I certainly didn't
14 in--on the Community Health Center board, we had a
15 very formal--it's a federally-qualified health
16 center, federal funds providing probably two-thirds
17 of the budget and had an annual audit, so there was
18 very close accounting of the funds there.
19 And I certainly--I would not have in that
20 board situation felt comfortable about any
21 expenditures without the formal process of going
22 through the--the treasurer and having it presented
23 at a board meeting. But that's a very different
24 setting.

1 Q Was--was that after the default?
2 A I believe so, but I'm--I'm not sure. I believe so,
3 yes.
4 Q Okay.
5 A It was certainly after we took the loan, because I
6 know when we talked about the Community's Health
7 Foundation board that Bessie was mentioned as the
8 third board member, and I--I know that she was
9 alive at that point. She was not well, but--
10 Q Okay. Dr. Gottovi, when--you spoke about being
11 assured by Representative Wright on various
12 occasions when you would talk with him that he was
13 still seeking state grants, federal monies, various
14 things of that nature, correct?
15 A Yes.
16 Q Did you ever see anything in paperwork where he
17 actually was pursuing something, or was it simply
18 your belief based upon his assurances?
19 A I did not see any paperwork. It was my confidence
20 in--in him.
21 Q Okay. Did you ever see any paperwork in terms of
22 any kinds of expenses or any activities that
23 Representative Wright was doing on behalf of the
24 Community Health Foundation, Incorporated?

1 Q Well, that's been true with all the boards that
2 you've been on, is it not?
3 A That's--that's true.
4 Q Because they had bylaws, they had board meetings,
5 they had minutes. Correct?
6 A That's correct.
7 Q And that--none of that took place with the
8 Community Health Foundation?
9 A It did not.
10 Q And essentially you trusted Representative Wright
11 to do what needed to be done properly, and that's
12 why you assumed that he could do whatever he wanted
13 to do?
14 A That's correct.
15 Q You--you're not really saying that he had the
16 authorization to do that?
17 A I--I--I can't say either way--
18 Q Well--
19 A --whether he did or didn't.
20 I assumed that he would do things
21 properly.
22 Q There was certainly no board authorization to do
23 it, correct?
24 A There was not any formal authorization, no.

1 Q When you talked about discussions about renovations
2 being needed, those were just vague, general
3 discussions about the fact that a building would
4 need to be renovated, correct?
5 A No, I think--I think there had been a formal
6 request--I don't know if it was from the architect
7 who helped us with the Community Health Center, but
8 I think there were--there had been a formal look at
9 the building and--and a formal, I think, budget for
10 what was going to be needed. But I--I can't recall
11 that clearly now.
12 Q Was that prior to the purchase of the building?
13 A I don't--I can't recall that, either. I'm sorry.
14 MR. HART: That's all I have,
15 Mr. Chairman.
16 THE CHAIR: All right. Thank you.
17 Recross?
18 RECROSS-EXAMINATION BY PROF. JOYNER:
19 Q Dr. Gottovi, let's see if you can clear this up.
20 You were the chairman of the Community Health
21 Center board; is that correct?
22 A That's correct, the initial chairman for two
23 years--
24 Q Right. And the--

1 significant expenditure, would need to be brought
2 to the treasurer--the volunteer treasurer and
3 approved.
4 But certainly the day-to-day operations--
5 and at the Community Health Center, they're very--I
6 mean, it's a huge budget, and so there--it's
7 thousands and thousands of dollars per day that the
8 executive director is managing there. And they
9 certainly don't--didn't call me and--for approval.
10 Q All right. But that--that effort was significantly
11 different than was the Community Health Foundation?
12 A That's correct.
13 Q Right. With respect to the Community Health
14 Foundation, the organization never really got
15 started, did it?
16 A I--I would say no.
17 Q Right. It was really in the embryonic stage?
18 A Yes.
19 Q And there--you were trying to get it going?
20 A Yes.
21 Q But it never really reached the point that it had
22 regular day-to-day operations in the same manner as
23 the Community Health Center?
24 A That's--that's correct.

1 A --or maybe two or three.
2 Q --day-to-day operations of the Community Health
3 Center was handled by whom?
4 A By the executive director.
5 Q By the executive director?
6 A Right.
7 Q And who--and the executive director was a
8 staffperson?
9 A That's correct.
10 Q And that person was hired to handle the day-to-day
11 operations of that organization?
12 A That is--that's correct.
13 Q All right. Well, in that capacity, or in that
14 role, would the executive director have to come to
15 the board to get approval to make day-to-day
16 expenditures?
17 A No.
18 Q So that person would have been authorized to do
19 whatever was necessary to keep that organization
20 going until they reported back to the--to the board
21 in terms of the--the--the financial reports?
22 A That's correct. In most organizations I've been
23 involved in, expenditures over, let's say ten
24 thousand dollars or something, you know, a

1 Q All right.
2 A We never hired a--you know, a full-time staff.
3 Q Right. And it never had a--an itemized budget that
4 it was operating with?
5 A No.
6 Q All right. And any expenses incurred by the
7 Community Health Foundation was absorbed by the
8 person who had the title of president and was
9 handling the day-to-day operations; is that
10 correct?
11 A I--I would say yes.
12 MR. HART: Objection.
13 THE CHAIR: The objection is sustained,
14 and that--
15 MR. HART: Move to strike.
16 THE CHAIR: Direct motion to strike
17 granted as to that last sentence and last answer.
18 Q (By Prof. Joyner) Who would have been responsible
19 for the--the day-to-day operations of the Community
20 Health Foundation?
21 A Thomas Wright.
22 Q And were you, as one of the two other board
23 members, responsible for overseeing his activities
24 on a daily basis?

1 A No.
2 Q And because the organization was still in the
3 embryonic stage, you never really had formal
4 meetings in the sense that there was a call for the
5 meeting and minutes taken of the discussions that
6 you had?
7 A We did not.
8 Q All right. But there were informal conversations
9 between you, Representative Wright, and Betsy [sic]
10 Funderburg about the operations or the things going
11 on with the Community Health Foundation?
12 A I believe so. I don't recall them specifically,
13 though.
14 Q Okay. But you do at least--well, or, more
15 specifically, you do recall conversations and
16 dialogue between you and Representative Wright
17 about the work of the Community Health Foundation--
18 Yes.
19 Q --in its embryonic development?
20 A Yes.
21 Q All right. Now, you indicated that the board--that
22 the Community Health Foundation did not have
23 bylaws?
24 A I don't know if they were drawn or not. I--there

1 Q And you indicated that involved in the putting
2 together of the bylaws would be some consultation
3 with an attorney?
4 A That's correct.
5 Q Which is another incurring of expenses?
6 A Yes.
7 Q All right. And for a fledging organization, the
8 expenses to handle that may not be present at that
9 time?
10 A They--they were not.
11 Q They were not present at that time--
12 A No.
13 Q --because you didn't have a budget to handle
14 anything like that?
15 A That's correct.
16 Q All right. Now, Mr. Hart asked you if
17 Representative Wright ever brought you any
18 paperwork regarding his--his activities and
19 expenses that he had incurred. Do you recall that
20 question?
21 A I recall the question.
22 Q Was--from your perspective, was that necessary?
23 A No.
24 Q Was it an--was it an expectation on your part that

1 were not--there were not bylaws that I saw.
2 Q There were no bylaws adopted by the board of
3 directors?
4 A Correct.
5 Q All right. And your--from your perspective, is it
6 necessary to have bylaws on day one?
7 A No, and you usually do not have them. I think I
8 said it took us a year to develop the bylaws for
9 the Access III of the Lower Cape Fear. It was a
10 process of, you know, having an initial draft
11 prepared by the attorney. Then we had monthly
12 board meetings with this group of twenty people
13 from five counties that--and the composition of
14 the--this is during--before the adoption--the
15 composition and modifications would occur, and then
16 the final bylaws were approved in Elizabeth City
17 almost a year to the date after our initial
18 steering-committee meeting.
19 Q But you--
20 A It took a long time, yes.
21 Q Based on the other efforts that you--that you had,
22 you recognized that it takes some time to put
23 together bylaws?
24 A Yes.

1 Representative Wright would be preparing written
2 reports to you about his daily activities and any
3 expenses which he incurred in the development of
4 this embryonic organization?
5 A No.
6 PROF. JOYNER: May I just have a moment?
7 THE CHAIR: Certainly.
8 (DISCUSSION OFF RECORD)
9 PROF. JOYNER: We have no further
10 questions at this time.
11 THE CHAIR: All right. Thank you.
12 Representative Stam?
13 REP. STAM: Thank you, Mr. Chairman.
14 Dr. Gottovi, turning your attention to Exhibit 1 in
15 the notebook, which you said you were--didn't sign
16 but were familiar with--
17 THE WITNESS: Yes, sir.
18 REP. STAM: --would you turn to Page 2
19 under "Purpose of Corporation"?
20 Do you see where it says, "This
21 corporation is organized for the following purposes
22 checked"? The first one there is "Charitable."
23 Did this corporation entitled The Community's
24 Health Foundation, Inc., ever provide any

1 charitable services to anyone?
 2 THE WITNESS: Not during that year and a
 3 half or so that I was involved, that I--that I'm
 4 aware of.
 5 REP. STAM: Are you aware of any services
 6 after that year and a half--any charitable services
 7 that it has provided?
 8 THE WITNESS: I'm not.
 9 REP. STAM: All right. Do you know of
 10 any educational--I see there's--"Educational" is
 11 also checked. Has this corporation provided any
 12 educational services to anyone?
 13 THE WITNESS: I don't believe so.
 14 REP. STAM: I see that "Scientific" is
 15 checked. Has this corporation of which you're
 16 treasurer and a board member, provided any
 17 scientific services to anyone?
 18 THE WITNESS: I don't believe that we
 19 did.
 20 REP. STAM: You testified that you paid
 21 forty-six hundred dollars (\$4,600) after about a
 22 year at the request or demand of the bank, and I
 23 assume that was to pay on the debt of the
 24 Community's Health Foundation, Inc., not your own

1 I'll withdraw the last part of the question.
 2 THE WITNESS: Well, I understand the
 3 question you were going to ask, and no, that's--I--
 4 THE CHAIR: The question wasn't asked.
 5 THE WITNESS: Okay. Sorry.
 6 REP. STAM: Mr. Chairman, I have--right
 7 before the break I obtained a copy of the closing
 8 statement, which is Bates-stamped, so I assume the
 9 Respondent has it, but it wasn't in our package. I
 10 wonder if I could pass it out and see if anybody
 11 has any objection to--
 12 THE CHAIR: If you'll give it to
 13 Dr. Joyner, Mr. Harris, Mr. Hart, and Mr. Peters,
 14 and then we'll see if there's an objection.
 15 REP. STAM: And the witness.
 16 THE CHAIR: Well, let's hold the witness
 17 till we--
 18 REP. STAM: Oh, okay.
 19 THE CHAIR: Thanks.
 20 PROF. JOYNER: Mr. Chairman, are there
 21 any other documents that--
 22 REP. STAM: Yeah, right here.
 23 PROF. JOYNER: --that we want to
 24 distribute that have not been provided to us

1 debt?
 2 THE WITNESS: Well, it actually wasn't a
 3 request or a demand. I volunteered to extend the
 4 loan, and it was an interest payment so that they
 5 would extend the loan for ninety days so that we
 6 could work on other possible sources of revenue
 7 from within the community.
 8 REP. STAM: And as far as you know, that
 9 was credited to the account of Community Health
 10 Foundation, Inc.?
 11 THE WITNESS: It--actually, the checks
 12 were done right there at the bank and written to
 13 the Community Health Foundation, Inc., and I
 14 immediately endorsed them over to the bank so that
 15 they were paid--paid directly to the bank--
 16 REP. STAM: Right.
 17 THE WITNESS: --through the Foundation.
 18 REP. STAM: Did you deduct the forty-six
 19 hundred dollars (\$4,600) you paid to--to the
 20 Community Health Foundation, which was then
 21 endorsed, against your federal income tax as a
 22 charitable deduction?
 23 THE WITNESS: I believe I did.
 24 REP. STAM: So if it turns out--well,

1 previously?
 2 THE CHAIR: Well, we're going to hear you
 3 in a minute. But are there any other documents
 4 you're going to want to examine him on,
 5 Representative Stam?
 6 REP. STAM: Yes, one other also obtained
 7 right before the break, which is also signed by
 8 Mr. Wright and Mr. Gottovi, if we could hand--
 9 THE CHAIR: If the sergeant-at-arms will
 10 please hand that to Dr. Joyner, Mr. Harris,
 11 Mr. Hart, and Mr. Peters--
 12 MR. HARRIS: May I inquire where these
 13 came from once--
 14 THE CHAIR: I'll allow Representative
 15 Stam to answer.
 16 REP. STAM: I obtained it from Staff, who
 17 I think obtained it from Mr. Hart. And it looks
 18 like it has an SBI stamp, so--and it has a Bates
 19 stamp, 01798, which means you probably have it in
 20 your file right there.
 21 PROF. JOYNER: Mr. Chairman--
 22 REP. STAM: And the second document is
 23 1785, which was probably delivered to you
 24 December 31.

1 THE CHAIR: Do you need a few minutes to
2 look at those documents?
3 PROF. JOYNER: I beg your pardon?
4 THE CHAIR: Do you need a few minutes to
5 look at those documents?
6 PROF. JOYNER: No. I'd like to know
7 where are the originals for these?
8 THE CHAIR: Well, I don't know that we
9 have an answer to that. I'm assuming--I mean, I'm
10 making an assumption looking at what I'm looking at
11 with the Bates stamp, that the document lies with
12 the district attorney's office right now.
13 PROF. JOYNER: Well, you know,
14 that's--that's--that's really an assumption,
15 because Bates--Bates stamp doesn't mean that it
16 came from the district attorney's office, since
17 there are at least three other people with Bates
18 stamps that they could put on this.
19 THE CHAIR: Well, I understand that, so
20 I'm going to ask this question: I want you to look
21 at the documents, and are you--do you have any
22 concerns as to their genuineness or authenticity?
23 PROF. JOYNER: Yes.
24 THE CHAIR: All right.

1 any other question that we might have about the
2 document.
3 So I'm--I'm--I'm concerned about why
4 we're just being shown these documents now, rather
5 than last week when we got the other documents, and
6 then why these documents were obviously held in
7 some secret location not available to the rest of
8 us and now are to be delivered. So, yeah, I have
9 some--some real concerns about this.
10 THE CHAIR: I understand. I'm going to
11 go back to the first point, that the Committee
12 rules are very clear documents that were in
13 Mr. Hart and Mr. Peters' possession that they
14 intend to introduce were absolutely to be turned
15 over and were.
16 This document is not coming from Mr. Hart
17 and Mr. Peters for introduction, and it is not
18 being sought, as I understand it, for introduction.
19 It's being sought to show the witness to ask
20 examination questions that I have--I understand
21 your concern, and--and I am not at this point
22 anywhere near admitting the document as substantive
23 evidence on any basis. But a witness may be shown
24 anything for purposes of cross-examination, and I'm

1 PROF. JOYNER: I do. I mean, and then
2 why are we just getting to them now? Why weren't
3 these in the packet of information that--that we've
4 been provided with previously?
5 THE CHAIR: Well, the first answer, I
6 think, to the question is they haven't been
7 introduced or attempted to be introduced by
8 Committee counsel, so--at this point they're just
9 being shown to the witness to cross-examine, and
10 you can show anything to a witness to cross-
11 examine. They're not being sought to be
12 introduced, or at least I don't know that they are,
13 and I--and certainly haven't been by Committee
14 counsel.
15 Second, as to the authenticity issue,
16 what I need to know from you is if you want a
17 minute, 'cause then I'm going to want to know what
18 the problems are with it.
19 PROF. JOYNER: Well, Mr. Chairman, as I
20 understand the rules of this Committee, if there
21 were any documents which bore on this subject,
22 hearing matters here today, that we would have
23 received them with enough time to look them over
24 and to make any inquiry about its authenticity or

1 certainly going to allow that to happen.
2 But my question, before I do that, if the
3 document is authentic and genuine--if you have
4 serious questions about authenticity and
5 genuineness, that's what I want to know. And if
6 you need a few minutes, I'll be glad to recess for
7 you to look through the document and see if you've
8 got specific questions about that.
9 PROF. JOYNER: Mr. Chairman--
10 MR. HARRIS: I have a serious question.
11 THE CHAIR: No, I--I--one of you--who's
12 arguing here?
13 PROF. JOYNER: I'm--I'm--I'm arguing.
14 THE CHAIR: All right. Thank you.
15 PROF. JOYNER: Whether Dr. Gottovi is
16 given these documents to review is not my issue. I
17 don't care. What I do care about is the integrity
18 of this process and why are we now being surprised
19 by members of this Committee going outside of the
20 appointed counsel to find and present documents for
21 review in this session?
22 So that's my concern. It's not whether
23 Dr. Gottovi looks at this and makes whatever
24 comments he wants to make about it. But if the

Committee has now become outside counsel, I need to know that there's a shift in the arrangement, because we have been relying upon Mr. Hart and Mr. Peters as the party that will produce, present documented--documentary evidence in--on behalf. Now, the Committee members have now gone outside to become another source of--of prosecution in this matter? That causes some concern.

THE CHAIR: Let me ask this question so that I can see where we are, then I'm going to--I understand the legal argument. What I want to know first is do you have--as looking at the document, are the documents in your mind not authentic and not genuine? And just help me to understand why. That's my first question. We'll get to the others. But help me to understand, if there's a problem with their authenticity and genuineness, what is it?

MR. HARRIS: We had the person on the stand, Mr. Chair, Mr. Burbank, who identified the--the bank documents. And the document he identified was the approval of a loan dated March 5th, 2002. He said that when he signed that, that was the day he approved it. I'd like to point

out this one document, which purports to be an application--a business credit application, is, in fact, dated after that, April 5th, 2002. So on its face it would appear suspect.

It's an application after it's already been approved. Why would anybody be applying for a loan when they've already got the loan? Because Mr. Burbank, who was on the stand, who's already testified and left and been allowed to leave, 'cause we had no idea about this--Mr. Burbank testified that he approved it on March the 5th, 2002. That's the undisputed testimony by somebody who knows.

And I assume Mr. Stam does not know, I assume the staff doesn't know, and--and I assume nobody really knows where this document originated. We don't have the original, and it appears on its face to be suspect.

REP. STAM: If I--Mr. Chairman, if I could--

THE CHAIR: Representative Stam?

REP. STAM: First of all, as I said, the source where I got it was this afternoon from staff, who got it from Special Counsel, and it

appears to be from the SBI. It appears to have the Bates stamp. So therefore it was given to you December 31.

Secondly, in their questioning, they've asked about "wouldn't the HUD-1 statement show" so-and-so. This is the HUD-1 statement. Why wouldn't we want to have it? It appears to be signed by Mr. Wright. The other credit application appears to be signed by Mr. Wright and Mr. Gottovi--Dr. Gottovi. What is the problem?

MR. HARRIS: If you can give me about five minutes with a copy machine, I can put your signature on here, and you'll see what the problem is.

THE CHAIR: Let's--let's--all right. We're going to--I think this is a good time for me to consider the arguments. We're going to take a recess until twenty after three. Thank you.

(TWELVE-MINUTE RECESS)

THE CHAIR: All right. Now, we're going to--I've asked Representative Stam not to proceed with questions on the documents, and that gets us

out of that controversy. I--I will allow him to ask whatever questions he wants to ask as--as a Committee member generally. So, Representative Stam?

REP. STAM: Dr. Gottovi, just one other question: Do you recall that at the closing the seller was credited with twenty-five thousand dollars (\$25,000) of deposit or--deposit retained by seller, twenty-five thousand?

THE WITNESS: I do not recall that, Representative Stam.

REP. STAM: That was just not discussed at all, whether--

THE WITNESS: No.

REP. STAM: Okay. And if the corporation had twenty-five thousand that had already been paid, the corporation of which you were treasurer, you didn't know anything about it?

PROF. JOYNER: Objection.

THE CHAIR: I'm going to overrule the objection. If you know.

THE WITNESS: I--ask the question again. I'm sorry.

REP. STAM: If the corporation had paid

1 twenty-five thousand earnest-money deposit on this
2 property before the closing, you as treasurer did
3 not know anything about it?
4 THE WITNESS: No, I did not.
5 REP. STAM: Okay. Thank you.
6 THE CHAIR: All right. Any further
7 questions, Representative Stam?
8 REP. STAM: No, thank you.
9 THE CHAIR: All right. Representative--
10 I'm just going to go this way--Representative
11 Warren?
12 REP. WARREN: No questions.
13 THE CHAIR: All right. Thank you so
14 much. Representative McGee?
15 REP. MCGEE: Yes, I have a question.
16 THE CHAIR: Yes, sir.
17 REP. MCGEE: Thank you. I'm still
18 confused about the personal check that you wrote to
19 pay the interest.
20 THE WITNESS: Yes.
21 REP. MCGEE: You wrote the check made out
22 to the Foundation, then turned the check over and
23 endorsed the check over to the bank with you as
24 treasurer of the Foundation? Is that--

1 fees and charges?
2 THE WITNESS: That's correct.
3 REP. MCGEE: Then, to follow up, was that
4 the only--or were those the only transactions that
5 ever took place in that checking account?
6 THE WITNESS: Yes.
7 REP. MCGEE: Thank you.
8 THE CHAIR: All right. Representative
9 Lucas?
10 REP. LUCAS: No questions.
11 THE CHAIR: Thank you. Representative
12 Wiley?
13 REP. WILEY: Thank you, Mr. Chairman. I
14 know you've been up there a while. I'll--
15 THE CHAIR: It's all right. I'm okay.
16 REP. WILEY: --try and keep this short.
17 A couple of questions. After the closing, did you
18 ever go back to the building? Did you--were you in
19 the building that was purchased at all?
20 THE WITNESS: I went--I really didn't--I
21 didn't go--I'd been there before, long before any
22 of this interest on behalf of the Community Health
23 Center, long before, I think, we even had that--the
24 Health Center was built. I had been to Wayne

1 THE WITNESS: That's--that's correct.
2 The money went essentially directly to the bank. I
3 did it as--through the Foundation, as
4 Representative--Representative Stam assumes, so
5 that at least I could take a charitable donation
6 for the money I was giving to the Foundation.
7 THE CHAIR: Yes, sir?
8 REP. MCGEE: My question is, then, did
9 you deposit the check that you wrote into the
10 Foundation account and from the Foundation account
11 write another check from the Foundation to the
12 bank, which was deposited?
13 THE WITNESS: I'm--I'm really not sure on
14 that. I can remember standing at the counter at
15 the bank with the checkbook, and I don't recall--I
16 think the SBI agent had all of those records of
17 things in and out of the Foundation checkbook, and
18 I don't believe--I think it just went immediately
19 to the bank itself.
20 REP. MCGEE: If I may follow up--
21 THE CHAIR: Certainly.
22 REP. MCGEE: I think I earlier heard you
23 say that the one hundred dollars that you deposited
24 into the account eventually disappeared because of

1 Lofton's office on one occasion. Wayne was Bob
2 Jordan's minority affairs person, and I had gotten
3 to know him in that context and--and, actually, I
4 often had lunch with him over political discussions
5 over the years.
6 So I had been to the building before any
7 of this transpired, and then I went there at least
8 one time during that ninety-day period where we
9 extended the loan. I went there with Lydia Newman,
10 now Lydia Newman Faulkner, who was the newly-hired
11 executive director for Access III of the Lower Cape
12 Fear, to see if that space might be appropriate for
13 the offices for this new entity, hoping we--we
14 were--I knew the new entity was going to have to be
15 housed somewhere, and we wanted it in downtown
16 Wilmington where the clients were, at least the New
17 Hanover folks. So I did go there with her.
18 At that time I think Wayne Lofton still
19 had some of his offices there, and the local
20 sickle-cell program was occupying another part of
21 the first floor.
22 But the building was in need of major
23 renovations, and--and Ms. Newman did not feel it
24 would be appropriate for offices for her new staff

1 that she was putting together. So they ended up
2 renting space in the Murchison Building downtown,
3 which is an old office building downtown in
4 Wilmington.
5 REP. WILEY: If I may--
6 THE CHAIR: Certainly.
7 REP. WILEY: Did you happen to notice,
8 were there any utilities turned on--
9 THE WITNESS: Oh, yes, yes.
10 REP. WILEY: --that you would have been
11 responsible for?
12 THE WITNESS: Yes. I--yeah, because I
13 know the sickle-cell program was--was using that
14 space during the time that we had this loan
15 outstanding, and I think part of Wayne Lofton's
16 business was--was still there. So I believe there
17 were utilities going--being paid for. And I'm not
18 sure where--where that was coming from.
19 REP. WILEY: So you're not sure who was
20 responsible for the payment of those utility bills?
21 THE WITNESS: I think during that year
22 that we owned the building and--and that we
23 were--I certainly wasn't writing checks for them.
24 And Representative Wright may have been. I don't

1 didn't write any checks for them during that year.
2 THE CHAIR: All right. Representative
3 McGee, I think you had one other question. I
4 apologize. I cut you short. I'm sorry.
5 REP. McGEE: No, you didn't. I just
6 thought of a question I wanted to ask.
7 I don't know if it's loud enough to
8 hear--on the notice of foreclosure, Dr. Gottovi--
9 THE CHAIR: Can you give him an exhibit
10 number?
11 REP. McGEE: It's Exhibit Number 5.
12 THE WITNESS: Number 5. Just a second. I
13 have that.
14 REP. McGEE: Okay. You're shown as one
15 of the people to receive the notice of foreclosure
16 as treasurer of the corporation?
17 THE WITNESS: That's--that's correct.
18 REP. McGEE: And you stated earlier, I
19 believe, that you followed politics on levels of
20 state and federal, and, of course, the district
21 that Representative Wright serves also has a
22 senator in the State House--I mean, in the General
23 Assembly--
24 THE WITNESS: Yes.

1 know.
2 REP. WILEY: One more question?
3 THE CHAIR: Certainly.
4 REP. WILEY: At the time of closing, the
5 building itself was the only tangible collateral
6 at--at--for closing?
7 THE WITNESS: That's correct.
8 REP. WILEY: Do you happen to remember,
9 did they require the Foundation to purchase any
10 insurance on that building at the time of closing?
11 THE WITNESS: I don't recall. I'm
12 sure--I'm sure that insurance was required, but I
13 don't--I don't recall documents related to that,
14 and I don't know how it was--it was paid.
15 REP. WILEY: Last question--
16 THE CHAIR: Certainly.
17 REP. WILEY: Were you aware, then--I
18 guess, as a whole question here--were you aware of
19 any bills that were needing to be paid on an
20 ongoing basis from the Foundation?
21 THE WITNESS: I was not, but I--I'm sure
22 there were utility bills, I'm sure there were
23 insurance bills, but I--they were--they were not
24 bills that were presented to me, and I certainly

1 REP. McGEE: --as well as a federal
2 relationship with the representative in the Senate
3 and also in the House.
4 Since you were one of the people that has
5 your name on this document, did you pursue perhaps
6 receiving some funds from other sources, such as
7 contacting another senator or the U.S. House of
8 Representatives--a representative for your area,
9 yourself?
10 THE WITNESS: I did not. I did not.
11 THE CHAIR: Thank you. The Chair has
12 just several questions, and then I'm going to,
13 after I'm done, return for redirect and recross,
14 which I expect to be extremely brief so we can move
15 on.
16 Dr. Gottovi, you indicated that this
17 organization really--I think in your recross, never
18 really got started, so there never really was an
19 executive director hired or anything like that. Am
20 I correct?
21 THE WITNESS: You're correct.
22 THE CHAIR: All right. Now, as a member
23 of the Board, when you held any--well, strike that.
24 When you had your informal meetings with

1 Representative Wright and--I apologize--can you
2 give me--I think it was--
3 REP. STAM: Bessie Funderburg.
4 THE CHAIR: Bessie Funderburg? Is that
5 correct?
6 THE WITNESS: Yes, Bessie Funderburg.
7 THE CHAIR: When you held those informal
8 meetings, I'm assuming, 'cause I've never seen
9 them--but I'm assuming there weren't any minutes
10 taken in those meetings?
11 THE WITNESS: There were not that I was
12 aware of, anyway.
13 THE CHAIR: Well, when the three of you
14 were there, I assume you would have seen if minutes
15 were being taken?
16 THE WITNESS: Yes. No, I did not see any
17 minutes being taken, no were--were they ever
18 presented for approval.
19 THE CHAIR: And I'm also going to assume
20 that you never signed a written consent for
21 specific actions to be taken by the association or
22 corporation, were you--did you?
23 THE WITNESS: I don't recall signing
24 anything.

1 day operations? Whatever was done on behalf of the
2 Community Health Foundation, he did it?
3 A That's correct. Could--could I go back to the
4 Chairman's question about--I was actually relieved
5 not to have those responsibilities of signing and
6 receiving--I had a lot on my plate at that point in
7 life, and I was relieved not to have to do that. So
8 I was relieved to have Thomas Wright sort of doing
9 whatever was needed to be done.
10 Q Now, the--you were asked about whether the
11 Community Health Foundation ever engaged in any
12 charitable services, educational services, or
13 scientific services. Was it your recollection that
14 the Foundation never got to the point that it could
15 do any of those?
16 A I think that is--that is my recollection, but in
17 thinking back, I guess housing the local
18 sickle-cell organization during that year would be
19 a--'cause I don't think it was charged anything. I
20 think that was probably--would account to some
21 charitable in-kind service, but--but no other
22 formal efforts that I can recall, scientific or
23 educational. We did house the--I think--the
24 sickle-cell group was housed there, and I guess it

1 THE CHAIR: All right. As the treasurer
2 of this organization, would you have expected your
3 responsibility to be someone who received the bills
4 and then to issue checks for payment of those
5 bills?
6 THE WITNESS: I would have.
7 THE CHAIR: Other than the two
8 transactions we talked about which were initiated
9 by you, did you ever receive a bill that you paid
10 as treasurer of the organization?
11 THE WITNESS: I don't recall that I did.
12 THE CHAIR: All right. That's the only
13 questions the Chair has. Mr. Hart, redirect?
14 MR. HART: No, sir. Thank you.
15 THE CHAIR: Dr. Joyner, recross?
16 FURTHER RECROSS-EXAMINATION BY PROF. JOYNER:
17 Q Dr. Gottovi, is it your understanding that during
18 the time that the Community Health Foundation was
19 in operation that Representative Wright functioned
20 in the capacity as executive director?
21 A Not in a formal way, but he--he was really running
22 the day-to-day operations of the Foundation, yes.
23 Q So even though there was no formal document to
24 the--to--to authorize it, he really ran the day-to-

1 would be an in-kind charitable donation, letting
2 them stay there.
3 Q And I guess my question is, any limitations on what
4 they were able to do was due to the fact that
5 they--it never really got up and running?
6 A That's--that's correct.
7 Q Okay.
8 PROF. JOYNER: No further questions.
9 THE CHAIR: All right. Thank you. You
10 may step down, Dr. Gottovi. Thank you. Next
11 witness, Mr. Hart?
12 MR. HART: May Dr. Gottovi be excused?
13 THE CHAIR: Let me just ask Dr. Joyner.
14 Any reason to keep Dr. Gottovi here?
15 PROF. JOYNER: No. He can--
16 THE CHAIR: And, Mr. Hart, any reason?
17 MR. HART: No.
18 THE CHAIR: All right. Dr. Gottovi,
19 you're excused and excused from your subpoena.
20 Thank you.
21 THE CHAIR: Next witness, Mr. Hart?
22 MR. HART: Next witness is Agent Johnnie
23 Umphlet.
24 THE CHAIR: Agent Umphlet? Agent, you'll

1 be sworn in by the court reporter.
2 * * * * *
3 _____
4 Whereupon,
5 JOHNNIE UMPHLET,
6 having been first duly sworn,
7 was examined and testified
8 as follows:
9 _____
10 THE CHAIR: You may proceed,
11 Mr. Hart. Thank you.
12 MR. HART: Thank you, Mr. Chair.
13 DIRECT EXAMINATION BY MR. HART:
14 Q Would you state your name, please?
15 A Johnnie Umphlet. And for the spelling, it's
16 J-O-H-N-N-I-E U-M-P-H-L-E-T.
17 Q How are you employed, sir?
18 A I'm an assistant special agent in charge with the
19 State Bureau of Investigation.
20 Q And are you assigned to a particular unit within
21 the State Bureau of Investigation?
22 A I am assigned to a special unit. It is special
23 investigations within the Professional Standards
24 Division of the State Bureau of Investigation.

1 Q And you--
2 A Yes, there was.
3 Q When was--when was that? When did you first become
4 involved in that?
5 A Sometime during the month of May 2007.
6 Q All right. Were you the only agent involved in
7 this investigation, sir?
8 A No, sir, I was not.
9 Q Were you assigned specific duties involving the
10 investigation?
11 A Yes, sir, I was.
12 Q And what is--what is that? What duties did you
13 have?
14 A I was assigned as the case agent for this
15 investigation, which is the lead investigator for
16 the investigation.
17 Q All right. And what are the duties of the case
18 agent?
19 A The duties of the case agent would be to conduct
20 the investigation and to ensure that the
21 investigation is conducted to obtain any assistance
22 from other agents that are in the field or also
23 within my unit to assist in the investigation.
24 Q All right. During the course of the investigation,

1 Q And are you located here in Raleigh?
2 A The office that I work out of is located here in
3 Raleigh. I actually reside in Greenville.
4 Q Okay. How long have you been with the State Bureau
5 of Investigation, sir?
6 A I believe this upcoming August or September will be
7 ten years.
8 Q And did you have any law-enforcement experience
9 before that time?
10 A Yes, sir, I did.
11 Q And where was that?
12 A Actually, with several different agencies. I
13 started back in 1989 with Greenville Police
14 Department and worked there for approximately two
15 years, left there to go work with probation and
16 parole. I worked there for about two and a half
17 years, then left there and went to East Carolina
18 University Police Department and worked with East
19 Carolina University Police Department until I went
20 with the SBI.
21 Q Did there come a time that you became involved in
22 the investigation of allegations regarding
23 Representative Thomas Wright?
24 A Yes, I did.

1 and specifically in September of 2007, did you
2 request that--did you call Representative Thomas
3 Wright and ask him to speak with you about the
4 allegations?
5 A Yes, sir, I did.
6 Q And could you tell us what you remember about that
7 conversation?
8 A I had--without looking at my notes, I believe I had
9 one or two telephone conversations with Mr. Wright,
10 asking for an interview with him in reference to
11 these allegations, at which time he advised that he
12 would meet with me to discuss anything that I
13 needed to discuss with him.
14 Q All right. Did he say anything else at that time
15 that you recall?
16 A Without looking specifically at my notes, nothing
17 in particular stands out.
18 Q All right, sir. After talking with him on the
19 phone, at some point did you meet with him?
20 A Yes, sir, I did, on two different occasions.
21 Q All right. Directing your attention to the first
22 occasion, do you remember, would that have been on
23 September 28th of 2007?
24 A That date sounds familiar as the date that I did

1 meet with him. Yes, sir.
2 Q All right. And can you tell us what you remember
3 about meeting with him on that date?
4 A I recall that Representative Wright voluntarily met
5 with myself and another agent that was within--that
6 works within our unit, that agent being Assistant
7 Special Agent in Charge Kay Perry [phonetic]. I
8 also recall that the interview took place in
9 Wilmington in the--in a conference room of the New
10 Hanover Community Health Center.
11 Q All right. And did either one of--did anyone
12 record the meeting?
13 A Yes, sir, they did.
14 Q And who--who recorded the meeting?
15 A Representative Wright recorded the meeting.
16 Q In what way, audio, or video, or both?
17 A My understanding, it was just a video recorder that
18 he had brought to make the recording.
19 Q All right. Did you ever receive a copy of that
20 video recording?
21 A No, sir.
22 Q During the--that particular interview, did you at
23 any time ask Representative Wright if the Community
24 Health Foundation, Incorporated, had had any

1 leading again.
2 MR. HART: Mr. Chairman, may I--may I
3 respond to that?
4 THE CHAIR: Yes.
5 MR. HART: That is not a leading
6 question. It is a directive question. It is not a
7 leading question. It does not give the answer that
8 I'm suggesting that he respond.
9 THE CHAIR: I--the objection's overruled.
10 PROF. JOYNER: Mr. Chairman, if I may--
11 THE CHAIR: Yes, Dr. Joyner.
12 PROF. JOYNER: The last time that I
13 looked, any question that in its formation asks for
14 a "yes" or "no" answer is a leading question. It
15 need not suggest the answer, but it if asks for a
16 "yes" or a "no" answer, then it is a leading
17 question.
18 THE CHAIR: Well--
19 PROF. JOYNER: And this one did, because
20 it started out with the prefix "did."
21 THE CHAIR: We're not in a courtroom,
22 Gentlemen, and I agree we're going to try to stay
23 with the rules as much as we can, but we're also
24 going to try to move this along. For now, that

1 bylaws?
2 A I recall us speaking about bylaws, but without
3 looking specifically at my notes, I can't recall
4 the exact conversation that we had concerning the
5 bylaws.
6 Q Do you recall whether he told you whether or not
7 they'd ever had any meetings of the board of
8 directors of the Foundation?
9 PROF. JOYNER: Mr. Chairman, I'm going to
10 object to the leading. I don't object to the
11 question, but I'll object to the constant leading.
12 And, I mean, I would move out [phonetic] of the
13 transition phase and let the witness testify.
14 THE CHAIR: And I agree. I'll--I'll
15 certainly allow this question, but--and we will
16 need to--the Agent will need to answer the
17 questions in a narration form. But go ahead
18 and--and answer that question, please, Agent.
19 A If you could, please, repeat that question.
20 Q (By Mr. Hart) Do you recall whether or not
21 Representative Wright indicated whether there had
22 ever been any meetings of the board of directors of
23 the Community Health Foundation, Incorporated?
24 PROF. JOYNER: I'm going to object to the

1 objection's overruled, but, again, I--I know we're
2 going to try to have the agent narrate.
3 What I am going to do for a minute--and I
4 apologize--I'm going to ask--and this is a request
5 we had earlier from the court reporter. I need to
6 ask--and we're going to take a five-minute recess.
7 I'm going to keep it very short, but we've got a
8 tape transition that we've got to do in the
9 transcription, so I've got to take a five-minute
10 recess. We'll be in recess until five--until ten
11 of. I'm sorry. Thank you.
12
13 (EIGHT-MINUTE RECESS)
14
15 THE CHAIR: All right. I'm trying to
16 balance a number of things out. What I'm going to
17 do--we've got--I'm just going to try--I'm not going
18 to try to ask anybody for predictions, but just so
19 I can get some logistics done here, Mr. Hart, other
20 than the Agent, who--what other witnesses do you
21 have?
22 MR. HART: Kim Strach from the Board of
23 Elections.
24 THE CHAIR: All right. And, obviously, I

1 think that will take a fairly substantial period of
2 time. Okay. Then, Dr. Joyner, without telling
3 me--and I'm not holding you to any commitment, but
4 is it your anticipation at this point that there
5 will be evidence presented for Representative
6 Wright? You don't need to tell me right now who,
7 what, where; I just want to know for timing
8 purposes.
9 PROF. JOYNER: That is a real
10 possibility.
11 THE CHAIR: All right. With that, we
12 have gone a long day, and we have several members
13 who have some commitments in their districts. That
14 is one of the problems when you're a legislator
15 trying to also have a career. So rather than try
16 to force the issue, we're obviously going to be
17 here for significantly additional evidence for you,
18 Mr. Hart, potentially evidence for Representative
19 Wright, we've got, clearly, arguments, so--I always
20 used to hate it when I was in a courtroom and
21 judges pushed you till the end and everyone went
22 home exhausted. So last--yesterday was a long day.
23 This morning was an exceptionally long time. I'm
24 going to give everybody a little bit of time.

1 We're going to recess to reconvene
2 tomorrow at ten o'clock A.M. here, and hopefully
3 begin sharp at that point.
4 Mr. Peters, you're signaling me
5 something?
6 MR. PETERS: Are we in this room?
7 THE CHAIR: Same room. I'm not going to
8 re-read the instruction yet again, but I will ask
9 the Committee members to please be mindful of the
10 instruction I've read several times, and to all
11 members of the public and press, as well.
12 Thank you, everybody. We will see you at
13 ten o'clock tomorrow. Thank you.

(WHEREUPON, THE PROCEEDINGS WERE ADJOURNED AT 3:54 P.M.)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

-183-

C E R T I F I C A T E

I, Katherine M. Becker, a Notary Public in and for
the State of North Carolina, duly commissioned and
authorized to administer oaths and to take and certify
hearings, do hereby certify that these proceedings were
held before me at the time and place aforesaid, that all
parties were present as hereinbefore stated, and that the
record as set forth in the preceding Pages 2 through 182
represents a true and accurate transcription of the
proceedings, to the best of my ability and understanding.

IN WITNESS WHEREOF, I have hereto set my hand, this
the 4th day of March, 2008.

Notary Public
Notary Public No. 20023570191

My Commission Expires 12-29-2012

Katherine M. Becker
PACE REPORTING SERVICE
P. O. Box 252
Cary, North Carolina 27512
Telephone: 919/859-0000 - Raleigh
910/433-2926 - Fayetteville
910/790-5599 - Wilmington

A L S O I N A T T E N D A N C E

Rep. Thomas E. Wright
Prof. Irving Joyner, Counsel to Rep. Wright
Mr. Douglas Harris, Counsel to Rep. Wright
Mr. William Hart, Outside Counsel to the Committee
Mr. Alexander Peters, Outside Counsel to the Committee

Ms. Carin Savel, Committee Clerk
Mr. O. Walker Reagan, Staff Attorney
Ms. Kory Goldsmith, Staff Attorney
Mr. Brad Krehely, Staff Attorney
Ms. Heather Fennell, Staff Attorney
Ms. Denise Huntley, Research Assistant
Ms. Amanda Smith, Research Assistant

Mr. Jake Gehron, Office of Rep. Glazier

E X A M I N A T I O N I N D E X

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MEETING OF THE HOUSE SELECT COMMITTEE
TO INVESTIGATE ALLEGED MISCONDUCT AND OTHER MATTERS
INCLUDED IN INDICTMENTS REGARDING
REPRESENTATIVE THOMAS E. WRIGHT

TRANSCRIPT OF THE PROCEEDINGS

(Volume III)

March 5, 2008

THE SELECT COMMITTEE:

Rep. Rick Glazier, Chair
Rep. Paul Stam, Vice-chair
Rep. Marvin Lucas
Rep. William McGee
Rep. Edith Warren
Rep. Laura Wiley

In Raleigh, NC
10:11 A.M.

Reported by:
Holly McGhin

1 THE CHAIR: I will now call this meeting
2 to order on Wednesday, March the 5th.
3 Agent Umphlet, I believe you're on the
4 witness stand, and we are on direct examination--
5 beginning direct examination. My recollection on
6 my notes is that we'd gotten through Agent
7 Umphlet's background and we're just starting into
8 questions with regard to how he got to know and the
9 examination he had with Representative Wright.
10 Is that correct, Mr. Hart?
11 MR. HART: That's correct, Mr. Chairman.
12 THE CHAIR: All right. We can pick it up
13 there, please.
14 Good morning. And, Agent, I remind you
15 that you are under oath. And that glass of water
16 is new--new for you.
17 Whereupon,
18 JOHNNIE UMPHLET,
19 having been previously duly sworn,
20 was examined and testified
21 as follows:
22
23 DIRECT EXAMINATION CONTINUED BY MR. HART:
24 Q Morning, Agent Umphlet.

1 A Good morning.
2 Q When we recessed yesterday afternoon, I had just
3 begun to ask you about your conversation with
4 Representative Thomas Wright regarding the
5 Community Health Foundation, Incorporated. And I
6 want to ask you at this point did you in fact have
7 a conversation with him about that foundation?
8 A Yes, I did.
9 Q Did you have occasion to talk with him about
10 whether the organization, the Community's Health
11 Foundation, Incorporated, had approved any bylaws?
12 A Yes, I did.
13 Q Tell us about that, please.
14 A Actually I had two conversations with
15 Representative Wright concerning the bylaws of the
16 foundation, the first being on September 28th,
17 2007. During that interview, Representative Wright
18 advised me that there were no bylaws for the
19 Community's Health Foundation.
20 Q All right. And let me--let me ask you to hold off
21 on the--the--the second conversation. I'll get to
22 that when we get to that interview, if--if you
23 would.
24 During the first interview, did you ask

1 him whether or not the--the board of the Community
2 Health Foundation had ever held any meetings?
3 A Yes, I did. I had asked him about meetings and any
4 minutes from meetings, and he advised that there
5 were no official board meetings for the foundation
6 and that there were no minutes taken from any
7 meetings.
8 Q All right, sir. In that first interview, did you
9 have any conversation with him about the e-mail and
10 conversation that he had had with Torlen Wade from
11 the Department of Health and Human Services?
12 A Yes, I did.
13 Q What do you remember him telling you about his
14 conversation with Torlen Wade?
15 A He had had--he had said he had had--could not
16 recall any specific conversations that he had with
17 Torlen Wade in reference to the letter that had
18 been written by Torlen Wade.
19 Q All right. At the time that you spoke with him
20 about it, did he--did you have a copy of the e-mail
21 that Torlen Wade had received from Representative
22 Wright's office?
23 A Yes, I did.
24 Q I'd ask you, if you would, if you'd look in the

1 notebook in front of you, at Exhibit 2. Do you
2 recognize the one-page document in Exhibit 2, sir?
3 A Yes, I do.
4 Q And what is that?
5 A That is a copy of the e-mail from Vanda Wilson-
6 Womack. And in parentheses "Rep. Wright," end
7 parenthesis, "to Torlen Wade," which was dated
8 Wednesday, 13 March 2002.
9 Q All right. And did you show that e-mail to
10 Representative Wright?
11 A Yes, I did.
12 Q And did he remember that e-mail?
13 A Not the specific e-mail. No, sir, he did not.
14 Q Did he indicate whether or not he had sent the e-
15 mail?
16 A He advised that the e-mail apparently came from his
17 office and that, if it had come from his office, he
18 would have either seen it or approved the e-mail.
19 But he did not recall specifics about the e-mail.
20 Q All right, sir. Ask you if you would look at
21 Exhibit Number 3. Do you recognize that one-page
22 document, sir?
23 A Yes, sir, I do.
24 Q And you had earlier spoken of the--the Torlen Wade

1 letter. Is that the Torlen Wade letter?
2 A Yes, sir, it is.
3 Q Did you show him that particular document on that
4 first interview?
5 A Yes, sir, I did.
6 Q And did he recognize that letter?
7 A Yes, sir, he did.
8 Q Can you tell us what he told you about that letter?
9 A In reference to the letter, he advised that he had
10 received the letter but he had not handed the
11 letter out to anyone, and that he did not use it at
12 Coastal Federal Bank in reference to obtaining a
13 loan from Coastal Federal for the Torlen Wade
14 property--I'm--I'm--correction: for the Loftin
15 property. He said that there was no need to use
16 the letter, because of--the bank had the building.
17 And he also had mentioned that in use--that he did
18 not mean for anyone, meaning Torlen Wade, to get
19 injured or hurt by this letter.
20 Q Okay. Did he say to you why he had gotten the
21 letter if he didn't intend to use it?
22 A I had asked him about why he had received the
23 letter. And he said it was--the letter was needed
24 so DHHS, or the Department of Health and Human

1 Resour--Health Services--excuse me--would know that
2 his intention was that he needed money for the
3 foundation.
4 Q Did Representative Wright say anything to you about
5 whether or not the Community Health Foundation had
6 any money at the time of the purchase of the Loftin
7 property?
8 PROF. JOYNER: Mr. Chairman, I'm--I'm--
9 I'm going to object to--not to the question but the
10 constant leading. And Mr. Hart says it's
11 directional, but it's still leading. So I'm going
12 to raise an objection to the constant leading. I--
13 I understand the nec--necessity to lead at points
14 but not at every point.
15 THE CHAIR: Well--and I understand. But
16 I don't think the question's leading. I think the
17 question was did he state whether or not, which to
18 me takes it out of the leading category, as only us
19 lawyers can seem to make those differences. But I
20 don't think it's technically leading. So it's
21 overruled. Thank you.
22 A I'm sorry. Could you repeat your question?
23 Q (By Mr. Hart) Yes, sir. Did there come a time in
24 that first interview where Representative Wright

1 indicated to you in any way whether or not the
2 foundation had any money in the account or any
3 money at all at--at the time of the purchase of the
4 Loftin property?
5 A Based on a comment that he made concerning--I
6 showed him a HUD-1 statement, asking him had the
7 foundation made an earnest payment towards the
8 purchase of the Loftin property by the foundation.
9 He advised that no, he didn't, 'cause they didn't
10 have the money for that. It's my recollection that
11 that was the only inci--incident--or instance in
12 which he mentioned no money by the foundation.
13 Q Okay. Did there come a time where you had a second
14 interview with Representative Wright?
15 A Yes, sir, I did. I had a second interview with
16 Representative Wright on Friday, October 5th, 2007,
17 which also occurred or took place at the
18 Community's--well, the New Hanover Community Health
19 Center, in the conference room at that center.
20 Q Did--do you remember whether or not that interview
21 was videotaped by Representative Wright?
22 A Yes. Representative Wright had requested that
23 could he enter--video record the interview, at
24 which he was advised that he could video record the

1 interview.
2 Q Okay. Did he record the entire interview?
3 A No, sir, he did not.
4 Q The--during part of the interview, did
5 Representative Wright show you some documents?
6 A Yes, sir, he did.
7 Q Do you recall what documents, if any, he showed
8 you?
9 A He showed me three documents that were IRS
10 documents or Internal Revenue Service documents,
11 all three documents being in relation to a employer
12 tax identification number. One document was a W9
13 form. One document didn't--it had a number on it,
14 I'm thinking JF128--but I'm not sure exactly on
15 that number--which was a fax that he had received
16 from the Internal Revenue Service out of Tennessee
17 indicating that he had been assigned a federal tax
18 identification number. And the other form was an
19 application for a federal tax identification number
20 by the Community's Health Foundation.
21 Q All right, sir. During that interview or--did he
22 also say anything about any bylaws?
23 A Towards the beginning of that interview,
24 Representative Wright advised that he would like to

1 Q And did you show Representative Wright that
2 particular document?
3 A Yes, I did show Representative Wright that
4 document. And Representative Wright advised he did
5 recall writing that letter and that that was his
6 signature on the letter. And the letter was to Mr.
7 Lewis McKinney of Anheuser-Busch Companies,
8 Incorporated, out of St. Louis, Missouri.
9 Q Did he say what the purpose of that letter was that
10 he sent to that company?
11 A Purpose of the letter was to obtain contributions
12 from Anheuser-Busch for the foundation.
13 Q All right, sir. Going to show you--ask you to look
14 at Exhibit Number 7. Do you recognize that one-
15 page document, sir?
16 A Yes, I do.
17 Q And did you--
18 PROF. JOYNER: Mr. Chairman?
19 THE CHAIR: I'm sorry?
20 PROF. JOYNER: For--for the record, I
21 want to object to the use of Exhibits 6, 7, 8, 9,
22 10, 11, 12--I'm sorry; withdraw 11--but 12, 13, on
23 the grounds that this is hearsay, has not been
24 authenticated and--or otherwise admitted into

1 make a correction to a prior statement that he had
2 made in the September 28th, 2007, interview.
3 During his time of pointing out some corrections,
4 he advised that he had gone back and looked and did
5 find the bylaws for the Community Health Foundation
6 but advised that he had put them in a safe place in
7 case anything happened to him.
8 Q All right. Did he give you a copy of those bylaws
9 or any of the forms that you mentioned?
10 A In relation to the bylaws, he advised that he did
11 not have a copy of the bylaws with him at that
12 interview. In relation to the IRS forms, I did
13 request a copy of the forms but was advised that I
14 could not make a photocopy of them. So I did not
15 get a copy.
16 Q All right, sir. At some point during that second
17 interview, Agent Umphlet, did there come a time
18 when you began to show Representative Wright
19 several documents that you had in your possession?
20 A Yes, I did.
21 Q Going to ask you, if you would, if you'll look at
22 Exhibit Number 6, sir. Do you recognize that one-
23 page document, sir?
24 A Yes, sir, I do.

1 evidence in these proceedings.
2 THE CHAIR: All right. Mr. Hart, do you
3 want to respond?
4 MR. HART: At this point--actually I
5 believe that except for 11, they have not been
6 admitted. And I'm not asking him to read from
7 them; I'm simply asking if he showed them to him
8 and what if anything he said about them. So I
9 believe that all those objections are irrelevant
10 and should be overruled.
11 THE CHAIR: Well, I--I agree at this
12 point, and--and I will overrule them. And you're--
13 and they're not being sought to admit. They're
14 being shown to the witness to ask him whether he
15 showed them to Representative Wright. Again I
16 don't think there's any--anything wrong with that
17 particular line of question. But some of the
18 objections we'll get to if in fact there's an
19 attempt to admit.
20 PROF. JOYNER: So you're--
21 THE CHAIR: So for--for the purposes of
22 this question, the objection is overruled.
23 PROF. JOYNER: All right. Can I respond,
24 Mr. Chair?

1 THE CHAIR: Certainly.
2 PROF. JOYNER: And I certainly agree that
3 these documents have not been introduced, and the
4 question is about what he did with these letters.
5 But for all practical purposes, these letters have
6 been introduced, because every member of this
7 Committee has a copy of them. And every member of
8 this Committee is right now reviewing each of those
9 documents. So although officially they are not
10 introduced, they are for all practical purposes
11 introduced and have been introduced and used as
12 introduced documents in these proceedings. So I
13 make my objection--
14 THE CHAIR: I understand.
15 PROF. JOYNER: --on--in that regard.
16 THE CHAIR: I certainly understand the
17 objection that you've made. But for purposes of
18 the question and where we are today, the objection
19 is overruled.
20 You may answer the question.
21 A Could you please repeat the question?
22 Q (By Mr. Hart) Did--did you show Representative
23 Wright the document that is before you that is
24 labeled Exhibit Number 7?

1 A That that was a document that he had--or a letter
2 that he had prepared to AstraZeneca Pharmaceuticals
3 and that that was his signature on the letter that
4 he had sent to AstraZeneca.
5 Q Did he say to you why he had sent that letter to
6 AstraZeneca Pharmaceuticals?
7 A For charitable donations for the Community's Health
8 Foundation.
9 Q All right, sir. Ask you to look at Exhibit Number
10 10, if you would, please. Do you recognize that
11 document, sir?
12 A Yes, sir, I do. It is a check from AstraZeneca in
13 the amount of twenty-four hundred dollars (\$2,400)
14 made payable to the order of the Community's--
15 Community's Health Foundation, Inc.
16 Q And did you show that document to Representative
17 Wright during that second interview?
18 A Yes, sir, I did.
19 Q Did Representative Wright say whether or not he
20 recognized that particular document?
21 A He did recognize that document and did recognize
22 his signature on the back of that check.
23 Q Did he say whether or not he had received that
24 check and what he had done with it?

1 A Yes, I did.
2 Q And what if anything did he say as to whether or
3 not he recognized that document and what it was?
4 A Representative Wright advised he did recommen--
5 recognize the document and that the signature on
6 the back was his signature.
7 Q Did he say anything about the--the copy of the
8 check itself, whether or not he had received that
9 check from Anheuser-Busch?
10 A That he had received that check from Anheuser-Busch
11 on behalf--or through the Community's Health
12 Foundation.
13 Q And did he say what he did with that check?
14 A In the end, he said what he did with all three
15 checks at the same time, but--and that was deposit
16 the check into his personal bank account.
17 Q Ask you to look at Exhibit Number 8, please, sir.
18 Do you recognize that one-page document?
19 A Yes, sir, I do.
20 Q And did you show Representative Wright that
21 particular document?
22 A Yes, sir, I did.
23 Q Did he--what did he say about that particular
24 document?

1 A That he had received that check and that that check
2 had been deposited into his personal bank account.
3 Q By whom?
4 A By himself.
5 Q Ask you if you would look at Exhibit Number 11,
6 sir. Do you recognize that one-page document?
7 A Yes, sir, I do.
8 Q And what do you recognize that as being?
9 A An invoice on the letterhead of the Community's
10 Health Foundation, Incorporated, an invoice to John
11 Policastro with AT&T from the Community's Health
12 Foundation for a payment of fifteen hundred dollars
13 (\$1,500).
14 Q Did you show that particular document to
15 Representative Wright?
16 A Yes, sir, I did.
17 Q And what did he say about that particular document?
18 A Representative Wright was not sure about this
19 document. He advised that it just did not seem
20 right as coming from the Community's Health
21 Foundation. He had questioned the--the letterhead
22 and the fact that it was an invoice. And he just
23 did not recall a invoice to AT&T.
24 Q All right, sir. Did he say to you whether or not

1 he had sought a charitable contribution from AT&T?
2 A Yes, sir. He advised that he had requested an
3 official request for charitable donations through
4 AT&T, yes, sir.
5 Q And did he say how much he had requested?
6 A No, sir.
7 Q Ask you to look at Exhibit Number 13, sir. Do you
8 recognize that one-page document?
9 A Yes, sir. It is a check from AT&T for fifteen
10 hundred dollars (\$1,500) paid to the order of
11 Community's Health Foundation.
12 Q And did you show that document to Representative
13 Wright during that second interview?
14 A Yes, sir, I did.
15 Q And do you recall what he said about that
16 particular check?
17 A That he had received that check, and that was his
18 signature on the back of the check.
19 Q Did he say what he did with that check?
20 A That he deposited that check into his personal bank
21 account.
22 Q Now, you said just a few moments ago that he made a
23 general statement about having received all those
24 checks and depositing those checks in his account.

1 THE CHAIR: All right. Now I'll hear Dr.
2 Joyner's ex--objections.
3 PROF. JOYNER: I would object to that.
4 None of these documents have been--
5 THE CHAIR: I'm sorry?
6 PROF. JOYNER: None of these documents
7 have been authenticated. I recognize that this
8 isn't a court of law, and you're not playing
9 strictly by the rules of--of evidence. But the
10 rules of evidence would prohibit their introduction
11 into--into--into evidence, particularly since the
12 people who allegedly received or prepared these
13 documents have not authenticated them in--in any
14 way.
15 THE CHAIR: Mr. Hart?
16 MR. HART: Yes, sir. The statements of
17 Representative Wright authenticate the documents.
18 He clearly identified each of the two letters as
19 being letters sent by him for purposes of a
20 charitable cor--cor--contribution from AstraZeneca
21 Pharmaceuticals and Anheuser-Busch, Incorporated,
22 for charitable contributions to the Community
23 Health Foundation.
24 The invoice he did not recognize, but

1 Did he say why he did that, sir?
2 A Yes, sir. He advised that he had deposited those
3 checks into his personal account as a payment for
4 his services in trying to get the foundation
5 started, that he had done a lot of work and had put
6 in a lot of hours trying to get the foundation
7 started and had put in a lot of sweat equity into
8 the--trying to get the foundation started, and that
9 was a payment to himself for the hours and the work
10 that he had put in.
11 Q Did you ask him for anything to show what kind of
12 work that was or any documentation of--of work?
13 A He was asked if--what type of work it was. And he
14 advised that it was for phone calls and travel and
15 getting the business started--or--correction--
16 foundation started. He was asked if he had a log
17 to show what type of work he had--had completed,
18 which he advised he did not, but he could show that
19 the work had been completed by him. So he would--
20 could prove that he--the payment was--for him--to
21 himself by the foundation was justified.
22 MR. HART: Mr. Chairman, at this time, I
23 would move to introduce Exhibits 6, 7, 8, 10, 11,
24 and 13.

1 that invoice was authenticated by John Policastro
2 of AT&T. And--and the testimony of John Policastro
3 matches with Representative Wright that someone
4 from the Community Health Foundation had in fact
5 called and requested a charitable contribution in
6 the amount of fifteen hundred dollars (\$1,500) and
7 that that person was advised to send an invoice,
8 and that person had done so. John Policastro
9 identified that invoice as being the invoice that
10 was received by AT&T.
11 And then the checks, which Representative
12 Wright has specifically identified as being
13 received by him from those corporations and that he
14 deposited those checks in his own account and that
15 those were his signatures, further au--authenticate
16 the letters and the invoice and authenticate the
17 deposit of those checks from those corporations.
18 THE CHAIR: All right. The objection as
19 to Exhibits 6, 7, 8, 10, and 13 is overruled.
20 Exception is noted. They are admitted.
21 I want to take a moment and look back at
22 Policastro's--Mr. Policastro's testimony as to 11.
23 So give me a second to look at 11, please.
24 MR. HART: Actually, Mr. Chairman, that

1 document was already introduced and admitted
2 previously by the Committee after the testimony of
3 John Policastro--
4 THE CHAIR: All right. Let me go back to
5 my notes.
6 MR. HART: --without objection by the--
7 THE CHAIR: Sort of was my recollection,
8 but I want to go back and--and just double-check.
9 Thank you.
10 All right. Here is the--the transcript
11 that I've got from John Policastro's testimony. On
12 Page 218, "Mr. Chairman"--"MR. HART: Mr. Chairman,
13 at this time I'd move to introduce Exhibit Number
14 11.
15 "THE CHAIR: Any objection to Exhibit
16 Number 11, Dr. Joyner?
17 "PROFESSOR JOYNER: No.
18 "CHAIR: All right. Without objection,
19 Exhibit Number 11 is admitted."
20 So Exhibit 11 is already in.
21 MR. HART: That's all.
22 THE CHAIR: Yeah, I'm--I'm sorry?
23 MR. HART: That's all the questions I
24 have of this witness.

1 transcriptionists with the SBI.
2 Q And with respect to the--the report of September
3 28th, how was that transcribed? Was that done by
4 you, or did you dictate it into a recorder and send
5 it to a transcriptionist?
6 A Dictated it into a recorder and sent it to a
7 transcriptionist.
8 Q And when would this--this dictation have occurred?
9 A It's the policy within the SBI that the dictation
10 has to be completed within fifteen working days.
11 However, at one point during the investigation--and
12 at which point--I don't recall what date that was--
13 we were advised that all dictation in this case
14 needed to be completed within five working days.
15 If I recall, though, at the time of this interview,
16 it was a still a fifteen-working-day period in
17 which the interview had to be transcribed.
18 Q So the transcription could have occurred anywhere
19 up to two weeks later?
20 A It could have, but it did not.
21 Q Okay. And--and do you know specifically when?
22 That was my--my initial question was when was this
23 transcribed?
24 A I don't have that date in--with me.

1 THE CHAIR: All right. Thank you.
2 Cross-examination, Dr. Joyner?
3 CROSS-EXAMINATION BY PROF. JOYNER:
4 Q All right. Mr. Umphlet, you indicated that you had
5 two, I guess, rather substantial interviews with
6 Representative Wright during 2007; is that correct?
7 A Yes, sir. That is correct.
8 Q One was on September 28th, I believe, and the other
9 was on October 5th, 2007?
10 A That is correct, yes, sir.
11 Q All right. Now, for each of those interviews, you
12 prepared a--a report; is that correct?
13 A Yes, sir, I did.
14 Q Did--did you tape the conversations that you had
15 with Representative Wright?
16 A No, sir, I did not tape those.
17 Q So the--well, how--how did you prepare your notes
18 from the--from the interview?
19 A It's the policy of the SBI not to tape-record or
20 videotape interviews. We handwrite notes. And
21 after we handwrite those notes, we can either type
22 those notes up ourself on the computer, or we can
23 dictate into a tape recorder and send the--the tape
24 off to be transcribed by one of the

1 Q Well, when--
2 A So I cannot--
3 Q When--when was it dictated into the--your recording
4 machine?
5 A It would have been dictated into the recording
6 machine, I would say, probably within the--within
7 the week following the interview.
8 Q And the dictation--the dictation that you provided
9 was basic--was based on the notes that you took?
10 A That is correct, yes, sir.
11 Q And the notes that you took typically was not word
12 for word everything that Representative Wright
13 said?
14 A No, sir, it was not.
15 Q Right.
16 A It was not verbatim.
17 Q So when you went back to use your notes, you
18 basically kind of relied upon your notes and your
19 best recollection at that point of the exact
20 comments that Representative Wright was--is
21 attributed to have made?
22 A I prepared the report based on my notes and my
23 recollection of the interview, yes, sir.
24 Q Now, with respect to the interview of October 5th,

1 when did you do the dictation for that report?
2 A I believe, due to the length of that interview, it
3 took me a couple of days just to dictate that
4 report. It would have probably been done within
5 one week of doing that--conducting that interview
6 with Representative Wright.
7 Q So you--you--you don't represent that the words in
8 the report represents exactly what Representative
9 Wright said?
10 A No, sir, I don't. I would--I would advise that it
11 was a paraphrase and a synopsis of the interview
12 that took place.
13 Q All right. And it was based on your--your best
14 recollection of what you recall him saying?
15 A Based on my notes that I took and my recollection,
16 yes, sir.
17 Q Okay. Now, want to start with--with the discussion
18 about--do--do you have a copy of your report there?
19 A No, sir, I do not.
20 Q Do you have a copy of your report at all?
21 A Not in this room, no, sir, I do not.
22 Q Well, did--did you review those reports before you
23 came in here today?
24 A Yes, sir, I did.

1 PROF. JOYNER: My--my questioning does
2 not go to the entire report.
3 THE CHAIR: That's fine.
4 PROF. JOYNER: It goes to specific
5 instances in the report.
6 THE CHAIR: Yeah, that's--
7 PROF. JOYNER: So to that extent--
8 THE CHAIR: That's why I'm not going to
9 pass it out unless you want me to pass it out.
10 PROF. JOYNER: Right.
11 THE CHAIR: I'll leave it up to you on
12 that regard. But I do--they need to see a copy.
13 So--
14 PROF. JOYNER: That's--that's fine. I
15 assume that they have a copy, but, you know--
16 THE CHAIR: I--I think that assumption
17 may or may--
18 PROF. JOYNER: They may not.
19 THE CHAIR: --may not be correct.
20 If you would, if this--we'll be in recess
21 for five minutes. If the sergeant at arms will
22 make two copies, one--three copies, one for Mr.
23 Hart, one for Mr. Peters, one for the Chair in case
24 I need to see it. Oh, and the witness. Four

1 Q All right. And how--how--when was the last time
2 you reviewed those reports?
3 A I--this morning.
4 Q This morning?
5 A If--if--this morning, I would probably say as early
6 as five A.M. or five-fifteen A.M. and as late as
7 eight-thirty A.M.
8 PROF. JOYNER: Mr. Chairman, I have a
9 copy of Mr. Umphlet's October 5th report.
10 THE CHAIR: All right.
11 PROF. JOYNER: And I would like to pass
12 this up for him to reference.
13 THE CHAIR: Sure. If you're going to
14 have the witness look at it, though, I'm going to
15 ask that a copy be given to Mr. Hart and Mr.
16 Peters.
17 PROF. JOYNER: O--only have one copy.
18 THE CHAIR: I'll ask sergeant at arms to
19 make a copy. And the Chair needs to have one, as
20 well. I'm not going to pass it out to the
21 Committee at this point, unless you seek to want--
22 you know, to use it in that vein.
23 PROF. JOYNER: Well, I--I'm--I'm--
24 THE CHAIR: I mean, I'll be glad to--

1 copies.
2 _____
3 (TEN-MINUTE RECESS)
4 _____
5 THE CHAIR: All right. I think, Mr.
6 Hart, Mr. Peters, you have a copy of the document.
7 Witness has a copy of the document. We're ready to
8 go. Cross is back with Dr. Joyner.
9 Q (By Prof. Joyner) All right. Mr. Umphlet, you--
10 you talked about the conversation that you had with
11 Representative Wright regarding these three checks?
12 A Yes, sir.
13 Q Do you find in that report the section in which you
14 recorded that information?
15 THE CHAIR: Let's--let's go ahead and
16 just make sure for the record that we're
17 identifying, since the document's not marked. Do
18 you want to just for the record indicate what
19 document and the page that you're referring to so
20 that the record's clear?
21 PROF. JOYNER: This is report dated
22 October 5th, 2007 and is the report prepared by Mr.
23 Umphlet regarding his October 5th conversation
24 with--with Representative Wright.

1 A I have found that page, yes, sir.
2 Q (By Prof. Joyner) Okay. And what page is that--do
3 you find that starting on?
4 A Page 4.
5 Q Page 4?
6 A Yes, sir.
7 Q You indicated that in the end, Representative
8 Wright said that he deposited the checks into his
9 bank account. Do you recall that testimony?
10 A Yes, sir, I do.
11 Q All right. Do you recall the entire conversation
12 that you had with Representative Wright regarding
13 the deposit of those checks into his account?
14 A Do you mean the--the statement that I prepared?
15 Q Right.
16 A Yes, sir.
17 Q All right. No, I'm--I'm talking--do you have a
18 recollection of the--the--the--the other comments
19 that Representative Wright made regarding the
20 deposit of those checks?
21 A I--I don't follow your question.
22 Q Okay. Well--well, let me just be more specific.
23 In--in looking at your--your report--
24 A Yes, sir.

1 here today.
2 Q In your--in your report, you said that the checks
3 were deposited sometime later?
4 A Give me a minute, sir, so I can find that out.
5 MR. HART: Mr. Chairman, I have a
6 suggestion. Rather than have Agent Umphlet search
7 through twenty pages of report to find something
8 that Mr. Joyner wants him to look at, it might be
9 easier if he just tells him the page or the
10 vicinity of where that might be.
11 THE CHAIR: I--I was getting to that
12 myself. I agree completely, Mr. Hart.
13 And if you can just give us a paragraph
14 and a page--
15 Q (By Prof. Joyner) All right. Let's look at--
16 THE CHAIR: --Dr. Joyner.
17 Q (By Prof. Joyner) --Page 5 of your report, Mr.
18 Umphlet--
19 A Okay.
20 Q --and the fifth full paragraph--or fourth and fifth
21 full paragraph.
22 A Okay. I--I found the paragraph.
23 Q You found it?
24 A Yes, sir.

1 Q --you--well, you said you had the checks; is that
2 correct?
3 A The--at the time, I had the checks, yes, sir.
4 Q Okay. Let--
5 A I don't have them with me today, except--
6 Q All right. Well, let's--let's--
7 A --this exhibits.
8 Q Let's go--let's go back to that, you know. Let's--
9 let's look at--at Exhibit 7. And what is the date
10 of that check?
11 A 3-05-2004.
12 Q So that's March 5th, 2004?
13 A Yes, sir.
14 Q And then looking at Exhibit 10. What is the date
15 of that check?
16 A 12-15-2003.
17 Q That's December 15th, 2003?
18 A Yes, sir.
19 Q And then look at Exhibit 13. What is the date of
20 that check?
21 A 04-01-04, or April 1st, 2004.
22 Q Okay. What--on what date were these checks
23 deposited into Mr. Wright's account?
24 A I do not have that information with me as we sit

1 Q And what did Representative Wright say regarding
2 the deposit, the date of the deposit of those
3 checks?
4 A It said--and reading from the report, "Wright
5 reported that when he received the checks from
6 AT&T, AstraZeneca, and Anheuser-Busch, they were
7 deposited at a later date. Wright advised the
8 checks sat around on his desk for a long time
9 before he actually deposited them. Wright advised
10 the Coastal Federal foundation account was probably
11 closed by the time he deposited those checks."
12 Q And do--do you recall that the checks, the three
13 checks, were actually deposited in November of
14 2004?
15 A At this time, I don't have the dates that the
16 checks were actually deposited.
17 Q But you know that it was quite a few months after
18 the receipt of--of the checks--
19 A The best of my recollection, yes, sir.
20 Q Best of your recollection?
21 A Yes, sir.
22 Q So in one instance, it would have been almost a
23 year, and with respect to the--to the latter check,
24 the April check, it would have been at least seven,

1 eight months?
2 A Well, without knowing the exact dates, I'd hate
3 to--to give a year figure or an exact figure. But
4 they were deposited at a later time.
5 Q Right. But--and--and you did--you did at that--at
6 some point know that the date was a significant
7 time after the receipt of these three checks?
8 A I know it was a time after. I'd--I mean, I'd hate
9 to say "significant" at this point, without having
10 that documentation in front of me. But it was
11 after, yes, sir.
12 Q Is there anything in any of your reports that would
13 identify when these checks were deposited?
14 A Yes, sir, there is.
15 Q Okay. And where--where would that be?
16 A Not in this report.
17 Q Did you have another report?
18 A Not concerning my interview with Representative
19 Wright, no, sir.
20 Q All right. So is there another report that speaks
21 to when these checks were deposited?
22 A That would be his bank-account records--
23 Q Okay.
24 A --that we received.

1 Q Let me just--just--just move on.
2 A Yes, sir.
3 Q With respect to--to--to the checks, you asked
4 Representative Wright why did he deposit the checks
5 into his personal account; is that correct?
6 A That is correct, yes, sir.
7 Q And your response was that he said that it was for
8 sweat equity?
9 A Yes, sir.
10 Q All right. Now, just show me in your report where
11 you use the term "sweat equity."
12 A If you'll give me a minute. I'll have to--
13 (examines paperwritings). That would be--that
14 would be on Page 6.
15 Q Okay. Where on Page 6 do you find that?
16 A The first--the first paragraph that starts with
17 "From AT&T." And it's--it's about the fifth to
18 sixth sentence down. There's a--a line that--
19 sentence that's been underlined. It's in the--it's
20 in the sentence below that line.
21 Q On Page 6?
22 A Yes, sir.
23 Q All right. Give--give me that direction again.
24 A Okay. On Page 6, it's the first paragraph. It's

1 Q And--and you had copies of that?
2 A Yes, sir.
3 Q And do you have that available with you?
4 A No, sir, I do not.
5 Q You didn't bring that?
6 A I did not bring any of the SBI's reports in here
7 today, no, sir.
8 Q Okay. So these are the only reports that you have?
9 The--the--the re--the report that I'm--I'm re--
10 making reference to now and the September 28th
11 report are the only reports that you have with you?
12 A Well, actually I didn't bring any reports with me.
13 The only report that I have is the report that was
14 just handed to me, which is the October 5th, 2007,
15 interview.
16 Q All right.
17 A But I don't have any other reports with me today.
18 Q All right. But other than these two reports, there
19 are other reports that you prepared regarding the
20 deposit of these--of these three checks?
21 A Yes. Well, I won't say myself. There were other
22 agents that worked on this case. It's very
23 possible that one of the other agents completed
24 that aspect of it.

1 not the first full paragraph. It's the paragraph
2 that starts with "From AT&T, AstraZeneca, and
3 Anheuser-Busch." If you'll look down about four
4 lines, you'll see "would have been his decision on
5 what to do with the money." That line is
6 underlined--or that sentence is underlined. Excuse
7 me. If you'll look at the sentence below that,
8 that is where the "sweat equity."
9 Q And the--the entire statement is that Wright then
10 continued by saying "I put more into it than this"?
11 A Yes, sir.
12 Q That's what it says, right?
13 A Yes, sir.
14 Q All right. And going back to the previous page.
15 Representative Wright offered explanations as to--
16 and I believe you asked him if he had reports; is
17 that correct?
18 A This interview was done by myself and Assistant
19 Special Agent in Charge K. Perry. And during the
20 interview, K. Perry asked if Wright had a log
21 showing his work.
22 Q Okay. Oh, so you didn't ask that?
23 A No, sir.
24 Q Okay. And he indicated that he was--he deposited

1 those checks into his account to reimburse him for
2 his work with the foundation; is that correct?
3 A Yes, sir.
4 Q And then when it says here you asked what type of
5 work Wright had done, he said that he'll save that;
6 is that correct?
7 A Yes, sir.
8 Q And then advised--then Wright advised that it was
9 for the countless hours of work he had done trying
10 to make the foundation work? Is that what you
11 record in your--in your report?
12 A Yes, sir.
13 Q All right. And then Representative Wright also
14 indicated that he was not aware that--that a
15 checking account in the foundation's name had been
16 open at that point?
17 A He re--if you--hold on a second. I'll advise
18 exactly what he said.
19 Q Okay.
20 A (Examines paperwritings.) He was not clearly aware
21 of the foundation's checking account, but--
22 Q At that time?
23 A At that time, yes, sir.
24 Q Right. And--but at some point, he did have a

1 that and said, "Wright reported it was for travel,
2 phone calls, meetings, and trying to make the
3 foundation work." Is that what you report in
4 your--in--what you recorded in your report?
5 A Yes, sir, it is.
6 Q Okay. And this is the conversation that you had
7 with Representative Wright?
8 A Yes, sir.
9 Q And it was at that point that I guess--is it Ms.
10 Perry?--
11 A Mr. Perry.
12 Q --Mr. Perry--
13 A Agent Perry.
14 Q --asked about a--a log, and Representative Wright
15 said he didn't have a log but he could prove the
16 expenses that he was referring to?
17 A That is correct.
18 Q That is correct. Okay.
19 Now, do you recall where you received
20 Items 6--
21 THE CHAIR: Mis--mis--Dr. Joyner, I want
22 to interrupt for one second. Because this is fact-
23 finding for the Committee, I just want to get some
24 indication that--we--we had a bunch of questions

1 conversation with Dr. Gottovi regarding that
2 account?
3 A That is correct, yes, sir.
4 Q Did he not also say that he had documentation
5 showing why he had reimbursed the money from those
6 three checks? Go down to the last paragraph, sir.
7 A Yes, sir. Well, his--his--
8 THE CHAIR: What--what page are we on?
9 I'm sorry.
10 THE WITNESS: Page 5.
11 PROF. JOYNER: Same page.
12 THE CHAIR: Okay.
13 A He didn't say "documentation," but he said he would
14 be able to prove it, referring to the work that he
15 had done.
16 Q (By Prof. Joyner) All right. Let--let me just--
17 you know, just read from your report here.
18 "Representative Wright reported that he had
19 documentation showing why he was reimbursed the
20 money in reference to the checks from AT&T,
21 AstraZeneca, and Anheuser-Busch."
22 A Yes, the first sentence of that paragraph. That is
23 correct.
24 Q And then he went on to become more specific about

1 regarding couple paragraphs on Pages 5 and 6. Just
2 so I know, is it going to be your intent at any
3 point to give copies of that to the other members
4 of the Committee, or will it not be?
5 PROF. JOYNER: We're--we're not at this
6 point seeking to introduce this.
7 THE CHAIR: Well, I--I--I know. I mean,
8 that's--that's kind of--I recognize right now. I'm
9 just kind of trying to figure out so that they have
10 context for the questions, which came in a pattern
11 that may not have made it the most easy for them to
12 understand. And I'm--I just want to know what I
13 need to do here in terms of making sure that those
14 questions and the points you were trying to make
15 are very clear to the Committee. So help me, if
16 you will, on what you may want to do with that.
17 PROF. JOYNER: Okay. Can I advi--can I
18 advise you at a later--
19 THE CHAIR: At break? Yeah, that'd be--
20 I--I just was raising the question. Thank you.
21 Q (By Prof. Joyner) Now, where did you receive
22 copies of Items 6 through 13 in the--in the
23 workbook?
24 A Say six through which number, sir?

1 Q Thirteen.
2 A Items--Item Number 6--and I'll just go through them
3 in order, if that's fine.
4 Q Okay. That's fine.
5 A Item Number 6, from the North Carolina Board of
6 Elections. Item Number 7, North Carolina Board of
7 Elections. Item Number 8, from the North Carolina
8 Board of Elections. Item Number 9, I cannot recall
9 if--if I received that from the Board of Elections
10 or if I received that from AstraZeneca. Item
11 Number 10, from the North Carolina Board of
12 Elections. Item Number 11, I believe that I
13 received that from John Policastro. And I believe,
14 without looking at my report, I received Item
15 Number 12--or Exhibit Number 12 from John
16 Policastro, as well. And then the last exhibit,
17 Exhibit Number 13, from the North Carolina Board of
18 Elections.
19 Q Now, in addition to receipt of those documents, did
20 you--did you receive Item Number 14?
21 A I don't have an Item--Exhibit Number 14, sir.
22 Q You don't have that in your book?
23 A No, sir, I do not.
24 THE CHAIR: Do you want me--do you want

1 me to hand him an--Item 14?
2 PROF. JOYNER: Yes.
3 THE CHAIR: All right. Okay. And just
4 so that you know, none of the members, I think,
5 have it, since that was a part of the withdrawn
6 count. But I can get it rehandled out if you need
7 me to.
8 PROF. JOYNER: Well--oh, that--that--
9 that's fine. That's fine.
10 THE CHAIR: Just leave it at--just--
11 PROF. JOYNER: Well, I--I mean, if you--
12 if you need them to have a copy of it, that's--
13 that's fine. If I could just go on and examine
14 him--
15 THE CHAIR: Well, that's what I was going
16 to say. If--and then you let me know if you want
17 me to hand it back out, and I'll do that.
18 PROF. JOYNER: Okay.
19 THE CHAIR: Okay. But the agent does
20 have 14 now.
21 Q (By Prof. Joyner) All right. Now, did you get a
22 copy of that document?
23 A Just now?
24 Q No. Did you have--during your investigation--

1 A Yes, sir.
2 Q --did you receive a copy of that--that document?
3 A Yes, sir, I did.
4 Q And on the back side of that, it has a fax cover
5 page. Do you see that?
6 A Yes, sir, I do.
7 Q All right. Now, you testified about a conversation
8 with Representative Wright about a tax ID number?
9 A Yes, sir, I did.
10 Q Is--is--is this the document that you showed to
11 Representative Wright regarding that conversation?
12 A No, sir, it is not.
13 Q All right. So you had some other document that you
14 provided to him about the tax identification
15 number?
16 A No, sir, I did not. If I can explain, I did not
17 have that document.
18 Q He provided it to you?
19 A He provided it to me, yes, sir.
20 Q Okay. He provided it to you.
21 Did you check with the Internal Revenue
22 Service regarding the authenticity of this tax ID
23 number?
24 A Me specifically, I did not make that contact with

1 the IRS. Through Mr. Dan Rose--another agent did
2 that.
3 Q Okay. And did you determine that that was in fact
4 the tax identification number that was assigned to
5 the Community Health Foundation?
6 A I do not recall as I sit here for the--we had many
7 rounds with the IRS and trying to determine this
8 information. And I recall that once we received
9 this information, that it was taken on face value
10 that the employer identification number was
11 authentic.
12 Q Okay. So--so you did not--your recollection is
13 that you didn't check any further with Internal
14 Revenue regarding the authenticity of this tax
15 identification number?
16 A I did not.
17 Q You did not?
18 A Another agent did. And I don't have that report
19 with me, as well, so I don't know exact--I can't
20 recall exactly what that report says.
21 Q To the best of your recollection, you never
22 received any information that this was not an
23 authentic number--tax identification number
24 assigned to the Community Health Foundation?

1 A It is correct that I did not receive any
2 information that this was not a valid number.
3 Q You indicated in your direct testimony that
4 Representative Wright at both interview had--
5 interviews had videotaped the interview--
6 A Yes, sir.
7 Q --with a--was it a handheld camera, or--or
8 stationary?
9 A It was a--like a typical handheld--I don't know
10 whether it was a digital or it had a tape in it; I
11 believe it had a tape in it--handheld audio
12 recorder--I mean--I'm sorry--video recorder that he
13 had set up on a tripod at the end of the table to
14 record the interview.
15 Q All right. And--and--and that--the taping of the
16 interview did not inhibit you in any way in asking
17 Representative Wright questions that you need to
18 ask him, right?
19 A No, sir.
20 Q It didn't intim--it didn't threaten you in any way,
21 did it?
22 A No, sir. I was--I was after the truth. And--and
23 if he wanted to record that, that--we did not have
24 a problem with that.

1 A But we did take a break for ten minutes.
2 Q Okay. And--and when you came back from the break,
3 the first thing that Representative Wright did was
4 to provide you with these documents; is that
5 correct?
6 A Yes, sir.
7 Q All right. And during the time that he was handing
8 you the documents, the videotape wasn't on?
9 A That is correct.
10 Q All right. So he was actually handing you the--the
11 documents. And I think that you have--you make
12 reference to them in your report as you identify
13 each of the documents and what the--the--the
14 document purported to--to--to reveal; is that
15 correct?
16 THE CHAIR: What--what page are we on?
17 THE WITNESS: Page 8.
18 PROF. JOYNER: Page 8.
19 THE CHAIR: Thank you.
20 Q (By Prof. Joyner) Is--is that correct?
21 A I'm sorry. Could you--
22 Q Right. And I--
23 A --repeat the question?
24 Q In your report--

1 Q Okay. And so he tape recorded both sessions; is
2 that correct?
3 A Videotaped both sessions.
4 Q Videotaped both--both--both sections?
5 A Yes, sir. If he al--if he also had an audiotape, I
6 don't know about that. I just know about a
7 videotape.
8 Q Okay. Now, in response to another question from--
9 from Mr. Hart, you indicated that at some point,
10 that the videotape was turned off?
11 A Yes, sir, I did.
12 Q Okay. Why was the videotape turned off?
13 A Because we took a break.
14 Q You took a break?
15 A Yes, sir.
16 Q And I--I believe at that point, you--you had
17 received a telephone call or something? You had
18 some--some--some business to--to--to take care of?
19 A I--I--I can't recall exactly what business I had to
20 take care of. I may have made a phone call. If I
21 did--if I did, I did. I don't--I just don't recall
22 if it was a phone call. It's very well likely that
23 it was.
24 Q All right.

1 A Yes, sir.
2 Q --you have--you've documented the fact that you
3 received these reports and what the reports or
4 documents purported to convey to you?
5 A That is correct, yes, sir.
6 Q And with respect to that, there were--there was no
7 conversation going on at that time between you and
8 Representative Wright?
9 A It was more of me writing the information down
10 about those documents and asking him could I make a
11 copy of each document. But it was quite a lot of
12 writing, so there was not much conversation, to my
13 recollection.
14 Q Okay. And as soon as you had completed your
15 recording of the data from those documents, the
16 videotape was turned back on?
17 A That is correct, yes, sir.
18 Q And it was at that point that you resumed the
19 dialogue between the two of you?
20 A That would be correct, yes, sir.
21 Q Okay. So--and--and--and I guess what I'm trying to
22 show, that there was no substantive conversation
23 held during the time that this videotape was off as
24 if there was some design not to record that

1 conversation; is that correct?
 2 A I don't know what his intent, desire was. But
 3 there was not a lot of conversation going on.
 4 Q All right.
 5 A I--I can't get into what he was thinking, but I--I
 6 do know that there was not a lot of conversation
 7 going on.
 8 Q But you do know that during that time, you were
 9 basically receiving the documents that he had
 10 provided, and you were listing and explaining what
 11 those documents purported to--to show?
 12 A That is correct, yes, sir.
 13 Q Now, the--the documents that you received at that
 14 time was the fax with the ID number on it; is that
 15 correct?
 16 A Yes, sir, that is correct.
 17 Q This is what you testified to--
 18 A Yes, sir.
 19 Q --when Mr. Wright--and then this JR158 form?
 20 A I believe the JR158 form was the fax page--
 21 Q Okay.
 22 A --from Memphis, Tennessee, identifying a employee
 23 identification number, one and the same that you
 24 just mentioned, yes, sir.

1 asked.
 2 Dr. Joyner and--and Representative Wright
 3 have the document. Our counsel has the document.
 4 I'd like to know and I'm going to ask for
 5 discussion on why the Members of the Committee
 6 shouldn't have this document. And so we'll talk
 7 about that at some point. But seems to me fairly
 8 important.
 9 So with that being said, let's take a
 10 ten-minute break and let everybody take a recess
 11 for a moment. Thank you.
 12
 13 FOURTEEN-MINUTE RECESS
 14
 15 THE CHAIR: All right. The--we are back
 16 in order. We are still on cross-examination. Dr.
 17 Joyner.
 18 Q (By Prof. Joyner) Mr. Umphlet, want to go back to
 19 the--the discussion that you had with
 20 Representative Wright regarding bylaws for the
 21 Community Health Foundation. In--initially did you
 22 have some confusion about the work of the Community
 23 Health Center and the Community Health Foundation?
 24 A There was--sorry. Excuse me. I apologize.

1 Q All right. And then a IRS Form SS4?
 2 A That is correct, yes, sir.
 3 Q And then you explained what that--what that was.
 4 And then the IRS W-9 form?
 5 A That is correct, yes, sir.
 6 Q All right. Now, is there--did you ever receive any
 7 information from anyone that that information
 8 provided in--in those documents--that that
 9 informa--was not authentic?
 10 A No, sir.
 11 Q All right. I want to take you back to your
 12 testimony regarding comments that Representative
 13 Wright--
 14 THE CHAIR: Mis--Dr. Joyner, I'm going to
 15 try and--just thinking of the court reporter and a
 16 good time for a few-minute break. But I--I'll--is
 17 this a good time, or do you--
 18 PROF. JOYNER: That's fine. That's fine.
 19 THE CHAIR: All right. And while we're
 20 on break, I want counsel to be thinking of this on
 21 both sides. We've got--I'm--I've got the document.
 22 I've not looked at anything other than paging
 23 through to see how many pages there are of--and
 24 trying to follow the questions that Dr. Joyner

1 In the--in the beginning, there was some
 2 confusion as to--as to the difference between the
 3 Community Health Foundation and the New Hanover
 4 Community Health Center, because the two being
 5 right down there in Wilmington. And so what we did
 6 prior to each interview is I asked him would it be
 7 okay to refer to the New Hanover Community Health
 8 Center as "the Center" and the Community's Health
 9 Foundation as "the Foundation." As to what the two
 10 did, I knew what the Community--the New Hanover
 11 Community Health Center did, but did not, for a
 12 while, know what the exact purpose of the
 13 Community's Health Foundation was.
 14 Q And you knew that Representative Wright was
 15 connected with both of those?
 16 A That is correct, yes, sir.
 17 Q And--and at the time, that he was serving as the
 18 chair of the Community Health Center and president
 19 of the Community Health Foundation?
 20 A Yes, sir. Make sure I was correct on that. Yes,
 21 sir.
 22 Q Now, with respect to the Foundation, you asked
 23 Representative Wright about bylaws in your first
 24 interview?

1 A On September 28th.
 2 Q September 28th?
 3 A Yes, sir.
 4 Q And he told you at that time--I think initially he
 5 told that there were bylaws?
 6 THE CHAIR: If--
 7 PROF. JOYNER: Go on.
 8 THE CHAIR: Go--go ahead and answer that.
 9 A The way I recall him stating that was there were
 10 bylaws, and then turned around and said there were
 11 no bylaws, in the first meeting that we had, that
 12 initially there were bylaws but then corrected it
 13 to there were no bylaws. And then in our second
 14 interview is when he came back and said he would
 15 like to make a correction, that there were bylaws.
 16 Q (By Prof. Joyner) And at--at the--at that same--
 17 I'm--I'm--I'm taking you back now to the sep
 18 twenty--September 28th interview. He also
 19 indicated that with respect to the foundation, that
 20 there were no official board meetings; is that
 21 correct?
 22 A That is correct.
 23 Q He--he did not--did he indi--didn't he indicate to
 24 you that--that members of the board had met

1 I'd seen the--the letter in--in different states,
 2 meaning that I'd--I'd seen the letter without it on
 3 letterhead. I've seen the letter without a
 4 signature. And I've seen the letter as it appears
 5 as Exhibit Number 3 today. Now, an--an exact time
 6 frame as to when I first saw a signed letter or a--
 7 or the letter itself, I do not have a recollection
 8 of that date.
 9 Q All right. Can--can--do you have a present
 10 recollection as to where you got the letter from?
 11 A Well, I--I received the letters from--I've received
 12 several different letters from several different
 13 locations. One letter I received from Bill Dowdy
 14 with the--who's an investigator with the District
 15 Attorney's Office here in Wake County. And if I'm
 16 not mistaken, it was a forwarded e-mail--it was
 17 atta--an attachment to a forwarded e-mail to me. I
 18 recall that it had been sent to him from Kim Strach
 19 and that it had been sent to Kim Strach from
 20 Attorney Doug Kingsberry. That is one way I
 21 received a letter--this--a copy of this letter.
 22 Q All right. Now, would this have been a signed, or
 23 unsigned?
 24 A That would have been a signed letter.

1 unofficially?
 2 A I recall that he had interaction with those
 3 members. But the exact wording of that I--I do not
 4 recall. I'm not saying either way. I just don't
 5 recall that fact.
 6 Q But you--you do have a present recollection that
 7 there was some conversation with him about
 8 conversations and dialogues that he--dialogue that
 9 he had with members of the foundation board?
 10 A To some extent. But to which extent I do not know.
 11 Q Okay. But you were clear that--that--that there
 12 were no official board meetings and minutes?
 13 A That is correct, yes, sir.
 14 Q Okay. And--and that's what you have in your
 15 report; is that correct?
 16 A Yes, sir. That is correct.
 17 Q All right. Now, with respect to the--this letter
 18 from Torlen Wade, you have that--Exhibit 3 in
 19 your--in your notebook?
 20 A If you'd give me a minute, sir. It's in front of
 21 me now.
 22 Q Tell me when--if you recall, when you first saw
 23 that letter.
 24 A I'd seen the letter in various types and--or let--

1 Q Okay. Would--is--is--is--is--by "signed letter,"
 2 do you mean a copy of this Exhibit 3?
 3 A I mean a copy of the letter on letterhead with a
 4 signature on the bottom of the letter.
 5 Q Okay. Just like Exhibit 3?
 6 A Yes, sir.
 7 Q Okay.
 8 A That was--that was one of--one of several ways that
 9 I received the letter.
 10 Q Okay. Now, what--do you recall the other ways that
 11 you received the letter?
 12 REP. STAM: Mr. Chairman, objection. My
 13 objection is this: Since he's testified that
 14 Respondent has authenticated the signed letter,
 15 what possible difference does it make when he first
 16 saw it?
 17 THE CHAIR: All right. Dr. Joyner, do
 18 you want to respond?
 19 PROF. JOYNER: The question wasn't when
 20 did he first see it. The question was where did he
 21 get it.
 22 REP. STAM: I renew my objection. Why
 23 would it possibly matter where he got it from?
 24 THE CHAIR: Dr. Joyner.

1 PROF. JOYNER: Because it's going to fit
2 into my closing statement.
3 THE CHAIR: Going--okay. With that, I'm
4 going to--for the time being, I'm going to
5 overrule. Obviously, we want to kind of move a
6 little bit faster on it, if we can. But it seems
7 to me that's legitimate. And the objection is
8 overruled.
9 A Okay. If it would help, I can explain how I
10 received all--all the letters--
11 Q (By Prof. Joyner) Yes, that would help.
12 A --if that would help, in--in paragraph form. That
13 would be--instead of asking the questions.
14 One copy of the letter I received from a
15 computer at the Department of Health and Human
16 Services from a prior--well, from the secretary who
17 is currently at the Health and Human Services. She
18 had gone on the computer, found a copy of it, and
19 printed it off for me. That was an electronic copy
20 which did not have a signature on it and was not on
21 letterhead.
22 I received another copy from general
23 counsel at DHHS that she had received from that
24 same secretary when the--when she had requested a

1 copy of that letter or a e--electronic version of
2 that letter without a signature be forwarded to
3 her.
4 It is my recollection that I also
5 received a copy from--or correction: I did not
6 receive that copy. Another agent, I believe, came
7 in the possession of another copy of that letter.
8 So I wouldn't be able to testify as to exactly who
9 he received that from.
10 Q And you had some conversation with Representative
11 Wright about this letter; is that correct?
12 A That is correct, sir.
13 Q This is during your September 28th interview?
14 A I believe, if I'm not mistaken, that conversation
15 came up in both interviews, beginning on the one on
16 the 28th of September of '07 and then again on
17 October 5th of '07. But yes, I--I--I do recollect
18 that conversation.
19 Q And that conversation was a part of a conversation
20 regarding the purchase of the--the Loftin building;
21 is that correct?
22 A That is correct, yes, sir.
23 Q All right. And in that conversation--or during
24 that discussion, you asked, I believe,

1 Representative Wright about the source of funds
2 that he anticipated receiving to pay off the
3 mortgage with the Coastal Federal Bank; is that
4 correct?
5 A Yes, sir, that is correct.
6 Q And do you recall him saying that--that it was his
7 intent to get the money through the General
8 Assembly special projects to pay for the Loftin
9 building?
10 A Yes, sir. I--I specifically remember him saying
11 that.
12 Q Okay. And--and he also indicated at that point
13 that that effort fell through due to budget
14 shortfalls that the General Assembly encountered
15 during that time; is that correct?
16 A That is correct. He did make that statement, as
17 well.
18 Q And that as a result of that, he was unable to
19 obtain the funding? Is that your recollection?
20 A Yes, that is my recollection. Yes, sir.
21 Q Did you initially call Representative Wright about
22 meeting with you for this--these interviews?
23 A Yes, sir. I believe the way that went is I--I
24 don't think the first time I called him I was able

1 to get ahold of him. I believe it--we played--may
2 have played phone tag for a while. But I--I
3 initial--I eventually received a telephone call
4 from Representative Wright based on my request to
5 him for an interview.
6 Q And it appears that that telephone call--it appears
7 that telephone call was on September 20th. Is--
8 does that--is that--that sound familiar?
9 A Yes, sir, it does.
10 Q And at that time, Representative Wright agreed to
11 meet with you?
12 A Yes, sir, he did.
13 Q All right. And y'all specifically arranged to meet
14 in the--I believe the conference room at the
15 Community Health Center?
16 A I don't believe that we had made an agreement to
17 meet during that phone call. Believe
18 Representative Wright advised he needed to check
19 his schedule or something about his schedule and
20 that he would call me the following--I believe the
21 following Tuesday for--to set up an appointment, at
22 which--at which time he did call and set up an
23 appointment with me for the Community's Health
24 Foundation--I'm sorry--the New Hanover Community

1 Health Center conference room on the first floor.
2 Q But you did--you--you--and--and that was a
3 voluntary meeting?
4 A Yes, sir, it was.
5 Q All right. How long did the September 28th meeting
6 last?
7 A I would say the September 28th meeting lasted
8 approximately three hours, give or take a few
9 minutes. We had--had additional questions, but he
10 had a prior engagement and advised that he did
11 not--could not stay any longer. So the meeting
12 ended approximately one P.M., if I'm not mistaken,
13 somewhere around that time. But about three hours.
14 Q And the October 5th meeting, how long did that
15 last?
16 A If I'm not mistaken, that meeting lasted--or that
17 interview lasted at least six hours or somewhere in
18 the ballpark of six hours.
19 Q And dur--during that time, did Representative
20 Wright answer all of the questions that--that you
21 had raised with him?
22 A Yes, sir. He answered every question that I had
23 raised of him, yes, sir.
24 Q All right. Did you, in beginning either or both of

1 claim that there should have been Miranda rights
2 here, are you?
3 PROF. JOYNER: No. I'm just asking.
4 That's all.
5 THE CHAIR: Okay. Just so that you know,
6 Members of the Committee, when they were talking
7 about Miranda rights, Miranda rights only have to
8 be given when two things happen: when a suspect is
9 in custody, that is not free to leave, and being
10 interrogated. There's no claim that there was a
11 Miranda rights requirement or violation here.
12 All right. Thank you.
13 Q (By Prof. Joyner) And in both of these interviews,
14 you and--I--I think it was--
15 A It was--
16 Q --Agent Perry?
17 A Agent K. Perry. And for the record, for the
18 stenographer, that's the letter "K" and not--no
19 other spelling behind that. Just the letter "K."
20 Q So not the jewelry Kay?
21 A That would be correct.
22 Q Okay. So in both of these interviews, you--you
23 and--and Agent Perry were present to conduct the--
24 the interview?

1 those interviews, ever inform Representative Wright
2 of his rights, his Miranda rights?
3 A No, sir, as it was not required.
4 Q Okay. So you didn't inform--you never said
5 anything to him about any rights that he had?
6 A I believe, as indicated on this--if you give me
7 just a second, sir. I--I apologize. (Examines
8 paperwritings.) No, sir, he was not advised of any
9 Miranda rights, as that was not required, since he
10 was not in custody.
11 Q And--but he voluntarily came. And did--did he have
12 an--his attorney with him?
13 A No, sir. He advised that he did not have an
14 attorney and, as such, would like to video record
15 the--the interview.
16 Q All right. Did he have anyone with him when he
17 talk--talked with you?
18 A No, sir, he did not.
19 Q All right. Now, it was--I--I believe both
20 interviews--
21 THE CHAIR: Dr. Joyner, let me interrupt
22 for one quick question. Just so that--again,
23 because we're dealing with Committee members who
24 aren't all lawyers. Are--you're not making any

1 A That is correct, yes, sir.
2 Q And in fact, both of you did participate in
3 questioning Representative Wright, but you
4 basically led the discussion--led the interviews?
5 A That is correct, yes, sir.
6 PROF. JOYNER: Okay. If I could have a
7 moment?
8 THE CHAIR: Absolutely.
9 (DISCUSSION OFF RECORD)
10 Q (By Prof. Joyner) All right. Mr. Umphlet, you--
11 when you--when you came to--into the interviews
12 with Representative Wright, did you have a--a set
13 list of questions that you were using to guide your
14 interview with him?
15 A Yes, sir, I did.
16 Q All right. And what was the source of--of those
17 questions?
18 A The District Attorney's Office. T
19 Q The--
20 A The Wake County District Attorney's Office.
21 Q Okay. Wake County District Attorney's Office?
22 A Yes, sir.
23 Q And--and my hesi--is because you were in New
24 Hanover County?

1 A Yes, sir.
2 Q Yeah, when you--when you did--okay.
3 A I--I apologize. The Wake County District
4 Attorney's Office.
5 Q All right. And so prior to the interview that you
6 had with--or the interviews that you had with
7 Representative Wright, you did have some meetings
8 with the Wake County District Attorney to formulate
9 a specific regimen of questions that you were going
10 to--that you were going to cover with
11 Representative Wright?
12 A I don't think that we had a meeting to formulate a
13 set of questions. The que--there may have been
14 some phone conversations, but the--the questions
15 were prepared by the District Attorney's Office.
16 Q Okay. And they were--they were delivered to you or
17 given to you in some manner?
18 A That is correct.
19 Q All right. And--and at the same time, you brought
20 in with you specific documents that you wanted
21 Representative Wright to--to respond to and
22 identify; is that correct?
23 A That is correct, yes, sir.
24 Q All right. And I--I believe that you had something

1 like two boxes of documents with you?
2 A I did. I had quite--quite a bit of documentation,
3 yes, sir.
4 Q All right. And were you able to get through all of
5 the documents that--that you had in--in your box?
6 A The--the documentation that--that was the bulk of
7 that were campaign disclosure reports for 2002
8 through 2006. And I brought that documentation out
9 and showed Representative Wright those forms. It
10 was the first--and I advised him that they had--
11 explained that there was approximately one hundred
12 and eighty-five thousand dollars (\$185,000) in
13 unreported campaign monies.
14 During that time, I went through step by
15 step each reporting cycle to--but not the complete,
16 entire. That would have probably taken another
17 twelve hours. But we went through, and I showed
18 him his disclosure report that he had submitted to
19 the Board of Elections and asked him was that the
20 report that he had submitted, and was that his
21 signature.
22 Now, there was a lot of other
23 documentation behind those disclosure reports that
24 he did not look at and that--advised that he would

1 like to have an opportunity with the Board of
2 Elections to go through those documents for any
3 discrepancies that there may be in the reporting.
4 But yes, those were documentation--
5 documents that were there, as well. And--and they
6 were--I would probably dare say there were probably
7 six three-inch notebook binders.
8 Q With respect to those--those reports that you just
9 referred to there, did Representative Wright not--
10 didn't he also say that it was--it was his
11 intention to amend those reports if there were
12 discrepancies found?
13 A I don't think--my recollection is--is--was that it
14 was not his intent to amend. My recollection was
15 he would like the opportunities to sit down with
16 the Board of--of Elections and to amend--
17 Q Right.
18 A --and to amend those reports and any monies, to sit
19 down with them and discuss that. He may have said
20 "intent." I just--I don't recall the word
21 "intent." I recall he would like to sit down for
22 the opportunity to look over that and to amend.
23 Q All right. But once you--you talked with him about
24 that, he indicated that he wanted to sit down with

1 them and then make whatever amendments that--that
2 needed to be made?
3 A That is correct.
4 Q Okay. Now, did you also have some conversation
5 with Wayne Loftin?
6 A Yes, I did.
7 Q All right. And during that conversation, did Mr.
8 Lof--Loftin or someone else advise you that
9 Representative Wright--
10 MR. HART: Objection. Hearsay.
11 THE CHAIR: Well, let me--let--I'll rule,
12 but let me--let me get the full question. I'm--
13 I've kind of got to hear the context of the
14 question to know if it's being offered--how it's
15 being offered.
16 Go ahead and ask the question. But don't
17 answer till there's a ruling, please, Agent.
18 Q (By Prof. Joyner) Did--was there some conversation
19 with Mr. Loftin or someone about a fifty-thousand-
20 dollar (\$50,000) slush fund that Representative
21 Wright was supposed to have?
22 MR. HART: Objection. Hearsay.
23 THE CHAIR: What's it being offered to
24 prove the truth of?

1 PROF. JOYNER: I'm just asking if that
2 was information that he had received that helped to
3 form the interviews that--that he conducted.
4 THE CHAIR: All right. This is when not
5 being a trial judge comes--let--let me think
6 through this. The question is whether in fact he
7 was given that information from Mr. Loftin? Is
8 that the question?
9 PROF. JOYNER: Yes. Yes.
10 MR. HART: I also object on relevancy
11 grounds, as well as hearsay.
12 THE CHAIR: All right. The objection's
13 overruled as to hearsay. I think the question
14 that's being asked in this context is not asking to
15 prove the truth of the matter asserted. He's
16 simply being asked if he was told that, not to
17 prove that it was or was not true.
18 As to relevancy, Dr. Joyner, how is the
19 question relevant?
20 PROF. JOYNER: We're dealing in--in part
21 here with an offer or involvement of Mr. Lof--
22 Loftin in the purchase of this building that formed
23 the basis of this hundred-and-fifty-thousand-dollar
24 (\$150,000) issue that's--that's before us. And so

1 that you've been being asked about.
2 A Okay.
3 Q You've been asked several questions about portions
4 of what's in your report. In order to put that
5 into context, your responses, I want to ask you, if
6 you would, if you'd read certain paragraphs from
7 Page 5 and Page 6. If you would, the third full
8 paragraph on Page 5, beginning, "Representative
9 Wright." Will you read that paragraph, please?
10 A On Page 5, the third full paragraph.
11 Q Beginning, "Representative Wright."
12 A "Representative Wright reported the purpose of the
13 checks from AT&T, AstraZeneca, and Anheuser-Busch
14 was to begin to assist the foundation in the
15 foundation's process and for the work of the
16 foundation. Wright reported he deposited all three
17 of those checks into his personal bank account at
18 the Bank of America. Wright advised he deposited
19 those checks into his account to reimburse him for
20 his work with the foundation. When ASAC Umphlet
21 asked what type of work Wright had done, Wright
22 advised, 'Lots of work.' ASAC Umphlet asked what
23 type of work Wright had done. Wright advised,
24 'I'll save that. I don't want to say that at my--

1 it's--it's relevant in--in the sense--in that
2 sense. Because--we had--we've had testimony
3 identifying Wayne Loftin as the son of the owners
4 of the building, that he was an intimate with Mr.
5 Burbank from the Coastal Federal Bank and was
6 involved in some way in making initial contacts
7 about the granting of the loan to the Community
8 Health Foundation. So--
9 THE CHAIR: I'm--all right. I'm going to
10 sustain the relevancy objection for right now, but
11 I'm going to reserve the right to think about--
12 you're not going to be released from your subpoena,
13 anyway, Agent, today. So I'm going to reserve the
14 right to--to come back to that as we finish
15 questioning. So it's over--it's sustained for
16 right now. Reserve the right to reconsider it.
17 Please go on.
18 PROF. JOYNER: That--that was going to be
19 my last question, Mr. Chair.
20 THE CHAIR: All right. Redirect.
21 Thank you. Thank you, Dr. Loftin (sic).
22 REDIRECT EXAMINATION BY MR. HART:
23 Q Agent Umphlet, I'm going to ask you, if you would,
24 if you'd look at Page 5 of that particular report

1 at my point. I don't want to incriminate myself.
2 It looks to me that y'all are trying to build a
3 case against me.' Wright then advised it was for
4 the countless hours of work he had done trying to
5 make the foundation work."
6 Q And if you would, read the next paragraph, to put
7 that in context, as well, sir.
8 A "ASAC Umphlet asked Representative Wright why the
9 checks were not deposited into the foundation's
10 checking account. Wright advised he was not
11 clearly aware of the foundation's checking account
12 but did recall Gottovi talking about the checking
13 account. Wright reported that when he received the
14 checks from AT&T, AstraZeneca, and Anheuser-Busch,
15 they were deposited at a later date. Wright
16 advised the checks sat around on his desk for a
17 long time before he actually deposited them.
18 Wright advised the Coastal Federal Foundation
19 account was probably closed by the time he
20 deposited those checks."
21 Q And the next paragraph, as well, that goes over on
22 Page 6, please, sir.
23 A "Representative Wright reported that he had
24 documentation showing why he was reimbursed the

1 money in reference to the checks from AT&T,
2 AstraZeneca, and Anheuser-Busch. Wright reported
3 it was for travel, phone calls, meetings, and
4 trying to make the foundation work. ASAC Perry
5 asked if Wright had a log showing his work. Wright
6 said he did not have a log, but he would be able to
7 prove it, referring to the work he had done.
8 Wright advised the checks from AT&T, AstraZeneca,
9 and Anheuser-Busch were not restricted as to how
10 they were to be used. Wright advised, 'No one goes
11 into a business and does not expect to--to be
12 reimbursed.' Wright advised it would have been his
13 decision on what to do with the money. Wright
14 stated that with what he put into the foundation in
15 sweat equity--Wright then continued by stating, 'I
16 put more into it--into it than this.' Wright was
17 referring to the amount of the checks from
18 Anheuser-Busch, AstraZeneca, and AT&T. Wright
19 advised he did not recall when he actually received
20 those three checks, but he did remember putting
21 them aside for a while. Wright advised there was
22 nothing illegal about paying himself."
23 Q Now, you indicated in cross-examination that at
24 some point, Representative Wright had shown you the

1 fax from the Tennessee center, the Memphis,
2 Tennessee, center; is that correct?
3 A That is correct, yes, sir.
4 Q And on Page 6, how--in the middle of that last
5 paragraph, there's a statement that--where he
6 responded whether or not he would show you the--the
7 fax.
8 A Is that the sentence that begins with "Wright said
9 he would not show"? I'm--there's--there's--
10 Q Yes, sir. Tell us--tell us what he said there.
11 A "Wright said he would not show the fax to ASAC
12 Umphlet, because the fax was his smoking gun."
13 Q Now, Mr. Joyner asked you about the video recorder
14 not being turned on and the fact that there was not
15 a lot of conversation going on during that time
16 period. But I'd ask you if you would look at Page
17 8 at the--what appears to be the--the third
18 paragraph, saying, "Upon returning." Tell us
19 what--what--what--what that says, sir.
20 A "Upon returning from the break, Representative
21 Wright advised that he had several documents that
22 ASAC Umphlet could review. Wright advised that he
23 would not turn on his video during this portion of
24 the interview, and that would--and that it would be

1 off record."
2 Q Did he say what he meant by "off record," sir?
3 A Not to my recollection, no, sir.
4 Q And again, he did not provide you with copies of
5 those documents he showed you at that time,
6 correct?
7 A No, sir, he did not.
8 Q All right. Mr. Joyner asked you about the
9 campaign--the documents that--that you showed
10 Representative Wright, and specifically that you
11 talked about some campaign disclosure forms?
12 A That is correct.
13 Q Ask you, if you would, if you'd look at, in your
14 notebook, Exhibit 16A.
15 And be--before I ask you about that
16 particular document, you--you said in response to
17 some of Mr. Joyner's questions that you asked
18 Representative Wright if he filed the campaign
19 disclosure forms and if his signature was on those
20 forms. How did Representative Wright respond when
21 you asked those questions?
22 A That he had filled out the forms and signed--signed
23 the forms to submit to the Board of Elections.
24 Q All right. Now, was Exhibit 16A one of the

1 campaign disclosure forms that--that you showed him
2 and that he said he had filed and signed?
3 A If you don't mind, I'd like a chance to look at
4 these notes right here before I--
5 Q Yes, sir. I believe if you'll on Page 9 of your
6 report.
7 A If you don't mind, I just need more time to--to
8 review this. (Examines paperwritings.) Okay.
9 After reviewing--reviewing this information, my
10 report advised that I went over disclosure reports
11 from 2000 to 2006. The first paragraph in here
12 where I show something being done was for the 2001
13 mid year. I don't have reference, that I see at
14 this point, in here to the 2000.
15 Q If--if you would, sir, look at the paragraph just
16 above that.
17 THE CHAIR: We're talking the fourth
18 paragraph on that page; is that correct?
19 MR. HART: That's correct. Where it
20 says, "As part of this interview, ASAC Umphlet."
21 A Okay.
22 Q (By Mr. Hart) Does that refresh your recollection
23 where the--the 2000 first-quarter, second-quarter,
24 third-quarter, and fourth-quarter reports?

1 A That is correct.
2 Q All right. And is that Exhibit 16A, sir?
3 A The first-quarter report for 2000 is, yes, sir.
4 Q All right. If--if you'd look through that, is that
5 all four quarters, 16A?
6 A Let's see. I'm sorry. Yes. Could you repeat your
7 question again?
8 Q Yes, sir.
9 A I'm sorry.
10 Q Is--Exhibit 16A, is--is that the--all four periods
11 for the year 2000?
12 A Yes, it is.
13 Q And is that what you referred to in your report as
14 the campaign disclosure forms that you showed him?
15 A Yes, sir, it is.
16 Q And do you indicate, sir, that--that he said that
17 he had filed each of those and had signed each of
18 those?
19 A For--for the year of 2000?
20 Q Yes, sir.
21 A Yes. Yes. Yes. I did indicate that, yes, sir.
22 Q All right. And if you look at 16B, sir?
23 A Okay.
24 Q And is 16B the mid-year and year-end disclosure

1 I just wanted to make that--that
2 distinction right there.
3 Q All right. So 16D, are those the mid-year and
4 year-end disclosure reports that you showed
5 Representative Wright?
6 A Yes. They appear to be, yes, sir.
7 Q And did he tell you that he had signed and--signed
8 those and sent those to the Board of Elections?
9 A Yes, he did.
10 Q Ask you, if you would, if you'd look at 16E, and
11 whether those are the 2004 first-quarter, second-
12 quarter, third-quarter, and fourth-quarter
13 disclosure reports that you showed him.
14 A Yes, they are.
15 Q Now, I believe that Representative Wright indicated
16 to you that he had sent each of those to the Board
17 of Elections; is that correct?
18 A That is correct.
19 Q Did he indicate to you that he had signed a couple
20 of those but not signed a couple others?
21 A That is correct.
22 Q Do you remember what he said about why two of those
23 were not signed?
24 A Maybe that he was in a hurry and had forgotten to

1 reports that you showed him for 2001?
2 A Yes, sir.
3 Q And did he indicate that he had signed those and
4 sent those to the Board of Elections?
5 A Yes, sir, he did.
6 Q Ask you to look at 16C. Are those the first-,
7 second-, and third-quarter reports and fourth-
8 quarter reports for the year 2002 that you showed
9 him?
10 A Yes, they are.
11 Q And did he indicate to you that he had signed those
12 and had sent those to the Board of Elections?
13 A Yes, sir, he did.
14 Q Ask you to look at 16D, and ask--ask you if those
15 are the year 2003 mid-year and year-end disclosure
16 reports that you showed him.
17 A Yes, sir. Can I--can I make a comment about one of
18 the 2001 mid-year reports?
19 Q Yes, sir.
20 A At that point, Representative Wright was not sure
21 at what point some of the disclosure reports had to
22 quit being signed by legislators.
23 Q Signed, or notarized?
24 A Notarized. Excuse me. Notarized.

1 sign them.
2 Q Okay. Ask you to look at the document marked 16F.
3 Ask you, sir, if that is the 2005 mid-year and
4 year-end disclosure reports that you showed
5 Representative Wright.
6 A Yes. They appear to be, yes.
7 Q All right, sir. And did Representative Wright tell
8 you that he had personally signed each of those and
9 sent them to the Board of Elections?
10 A Yes, he did.
11 Q Ask you to look at 16G, Exhibit 16G. And ask you
12 if those are the 2006 first-quarter, second-
13 quarter, third-quarter, and fourth-quarter reports
14 that you showed Representative Wright.
15 A Yes, sir, they appear to be.
16 Q And did Representative Wright indicate to you that
17 he had signed each of those reports and sent those
18 to the Board of Elections?
19 A Yes, sir, he did.
20 Q In cross-examination, Representative Joyner asked
21 you if you had some conversation with
22 Representative Wright in which--
23 PROF. JOYNER: Don't think before the
24 election--

1 MR. HART: I'm sorry. Excuse me.
2 Q (By Mr. Hart) Mr. Joyner asked you if you had had
3 some conversation with Representative Wright about
4 the fact that he wanted to know why he couldn't
5 just amend his reports, that he'd like to have an
6 opportunity to amend his reports?
7 A Yes, sir.
8 Q Did he indicate to you that he was surprised by
9 your inquiry about that and your allegations about
10 a hundred and eighty-five thousand dollars
11 (\$185,000) in unreported contributions?
12 A Advised it was new information to him.
13 Q That it was new information to him?
14 A Yes, sir.
15 Q And this was in September--this was in October of
16 2007?
17 A Yes, sir.
18 MR. HART: That's all the questions I
19 have, sir.
20 THE CHAIR: Recross.
21 RE-CROSS-EXAMINATION BY PROF. JOYNER:
22 Q Agent Umphlet, let's--let's see if we can't clarify
23 something. With respect to the reports 16A through
24 16H or whatever, that series of report--

1 Board or have an opportunity to review that
2 information with the Board of Elections and--and to
3 amend it; is that--
4 A That is correct, yes, sir.
5 Q That--that's--that's--that's what--that's what he
6 said?
7 A Yes, sir.
8 Q This is--and these were the same documents that you
9 were referring to at that point?
10 A That is correct.
11 Q Okay. Now I just want to take you back. Mis--Mr.
12 Hart had you to read several things from Pages 5
13 and 6. And one of the things that he read--that he
14 had you read was that Representative Wright did not
15 want to show you a copy of the fax--tax
16 identification number. Do--do--do you recall that?
17 A Yes, sir, I do recall that.
18 Q Okay. And I'm going to just direct your attention
19 to Page 6 in your report.
20 A Yes, sir.
21 Q And the last paragraph there.
22 A Yes, sir.
23 Q And ask if you would read that.
24 A The whole paragraph?

1 THE CHAIR: G? 'Cause I don't know that
2 there is an H. Is that right?
3 PROF. JOYNER: G.
4 Q (By Prof. Joyner) My recollection from your
5 direct--or from your ex--your--your answer on
6 cross-exam--examination was that Representative
7 Wright had indicated that he wanted to meet with
8 the Board of Elections to review those reports and
9 have an opportunity to make amendments if there
10 were discrepancies. Is that--is that what his--his
11 statement was to you?
12 A Wright advised he would like the time to review and
13 evaluate the material and to be able to respond and
14 be able to see what was going on. That was one of
15 the comments that he made. If you give me just a
16 second to--to review this, I'll--(examines
17 paperwritings). He advised that he would have to
18 go back and take an internal look and go back and
19 amend the reports, but there was nothing
20 intentional as to the nondisclosure of those
21 donations.
22 Q Okay. But on cross-examination, you specifically
23 indicated that Representative Wright had said that
24 he had wanted to review that information with the

1 Q Yes, the whole paragraph.
2 A "ASAC Umphlet showed Representative Wright the
3 letter to Lewis McKinney of Anheuser-Busch, which
4 was dated February 6th, 2004, and the letter to
5 Brian Shank of AstraZeneca Pharmaceuticals, which
6 was dated November 14, 2003. ASAC Umphlet pointed
7 out to Wright that the letters identified a federal
8 tax identification or ID number, of"--am I allowed
9 to read the number in this--open court?
10 Q Yes.
11 A Okay. "56 dash 2252434. ASAC Umphlet asked Wright
12 about the tax ID number. Wright reported that he
13 had applied for the tax ID number with the Internal
14 Revenue Service. Wright advised that his
15 legislative staff in Raleigh helped him in getting
16 the tax ID number. Wright did not want to say who
17 those staff members were but advised that some were
18 no longer employees. Wright advised he had a copy
19 of the application, even a response from the IRS
20 that they had faxed to Wright with the tax ID
21 number on it. ASAC Umphlet asked Wright would he,
22 in parenthesis, Wright, end parenthesis, show ASAC
23 Umphlet the fax from the IRS with the tax
24 identification number on it. Wright said he would

1 not show the fax to ASAC Umphlet, because the fax
2 was his smoking gun. Wright reported that his
3 member of Congress, Mike McIntyre, helped Wright in
4 obtaining the tax ID number. Wright advised that
5 McIntyre would not know about the tax ID number but
6 that his staff would know. Wright reported that he
7 received the fax from both his fax at the residence
8 and his fax at his Raleigh office. Wright advised
9 he has it and can prove it. ASAC Umphlet asked
10 Wright if the issue concerning the tax ID number
11 could be ended by Wright showing ASAC Umphlet and
12 ASAC Perry the fax, would he show them the fax?
13 Wright advised he knew that he could not
14 fictitiously create the tax ID number,"--or,
15 correction--"could not fictitiously create that tax
16 ID number. ASAC Perry advised Wright that he, ASAC
17 Perry, and ASAC Umphlet were trying to get to the
18 truth. Wright advised he was trying to protect
19 himself. Wright advised he had already been told
20 he was being charged and that he was told that back
21 in February. Wright then advised he would reflect
22 on giving that document to ASAC Umphlet and that he
23 had several copies."
24 Q All right. Now, want to just direct your attention

1 THE CHAIR: I am pretty strongly inclined
2 to do that, but I want to take the break at lunch
3 to think about how I want to handle that. But--
4 REP. STAM: Thanks.
5 THE CHAIR: Somebody's probably going to
6 have to persuade me otherwise. But we'll go from
7 here to break. And let me think about it.
8 Dr. Joyner, please continue.
9 Q (By Prof. Joyner) And in the next three
10 paragraphs, you go on to identify and describe
11 those three documents; is that correct?
12 A That is correct.
13 Q And one of those documents is the flip side of
14 Exhibit 14?
15 A That is correct.
16 Q And that--is that the same tax ID number that you
17 made reference to on Page 6 with the letter from
18 McKinney--or the letter to McKinney?
19 A Yes, it is.
20 Q It's the same thing?
21 A Yes, it is.
22 Q So on--when initially asked about these documents,
23 Representative Wright declined or refused to
24 provide them to you. But as soon as the break was

1 now to Page 9 of that report. In the second full
2 paragraph there, does it not indicate that
3 Representative Wright advised you that he would
4 show you those documents?
5 A On Page 9?
6 Q Yes. On Page 8. I'm sorry.
7 A Okay. "Upon returning from the break,
8 Representative Wright advised that he had several
9 documents that ASAC Umphlet could review," which
10 were those documents.
11 Q Which were the same documents that you--that he
12 just--he just talked about and said that he would
13 not provide to you?
14 A That is correct.
15 Q All right. And then in the rest of that page, you
16 go on to receive and review those documents and to
17 describe exactly what those documents showed; is
18 that correct?
19 REP. STAM: Mr. Chairman, if I could
20 interrupt a sec, here?
21 THE CHAIR: Sure.
22 REP. STAM: We have now so thoroughly
23 asked about that document. Could the Committee
24 members have a copy of it?

1 over, he did provide you with those--with those
2 documents, ad you reviewed them and were given
3 sufficient time to identify each of those
4 documents?
5 A That is correct.
6 PROF. JOYNER: I have no further
7 questions.
8 THE CHAIR: All right. I'm going to hold
9 the Committee's questions until after break. We're
10 going to take our break a little bit early so I can
11 think about this document.
12 Now, if we can--and this is--again, I
13 want folks to not be exhausted. We're going to
14 have our break, but we're actually going to break
15 until two o'clock, so it's an hour and twenty
16 minutes. We--I'm sorry. Mr. Hart, are you--we'll
17 be in recess until two o'clock. Thank you.
18
19 (EIGHTY-SIX-MINUTE RECESS)
20
21 THE CHAIR: We are back in order for this
22 afternoon's session. Couple of logistics matters
23 to resolve first. We're going to stop at four
24 o'clock today. Conflicts both by some counsel

1 and--and Committee members. And again, I think
2 rather than trying a forced march to get through,
3 we're going to take the time we need to do this.
4 We will, however, start tomorrow at nine o'clock.
5 And I do want to try to--would like to try to
6 finish up, if at all possible, tomorrow. Again
7 without--but I do want to start at nine.
8 Secondly, I have reviewed the document
9 that was referred to at length, over lunch. I'm--
10 I'm not going to allow it into evidence as a
11 separate document. I don't think either counsel
12 has objection to that, the particular ruling. we
13 have--I think both counsel have gone to great
14 lengths to introduce specific paragraphs that they
15 thought were relevant into the record. And the
16 agent will--I'm sorry--of course, not be released
17 from the subpoena today, so that if we have other
18 paragraphs that we need to get in, we can--we can
19 do that tomorrow, since we will clearly be meeting
20 tomorrow.
21 I think that the best proceedings are
22 generally with relying on the counsel for both
23 sides, who are representing their clients
24 extraordinarily well. And always thought as

1 Warren.
2 REP. WARREN: No questions.
3 THE CHAIR: All right. Representative
4 Wiley.
5 REP. WILEY: No questions.
6 THE CHAIR: All right. And I will--I
7 may, but I do not have questions today. I'll hold
8 my questions in subject to recalling the agent in
9 the morning.
10 Agent, thank you. I think that ends--
11 since there were no questions, there shouldn't be
12 any redirect or recross. Agent, thank you very
13 much. I do want to say--and I want to thank the
14 Agent and can relate as chair, who is now
15 testifying on about an hour's worth of sleep over
16 the last day, because we both share something, and
17 that is that we both have Labs who are absolutely
18 frightened of thunderstorms, and they sit in our
19 beds, and--and in each of our cases, we dog-sit
20 during thunderstorms. He dog-sat last night. So I
21 can relate completely and hope you catch some sleep
22 this evening--
23 THE WITNESS: Thank you.
24 THE CHAIR: --and your dog does, too.

1 counsel it was inappropriate for chairs or judges
2 to try to litigate the case as well as chair it.
3 So I'm not going to engage in that practice that I
4 always despised.
5 There may be questions that--a couple of
6 paragraphs that other--that counsel may want to put
7 in. And as I said, we'll have that opportunity.
8 But for now, the document will not be entered into
9 the record.
10 I should also note that the document
11 contains a number of provis--of paragraphs
12 unrelated to any charges that are here today.
13 Okay. With that being said, I think that
14 we're through counsel questioning, if I remember.
15 Am I right?
16 Okay. Representative Stam.
17 REP. STAM: Thank you, Mr. Chairman. No
18 further questions.
19 THE CHAIR: Okay. Representative Lucas.
20 REP. LUCAS: No questions.
21 THE CHAIR: Thank you. Representative
22 McGee.
23 REP. MCGEE: No questions.
24 THE CHAIR: Thank you. Representative

1 Thank you.
2 All right. With that, Mr. Hart, next
3 witness.
4 MR. PETERS: The next witness would be
5 Kim Strach.
6 THE CHAIR: Ms. Strach, if you'll come
7 forward.
8
9 Whereupon,
10 KIMBERLY W. STRACH,
11 having been first duly sworn,
12 was examined and testified
13 as follows:
14
15 THE CHAIR: Thank you, Ms. Strach. Mr.
16 Hart, the witness is with you.
17 DIRECT EXAMINATION BY MR. PETERS:
18 Q Could you state your name, please?
19 A Kim Westbrook Strach.
20 Q And how are you employed, Ms. Strach?
21 A I am the deputy director of the North Carolina
22 State Board of Elections.
23 Q How long have you been in that position?
24 A Let's see. Since March 2000.

1 Q Were you with the State Board of Elections before
2 March of 2000?
3 A Excuse me. That's--that's when I came to the State
4 Board of Elections. I have been the deputy
5 director since October of '01.
6 Q And what position did you hold at the State Board
7 before becoming deputy director?
8 A I was an elections investigator.
9 Q And what did your duties as election investigator
10 involve?
11 A Primarily I investigated complaints that alleged
12 violations of the campaign-finance regulations.
13 Q And what do your duties as deputy director involve.
14 A Still that--that is certainly part of my duties
15 now. But the other, I am in charge of making sure
16 that all political committees in North Carolina
17 provide disclosure and are in compliance with the
18 campaign-finance statutes.
19 Q You referred, I believe, to investigating
20 violations of the the campaign-finance laws?
21 A Yes.
22 Q Could you describe a little bit more what that
23 involves?
24 A Well, it involves--often we--the State Board of

1 paylay--payday lending companies, as well.
2 Q Do you know what the Sims Hugo Neu Corporation is?
3 Do you know anything about that organization?
4 A The Sims Hugh Neu Corporation was--was proposing to
5 put a landfill in the Town of Navassa, which is
6 close to Wilmington.
7 Q Okay. Did your office take any action with regard
8 to that complaint?
9 A We did. We investigated that complaint and later
10 held a hearing on those allegations.
11 Q Okay. When you say "we investigated," can you
12 describe in detail what you did to investigate that
13 complaint?
14 A Sure. The first thing we did was we sent notice to
15 Representative Wright and gave him the opportunity
16 to respond to the allegations in the complaint. In
17 order for us to investigate the--the allegations
18 that were alleged here, we needed to look at the
19 bank records, because the allegations were that
20 Representative Wright had disclosed receiving
21 contributions from the Sims Hugo Neu employees, but
22 he had disclosed it at a time after the primary and
23 not when he had actually received those
24 contributions. So in order for us to make a

1 Elections will receive complaints from register--if
2 a registered voter files a complaint alleging a
3 violation against any political committee, then it
4 is the--the job of the Campaign Finance Division of
5 the State Board of Elections to investigate that
6 complaint. And it may be that a complaint is--may
7 be--the complaint may be involving a county
8 official or a municipal office. Still all of those
9 offices--those complaints are--are handled by our
10 office.
11 Q Okay. Drawing your attention to December of 2006.
12 Do you know if the State Board received a complaint
13 regarding Representative Wright in around that
14 time?
15 A Early December 2006, we did receive a complaint.
16 Q Do you recall who that complaint was from?
17 A It was from Joe Sinsheimer.
18 Q And what--can you describe the gist of that
19 complaint, what the complaint alleged?
20 A The allegations were that Representative Wright had
21 filed false or misleading reports regarding various
22 contributions from employees or contributors from
23 the Sims Hugo Neu Corporation. And it also alleged
24 some improper filing with respect to some sort of

1 determination on--on those allegations, we would
2 need to look at the bank records to see when those
3 checks were deposited.
4 Q So that I'm clear, the allegation in the complaint,
5 then, was that reports were disclosed later than
6 they should have been?
7 A Correct.
8 Q Okay. Now, you said you gave Representative Wright
9 notice of the complaint?
10 A Yes.
11 Q Did you receive any response from Representative
12 Wright?
13 A The--the note--the--the letter was sent to him
14 shortly after we received the complaint, and it--it
15 was close to Christmas. So I--I--I believe that we
16 gave him until sometime mid January to respond to
17 that. On the day that it was due, I got a
18 voicemail from Representative Wright--I believe--
19 I--I believe I received the voicemail asking--
20 saying that he--his--he had been out of town over
21 Christmas, that he had had a death in his family,
22 and he needed an extension of time to respond. I
23 called him back that day, left him a message that
24 he could--he could certainly have an additional two

1 weeks to respond.

2 On that deadline, which would have been,

3 I believe, January 31st, Representative Wright came

4 to my office to meet with me. And he stated that

5 he did not have a response, but he wanted--he

6 wanted us to know that we was not ignoring us, that

7 he wanted to come in and find out what he needed to

8 do to resolve the complaint.

9 I spoke with him for a few minutes. I

10 remember that day he was not feeling well. And

11 we--we talked about what he would need to do. He

12 told me he wanted to comply and that he needed

13 the--I told him we would need some records from

14 him. He said he understood that, but the problem

15 was his treasurer had just had surgery, and she had

16 the records and wouldn't be able to--to provide

17 them right then. So he would call me that

18 afternoon with her name, and we would set up a time

19 to get together.

20 Q When you said you would need some records from him,

21 what records were those that you were going to

22 need?

23 A His campaign-account records.

24 Q For any particular period of time?

1 not--I--I'm not absolutely sure, but I think it may

2 have been sent certified mail. But we did not get

3 a response from that. And so the next day, a staff

4 member hand-delivered the letter and an

5 authorization to his office, and Representative

6 Wright signed that.

7 Q Was that to his office here in Raleigh?

8 A It was.

9 Q Okay. What happened next?

10 A He signed that, the authorization, which--the

11 authorization, what we do--this is not unusual

12 for--sometimes we--we send out authorizations if we

13 have to--to do investigations like this. We

14 certainly give the committees the chance to

15 authorize us to get those records.

16 We have to put on there the bank-account

17 number that we have, that they're required to give

18 us. We had listed that bank account on the

19 authorization. And when we came back to our

20 office, called the bank. They informed us that

21 that bank account had been closed a few years ago.

22 So at that point, after discussing this with my

23 executive director, we decided to subpoena those

24 records.

1 A Well, at that time, we were trying to--to find

2 the--2006 was the--the time period in the complaint

3 was for 2006. So records from that length of time

4 for those--for those reports. That would have

5 been--probably covered from January till--to the--

6 to the election.

7 Q All right. And I believe you said he said he would

8 call that afternoon with the name--

9 A He said when he got back to his office, that he

10 would call with the contact information for her.

11 He didn't have it with him, but he would--he would

12 call.

13 Q Did he in fact call?

14 A He didn't. So--

15 Q I'm sorry. Did you say--

16 A He did not. He did not call.

17 So after a couple of weeks, I wrote a

18 letter to Representative Wright. And with the

19 letter, I included an authorization for him to

20 authorize us to get those records so that we could

21 review them and try to resolve the complaint. I

22 did not--I--I think--and I gave a deadline of

23 February the 20th. At that time, I believe we

24 had--that that letter was picked up, 'cause I'm

1 Q All right. To--to back up just a little bit, you

2 said that Representative Wright was required to

3 provide you with a bank-account number?

4 A Every political committee that is registered with

5 our office or even a county board of elections

6 office is required when they--when they organize

7 their committee, they are required to give us the

8 bank-account numbers of all accounts they're going

9 to use for their campaign. And if they change bank

10 accounts, then they are also required to notify us

11 of that change and provide any new account

12 information.

13 Q And so was it that bank-account number that you had

14 on record for Representative's Wright campaign

15 committee? Is that the bank-account number that

16 you called the bank about?

17 A Yes.

18 Q And I believe you said you were told that it--that

19 bank account had been closed?

20 A Yes.

21 Q Do you recall when it had been closed?

22 A It was closed in 2003.

23 Q All right. And this was in--when you made that

24 call was--

1 A This was in early 2007.
2 Q All right. So what did you do next?
3 A We subpoenaed the records. And at that time, we
4 started getting--getting records. We subpoenaed
5 actually the bank. And Bank of America did have
6 accounts for Representative Wright, and so they
7 provided those records to us.
8 Q When you say you subpoenaed the records, what
9 exactly did you ask Bank America for--
10 A For--
11 Q --in the subpoena?
12 A In--what we decided to do, because we didn't know
13 what--what we were actually--where his accounts
14 were or--or--we asked them to provide us with the
15 bank records of any account that he was listed on
16 the account for.
17 Q All right. And what happened next in the
18 investigation?
19 A After we start--we started receiving bank records.
20 Our staff started reviewing those records. And
21 what we--what we were trying to do was to find
22 where these--these contributions had been deposited
23 so that we could--we could then determine if those
24 allegations were--there was merit to those allega--

1 accounts, do you recall where those accounts were?
2 A He--for a period of time, I believe--and I do have
3 a list of when they were. In '04--from April 23rd,
4 2004, to June of '05, his campaign account was at
5 First Citizens Bank. And then in February, he
6 opened an account at Coastal Federal Bank.
7 Q All right. So in total, how many bank accounts did
8 you discover that were used as campaign accounts?
9 A There--there were campaign contributions deposited
10 in five different accounts. The--the joint account
11 with his wife, there was only one campaign
12 contribution deposited in that account. But the
13 other accounts had a significant number of
14 contributions that were deposited into them.
15 Q All right. Could you tell if there was any period
16 of time in the time you were looking at with the
17 accounts when there was not a campaign count--
18 account in existence?
19 A There was. From--the--the First Citizens Bank
20 closed in June of '05. And from June of '05 until
21 February of '07, the only account that he had was
22 his personal account. And that is where
23 contributions were deposited during that time
24 solely.

1 allegations. We didn't--there were--there were two
2 bank accounts--actually there were three bank
3 accounts at Bank of America. But it was obvious
4 when we started receiving the records that that was
5 not the only bank that had to be used, because
6 there was a gap in--in--in the time period. So we
7 also--by that time, I think Representative Wright
8 was represented by counsel. And counsel called us
9 and said Representative Wright wanted to cooperate
10 with us, and he would authorize us to get any bank
11 account that he had. And so he told us where his
12 bank accounts were, and he signed authorizations
13 for additional bank accounts.
14 Q Without necessarily giving account numbers, what--
15 exactly what bank accounts did you learn existed at
16 Bank of America or had existed at Bank of America?
17 A There were--we received records for three bank
18 accounts from Bank of America. One was the
19 campaign account that had closed in 2003. There
20 was a--an account that just had Representative
21 Wright's--his personal account had "Thomas E.
22 Wright" on the--on--on that account. And there was
23 also a joint account with his wife.
24 Q And when his counsel called and identified other

1 Q Perhaps just so the record is clear, the bank
2 accounts that were campaign accounts, not the
3 personal accounts, could you state for each one
4 what dates they were in existence and which bank--
5 A I could.
6 Q --they were at?
7 A The campaign accounts, the--the Bank of America
8 account was opened April 3rd, 2000. And it closed
9 November 4th, 2003. The First Citizens Bank was
10 April 23rd, 2004, and it closed June 9th, 2005.
11 The Coastal Federal Bank was opened February 24th,
12 2007. And to my knowledge, that bank account may
13 still be open.
14 Q All right. And was the personal bank account--not
15 the joint one but the one that was just in
16 Representative's Wright--Representative Wright's
17 name, was that account open and active during the
18 entire period of time you looked at?
19 A It was. That account was opened July 14th, 1999,
20 and was open through our investigation.
21 Q All right. So what did you do next in your
22 investigation?
23 A Once we had obtained all of the records, then what
24 we--what we were trying to do is--as--as our first

1 goal was--was to--to look at the allegations in the
2 complaint. Upon reviewing those records, it became
3 immediately clear that there were a significant
4 number of contributions that were not disclosed
5 that had been deposited in those accounts. So that
6 became another area that we started investigating.
7 Not only the--the--the 2006, but because there were
8 certainly contributions that were not showing up on
9 any report, that was a turn that we--that the
10 investigation took at that time.
11 Q And you say there were contributions that were not
12 disclosed. What do you mean by them not being
13 disclosed?
14 A Every political committee that is--raises more than
15 three thousand dollars (\$3,000) or--is required to
16 report every contribution they receive. And that--
17 those contributions are supposed to be disclosed on
18 disclosure reports that are filed, during even-
19 numbered years, quarterly, and, during odd-numbered
20 years, semiannually. And so any--any amount of
21 money that goes--that is written to a candidate or
22 to any political committee that--for that purpose
23 must be disclosed. And there were checks that were
24 in not only the campaign account but the account

1 the third and fourth quarter.
2 Q So would these be all of the reports that would
3 have been filed for the year 2000?
4 A That would be all the required reports for 2000.
5 Q All right. Let me ask you to look at Exhibit 16B.
6 And again take a minute to look at it. It's not
7 quite as thick.
8 A Okay.
9 Q Can you identify that?
10 A Yes. Those would be the two required reports for
11 2001, the mid-year semiannual report, and the year-
12 end.
13 Q All right. And these again are the Thomas Wright
14 Committee?
15 A This is the Thomas Wright Committee.
16 Q All right.
17 A And--and filed by Thomas Wright.
18 Q All right. Let me ask you to look at Exhibit 16C.
19 A Okay.
20 Q Okay. Can you identify what 16C is?
21 A 16C were the reports required for 2002. And in
22 2002, we had an additional report called the
23 interim report. So there was the first, second,
24 interim, third, and fourth quarter.

1 that was a personal account that were made payable
2 to the Thomas Wright campaign.
3 Q And did you compare those checks to the disclosure
4 reports then?
5 A Yes, we did. Yes, we did.
6 Q All right. Let me ask you to--speaking of the
7 disclosure reports, let me ask you to turn to
8 Exhibit 16A in the notebook. And I'll--I'll give
9 you a minute to look at those. Let me know when
10 you've--there're a number of pages there. So
11 please let me know when you've finished looking
12 through those pages.
13 A I'm--I'm finished.
14 Q Okay. Can you identify the documents that are in
15 16A?
16 A I can. These are the four quarterly disclosure
17 reports for the year 2000.
18 Q The--and they would be filed by--these reports were
19 filed by whom?
20 A They were filed by Thomas Wright.
21 Q All right. At the top, does it say--of the first
22 one, "Thomas Wright Campaign Committee"?
23 A It's the Thomas Wright Campaign Committee. And
24 they're--are the first quarter, the second quarter,

1 Q And again are these reports of the Thomas Wright
2 Campaign?
3 A They are.
4 Q All right. And Exhibit 16D?
5 THE CHAIR: I'm sorry. Before you go on
6 to 16D, I just want to make sure in my notes. Is
7 16C filed by Thomas Wright?
8 THE WITNESS: Yes.
9 THE CHAIR: All right. Thank you.
10 THE WITNESS: Okay.
11 Q (By Mr. Peters) Can you identify 16D?
12 A The--the--the reports--these are the two reports
13 for 2003, the mid-year semiannual and the year-end
14 semiannual.
15 Q And again are these reports filed by the Thomas
16 Wright Campaign Committee?
17 A They are.
18 Q Could you look at 16E?
19 A (Examines paperwritings.)
20 Q And can you identify 16E?
21 A Yes. This--these are the reports for 2004, the
22 first, second, third, and fourth quarter.
23 Q And again, were these filed by the Thomas Wright
24 Committee?

1 A They were.
2 Q All right. Turning your attention to 16F. If you
3 could, look at that.
4 A Yes.
5 Q Can you identify those documents?
6 A They would be the mid-year semiannual and the year-
7 end semiannual for 2005.
8 Q And again, were these filed by the Thomas Wright
9 Campaign?
10 A They were.
11 Q All right. And then Exhibit 16G.
12 A It's the 2006 disclosure reports, the first,
13 second, third, and fourth quarter.
14 Q All right. And again, were these filed by the
15 Thomas Wright Campaign?
16 A They were.
17 Q The documents marked 16A through 16G, are those all
18 of the disclosure reports that were required to be
19 filed from 2000 and through 2006 by political
20 committee?
21 A Yes.
22 Q All right. And are these all documents that are
23 maintained at the State Board of Elections?
24 A They are.

1 campaign-finances regulations is to provide
2 disclosure to the public. And so if the public is
3 not able to have access to these reports, then
4 we're kind of defeating our purpose.
5 Q All right. And do I understand correctly that for
6 any period represented by one of these disclosure
7 reports, that the committee should be reporting all
8 contributions received by the committee for that
9 time period?
10 A All contributions received.
11 Q All right. Before we go back to the investigation,
12 let me turn your attention. There are three CDs, I
13 believe, in front of you that are marked Exhibits
14 17A, 17B, and 17C.
15 A Yes.
16 Q Do you recognize those?
17 A I do.
18 Q Can you identify what they are?
19 A These are copies of all bank records that we
20 obtained from First Citizen's Bank, Coastal Federal
21 Bank, and Bank of America.
22 Q Did you prepare those CDs?
23 A My staff did under my direction.
24 Q All right. And do those CDs contain all of the

1 Q Are these documents made available to the public
2 for review?
3 A They are. Between 2000 and 2001, they were--you
4 actually have to visit the State Board of
5 Elections. We had a public viewing area. We had
6 many files that you could come in. Around 2002 we
7 started scanning these documents. There were
8 people that filed electronically. All of the
9 reports are--are now available, and have been for
10 several years, online, so that any--any member of
11 the public that has a computer doesn't have to come
12 down to the State Board of Elections; they can
13 actually view those online.
14 Q Are--are all of these documents in fact available
15 at the State Board's Web site?
16 A All--not only the reports but any--any
17 documentation that a political committee files with
18 us in on--is on--should be on the Web site. Any--
19 any letters, any correspondence from the--the
20 campaign, those--those documents are also
21 available.
22 Q Why does the State Board make all of those
23 available on the Web site?
24 A Well, because probably the greatest reason for

1 account information that you looked at in this
2 investigation, bank-account information?
3 A It does.
4 Q Okay. All right. Going back to the investigation
5 itself. I believe you said you and your staff
6 began comparing what you were finding in the bank-
7 account records and the checks with the disclosure
8 reports?
9 A Correct.
10 Q Can--can you describe a bit of that process?
11 A Well, it--it's usually a little bit--the process is
12 usually a little simpler than this time, because
13 what we usually do, when we have the accounts,
14 we're able to take the accounts--the account that
15 has been on--on file with us, compare it to see
16 what's been reported, what hasn't been reported.
17 In this situation, we were dealing with
18 multiple accounts and accounts that we were not
19 aware were--were out there. So what we had to do--
20 the campaign accounts, we entered all of the
21 contributions into a database so that we could then
22 compare those to the reports that Representative
23 Wright had filed. The problem came more with we
24 had the personal account from which contributions

1 had also been deposited into, and this account also
2 contained personal funds, obviously, funds that--
3 that were personal deposits made by Representative
4 Wright. So we--we then had to try to determine
5 which contributions had been deposited to this
6 commingled account to determine exactly what had
7 been disclosed and what hadn't been disclosed.

8 The other issue that we were faced with
9 is that his--in order to match contributions up--
10 usually it's a pretty easy thing to look at a
11 report, see the date that it's disclosed, look at
12 the account to see if that's the--matches the
13 date--the check in the--in the account. And--and
14 usually we know that, you know, a check is probably
15 may be received before--is--is going to be received
16 before it's deposited. And--and you're supposed to
17 re--report receipt of contribution, not deposit.
18 So we know that your date's not going to be just
19 right. It--it may be that you have received it
20 earlier than it's deposited. But never you're
21 going to deposit something before you've received
22 it.

23 And what we were having problems with was
24 matching up contributions that the deposit date

1 would--we would have a check that would show
2 receipt after the deposit date. It may be in that
3 amount. So we were having some difficulty matching
4 up these contributions to make sure they were in
5 fact the contributions that he disclosed.

6 So that--that was a ti--an area that kind
7 of took us a little bit of time because we wanted
8 to make sure if--even if Representative Wright had
9 disclosed it incorrectly, we certainly wanted to
10 make sure that if he disclosed it, we'd given him
11 credit for disclosure. So that--that was a process
12 that we had to go through.

13 Q And when you say "showed receipt," that you found
14 in some instances that the deposit date was before
15 what you had showed receipt?

16 A Right. On--on--on every report, you have to show
17 the--the date of receipt, when you--when you
18 receive the contribution. And what we would find
19 in the bank account, that he would have a--a date
20 of receipt that would be after the check was
21 deposited. So it was difficult to know if that was
22 the contribution he was referring to; had he
23 received another one. But we tried to--to match
24 those as best as we--best we could.

1 Q So when you say "showed receipt" or "showed date of
2 receipt," that was shown on the disclosure report?

3 A Correct.

4 Q Okay. What in particular did you have to do with
5 regard to the personal accounts in terms of
6 deciding what was personal income and what was
7 campaign income?

8 A That--that was certainly difficult. And what we--
9 so what we decided--what we--to do to--to be, you
10 know, as fair as we could, is any check that was
11 written made payable to the Thomas Wright campaign
12 was considered a contribution. If it was not made
13 payable to the Thomas Wright campaign, we
14 considered that a personal receipt and not subject
15 to disclosure.

16 Q Were there other challenges that you came across in
17 trying to audit this--these accounts?

18 A It--there--there were, because the--the other
19 problem is--the contributions is one side of it,
20 but that's just one side. The other--the other
21 part of it is trying to determine what was required
22 to be disclosed as far as expenditures. And the
23 difficulty in that is when you have a commingled
24 account that contains both personal and campaign

1 funds, which expenditures are subject to
2 disclosure?

3 Certainly if there is an expenditure made
4 out of any account that was for a campaign purpose,
5 that's going to need to be disclosed. But also if
6 campaign funds were utilized to make any other
7 expenditures, those expenditures are also subject
8 to disclosure. So we were tasked then with trying
9 to determine which expenditures--certainly
10 everything in a campaign account, no matter what
11 it's spent for, is subject to disclosure, because
12 all those are campaign contributions that have come
13 in to make those expenditures.

14 But the--the difficulty here was with the
15 personal account. We were trying to determine
16 which--which of these expenditures was he needing
17 to disclose, even if it wasn't a campaign
18 expenditure, even if it was a personal expenditure
19 that might have been paid with campaign funds.

20 Q Okay. How many people did you have working on this
21 investigation?

22 A Well, initially, because when the complaint came
23 in, we--and we had multiple bank accounts. We--
24 and--and actually at this time, we'd just gotten

1 several new staff members. So we had probably four
2 or five people that were working on making sure
3 this data was put in so that we could do
4 comparisons in order to get ready, because we--we
5 received these--most of these records we didn't
6 receive until March. And so we had a hearing in
7 May. So there was a--certainly not an awful lot of
8 time to review and get this information ready.
9 Q And when you say you received them in March, that's
10 March of 2007?
11 A That's correct.
12 Q When you say, "We had a hearing in May"--
13 A There was a hearing. There was--it was determined
14 fairly early on that when we saw the magnitude of
15 contributions that had not been disclosed,
16 expenditures that had not been disclosed, and the
17 complaint that had been filed, it--it was--it--the
18 contributions in question from the Sims Hugo Neu in
19 particular had been deposited in--in April of 2006,
20 and they were not disclosed until the third
21 quarter. So we knew that there had been a deposit.
22 There had been several people that had
23 been interviewed so that we could try to determine
24 when--when Representative Wright received these

1 contributions. And so we felt that there were
2 certainly issues that we could not handle
3 administratively and that--and the Board decided to
4 hold a hearing.
5 Q Right. So that was the State Board of Elections
6 that held the hearing in--
7 A Correct.
8 Q --in May? All right.
9 Does the State Board of Elections always
10 hold hearings to deal with complaints where someone
11 alleges that--a failure to disclose campaign
12 contributions?
13 A No, no, no. There are--we--we receive a lot of
14 complaints, and some complaints--there are some
15 that allege failure to disclose. Sometimes when we
16 do an investigation, and even if that person has
17 failed to disclose one or two contributions, if it
18 is--if we determine that it was, you know, a
19 mistake, inadvertent, usually these things can be
20 handled administratively by amending reports. It--
21 it's a different situation when we believe that it
22 was intentional, when--when someone is trying to
23 keep disclosure from the public.
24 Certainly everybody makes mistakes, and

1 we certainly understand that. And our job is to--
2 to make sure people get into compliance. It
3 reaches the State Board level when it is--a
4 determination is kind of made on the staff level
5 that these may not be mistakes, that there may be
6 intentional reasons for--for the nondisclosure.
7 Q And who would make that decision on the staff
8 level?
9 A Well, in--initially that would be my decision. I
10 would certainly definitely have to consult with our
11 executive director, who would have to agree, and
12 then the Board would be contacted to make a
13 determination if they wanted to hold a hearing
14 based on the findings of the staff.
15 Q And when you have to make that determination--you
16 may have described this, I think, already to some
17 degree--what criteria do you--do you use to
18 determine whether it should go to the State Board
19 or whether it can be handled administratively?
20 A Well, there--there are a multitude of different
21 kinds of complaints that come in. But generally a
22 nondisclosure issue would be when we have reason to
23 believe that--that there is a pattern of--of
24 nondisclosure that is simply not by mistake.

1 That--that's part of the criteria. If we believe
2 that there is willful conduct, that is another
3 reason that we would decide to hold a hearing
4 instead of trying to--to handle that
5 administratively.
6 Certainly we have people all the time
7 that--that--if you look at our Web site, you'll see
8 people that file amended reports all the time for
9 things that they forgot on a report. And those are
10 appropriate ways to handle when you--when you make
11 a mistake. And so certainly we understand that.
12 But when--when it looks like it's risen
13 to a level where it's not a mistake, that is when a
14 complaint's going to reach the State Board.
15 Q Okay. And so did you in fact make a determination
16 in this case that it should be submitted to the
17 State Board?
18 A Yes.
19 Q Did you--at the conclusion of the investigation and
20 in preparation for the State Board hearing, did you
21 come to any conclusion about whether or not the
22 Thomas Wright campaign had failed to disclose
23 campaign contributions?
24 A We did. One of the things that we prepared for the

1 Board was the Board wanted to look at the issue of
2 nondisclosure. So we did prepare information on
3 those contributions.
4 Q All right. Let me ask you to look at Exhibit 15.
5 A Excuse me just a second.
6 Q Yeah, pour yourself some water, and then look at
7 Exhibit 15.
8 A Okay.
9 Q All right. Can you identify that document?
10 A This is a spreadsheet of nondisclosed
11 contributions. These are not expenditures, just
12 contributions.
13 Q And do you know how this spreadsheet was prepared?
14 A I do. This spreadsheet was actually prepared after
15 the State Board's hearing. There was--there was a
16 similar spreadsheet that was prepared for the
17 hearing. This was after the hearing, when we--when
18 the--the--the complaint--or when the Board heard
19 this, they referred this to the Wake County
20 District Attorney. And in order--and ordered that
21 we comply with--cooperating with the District
22 Attorney's office in providing them with any
23 information they needed.
24 They requested that we provide a

1 A There are certainly--a lot of the contributions
2 that were disclosed were disclosed in a--in a
3 different re--reporting period than they would have
4 been required to. May--these are--these are
5 nondisclosed. So, excuse me, they haven't been
6 disclosed. I'm sorry.
7 Q That--that--yeah, that's what I want to make sure I
8 understand. On this spreadsheet--is it correct
9 that this spreadsheet is limited only to
10 contributions that were never disclosed?
11 A Exactly. There--there are no contributions on here
12 that were disclosed on any report--
13 Q Okay.
14 A --filed with our office.
15 Q Okay. And does it show on the spreadsheet what the
16 total of those contributions is?
17 A It does.
18 Q And what is that total?
19 A It is one hundred and eighty-five thousand dollars
20 (\$185,000).
21 Q All right. Excuse me.
22 MR. PETERS: Mr. Chairman, at this time,
23 we would move to introduce Exhibits 15 and 16A
24 through 16G.

1 spreadsheet of all nondisclosed contributions. So
2 in order to do that, we went back to our
3 spreadsheet from our hearing, and we wanted to
4 verify that those contributions were in fact--
5 should be sent over. So this list were the
6 contributions that were reviewed after the hearing
7 and determined to be nondisclosed.
8 Q And did you prepare the spreadsheet?
9 A Staff did under my direction.
10 Q All right. So does this spreadsheet represent the
11 information that was taken from the bank accounts
12 that are on the CDs you have in front of you?
13 A It does.
14 Q And comparing those to the disclosure reports?
15 A Yes.
16 Q And would it be fair to say, in essence, the
17 purpose of this spreadsheet was to note all
18 contributions found--or--all contributions found in
19 the bank accounts that are not reflected on
20 disclosure reports?
21 A Correct.
22 Q All right. Does this spreadsheet contain any
23 disclosures--I mean--excuse me--any contributions
24 that were disclosed in the wrong reporting period?

1 A I would like to say that there--
2 THE CHAIR: No, no, no, no.
3 A Sorry.
4 THE CHAIR: No. Any objection, Dr.
5 Joyner?
6 PROF. JOYNER: I believe 16A through 16G
7 have already been introduced.
8 THE CHAIR: They were identified, but I
9 don't--
10 MR. PETERS: I think we've referred to--
11 identified them, but I don't--
12 THE CHAIR: But for evidence--
13 MR. PETERS: --think we've introduced.
14 THE CHAIR: Admitted yet. They were--
15 they didn't ask to admit yet.
16 PROF. JOYNER: Well, I--I have no
17 objection to 16A through 16G. I would object to--
18 for the record, to six--to 15.
19 THE CHAIR: All right. And the basis for
20 the objection?
21 Well, let me do this. On 16A through
22 16G, they are admitted without objection.
23 And the basis of the objection of 15?
24 PROF. JOYNER: Not been able to

1 authenticate these entries--the individual entries
2 that--that are here.
3 THE CHAIR: All right. Mr. Peters?
4 MR. PETERS: Mr. Chairman, I think Ms.
5 Strach has testified that this is a business record
6 that was prepared under her supervision, and also
7 that it provides a summary of bank accounts that
8 were provided to her office, some under subpoena,
9 some with authorization from Representative Wright,
10 and that this summarizes those bank accounts which
11 Representative Wright--we--we have provided him
12 with those--that account information so that it
13 could be checked.
14 THE CHAIR: The objection is overruled.
15 Exception is noted. And to the extent that there
16 may be any error, obviously, the underlying data is
17 now available through comparison between 17A and
18 16A through 16G. And--but--but with that--am I
19 correct on that?
20 PROF. JOYNER: Yes.
21 MR. PETERS: 17A through C.
22 THE CHAIR: 17A through C. I'm sorry.
23 So the objection is overruled.
24 MR. PETERS: Thank you.

1 that he--that he reported all contributions that he
2 was required to report.
3 Q All right. The Committee now has these before
4 them, but I'd--I'd like for you to take a look at
5 at least a couple.
6 A I would--I would like to say that there are three
7 contributions that should not be on this
8 spreadsheet.
9 Q I was going to go through that, but we'll--
10 A Sorry.
11 Q We'll go ahead--we'll go ahead with that. We'll go
12 ahead with that.
13 Have you had any occasion since preparing
14 this spreadsheet to review it?
15 A Yes.
16 Q Okay. And--and what have you determined in that
17 review?
18 A Well, in preparation for this proceeding and--and
19 the criminal proceeding, I--I did go back and
20 review every entry on this spreadsheet. And there
21 were three entries that were determined to have
22 been disclosed. And--
23 Q Can you identify them?
24 A I can. There was a contribution--and I'm not sure

1 THE CHAIR: And 15 is admitted.
2 MR. PETERS: Thank you.
3 PROF. JOYNER: Now--
4 THE CHAIR: Just so we're clear, 15's
5 admitted. 16A through 16G is admitted. We've not
6 received a motion to admit 17A, B, C.
7 MR. PETERS: Correct.
8 THE CHAIR: Okay. Thank you.
9 For the Committee members, 17 are the
10 CDs, CDs.
11 MR. PETERS: That--that's why they're not
12 in the notebook.
13 Q (Mr. Peters) Ms. Strach, looking again at Exhibit
14 15. Is--is there a reporting period in there for
15 which you do not have undisclosed contributions
16 listed?
17 A No.
18 Q So perhaps a better way I could have phrased that
19 is is there a reporting--based on your
20 investigation, was there a reporting period between
21 2000 and 2006 where Representative Wright's
22 campaign disclosed all contributions that were
23 required to be disclosed?
24 A There was not--there was not a reporting period

1 which page it's on. But it was from Thomas H.--
2 Thomas Wright, and--and it was in the amount of two
3 hundred dollars (\$200). This is a Thomas H.
4 Wright, III. It is not Thomas E. Wright. When it
5 was initially data entered, the person data-
6 entering that assumed that it was Representative
7 Wright, and it was put in as Thomas Wright and was
8 actually Thomas H. Wright. When we went back and
9 looked at the check, we saw that it was a different
10 contributor, and he had, in fact, disclosed that
11 contribution.
12 Q And--and that was a contribution for two hundred
13 dollars (\$200)?
14 A It was a contribution for two hundred dollars
15 (\$200).
16 Q All right.
17 A And I--it's on the second page. Its deposit date
18 was 5-3-2000. You'll see it's in there as Thomas
19 Wright.
20 Q Is that around the middle of the page?
21 A It is.
22 Q And--third quarter of 2000?
23 A Yes.
24 Q All right. And--

1 A Second quarter--
2 Q I think you said there were two others?
3 A Actually the second quarter of 2000.
4 Q Oh, I see. I'm looking the wrong way.
5 And I believe you said there were two
6 others?
7 A There--there are--there was a contribution from
8 Carl Marshburn in the amount of one thousand
9 dollars (\$1,000). That was also disclosed. It was
10 disclosed in a different reporting period, but it--
11 it was disclosed. And I'm not sure which--where
12 that is. But I--I can locate it.
13 Q That last name was Marshburn?
14 A Marshburn, Carl.
15 THE CLERK: It's on the last page, Page
16 10--Page 9, towards the top of the page.
17 THE CHAIR: Page 9, about ten items down.
18 MR. PETERS: Yes.
19 THE CHAIR: Page 9.
20 A Page 9, yes. It's 9-15-2006, 2006 third-quarter-
21 plus report. It--it was actually disclosed on the
22 fourth quarter.
23 Q (By Mr. Peters) And--
24 A And then there was one more that was a three-

1 directly with that check deposited into his--the
2 commingled account, an account that had not only--
3 it had campaign contributions in it, as well. And
4 so what was happening is we had campaign
5 contributions that were subject to disclosure. We
6 had expenditures. There were some campaign
7 expenditures that were being made from this
8 account.
9 And so in order to provide disclosure and
10 not double that exclo--disclosure by calling it an
11 expenditure and then looking at all these
12 expenditures, it was more of account transfer,
13 because this account kind of became a campaign
14 account. It was his sole campaign account at one
15 time. So by it being an account transfer, it--it--
16 every committee that has more than one account, by
17 definition, transfer of funds must be disclosed so
18 you can see when--when committees are moving money
19 from one account to the other. So these--these
20 contributions, as they're listed here, these
21 transfers were never disclosed, should have been
22 disclosed. And therefore, they're--they're listed
23 as contributions.
24 Q And when you say "by definition"--

1 thousand-dollar (\$3,000) Thomas Wright campaign.
2 It was an account transfer, which--account
3 transfers are subject to disclosure as
4 contributions. That had also been disclosed.
5 Q All right. Now, there are a number of entries on
6 here, I believe, for the Thomas Wright campaign; is
7 that correct?
8 A Correct.
9 Q And why would those entries be on here?
10 A Well, this was--this was actually another challenge
11 that we--we had. When trying to determine--we--we
12 had these undisclosed transactions, and we were
13 trying to characterize them best as we could of
14 what--how they should be categorized,
15 contributions, expenditures. There were--there
16 were checks that were written from a campaign
17 account to Thomas Wright personally. And some of
18 those checks were cashed or--they were cashed,
19 and--and we--certainly we don't know what--what he
20 did with those. Those would be considered
21 expenditures.
22 There were certain checks, the checks
23 that you see on--on this spreadsheet, where a--a
24 check was written to Thomas Wright. He--he

1 A By statute.
2 Q --"transfers must be disclosed," is that a
3 statutory definition?
4 A It is. It's in the statutory definition of
5 "contribution."
6 Q And do you, off the top of your head, know what the
7 citation for that statute is?
8 A I happen to know. It's--it would be North Carolina
9 General Statute 163 dash 278 point 6, number--open
10 paren., 6, close paren.
11 Q Thank you. When the State Board held its hearing
12 in May, did you testify in that hearing?
13 A I did.
14 Q Did you testify at that time regarding undisclosed
15 campaign contributions?
16 A I did.
17 Q I believe you said that was before you had prepared
18 the spreadsheet that is Exhibit 15?
19 A Correct.
20 Q So what was your understanding at that ti--at the
21 time of the Board's hearing in May, before you had
22 prepared this spreadsheet, what was your
23 understanding of how much money of campaign
24 contributions had not been disclosed?

1 A At the hearing?
2 Q Yes.
3 A At the hearing, I testified that there were over
4 two hundred thousand dollars (\$200,000) in
5 contributions that had not been disclosed. And the
6 Board made--I think probably made findings on that.
7 And--and the contributions that were included in
8 that initial amount--we went back, as I said,
9 trying to determine what needed to be turned over
10 to the Wake County District Attorney's office.
11 Some of the entries that were on there, when we
12 looked at the checks, they were in the commingled
13 account, and they had not been made out
14 specifically to the Thomas Wright campaign. They
15 just had "Thomas Wright." So we--we didn't want to
16 include those. We--we considered those personal.
17 There were some that we saw that--that
18 had been disclosed. There were some data-entry
19 errors. I think we had a couple of duplicates. So
20 those--that amount that the Board was amended
21 after--after the--the hearing.
22 Q All right. When you testified to--to that--the
23 amount being over two hundred thousand dollars
24 (\$200,000), was Representative Wright present at

1 through to see if any red flags jump out at me,
2 business contributions, things of that nature. And
3 I actually received these records and was looking
4 through them and saw this check in--in the
5 commingled bank account.
6 Q And the--by "the commingled bank account," do you
7 mean Representative Wright's personal account?
8 A It's his--right, the personal account.
9 Q Why did it jump out at you?
10 A Well, because, first of all, it was from a
11 corporation. And, second of all, it was not made
12 payable to the Thomas Wright campaign or to Thomas
13 Wright. It was made payable to an organization I
14 wasn't familiar with.
15 Q And why would the fact that it was a corporation
16 make it jump out at you?
17 A Well, because this account contained campaign
18 contributions. That's something we need to be
19 aware of--is--because political committees may not
20 accept any corporate contributions in any amount.
21 Q Are you able to tell from looking at that check or
22 looking at--at Exhibit 7 when that check was
23 deposited?
24 A Yes. This check was deposited August 11th, 2004.

1 the hearing?
2 A He--he was present.
3 Q Was he represented by counsel at the hearing?
4 A He was represented by counsel.
5 Q Has any ti--at any time since that hearing, has
6 Representative Wright contacted you to inquire
7 about the campaign contributions that you said had
8 not been disclosed?
9 A No.
10 Q Has his counsel contacted you?
11 A No.
12 Q Ms. Strach, let me ask you to look, please, at
13 Exhibit--Tab Number 7. Do you recognize that
14 document?
15 A I do.
16 Q What is it?
17 A It's a check from Anheuser-Busch in the amount of
18 five thousand dollars (\$5,000) made payable to the
19 Community's Health Foundation.
20 Q Do you recall when you first saw that--
21 A I do.
22 Q --document? When was that?
23 A Upon receipt of the bank records, it's usually
24 customary for me--I always go through--I look

1 Q How can you tell that?
2 A The capture date at the top is going to show when
3 it was deposited. Also, on the back of the check,
4 if you can read it, there's an 8-11-04. That's
5 going to be the date of deposit, the Bank of
6 America deposit--it was deposited.
7 Q Okay. And when is the date on the check?
8 A The date is March 5th, 2004.
9 Q All right. Let me ask you to look at Exhibit 10.
10 A Okay.
11 Q Do you recognize that document?
12 A I do. It's a check from AstraZeneca
13 Pharmaceuticals in the amount of two--twenty-four
14 hundred dollars (\$2,400).
15 Q And when did you first see that check?
16 A At the same time I saw the--the--the Anheuser-Busch
17 check, shortly after--or actually in that same
18 deposit, this check.
19 Q Does that mean it was deposited the same day?
20 A It does. It--the deposit slip would reflect that.
21 Q And how--is there a way you can tell by looking at
22 this document?
23 A Yes, the capture date. And also on the back of the
24 check, the--you can see visibly "8-11-04."

1 Q All right. And if you'll look at Exhibit 13.
2 A Yes. This is a check from AT&T made out to the--
3 made payable to the Community's Health Foundation.
4 It was also discovered--'cause it has--it was
5 deposited July 26, 2004. So this is probably the
6 first check that I--that I--that I identified.
7 Q And again, are you able to tell by the same means
8 when this check was deposited?
9 A Yes, through the capture date and on the back of
10 the check.
11 Q Okay. When you saw these checks made out to the
12 Community's Health Foundation, did you take any
13 action in response to that?
14 A Yes. I certainly wanted to first find out what was
15 the Community's Health Foundation. We had--had
16 difficulty with fi--with getting the bank account.
17 So I wanted to see what this was. So I--since it
18 was a foundation and it had a Wilmington address, I
19 looked on the Secretary of State's Web site and saw
20 that it was--that Thomas Wright had been the
21 incorporator and was one of the--the--the
22 president, I believe.
23 Q What specifically did you look at at the Secretary
24 of State's Web site?

1 authorize me to do so? And he said he would. And
2 so he authorized us to get the bank records for the
3 Community's Health Foundation.
4 Q Okay. Did you take any other action there to
5 follow--to understand better the Community's Health
6 Foundation or to investigate it?
7 A Well--well certainly--I mean, we certainly wanted
8 to get the--the bank records and see what--if there
9 had been any activity in that. So upon receiving
10 those, that's what we were trying to--to do is see
11 where any contributions had been deposited in that
12 account.
13 Q Okay. I believe you testified earlier that
14 Representative Wright came into your office after
15 you had sent notice of the--of the complaint, the
16 Joe Sinsheimer complaint?
17 A He did.
18 Q And met with you?
19 A He did.
20 Q Was that the only conversation you had with him
21 while you were investigating this matter, or did
22 you have other conversations with him?
23 A That was the only conversation.
24 Q Did you have other conversations with his counsel?

1 A The articles of incorporation.
2 Q You found those on the--
3 A Found those--
4 Q --Web site?
5 A Found those online.
6 Q Let me ask you to look at Exhibit 1.
7 A Yes.
8 Q Can you identify that document?
9 A This would be the Articles of Incorporation that I
10 saw online.
11 Q And did you print them off?
12 A I did.
13 Q And--and save them in your file?
14 A Yes.
15 Q Okay. Did you take any further action to follow up
16 on the Community's Health Foundation?
17 A Yes. Because these were checks that had been
18 deposited in this account made payable, that was an
19 account we certainly wanted to look at and see if
20 there were possibly campaign contributions may have
21 been deposited in that account. So I contacted
22 Representative Wright's counsel, Mr. Brook, Chris
23 Brook, and told him that I would like to look at
24 those records; would Representative Wright

1 I did.
2 Q Between that time and the hearing?
3 A I did.
4 Q Do you recall how many conversations you had?
5 A I had several. Most of them were related to
6 obtaining documents, author--getting
7 authorizations. There were a couple conversations
8 where Mr. Brook would call to--to find out status
9 on when the hearing was and subpoena proc--
10 subpoenas and--and that nature. Those--those
11 really were the--the--the gist of any conversations
12 I had with Mr. Brook.
13 Q Okay. I believe you testified earlier that when
14 you met with Representative Wright in January of
15 2007, that he indicated he would have to get
16 information about his treasurer to you because she
17 had the accounts. Am I correct in that?
18 A He said she had--she had the records that we would
19 need to look at, that--'cause I--I told him--as I
20 said earlier, he--he--he said he wanted to--to
21 resolve the complaint; what would he need to do to
22 resolve the complaint? And I told him we would
23 need to look at his bank records from that time
24 period. And he told me that his--he--his treasurer

1 maintained those records, and we would have to get
2 them when she was available.
3 Q And when you told him you needed to look at the
4 records for that time period, did you make clear
5 that the time period you were talking about was
6 2006?
7 A I did, because we actually specifically talked
8 about the complaint. I asked--I asked
9 Representative Wright at that time. I--I said, "Do
10 you remember when you received these contributions?
11 It's been alleged that you received them, and you
12 disclosed them much later." And he--he at that
13 time told me that--actually he told me that he
14 thought he remembered on the way--driving to my
15 office that he--where he had received those. So
16 yes, we talked about them being the--right before
17 the 2006 primary and--so yes, he knew--he knew at
18 the time.
19 THE CHAIR: Let's stop for one minute.
20 And I'm--I said I wasn't going to take a break, but
21 let's just--I think we're going very fast. And
22 being a Yankee, I can relate to that. But we need
23 to slow--slow down just a bit. Let's all catch our
24 breath for a minute and take about a five--no-more-

1 his personal account.
2 Q And how long had it been since there had been a
3 campaign account active?
4 A I think it--since June of '05.
5 Q Okay. Do you know--had you ever had any contact
6 with Representative Wright concerning the
7 disclosure reports prior to January of 2007?
8 A In 2002 was the only other time I've had
9 conversations with Representative Wright about
10 disclosure. In 2002 we--we had some issues with
11 Representative Wright not filing any reports in
12 2002. And it--the--after the election, one of
13 the--the conditions of getting a certificate of
14 election from our office is that you were in
15 compliance with filing all the required reports.
16 So Representative Wright at that time couldn't
17 receive a certificate of election. So we had
18 made--tried to make contact with him. We--we did--
19 did make contact with him. And I recall
20 Representative Wright--he came into the office with
21 the required reports, and we sat down in our
22 executive director's office and discussed--
23 discussed his filings so that he could then receive
24 a certificate of election.

1 than-five-minute recess just to--to break. So
2 we'll--we'll be back in five minutes. Thanks.
3
4 SEVEN-MINUTE RECESS
5
6 THE CHAIR: All right. Thank you very
7 much. Back with you, Mr. Peters.
8 MR. PETERS: Thank you, Mr. Chairman.
9 Q (By Mr. Peters) Ms. Strach, I believe before the
10 break, I was asking you about your meeting with
11 Representative Wright in January of 2007? And--and
12 I--and I believe you said that in that discussion,
13 it was clear that the bank records you were talking
14 about needing to look at were from 2006?
15 A Yes.
16 Q And the response that you got from Mr.--from
17 Representative Wright, if I'm correct, was that he
18 would need to get to you the information of the
19 treasurer, because she would have all those bank
20 records; is that correct?
21 A Yes.
22 Q When you actually received the bank records, was
23 there a campaign account active in 2006?
24 A No. The only account that he had during 2006 was

1 Q And so did he in fact file disclosure reports for
2 2002?
3 A He did file. He did. He--he filed all the--the
4 delinquent reports at that time.
5 Q And are those the reports that are Exhibit 16C?
6 A Yes. And--and those reports reflect the date they
7 were received, November 21st.
8 Q All right. When you did your audit last year of
9 the bank accounts and of the disclosure reports,
10 did you find that these disclosure reports were
11 accurate?
12 A They were not.
13 Q Okay. Do you know--well, first off, with the first
14 quarter--let's see here. For the first-quarter
15 report, can you tell from looking at that--
16 A Did you say 16C?
17 Q --yes--
18 A Okay.
19 Q --16C--what the total contributions would be that
20 were disclosed?
21 A Right. He disclosed receipt of five hundred
22 dollars (\$500) in contributions.
23 Q Okay. Do you know the amount--based on the
24 spreadsheet that is Exhibit 15, do you know the

1 amount of contributions that was not disclosed for
2 that quarter?
3 A Well, I--our--the bank records reflected that
4 during the first quarter of 2002, he deposited
5 eleven thousand four hundred and fifty dollars
6 (\$11,450) in contributions.
7 Q And he reported five hundred dollars of that?
8 A Yes.
9 Q All right. With the second quarter of 2002--again
10 that's Exhibit 16C--do you know how much was
11 reported for that quarter?
12 A He re--he reported eighteen thousand one hundred
13 and twenty-five dollars (\$18,125).
14 Q And what did your review of the bank records show
15 should have been reported for that quarter?
16 A Twenty-two thousand six hundred and sixty-six
17 dollars and twenty-five cent (\$22,666.25).
18 Q All right. Was there an interim report in 2002?
19 A There was.
20 Q All right. And what amount was disclosed on that
21 report?
22 A He disclosed five hundred dollars (\$500).
23 Q And what did the bank records show should have been
24 disclosed?

1 cent (\$1,625.53).
2 Q Okay. To your knowledge, has Representative Wright
3 ever filed an amended disclosure report?
4 A From 2000--and I--I'm just speaking for 2000. I--
5 I'm not sure of prior to that. But 2000 to 2006--
6 he's not filed any disclosure for the year 2007.
7 But 2000 to 2006, there was one amendment, I
8 believe in two thousand--I'm not--actually I'm not
9 sure which year it was. There was one amendment,
10 and it--it actually was not--it was--he had
11 originally just filed the cover sheet to the
12 report, and when he amended it, he actually filed
13 the--the details of the report.
14 Q And did you say no campaign reports have been filed
15 for 2007?
16 A No--no campaign reports have been filed for 2007.
17 Q Should campaign reports have been filed in 2007?
18 A Yes. There should have been a midyear report and a
19 year-end report.
20 Q Okay. Now, I believe you testified earlier as to
21 the criteria you generally apply in determining
22 whether a complaint should be forwarded on to the
23 State Board of Elections for hearing after an
24 investigation. Specifically with this complaint

1 A Five hundred and fifty, so just fifty dollars.
2 Q Okay. What about the third quarter of 2002?
3 A The third quarter, he--he disclosed receiving no
4 contributions.
5 Q And did he in fact receive any contributions?
6 A He did, two thousand two hundred dollars (\$2,200).
7 Q Were there other quarters or other reporting
8 periods where Representative Wright disclosed
9 receiving no contributions?
10 A He did in the second quarter of 2004. He disclosed
11 receiving no contributions.
12 Q And what did the bank records show were actually
13 received in the second quarter of 2004?
14 A Twenty-eight thousand five hundred dollars
15 (\$28,500).
16 Q And none of that was disclosed?
17 A None was disclosed.
18 Q All right. Were there any other quarters where
19 nothing was disclosed?
20 A I believe those were the only two quarters.
21 There--actually there were three quarters. The
22 2003 mid-year semiannual report, he disclosed no
23 con--no receipts, and he had received one thousand
24 six hundred and twenty-five dollars and fifty-three

1 and the investigation that you had overseen, why
2 did you decide that this should go to the State
3 Board of Elections for a hearing?
4 A Well, as I said, there were--there were multiple
5 reasons stemming from the allegations in the
6 complaint. There were some receipt of some
7 business contributions. But really the--the main
8 reason is that certainly in--in my time at the
9 State Board, I've never audited a committee that
10 had this amount of nondisclosure. We audited
11 committees that have less than three thousand up to
12 million-dollar committees, and I've never seen this
13 amount of disclosure that was is not provided.
14 Q And what--what conclusion did you draw from that?
15 A Certainly I thought something that the Board
16 needed--
17 PROF. JOYNER: Objection. Objection to
18 her conclusion.
19 THE CHAIR: Basis? I'm sorry. The basis
20 of the objection?
21 PROF. JOYNER: Conclusion.
22 THE CHAIR: That it's her conclusion?
23 All right.
24 Mr. Peters?

1 MR. PETERS: That--I--the--I've asked her
2 why she decided it needed to be referred to the
3 State Board of Elections, and I think that's
4 relevant to that question.
5 THE CHAIR: Yeah, let's--why don't we
6 rephrase the question? And then--'cause I'm not
7 sure that was the question.
8 MR. PETERS: Okay.
9 Q (By Mr. Peters) What about the amount of
10 contributions that you found to be undisclosed made
11 you believe this should be referred to the State
12 Board of Elections for hearing?
13 A Well, it was certainly--I certainly could not in my
14 mind believe that it would be a mistake to file a
15 report. And--and Representative Wright signs his
16 reports. Some of those contributions, I mean, were
17 in his own personal account where he made--
18 personally made the deposits. So I certainly--
19 the--the amount being well--at that time, you know,
20 close to two hundred thousand dollars (\$200,000),
21 we thought, at least one hundred and eighty-five
22 thousand dollars (\$185,000) that had not been
23 disclosed. And I certainly did not think--I
24 thought that was not an error, not--not a mistake,

1 the Democratic Party headquarters. And that's
2 where he--he remembers delivering those checks.
3 And that would have been in--in--in April.
4 Q In your review and your findings, did you note any
5 other pattern, such as an identifiable group of
6 contributors whose contributions were not
7 disclosed?
8 A Yes. One of the other things that Mr. Sinsheimer's
9 complaint talked about was bundling by the--by
10 nurse anesthetists. And as--there was nothing
11 illegal about nurse anesthetists' bundling
12 contributions. That--that is permissible, though
13 I--I did speak with a couple of the nurse
14 anesthetists, and they advised me that they had
15 made contributions, and--and I saw that they had.
16 But they--they gave me a list. And I
17 also saw that they--they had made--he had disclosed
18 between--around fifty-nine hundred dollars (\$5,900)
19 of contributions from the nurse anesthetists. They
20 had actually had a fundraiser, and eighteen--they
21 gave contributions in excess of eighteen thousand
22 dollars (\$18,000) at that fundraiser. And he--he
23 failed to disclose thirteen thousand dollars
24 (\$13,000) of that.

1 and the Board should--should definitely review
2 that.
3 Q When you were reviewing--conducting your
4 investigation and reviewing what you found in that
5 investigation, since the original complaint had
6 alleged--made allegations re--concerning
7 contributions connected to Hugo Sims Corporation,
8 did you make any determinations regarding
9 contributions connected to Hugo Sims?
10 A Yes. Actually those contributions had--had been
11 deposited. They had been disclosed in the third
12 quarter. I think they'd been disclosed. The
13 report had been filed seven or ten days before the
14 general election. These contributions had been
15 given prior to the primary. Likely we--I
16 interviewed several people to try to determine when
17 these contributions were received. The--the dates
18 on the checks were Mar--between March and April,
19 and the deposit was made on April 24th, 2006.
20 Q Do you recall who you interviewed?
21 A I interviewed the--the lobbyist for--couple of
22 lobbyists for Sims Hugo Neu. One of the lobbyists
23 remembered getting some contributions together and
24 attending a fundraiser for Representative Wright at

1 MR. PETERS: If I could have one minute,
2 Mr. Chairman?
3 THE CHAIR: Yes, sir.
4 MR. PETERS: Mr. Chairman, we don't have
5 any further questions at this time. We would move
6 to introduce Exhibit 1.
7 THE CHAIR: Any objection, Dr. Joyner, to
8 Exhibit 1?
9 PROF. JOYNER: No objection to Exhibit 1.
10 THE CHAIR: All right. With no
11 objection, Exhibit 1 is--is admitted.
12 All right. Cross-examination.
13 CROSS-EXAMINATION BY PROF. JOYNER:
14 Q Okay. Ms. Strach?
15 A Strach.
16 Q Strach. Let me just kind of ask some definitional
17 questions first.
18 A Sure.
19 Q All right. When we're talking about now--during
20 the period of 2000 to 2006, were there any
21 amendments to the campaign reporting laws?
22 A Several.
23 Q Several. And in 2000, what contributions had to be
24 reported?

1 A All contributions had to be reported. All
2 contributions, as long as I've been here, have
3 always been reported. There was a threshold for
4 reporting the identity of the contributor; but you
5 still had to report receipt of that contribution,
6 even if you didn't disclose the name.
7 Q And what was the threshold for reporting the
8 identity of the person that provided that?
9 A It was one hundred dollars (\$100) within the
10 election cycle. So if an individual had given one
11 hundred dollars (\$100) anytime in the two-year
12 election cycle of the term of the office, then if
13 they didn't go over the hundred, then their name
14 didn't have to appear on the report.
15 Q All right. And at some point, was that requirement
16 amended?
17 A It was.
18 Q And when was that?
19 A I think it--it became effective January 1, 2007,
20 that they lowered the I--the threshold for the
21 reporting the identity to fifty dollars.
22 Q Now, with respect to those contributions of a
23 hundred dollars (\$100) or less, how would they have
24 shown up on the report?

1 aggregated--or I guess they called them--at that
2 time, they were called "unitemized."
3 Q And at that point, you merely had to list the total
4 amount of those contributions rather than itemizing
5 each individual contribution?
6 A The forms only required you at that time. The
7 forms were updated January of 2002 to require the
8 itemization of each one of those.
9 Q And--and subsequent to this 2002 change in the--in
10 the form, the reporting requirement on the form,
11 did you not experience a lot of amendments for
12 those forms for people who didn't understand that
13 that was the method that they were to report those
14 contributions?
15 A Certainly there were some people, when we first
16 changed forms, that had filed amendments for
17 various reasons. That probab--that could certainly
18 have been one of the reasons why people filed
19 amendments.
20 Q Okay. But you haven't gone back to--to--to--to
21 check that?
22 A I--I--I haven't analyzed that.
23 Q Now, when you--when you talk about receipt of a
24 contribution, what do you mean?

1 A In 2002 we actually have a form. It's called the
2 aggregated individual contributions. And all it
3 asked for is the date of the contribution and the
4 amount of the contribution. It doesn't require the
5 disclosure of the name of the--of the contributor.
6 Q So you'd have to list each individual date--
7 A Yes.
8 Q --and the total amount--amount of the
9 contributions, or a designation for each
10 contribution as it was made?
11 A A designation for each contribution as it was made.
12 The--you would report it the same way as you would
13 report any other contribution. The only
14 information that would not be present would be the
15 name of the contributor.
16 Q All right. So I'm meant to understand that if, in
17 2001, I received five contributions for seventy-
18 five dollars each, that I have to list five times
19 an unnamed contribution for seventy-five dollars?
20 A Technically yes. In 2002 was when the forms
21 actually changed for this aggregated amount. Prior
22 to that, the--the obligation was there; there was
23 just one line on--on the old forms that required
24 that. And you could give the total amount of

1 A When the committee receives the contribution--when
2 they receive it, it's--that's the date of
3 disclosure. Because sometimes--and--and I guess a
4 good example is in larger campaigns, sometimes
5 there will be people on behalf of the committee
6 that receive a contribution. When--when that
7 contribution has been received on behalf of the
8 committee, that is the date that should be
9 disclosed on a report.
10 Q Now, you--you had mentioned at some point this
11 notion of bundling.
12 A Yes.
13 Q And bundling is where a number of people come
14 together with different contributions, and they put
15 it in--put those contributions in one stack, and
16 then they give that contribution to the person that
17 they're supporting or that committee. Would the
18 receipt date be the date--
19 MR. PETERS: Excuse me. Objection. I
20 believe that was a statement, not a question--
21 THE CHAIR: Well--
22 MR. PETERS: --as to the bundling.
23 THE CHAIR: I think he was trying to get
24 to the question. But I--I understand that. I'll

1 let Dr. Joyner finish--I think we were getting to
2 the question part.
3 Go ahead.
4 PROF. JOYNER: Well, it obviously wasn't
5 a statement, since I don't know what this is all
6 about. So all I'm doing is asking questions.
7 Q (By Prof. Joyner) But I--is--is--is that a fair
8 description of what bundling is?
9 A Well, bundling--I think it is a fair--it's when
10 individual--actually individual people write their
11 own checks, and someone collects those checks to
12 deliver them to the--to the political committee or
13 candidate.
14 Q All right. And then what is the receipt date of
15 those individual checks which much be reported on
16 the form?
17 A It's--it's--the receipt date is when the per--
18 someone on behalf of the committee receives those
19 contributions.
20 Q So it is not the date that those individual checks
21 are given to the collector but when the collector
22 of those checks actually transfers that--those
23 checks to the committee?
24 A Well, it depends on who the collector is. If the

1 A Correct.
2 Q Okay. Tell me about the--the amendment to reports,
3 campaign reports. How--how does that occur?
4 A Anytime a political committee makes their own
5 determination that a report is--has--has
6 discrepancies, has omissions, has things that are
7 not correct, then they at any time may amend a
8 report to reflect what was missing or what
9 shouldn't have been included.
10 So amendments usually generally happen
11 really two ways. One is basically when someone
12 determines themselves, when they're auditing their
13 own committee and they decide, "You know what? I
14 left out a contribution." Or the amendment process
15 can happen if we have audited a committee, and we
16 send you an audit letter saying, "It looks like
17 you--you forgot to provide this information. Could
18 you amend your report?"
19 Q So--and typically once a person or committee
20 determines that--that an amendment is--is in order,
21 then they can come in and amend the original
22 report?
23 A Sure.
24 Q Even--well, is there a time frame?

1 collector is a campaign staff person, then that's
2 the receipt date. If the collector happens to be
3 someone that's not associated with the campaign but
4 is just going to deliver them, then it would be
5 when someone from the campaign received them.
6 Q Well--which is an interesting point. How--how--how
7 would you know who the operable person or the
8 appropriate person is to determine the triggering
9 of the receipt date?
10 A I don't know. But it's certainly the treasurer of
11 every committee--it's their responsibility to make
12 sure they know when receipt of the contribution has
13 been made.
14 Q So you, then, rely upon the reporter, the person
15 who is providing you with the information, to
16 identify the appropriate receipt date?
17 A Right, because they're required by law and by
18 signing that report that that was the date that it
19 was received on behalf of the committee.
20 Q And you would not be in a position to go back and
21 determine, unless someone who was in the collection
22 process came to you to report that they were a
23 member of the committee and received it on a date
24 other than what is on the report; is that correct?

1 A The sta--the--the--the statutes do not provide a
2 time frame. Certainly if--if someone is aware that
3 they have--need to amend a report, they would need
4 to do it, because they're signing these reports as
5 true and accurate, and if you realize the report is
6 not true and accurate, you certainly need to amend
7 it to change that.
8 Q With respect to the amendment process, is it
9 necessary to get the approval from your office to
10 amend that, or is that amended as a matter of
11 course?
12 A It's certainly not--you--you can amend anytime you
13 feel you need to amend a report. You do not need
14 our permission or an invitation from us to--to
15 amend a report.
16 Q All right. Is there a specific statutory reference
17 which allows for the amendment of campaign reports?
18 A I--I don't think there is a--a statutory reference
19 for amending reports. It's certainly--it's just
20 based on--upon the fact that you're required to
21 file true and accurate reports. And so we
22 certainly allow amending if someone determines that
23 they have made a mistake.
24 Q All right. So this is a--a policy decision made by

1 the Board of Elections?
2 A Yes.
3 Q Okay. It's not a part of the statute; the statute
4 doesn't say that in such-and-such a case, a
5 committee can--can come in to amend a report up
6 until such-and-such date?
7 A No--no.
8 Q Right.
9 A That's not there.
10 Q So this is a policy decision that's made by the
11 Board of Elections?
12 A Right.
13 Q Administratively?
14 A Correct.
15 Q Okay. And--and it's not unusual for a committee to
16 come in to amend a report?
17 A Oh, not unusual at all.
18 Q In fact, it happens more often than not?
19 A It--it happens very often.
20 Q Especially now?
21 A Yes, I guess that may be true.
22 Q Now, you had made references to some conversations
23 that you had had with--in your direct testimony,
24 conversations that you had had with Mr.--

1 a telephone--
2 A My recollection was a telephone call. I don't
3 remember it being in person. It--it--it's entirely
4 possible that it may have been, but I--I--I recall
5 I--that it was a telephone conversation.
6 Q So then if--so no one told--well, that request,
7 would it have been made to you or, to another
8 staffer in your office?
9 A The request to amend reports?
10 Q Right.
11 A It could have been made to me. It could have been
12 made to our executive director. I know Mr. Brook
13 talk--talked to him, as well. I'm not sure of the
14 substance of their conversation. I do know that I
15 spoke with him. And I--I--I certainly think he may
16 have certainly said that he--could Representative
17 Wright amend. And I--I certainly told him that
18 yes, he could.
19 Q And--and you don't have a recollection that--that
20 Attorney Brooks was told that he could not amend?
21 A Oh, absolutely not. Like I said, he--if--if Rep--
22 if--if Mr. Brooks was asking whether or not the
23 amendment process would stop the hearing, it was
24 not going to. But certainly he would not be told

1 Representative Wright's attorney--
2 A Yes.
3 Q --regarding his--his reports?
4 A Yes.
5 Q And was that Chris Brooks?
6 A It was.
7 Q Okay. And do you recall an occasion that Attorney
8 Brooks came to you to ask if he could amend the
9 reports that were the subject of your
10 investigation?
11 A I--I--I think that Chris Brook--I--I spoke with him
12 on the phone. He certainly wanted to know if--if
13 Representative Wright could amend his reports. And
14 I absolutely told him he certainly can amend his
15 reports. That may not change the fact that we have
16 a hearing, but he can certainly and should amend
17 his reports.
18 Q Do--do you recall when--when that conversation was
19 held?
20 A I don't specifically recall the date, but I know
21 that it would have been, you know, sometime after
22 it had been announced that we were having a
23 hearing.
24 Q And that was a tel--your--your recollection, it was

1 that he couldn't amend reports.
2 Q So you don't have a present recollection that
3 anyone ever told Attorney Brooks that he could not
4 amend a report?
5 A No, and I--and I can't imagine in any circumstance
6 that anyone on our staff would ever tell someone
7 they couldn't amend a report.
8 Q You indicated that there were five separate
9 accounts that--accounts that you filed under Thomas
10 Wright's name during your investigation; is that
11 correct?
12 A Yes.
13 Q And you mentioned a number of different banking
14 institutions--
15 A Yes.
16 Q --which held these--these accounts. Was any one of
17 these accounts open for the entire period of 2000
18 to 2006?
19 A Yes.
20 Q Which ones were those?
21 A It was not a campaign account. His personal
22 account.
23 Q His personal account. Was this a Thomas--was this
24 a joint account, or a sole account?

1 A It's a sole account.
2 Q Okay. And then there were a number of other
3 personal accounts--
4 A Correct.
5 Q --that you identified as having commingled funds?
6 A Well, there was no--excuse me. There was the one
7 personal account which has commingled funds. There
8 was one account that was a joint account that I'd
9 said that had been one campaign contribution
10 deposited into. The other accounts were campaign.
11 They were designated "Thomas Wright campaign."
12 Q So there were three separate Thomas Wright campaign
13 accounts?
14 A Correct.
15 Q All right. And for what period of time were those
16 three accounts open?
17 A The first campaign account was opened April 3rd,
18 2000, through November 4th, 2003. And then the
19 second account, which would have been the First
20 Citizens account, was opened April 23rd, 2004,
21 through June 2005. So between 11-5-03 and 4-22-04,
22 there was no other campaign account. And then on
23 February 24th, 2007, there was a Thomas Wright
24 campaign account opened at Coastal Federal Bank.

1 Q Okay. So that is a--and--and--and--and--and--and--
2 and that happens quite often, does it not?
3 A I have certainly heard committees change--have
4 heard from committees that change their accounts
5 for that reason, yes.
6 Q Right. Because if the--if the account is open,
7 then the bank is taking the money out of it?
8 A That's right.
9 Q Want to direct your attention here to Exhibit 15.
10 A Yes.
11 Q And dur--during--during the time--during the period
12 of 2000 through 2002, you have listed as
13 contributions not disclosed the names of any number
14 of individuals that contributed a hundred dollars
15 (\$100) or less?
16 A Yes.
17 Q Is it--is it your rep--your--your testimony that
18 the names for each of these one-hundred-dollar
19 (\$100) contributors should have been reported?
20 A Not necessarily the names. But the receipt of the
21 contribution should have been reported.
22 Q And during that period of time, those items could
23 have been listed in the aggregate?
24 A They could have been. But they still would have

1 Q Now, the account opened at Coastal Federal Bank,
2 is--is that--is that still open?
3 A As far as I know. it is.
4 Q Okay. And from 2005 to 2007, you say that other
5 than the personal accounts, there was no campaign
6 account open?
7 A As--as far as I know. And Mr. Brook advised me
8 that he had provided me with all bank accounts.
9 Q All right. And 2000 to 2003, that was Bank of
10 America?
11 A Yes, correct.
12 Q Is it unusual that campaign accounts would be--that
13 several campaign accounts would be open over a
14 period of time?
15 A It's not unusual if you have different treasurers.
16 Sometimes a treasurer will want to have the
17 campaign account at a bank that they are familiar
18 with or do business with. So it's not unusual
19 when--if a treasurer changes for that to occur.
20 Q Is it unusual that a campaign account would be
21 changed because of the--the fees that are attached
22 to it, and you can get a better rate at another
23 bank?
24 A I've heard that, too.

1 been reflected on the summary page of--of a
2 disclosure report.
3 Q If--if you have a report that lists off--lists the
4 con--contribution from the Thomas Wright campaign--
5 or from Thomas Wright to the campaign, would not
6 that be an appropriate method of depositing those
7 monies into the campaign account in the event that
8 they were wrongly attributed initially?
9 A I'm not sure I follow what--could you--
10 Q All right. You--you--you called them transfers--
11 A Yes.
12 Q --here. And where the contributor--and I'm
13 assuming that the check is made to the Thomas
14 Wright campaign?
15 A No. The check would be written to Thomas Wright.
16 Q Well, let--let--let me--
17 A It was--that--that's the way it was designated on
18 the sheet, on the--this spreadsheet. But when
19 they--when you see "Thomas Wright campaign," the
20 check was actually written to Thomas Wright.
21 That's how we designated the transfer.
22 Q And it was written from whom?
23 A Was written from the campaign account to what ended
24 up going into another campaign account or account

1 that was used for campaign and personal purposes.
2 Q I want--I want to direct you to Page 4 of Exhibit
3 15.
4 A Okay.
5 Q The sixth and seventh line--
6 A Yes.
7 Q --on that report.
8 A Yes.
9 Q Both of those items identifies the contributor as
10 the Thomas Wright campaign?
11 A Correct.
12 Q Now, is it your testimony that the Thomas Wright
13 campaign wrote that check out and that the payee
14 was the Thomas Wright campaign?
15 A That is my testimony because that's ended up what
16 happened to it. It was--it was paid to Thomas
17 Wright, but it was deposited--directly deposited
18 into Thomas Wright--another account of Thomas
19 Wright, that was utilized for both campaign and
20 personal purposes.
21 Q And I guess my question has to do with the source
22 of the three thousand dollars (\$3,000) in one
23 instance and one thousand fifty dollars (\$1,050) in
24 the other instance. And could not the explanation

1 Q Oh, thank you. I appreciate that.
2 A It's a good question. I--I--if we--as I said, we
3 had--trying to determine what these transactions
4 were. If the check was written to Thomas Wright
5 and he cashed it, he did something else with it; we
6 consider that a disbursement. We had an unusual
7 situation with these checks, because they were not
8 just going into a personal account. If it just
9 went into a personal account, you are exactly
10 right; it would have been a disbursement. It would
11 have been an expenditure. It would only have shown
12 up on that side. But here we had an--it was put
13 into an account that was also--there were other
14 campaign contributions being deposited into that
15 account. There were expenditures being made that
16 were also subject to disclosure. So if--if we
17 designated that as an expenditure and then we've
18 also designated the--the expenditures out of it,
19 then we're going to double show expenditures, which
20 are reportable.
21 Account transfers--there's no net gain to
22 them.
23 Q Well--
24 A So they show up on the bottom of--of your report.

1 for those two be that it was to place into the
2 campaign account monies which had been improperly
3 placed in another account? That's--
4 A No. No, that couldn't be.
5 Q Why couldn't it be?
6 A Becau--well, because--I don't think that could be,
7 because these were--
8 Q Well, now, wait--wait a minute. It can't be, or
9 you don't think it could be? Which one is it?
10 A Well, let me say why--why I don't think that it is.
11 Because these were checks that were written out of
12 a campaign account to him--to--that were made
13 payable to him and then put into an account that
14 was also used for personal purposes. So I--I guess
15 what you're saying, did he take campaign
16 contributions and put it into an account that was
17 also used for personal purposes. And that--and
18 that's why I don't think it would be a mistake for
19 it to go that way.
20 Q Well, let me--and I'm--I'm trying to see, then, why
21 this does not show up as a disbursement from the
22 campaign account.
23 A Well, that--that is a--that's a good question. And
24 I think--

1 And that's why--that's why they're considered
2 account transfers.
3 Q Well, let--let--let--you know, 'cause, I mean,
4 I'm--I'm--I'm new to this political-campaign stuff.
5 And I realize that you went through a major change
6 in 2006. Or was it 2007?
7 A And--major change?
8 Q In the campaign reporting, campaign ethics laws.
9 A There were certainly some changes then, but it--
10 Q But having to do with the--the use of funds from
11 campaign accounts.
12 A The--you're right. In 2006 it--after October 1,
13 there was the change that a candidate could no
14 longer use funds for personal expenses. It could
15 only be used for campaign purposes.
16 Q Right. That's exact--yeah, that's exactly what I'm
17 talking about. And up until that time, it was not
18 improper or illegal for a legislator--and many
19 did--to use funds that came in for--entitled
20 campaign funds for personal expenditure?
21 A I don't disagree with you; you're right. There--
22 prior to October 1, 2006, a candidate could spend
23 their money for any purpose they wanted to.
24 Q All right.

1 A But the catch--what--what--what stops a lot of it
2 or stopped a lot of it prior to then is because
3 they have to disclose it. They have to show the
4 public that this is what they did with those
5 campaign ex--contributions. And that's why--I
6 think if you were to look at our database, you
7 wouldn't see a lot of candidates that wrote checks
8 for personal purposes, because of the disclosure
9 requirement.
10 Q But writing a check from the campaign account into
11 a personal account--into a personal account, why
12 would not that be designated as a transfer from the
13 campaign account to that person's personal account?
14 A Because there were many--there were several periods
15 of time or--that that personal account was the only
16 campaign account. It was serving as a campaign
17 account. It no longer was a personal account.
18 Yes, it had personal funds--and actually, you know,
19 if it was a campaign account, everything in it
20 would be subject to disclosure. We only included
21 those things that were designated to the Thomas
22 Wright campaign. No other campaign account is
23 allowed to take any--any contribution from any
24 source, and as long as it's not written to the

1 THE WITNESS: Correct.
2 THE CHAIR: All right. So the receipt
3 date has nothing to do with that date?
4 THE WITNESS: We don't know when the
5 receipt date was.
6 THE CHAIR: Got it. All right.
7 And I also want to make sure that for any
8 time prior to 2002, didn't need to name the person
9 who made the hundred-dollar-or-under contribution,
10 but you had to list it in--individually or in the
11 aggregate?
12 THE WITNESS: Correct.
13 THE CHAIR: And that would show up on the
14 disclosure report?
15 THE WITNESS: Correct.
16 THE CHAIR: But for after 2002, you had
17 to list the name, the--at least up to--you had to
18 list the name, as well as the amount--
19 THE WITNESS: No--
20 THE CHAIR: --up to the fifty--or the
21 fifty dollar--
22 THE WITNESS: No. After 2002 the forms
23 allowed you--it--it provided you a form where you
24 didn't have to provide the name, but you had to

1 campaign, they can utilize it. That's why it was a
2 difficult situation for us to audit. But we--this
3 is how we tried to certainly give Representative
4 Wright the benefit of the doubt.
5 PROF. JOYNER: Mr. Chairman, can--
6 THE CHAIR: Sure.
7 PROF. JOYNER: Can--can we break now?
8 THE CHAIR: Yes. Rep--we're--we're
9 promoting you twice today.
10 Dr. Joyner asked earlier, and I
11 indicated--he had a conflict this evening, and so
12 do several members, af--that they need to leave by
13 four o'clock. So we're going to end in a minute
14 and head into break, overnight recess until nine.
15 I just--I need to--'cause I want to review some
16 things, I need to ask a couple questions of the
17 witness so I'm sure I got what I need.
18 Let me just see if I understand. On
19 Exhibit 15 that you're looking at, please.
20 THE WITNESS: Yes.
21 THE CHAIR: Where it says "deposit date,"
22 that's the date that it was deposited into that
23 particular account, regardless of its receipt date;
24 am I correct?

1 provide--
2 THE CHAIR: Provide the date--
3 THE WITNESS: --the date and the amount.
4 THE CHAIR: Okay. And then that changed
5 several years ago, last year, to fifty dollars?
6 THE WITNESS: Correct.
7 THE CHAIR: Okay. I--
8 REP. STAM: Are we sure that that wasn't
9 just for--Mr. Chairman?
10 THE CHAIR: Representative Stam.
11 REP. STAM: Wasn't that just if you
12 received cash?
13 THE WITNESS: No, no. It--it's--it's
14 both. It's--it's--that is now the threshold for
15 reporting a contributor is over fifty dollars.
16 THE CHAIR: Okay.
17 THE WITNESS: That changed to the cash--
18 THE CHAIR: Thanks. No other--I just
19 needed to clear that in my mind. All right.
20 I think just--anything I need to--
21 anything Counsel needs before we recess till--till
22 nine in the morning?
23 Mr. Reagan, anything we need to cover?
24 All right. Again I remind all the

1 members of the Committee on the note I've given
2 before and the instruction I've given before about
3 overnight recess.
4 Thank you. We'll see everybody at nine
5 o'clock.

6
7 (WHEREUPON, THE PROCEEDINGS WERE ADJOURNED AT 3:57 P.M.)
8

STATE OF NORTH CAROLINA
COUNTY OF WAKE

C E R T I F I C A T E

I, Holly McGhin, a Notary Public in and for the State of North Carolina, duly commissioned and authorized to administer oaths and to take and certify hearings, do hereby certify that these proceedings were held before me at the time and place aforesaid, that all parties were present as hereinbefore stated, and that the record as set forth in the preceding Pages 2 through 177 represents a true and accurate transcription of the proceedings, to the best of my ability and understanding.

IN WITNESS WHEREOF, I have hereto set my hand, this
the ____ day of March 2008.

Notary Public
Notary Public No. 200424500712

My Commission Expires 9-7-2009

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A L S O I N A T T E N D A N C E

Rep. Thomas E. Wright
Prof. Irving Joyner, Counsel to Rep. Wright
Mr. Douglas Harris, Counsel to Rep. Wright

Mr. William Hart, Outside Counsel to the Committee
Mr. Alexander Peters, Outside Counsel to the Committee

Ms. Carin Savel, Committee Clerk

Mr. O. Walker Reagan, Staff Attorney
Ms. Kory Goldsmith, Staff Attorney
Mr. Brad Krehely, Staff Attorney
Ms. Heather Fennell, Staff Attorney
Ms. Denise Huntley, Research Assistant
Ms. Amanda Smith, Research Assistant

E X A M I N A T I O N I N D E X

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MEETING OF THE HOUSE SELECT COMMITTEE
TO INVESTIGATE ALLEGED MISCONDUCT AND OTHER MATTERS
INCLUDED IN INDICTMENTS REGARDING
REPRESENTATIVE THOMAS E. WRIGHT

TRANSCRIPT OF THE PROCEEDINGS

(Volume IV)

March 6, 2008

THE SELECT COMMITTEE:

Rep. Rick Glazier, Chair
Rep. Paul Stam, Vice-chair
Rep. Marvin Lucas
Rep. William McGee
Rep. Edith Warren
Rep. Laura Wiley

In Raleigh, NC
9:25 A.M.

Reported by:
Holly McGhin

1 THE CHAIR: All right. We are called
2 back into session.
3 PROF. JOYNER: Mr. Chairman?
4 THE CHAIR: Ms. Strach--I'm sorry. Dr.
5 Joyner?
6 PROF. JOYNER: My understanding is that
7 Attorney Harris is tied up behind an accident in--
8 somewhere between Burlington and Durham.
9 THE CHAIR: All right.
10 PROF. JOYNER: And I don't know what the
11 status of clearing that is. He's traveling in from
12 Greensboro.
13 THE CHAIR: All right.
14 PROF. JOYNER: So by way of explanation
15 this morning--
16 THE CHAIR: Oh, I--I appreciate that.
17 PROF. JOYNER: --provide that
18 information.
19 THE CHAIR: Thank you very much.
20 All right. Ms. Strach, you're on the
21 stand, and we're still on cross-examination with
22 Dr. Joyner. And--and, obviously, Ms. Strach,
23 you're still under oath. Okay.

1 Whereupon,
2 KIMBERLY W. STRACH,
3 having been previously duly sworn,
4 was examined and testified
5 as follows:
6
7 CROSS-EXAMINATION CONTINUED BY PROF. JOYNER:
8 Q Okay. Ms. Strach, I'm--I'm not sure exactly where
9 we left off yesterday, so let me just--just start
10 arbitrarily at some point.
11 You indicated yesterday that the Board of
12 Election had a--had--had a policy of allowing
13 amendments to reports after they had--campaign
14 finance reports after they had been--been filed;
15 is--is that correct?
16 A That's correct.
17 Q And there was--and there has not been a time limit
18 on the amount of time that those reports can be
19 amended?
20 A There's not. And--and the reason for that is
21 because if someone discovers something many years
22 later, we still--they still would be required to
23 amend that report to accurately reflect the
24 disclosure.

1 Q That--that kind of flows from the--I guess the
2 philosophy at Board of Elections that the primary
3 purpose of the reporting is for the public to be
4 able to know where the contributions are coming
5 from and the amounts of those contributions?
6 A Sure. Yes.
7 Q Right. So in--in a sense, this is more kind of a
8 regulatory information-gathering function than it
9 is a punitive matter that--as--as you look at the
10 requirements here?
11 A Certainly disclosure is a primary goal of our
12 office.
13 Q All right. There--there is, for instance, nothing
14 in the statutes dealing with campaign finance--
15 campaign financing that authorizes the amending of
16 reports?
17 A There's nothing specifically in the statute, no.
18 Q Right. And in fact, the statute speaks to the
19 notion of reporting of contributions?
20 A It--in--it speaks to reporting, and it provides the
21 schedule for the reporting.
22 Q Okay. Now, in--yeah. Yeah. And in addition to
23 that, the statute does not describe a particular
24 method for a political campaign to maintain

1 campaign funds; is that correct?
2 A It--it doesn't--it doesn't prescribe for a
3 particular method, did you say?
4 Q Right.
5 A It--it--it doesn't. It requires, though, the
6 listing--the disclosure of all those places that
7 you choose to maintain.
8 Q Well, let--let me just ask. There's nothing in the
9 statute, for instance, which requires that there be
10 a dedicated bank account entitled "Politician's
11 Campaign Funds"?
12 A No, there is not.
13 Q Right. And--and in fact, the statute would allow a
14 person who is running for office to maintain one,
15 ten, fifteen different bank accounts?
16 A They--they could. Many committees have more than
17 one account.
18 Q And there is no violation of the statute if an
19 account in which campaign funds are kept also
20 contains personal monies?
21 A There's no violation of the statute that that's in
22 there. It's how the reporting of that is done is
23 where we would run into problems.
24 Q Okay. Well, I--I--I understand that, but I just

1 Q Yeah. But--but what you're speaking to now,
2 though, is convenience of oversight rather than
3 what the statute requires?
4 A I guess I'm looking at practically--from a
5 practical standpoint of why commingled funds
6 shouldn't really occur.
7 Q Right. But I'm--but I'm saying your comments now
8 speak, though, to your practical application of how
9 you would like to see it done rather than what the
10 statute requires?
11 A Right. As I said, there's nothing in the statute
12 that says you can't maintain several different
13 accounts.
14 Q Okay. I mean, that's the point I--I want--is that
15 the--
16 A Right. And I--I--I acknowledge that.
17 Q Right. And the statute doesn't require that?
18 A Right. They just--
19 Q Okay.
20 A Right. It doesn't require you to keep a separate
21 account.
22 Q Right. So the statute does no more than to require
23 that at the designated time frames, that you
24 accurately report, no matter how many accounts you

1 want to--
2 A Okay.
3 Q That--that--the mere fact that there is a bank
4 account and that bank account has funds in it, some
5 of which are dedicated to campaign-finance matters
6 and others dedicated to personal matters or even
7 business matters, would not violate the statute?
8 A It would not violate the statute for those funds to
9 be in--in one account. If that was--for example,
10 if it was a--a candidate's personal account. There
11 are--there have been candidates that have used
12 their personal account. They disclosed it, and
13 then they have to disclose what's in that account,
14 because when you commingle funds, we have to be
15 able to determine what expenditures--what funds
16 paid for the expenditures; therefore, what is
17 disclo--what is subject to disclosure.
18 So that's--that is why it is certainly
19 not a good idea to commingle your funds--
20 Q Okay.
21 A --because if a business check gets put in there and
22 it pays for something that is campaign, then that's
23 where you have made--you have made a prohibited
24 contrib--you've received a prohibited contribution.

1 have, those funds that are campaign related?
2 A Yeah. Yes. But--but then it becomes a problem of
3 determining what is campaign related. That's where
4 we're going to--
5 Q Right, but that's another issue.
6 A Right.
7 Q Right. That's another issue.
8 REP. STAM: Speaker, could--could she be
9 allowed to finish the answer when she's in the
10 middle of an answer?
11 THE CHAIR: I will allow you to--is there
12 more to your answer?
13 A The only thing I was saying is that the reason--if
14 someone does that, they're going to--we're going to
15 have to be doing an awful lot of auditing those
16 bank records all the time to ensure compliance, and
17 we would.
18 Q (By Prof. Joyner) Right. I--I--I understand that.
19 Now I'm just trying to--to--to--to--to separate out
20 what is legally required and what you deem to be
21 good housekeeping practices. Okay?
22 A Okay.
23 Q Now, in--in--in addition to that, the statute does
24 not require a particular wording for a contributor

1 to make contributions to someone who's running for
2 office; is that correct?
3 A When you say "particular wording," for--
4 Q Right. If I was writing a check out to someone who
5 was running for office, the statute does not
6 require that I have any particular wording on that
7 check?
8 A No, there's nothing in the statute that prescribes
9 exactly how the check is to be written.
10 Q Right.
11 A It's--it's just--it should be written in a way that
12 the committee realizes--knows that that check is
13 designated. Now, there are--there is a statute
14 that was added in '06 that talks about making
15 sure--a treasurer must know that--a--a contribution
16 has to be designated to that committee.
17 Q Okay. But that was a later requirement?
18 A Well, it's a later requirement, but it's--you know,
19 it's--certainly some of the contributions we're
20 talking about today would be under that, would--
21 Q Okay. All right.
22 A --be subject to that.
23 Q Okay. I understand. Prior to that, I could write
24 out a check to the Alpha Omega Campaign Fund, and

1 you're--that you're--you--you were making reference
2 to?
3 A The good housekeeping stuff, the--when I--when we
4 audit a committee and we see something that has
5 been made out to just the candidate and there is no
6 designation, sometimes that would call us to--to
7 really get the intent of the contributor of how it
8 was meant. Was it a campaign contribution? Was it
9 meant personally?
10 Q Right. And that's--doing it that way might cause
11 additional problems for you in your audit--auditing
12 supervision and process?
13 A It could. It could. It--it certainly would cause
14 more work for the auditing process.
15 Q But none of that would violate the statute?
16 A Not of--of it--well, none of what would violate the
17 statute?
18 Q The designation or--the designation of the--on the
19 payee line.
20 A If the payee line--just what's on the desi--what
21 has been put on the payee line, you're say that
22 wouldn't violate the statute?
23 Q Right.
24 A No, that wouldn't violate the sta--it's what done

1 that would suffice to be a campaign contribution;
2 is that correct? If Alpha Omega was a person that
3 was running for political office.
4 A Yes, if that was a person, then--and the check was
5 made out to that, you could make it out--
6 Q Right.
7 A --to that.
8 Q But I could also make it out just to Al--Alpha
9 Omega?
10 A You could. You could. And if it was given for a
11 campaign purpose, then that would be subject to
12 disclosure, yes.
13 Q My--my point, though, is that the designation that
14 I put on the payee line is not mandated by the
15 statute?
16 A What is put on the payee line is not addressed by
17 the statute.
18 Q Okay. If I make it out to a named individual and
19 then, in the explanation section of the check, say
20 "political contribution," then it is easier to
21 determine that that is a political contribution as
22 opposed to a personal contribution?
23 A Correct.
24 Q Okay. And that's the good housekeeping stuff that

1 with the contribution that may or may not violate
2 the statute.
3 Q And the mere fact that campaign funds are
4 commingled with personal funds, that fact would not
5 violate the statute?
6 A Not the fact that they're commingled. It's--it's
7 what happens after that that's probably--probably
8 likely going to violate the statute.
9 Q Okay. And again, you just keep coming back to the
10 notion of as long as it is properly designated on
11 the report?
12 A Dr. Joyner, it's very difficult for me to say that
13 it's not a problem to commingle account. Even
14 though the statute doesn't specifically say there
15 has to be a separate account, what happens usually
16 when you have a commingled account, you're going
17 to--you--there are going to be several statutes
18 you're going to end up violating. And so it's
19 difficult for me to--to say that.
20 But yes, there is nothing in the statute
21 that says you cannot commin--have a--
22 Q My--my point--
23 A --account.
24 Q It would make it difficult for you in your auditing

1 process to be able to quickly identify those items
2 that are campaign funds when--when you have a
3 commingled account?
4 A Actually, my concern is not really for us. My
5 concern is that usually when you commingle, it's
6 the committee that's going to get in trouble,
7 because they are going to spend funds with funds
8 that they couldn't spend it with. And the
9 commingling problem is going to end up being a
10 problem for the committee. Yes, it's--it's a pro--
11 it's--it's--it's work for us, but the end result's
12 the problem for the committee.
13 Q All right. Okay. I--I--I understand. But it's--
14 it doesn't violate the statute. That's--that's the
15 point I'm trying to make.
16 Want to direct your attention to Exhibit
17 15 in--in--in the black book there. You indicated
18 yesterday that there were a number of checks that
19 you found in one of several accounts maintained by
20 or on behalf of Representative Wright, checks that
21 were written to the Thomas Wright campaign that
22 were written on a check--or checking accounts from
23 Thomas Wright; is that correct?
24 A You're speaking to what's been designated here

1 being made. So in order for us to be able to
2 properly designate what that transaction was, we
3 had to determine it was a transfer. And by
4 definition, a transfer should be disclosed as a
5 contribution.
6 And it's designated on--on our sheet. We
7 have a reporting form for that, account transfers.
8 They're--they're--fall under the definition of
9 "contribution." But they don't inflate your--your
10 actual bottom line. It's--it's disclosed on the--
11 the summary page, but it doesn't inflate your
12 contribution numbers. However, they're still
13 transactions that are just as much required to be
14 reported as any other contribution.
15 Q All right. Now, you--you list in this document
16 eleven of those instances, do you not?
17 A I'll have to count them, if you'd like me to.
18 Q Okay. That's--that's fine.
19 A Eleven. And I think one of them we removed
20 yesterday because it had been disclosed. There was
21 a three-thousand-dollar (\$3,000) one yesterday that
22 was--was removed.
23 Q Okay. I--I thought that was different from those.
24 I thought that was the other Thomas Wright, Sr.

1 "Thomas Wright campaign"?
2 Q Yes.
3 A That--those are all instances where a check or a
4 debit ticket or--was written from a campaign
5 account and written to Thomas Wright. And then
6 that monies directly went into another account that
7 maintained campaign funds.
8 Q Okay. End result was it--it--it showed up in
9 your--on this tabulation as an unreported
10 contribution?
11 A Correct. Because--
12 Q Rather--rather than an unreported distribution?
13 A Correct. It could--if--if it did not go directly
14 into that other account, we could certainly have
15 called it an expenditure, because there were other
16 checks that were written from the campaign accounts
17 that went--that were written to Thomas Wright that
18 didn't go into another account. We designated
19 those disbursements.
20 But here we were. We had these--these
21 set of contributions, sixteen thousand (16,000) or
22 so, that went from a campaign account into this
23 account that co--that had the commingled funds with
24 campaign, and there were expenditures that were

1 A No, that was a two-hundred-dollar (\$200)
2 contribution from Thomas H. Wright, III, that was
3 removed.
4 Q Well, anyway, I--I have el--eleven. I have eleven,
5 which amounts to roughly in the neighborhood of
6 twenty thousand dollars (\$20,000).
7 A Right. And if you'd subtract the three, it's--my--
8 my number was around sixteen thousand (16,000).
9 Q We can split the difference, right?
10 A Okay.
11 Q All right. Okay. But if we use the eleven figure,
12 it's--it's roughly twenty thousand dollars
13 (\$20,000)?
14 A Yes.
15 Q You said one was removed and--
16 A Yes.
17 Q Okay. Now, on the back of that Exhibit 15, you
18 indicated, did you not, that there were three
19 checks found in one or more of those accounts that
20 were made payable to the Community Health
21 Foundation, did you not?
22 A Correct.
23 Q And you listed those here, AT&T, AstraZeneca,
24 Anheuser-Busch. And that was eighty-nine hundred

1 dollars (\$8,900). The deposit date for the AT&T
2 check is listed as July 26, 2004?
3 A Correct.
4 Q All right. If you will, look back at Exhibit 13.
5 Is--is that the check to which you make reference--
6 A Yes.
7 Q --to for this--okay. And what is the date of that
8 check? What is the date of that check?
9 A The date on the check?
10 Q Yes.
11 A April 1st, 2004.
12 Q Okay. So the check has a April 1st, 2004, issue
13 date and a deposit date of July 26, 2004?
14 A Correct.
15 Q Okay. And then with the AstraZeneca check, I want
16 to direct your attention to Exhibit 10.
17 A Yes.
18 Q All right. And what is the issue date on that
19 check?
20 A December 15th, 2003.
21 Q And the deposit date for that check is August 11,
22 2004?
23 A Correct.
24 Q Okay. And then with respect to the Anheuser-Busch

1 check--and I'll direct your attention to Exhibit
2 Number 7. Do you see an issue date on that check?
3 A Yes, March 5th, 2004.
4 Q And the deposit date for that check is August 11,
5 2004?
6 A Yes.
7 Q Right. Now, in your investigation that you
8 conducted with respect to--to these accounts, you
9 talked with a number of people, and you had
10 conversation with banking officials at the various
11 banks; is that correct?
12 A Either I did, or someone on my staff did.
13 Q Okay. And you also issued subpoenas for the
14 production of some of this--all of this data?
15 A Some of this data. Some of it was--was obtained
16 through authorizations signed by Representative
17 Wright.
18 Q All right. And there was a--a hearing in which
19 Representative Wright was required to attend; is
20 that correct?
21 A That is correct.
22 Q And he did attend and participated in that hearing;
23 is that correct?
24 A He did attend.

1 Q All right. And the subject of that hearing was
2 these checks, these accounts?
3 A The subject of the hearing were--was the--the
4 complaint that had been filed and the other--the
5 nondisclosure and other issues that we had found
6 during our investigation, including these checks.
7 Q Right. Those issues surrounding this campaign
8 financing?
9 A Correct.
10 Q And the statutes, campaign-finance statutes,
11 require that Representative Wright participate and
12 provide the information that is sought from him; is
13 that correct?
14 A The--the statute requires that Representative
15 Wright allow us to look at any of his financial
16 accounts that may have campaign activity in it so
17 that we can review them to see what is subject to
18 disclosure and provide any other information that
19 we need in the course of our investigation.
20 Q Okay. And that is accomplished through subpoena
21 and by the mandate of the statute itself; is that
22 correct?
23 A Correct.
24 Q Now, you indicated yesterday in a question from Mr.

1 Wright that--I'm sorry. Mr. Hart. Elevating him
2 now.
3 A Mr. Peters.
4 Q Mr. Peters. That you--you--you know--you know
5 these statutes pretty well?
6 A I hope so. I certainly--that's my job, and I--I
7 take it very seriously.
8 Q And--and you deal--you deal with them on a daily
9 basis?
10 A I deal with it on a daily basis.
11 Q Okay. And how--how long have you--you been doing
12 this?
13 A I started at the Board of Elections in 2000. I've
14 been working in this position since 2001.
15 Q Want to direct your attention to North Carolina
16 General--Gen--General Statute Section 163 dash 278
17 point 29.
18 THE CHAIR: I'm sorry. Point 29?
19 PROF. JOYNER: Right.
20 Q (By Prof. Joyner) Are you--are you familiar with
21 that offhand?
22 A I--I--I--I'm not--I'm not sure. I probably would
23 like to look at it.
24 THE CHAIR: All right. Let's do that.

1 If we could, get a statute book in here, please.
2 Thank you.
3 PROF. JOYNER: I--I have a copy.
4 THE CHAIR: It--probably just as easy for
5 her to have a book as to--okay. It's 163-278 point
6 29. Thank you.
7 A Yes.
8 Q (By Prof. Joyner) Okay. Are you familiar with
9 that statute?
10 A I am familiar with that statute.
11 Q Okay. And what does that statutes provide?
12 A That statute provides that the State Board, if they
13 compel testimony, then that infor--then the
14 evidence cannot be used against them, I believe is
15 what that statute virtually says. If--if they
16 compel testimony.
17 Q Or documents?
18 A I'm not sure. I--I know that--this is actually--
19 we've had some--and I would probably not be the
20 best person to speak to it. But our attorney at
21 the attorney general's office has actually been
22 involved in some litigation over this statute. And
23 the outcome was that it's testimony. And that's
24 why at the beginning of every State Board hearing,

1 the only thing that I can say to--to this is that
2 I--I know that our--our--our State Board is aware
3 of this statute, and that is why when a--someone
4 has been subpoenaed, their appearance has been
5 subpoenaed, they are told they are not going to be
6 compelled to testify. They are not going to be
7 compelled. That--that is something that--that was
8 stated to Mr.--to Representative Wright, if he
9 was--if he had been asked to testify. And any
10 witness that testifies before the State Board is
11 told they're not going to be compelled.
12 Q (By Prof. Joyner) Yeah. But when you use
13 subpoenas to compel the production of documents,
14 that's testimony?
15 A Dr. Joyner, I'm not an attorney.
16 THE CHAIR: Well, yeah. I'm not going--
17 the objection from the Chair is sustained. I don't
18 think she's in a position to give a legal opinion
19 on that.
20 PROF. JOYNER: If I could have a moment?
21 THE CHAIR: Sure.
22 PROF. JOYNER: Mr. Chairman?
23 THE CHAIR: I'm sorry. Yes? Yes?
24 PROF. JOYNER: We have no further

1 if we have subpoenaed any individual, our chairman
2 lets them know they are not compelled to testify,
3 and that if they--if they--they are not there--that
4 they will not be compelled to testify; it will be
5 voluntary. And it is in order not to violate this
6 particular statute.
7 Q Well, if the person is compelled--well, the statute
8 starts off by stating that no individual shall be
9 excused from attending, testifying, or producing
10 any books, papers, or other documents before any
11 court upon any proceeding or trial or another for
12 the violation of any of the provisions in this
13 article. That's pretty broad?
14 A It is pretty broad.
15 Q And it ends up saying, "But such individuals so
16 compelled to testify with respect to any acts of
17 his own shall be immune from prosecution on account
18 thereof." Is that what the statute says?
19 A Yes.
20 Q Okay. And that's 163 dash 278 point 29.
21 THE CHAIR: Members of the Committee,
22 it's in your yellow books. It's 163 dash 278 point
23 29. Thank you.
24 A That is what it says. And--and really, the only--

1 questions of this witness.
2 THE CHAIR: All right. Thank you.
3 Redirect examination?
4 MR. PETERS: Thank you, Mr. Chairman.
5 REDIRECT EXAMINATION BY MR. PETERS:
6 Q Ms. Strach, as long as you have General Statutes
7 163 dash 278 point 29 open in front of you, I'd
8 just like to ask you a couple of questions.
9 A Sure.
10 Q The hearing to which I believe Mr. Joyner was
11 referring where Representative Wright was present
12 last spring, was that hearing in a court, or was it
13 before the State Board of Elections?
14 A It was before the State Board of Elections.
15 Q And was that hearing relative to charges against
16 Representative Wright, or was it in--rel--relative
17 to charges against someone else?
18 A Representative Wright.
19 Q All right. Thank you.
20 Now, you were asked some questions this
21 morning about the way checks might be made out,
22 perhaps to Thomas Wright or to the Thomas Wright
23 campaign or similarly. When you were doing your
24 investigation--you and your staff were doing your

1 investigation of these accounts, did you find
2 checks that were made out to Thomas Wright as
3 opposed to the Thomas Wright campaign?
4 A We did.
5 Q And how did you make a determination which checks
6 should be considered contributions and which checks
7 were personal income or personal checks?
8 A If there was not a designation on the check either
9 saying "Thomas Wright campaign" or in the memo line
10 saying "cont"--"campaign contribution" or something
11 to indicate that the purpose was to be a campaign
12 contribution, we deemed that check to be personal.
13 Q So is it fair to say, then, that all of the checks
14 reflected in Exhibit 15 are checks that
15 specifically indicated somewhere on the check that
16 they were for the campaign purposes and not for
17 personal purposes?
18 A Yes.
19 Q All right. I believe you were asked yesterday
20 about how you can tell in an investigation when a
21 check has been received; is that correct?
22 A Right. We--we talked about when a check is
23 received. How you can tell it can be--when it's
24 received?

1 been deposited in the bank account?
2 A Correct. We--we certainly would--if--if some--if--
3 if a contribution was disclosed earlier than the
4 deposit, as long as it wasn't earlier than the date
5 on the check, then that was probably the receipt
6 date, and it would have been the appropriate date
7 to report it.
8 Q Or at least you assumed that it was, having no
9 other information otherwise?
10 A Have--having no other information. Correct.
11 Q Okay. The deposits in--listed in Exhibit Number
12 15, do I understand correctly that those are all
13 deposits that were not disclosed at all, that--are
14 there any of--any of the ones on Exhibit 15, are
15 any of those contributions that were disclosed but
16 disclosed in the wrong reporting period?
17 A No, other than the three that I alluded to
18 yesterday. The others have never been reported in
19 any reporting period.
20 Q In the course of your investigation, did you
21 determine that there were checks that had been re--
22 disclosed in the wrong reporting period?
23 A Yes. That was a significant issue for our audit.
24 Yes.

1 Q Or how can you tell when the check has been
2 received?
3 A Well, you can't really tell--
4 Q Okay.
5 A --when a check has been received. The--the only
6 way that we can determine that--because we can't
7 tell when it's--when it's received, we, in
8 situations like this, have to use a deposit date.
9 Q And what does the deposit date tell you?
10 A That tells us they had to have received it at that
11 point, because that's the--because they actually
12 put it in the bank. So we know that the received
13 date is not after that.
14 Q All right. And when you were doing your
15 investigation, is--is that how you were able to
16 determine that some checks had been reported in the
17 wrong period?
18 A Yes.
19 Q By comparing the deposit date to the date that was
20 on the disclosure form as being received?
21 A Correct.
22 Q And were all of those instances where the dis--the
23 date shown on the disclosure report was later than
24 the date the bank records show the checks to have

1 Q Okay. And do you know what those checks totaled
2 that were reported in the wrong period?
3 A It's approximately--and it's--it's probably a
4 little higher than this. But it's between seventy-
5 five and eighty thousand dollars--
6 Q Right.
7 A --in contributions that were reported--were
8 reported in a reporting period other than when it
9 should have been reported--later than it should
10 have been reported.
11 Q And so those would be in addition to what's on
12 Exhibit 15?
13 A Absolutely, yes.
14 Q Okay. Looking at Exhibit 15. Let me ask you.
15 Have you done a breakdown with regard to each
16 reporting period on Exhibit 15 and the checks
17 that--the--the contributions that were not
18 disclosed?
19 A Are you saying based on this, the--the amount that
20 hasn't been disclosed? I have, but I don't have
21 those numbers with me. I don't have--I can add
22 them here, but I don't have those with me.
23 Q We--we don't need to--we don't need to go there.
24 So do I understand--do--you don't have

1 anything with you at this time that would enable
2 you to say what the total contributions that should
3 have been disclosed in a reporting period are?
4 A I do have that. I can tell you--I can tell you
5 the--the amount of the contributions that were
6 deposited or in-kinds received during a particular
7 reporting period. That I can tell you.
8 Q Okay. That's what I was asking.
9 A Okay. Sorry.
10 Q I apparently did not--
11 A I mis--
12 Q --state it as--
13 A Sorry.
14 Q --clearly as I wanted.
15 Well, let me just ask you to walk through
16 that.
17 A Sure.
18 Q Starting with 2000, the first quarter, according to
19 your investigation, what were the receipts that
20 should have been disclosed?
21 A Twenty-one thousand six hundred and forty-two
22 dollars and sixty-two cent (\$21,642.62).
23 Q All right. And what were--what was the amount of
24 receipts that were actually disclosed,

1 been reported in the first quarter are then
2 reported in the second quarter.
3 Q All right. How about the third quarter of 2000?
4 A Fifteen thousand nineteen dollars and seven cent
5 (\$15,019.07).
6 Q And what was disclosed?
7 A Eleven thousand four hundred (11,400).
8 Q All right. How about the fourth quarter of 2000?
9 A Fifteen thousand one hundred and nine dollars and
10 sixty-four cent (\$15,109.64).
11 Q Is what?
12 A Was what actually was received by the committee.
13 Q Okay. And what was disclosed?
14 A Five thousand five hundred dollars (\$5,500).
15 Q All right. And in 2000, the mid-year semiannual
16 report?
17 A 2001 semiannual--mid-year semiannual report was--he
18 received seven hundred and fifty dollars (\$750).
19 Q And that, of course--2001 would be an off year--
20 A Right.
21 Q --election wise?
22 A Correct.
23 Q And what was disclosed?
24 A He didn't disclose any--receipt of any

1 contributions or--
2 A A thousand dollars was disclosed.
3 Q All right.
4 A And keep in mind on--on this--what--what I--the
5 numbers I'm giving you of what was disclosed, keep
6 in mind that if it was disclosed, that--that's not
7 taking into account they may be contributions that
8 were reported in the wrong reporting period. So
9 they may not be--they might--these contributions
10 may not be reported in the correct reporting
11 period.
12 Q Okay. But--so the total was twenty-one thousand
13 six hundred and forty-two (21,642), and one
14 thousand was disclosed? Do I have that correct?
15 A On his report, he disclosed a thousand dollars in
16 receipts for the 2000 first quarter.
17 Q Okay. What about the second quarter of 2000?
18 A There were thirty-two thousand five hundred and
19 fifty dollars (\$32,550) in receipts deposited
20 during the second quarter of 2000.
21 Q All right. How about what was disclosed?
22 A Forty-three thousand nine-hundred-fifty-three
23 (43,925.53). And this is the example of probably
24 some of the--the contributions that should have

1 contributions.
2 Q All right. How about the 2001 year-end semiannual
3 report?
4 A He received forty-one hundred dollars (\$4,100).
5 Q And what was disclosed?
6 A Twenty-seven hundred (2,700) was disclosed.
7 Q All right. What about the first quarter of 2002?
8 A Eleven thousand four hundred and fifty dollars
9 (\$11,450).
10 Q That is what was received?
11 A That is what is received--was received.
12 Q And should have been disclosed?
13 A And should have been disclosed.
14 Q And what was actually disclosed?
15 A Five hundred dollars (\$500).
16 Q All right. What about the second quarter of 2002?
17 A There were twenty-two thousand six hundred and
18 sixty-six dollars and twenty-five--and twenty-five
19 cent (\$22,666.25) of receipts that should have been
20 disclosed during that reporting period. and he
21 disclosed eighteen thousand one hundred and twenty-
22 five (18,125).
23 Q All right. And 2002 was the year you said there
24 was that special interim--

1 A Yes.
2 Q --report?
3 A Yes.
4 Q And what was that? What was received and--that
5 should have been disclosed on that report?
6 A He--HE received five hundred and fifty dollars
7 (\$550) during that reporting period, and he
8 disclosed five hundred dollars (\$500).
9 Q All right. What about the third quarter of 2002?
10 A Twenty-two hundred dollars (\$2,200) was what he
11 received. And he re--dis--he disclosed receiving
12 no contributions.
13 Q All right. What about the fourth quarter of 2002?
14 A He--he received thirty-seven thousand nine hundred
15 and three dollars and thirty cent (\$37,903.30), and
16 he disclosed thirty-four thousand three hundred and
17 fifty dollars (\$34,350).
18 Q And then in 2003, the mid-year semiannual report?
19 A He received one thousand six hundred and twenty-
20 five dollars and fifty-three cent (\$1,625.53), and
21 he reported receiving no contributions.
22 Q All right. What about the year-end for 2003?
23 A He received eleven thousand nine hundred seventeen
24 dollars and forty-one cent (\$11,917.41), and he

1 disclosed receipt of twelve thousand two hundred
2 dollars (\$12,200).
3 Q And would that--
4 A That is--
5 Q --again be an indi--
6 A Yes.
7 Q --cation of--
8 A Of--of contributions that were likely not reported
9 when they were deposited, were reported later.
10 Q All right. What about the first quarter of 2004?
11 A He received fifteen thousand six hundred dollars
12 (\$15,600), and he disclosed eight thousand six
13 hundred (8,600).
14 Q And again, 2004, that would be an election year,
15 correct?
16 A Yes, it would.
17 Q What about the second quarter of 2004?
18 A He received twenty-eight thousand five hundred
19 dollars (\$28,500).
20 Q And what did he report?
21 A He recei--he reported receiving no contributions.
22 Q So of twenty-eight thousand five hundred dollars
23 (\$28,500), zero was reported?
24 A Zero.

1 Q What about the third quarter of 2004?
2 A He re--he'd received eighteen thousand nine hundred
3 dollars (\$18,900), and he disclosed ten thousand
4 six hundred and fifty (10,650).
5 Q All right. And then the fourth quarter of 2004?
6 A He received twenty thousand seventy-five dollars
7 and ten cent (\$20,075.10), and he disclosed twenty-
8 seven thousand four hundred (27,400), likely
9 contributions from prior reporting periods that had
10 not been disclosed.
11 Q All right. 2005, the mid-year semiannual report,
12 what--what was deposited that should have been
13 disclosed?
14 A Three thousand five hundred and fifty-nine dollars
15 and seventy-six cent (\$3,559.76). And he didn't
16 report--he reported receiving no contributions.
17 Q All right. 2005, the year-end semiannual report?
18 A He showed--he--he received twenty-one thousand nine
19 hundred and ninety-five dollars (\$21,995), and he
20 disclosed fifteen thousand seven hundred and fifty
21 (15,750).
22 Q All right. And then in 2006, the first quarter?
23 A He received fifty-four thousand seventy-four
24 dollars and fifty-two cent (\$54,074.52), and he

1 disclosed receiving five thousand nine hundred and
2 fifty (5,950).
3 Q And the second--
4 THE CHAIR: I'm sorry. Please give me
5 those figures again.
6 THE WITNESS: Fifty-four thousand
7 seventy-four dollars and fifty-two cent
8 (\$54,074.52). And he actually--he reported five
9 thousand nine hundred and fifty (5,950).
10 Q And the second quarter of 2006?
11 A He received thirty-seven thousand four hundred and
12 six dollars and seventy-four cent (\$37,406.74). He
13 disclosed twenty thousand nine hundred and twenty-
14 five dollars (\$20,925).
15 Q Then the third quarter of 2006?
16 A He received twenty-six thousand five hundred and
17 fifty dollars and thirty-seven cent (\$26,550.37),
18 and he disclosed twenty-two thousand one hundred
19 and one dollars even (\$22,101).
20 Q All right. And then the fourth quarter of 2006?
21 A He received eighteen thousand one hundred dollars
22 (\$18,100), and he disclosed twenty thousand dollars
23 (\$20,000).
24 Q All right. Now, you were asked some questions

1 yesterday about contributions under a threshold
2 where the contributor's identity did not have to be
3 disclosed.
4 A Correct.
5 Q But the contribution itself does have to be
6 disclosed?
7 A Yes. It always has.
8 Q And--
9 A For long as I've been there, it has.
10 Q All right. And why on this sheet, the--Exhibit 15,
11 where those hundred-dollar contributions or fifty-
12 dollar contributions are listed, the contributor is
13 listed, as well? And--
14 A Why is the name on there?
15 Q Right.
16 A That's just to show proof that this was a
17 contribution that was received in the account that
18 wasn't disclosed.
19 Q All right. And--
20 A Just identifies those.
21 Q And since the contributor did not have to be listed
22 on the disclosure report, how were you able to
23 determine that these contributions had not been
24 disclosed?

1 contribution. The reporting forms actually require
2 you to provide a method of payment. Because cash--
3 it--up until--I hope I get my years--January 1,
4 2007, you take cash of a hundred dollars from an
5 individual or other person that could contribute.
6 That's reported the same way; you just show the
7 method of payment as cash.
8 Q All right. And in your Exhibit 15, the
9 spreadsheet, does that reflect cash contributions
10 that were not disclosed?
11 A There are cash contributions. There are--there was
12 receipt of contributions--cash contributions in the
13 account that we could not match to any--any
14 contributor--or--or any--any disclosure. Excuse
15 me.
16 Q What--then how were you able to determine that they
17 were contributions that should have been disclosed?
18 A Well, I mean, you've got deposits of cash.
19 Certainly they should be disclosed. And if we
20 don't know what the identity is, they--those
21 contributions still are required to be disclosed.
22 Q And--
23 A And--and the--the Committee is required to know the
24 identity of those individuals that make up that

1 A Because there is--even on the earlier reports,
2 there is a--a line item that--in 2000/2001, it was
3 called "unitemized." So you had--if you had
4 contributions that the contributor didn't have to
5 be reported, you would list the aggregate on that--
6 that line. If there were--if there--most--there
7 were a lot of reports that didn't have any
8 aggregate contributions. But if there were, there
9 are contributions of--of a hundred dollars or less
10 that are not included on here that they did--he
11 didn't disclose their name, but he wasn't required
12 to. And we--we gave him credit for those
13 contributions.
14 Q Why would he have not been required to disclose
15 tho--those names?
16 A Because if--if the--he was required to recei--to
17 disclose the receipt, which there are some he re--
18 he disclosed the receipt of. But if he did not
19 have to dis--disclose the identity of them, they
20 would not be--they would not be listed on--on
21 this--this spreadsheet.
22 Q What about cash contributions? How are those
23 reported?
24 A Cash contributions are reported like any other

1 cash.
2 Q And those were contributions into the campaign
3 accounts?
4 A It was into any of the--one--one of the accounts he
5 used for campaign.
6 Q All right. Do you know whether any of the
7 disclosure reports that are Exhibits 16A through
8 16G, did any of those disclose cash contributions?
9 A There are no cash contributions disclosed on the
10 report.
11 Q On any of those reports?
12 A I--I don't believe there are any reports that
13 disclose cash.
14 Q Okay. Do you know approximately the amount of cash
15 contributions total wise that are in Exhibit 15?
16 A There's not too many of them, so--there was one
17 deposit of four thousand (4,000) in cash. There
18 are some other cash contributions that, as I recall
19 it, somewhere in--in the five--over five thousand
20 dollar range.
21 Q Okay. You were asked some questions about filing
22 amended reports.
23 A Yes.
24 Q And I believe it was your testimony that those

1 would always be allowed? A--a committee would
 2 always be allowed to file amended reports?
 3 A Yes.
 4 Q Okay. Do--have you done any looking into--well,
 5 let me back up.
 6 How many entities are there in North
 7 Carolina who are required to re--to file disclosure
 8 reports?
 9 A There are over five thousand committees that are
 10 registered either at the State Board of Elections
 11 or in the County Board of Elections. We have
 12 around two thousand registered at the State Board
 13 of Elections.
 14 Q And so the--the rest would be registered with
 15 counties?
 16 A Yes.
 17 Q County board of--boards of election?
 18 A Yes.
 19 Q So if there are five thousand--in a year like 2006,
 20 the most recent election year other than the one
 21 we're in now, there would be four reporting
 22 periods; is that correct? Four reporting periods--
 23 A Yes.
 24 Q --in 2006?

1 reports?
 2 A I--I think it's probably--it could be--you know, it
 3 could be higher. And in fact, you know, probably
 4 as we go on, there'll be--there'll be more. That--
 5 that's probably a good--a good typical number.
 6 It--it may be higher in some years.
 7 Q All right. Now, you were asked some questions
 8 about the checks from AT&T and AstraZeneca and
 9 Anheuser-Busch.
 10 A Yes.
 11 Q When you saw those checks, did you do any
 12 investigation into the Community's Health
 13 Foundation?
 14 A Yes. We--Representative Wright authorized us to
 15 obtain the financial records for the Community's
 16 Health Foundation.
 17 Q And did you actually obtain those financial records
 18 and bank accounts?
 19 A We did.
 20 Q Are they included in the accounts that are on
 21 Exhibit 17A through seven--
 22 A They are.
 23 Q All right. Do you know when the bank account at
 24 the Community's Health Foundation was opened?

1 A Yes, yes.
 2 Q Five thousand, give or take some, reporting
 3 entities?
 4 A Yes.
 5 Q So is it fair to say that would be around twenty
 6 thousand--
 7 A Reports.
 8 Q --reports that are required to be filed with your
 9 office?
 10 A Oh, yes.
 11 Q Do you--
 12 A Well, five thousand, they're not--not all five
 13 thousand committees report to our office.
 14 Q Right.
 15 A The two thousand do.
 16 Q Right.
 17 A Right.
 18 Q Do you know how many amended disclosure reports
 19 were filed in 2006?
 20 A In 2006--I went back and pulled that--there were
 21 five hundred and sixty-nine amended reports filed
 22 in 2006.
 23 Q Okay. Do you know whether that--have any sense for
 24 whether that was a typical number of amended

1 A I do.
 2 Q And what was that date?
 3 A It was opened on March 17th, 2003.
 4 Q And do you know when it was closed?
 5 A June 28th, 2004.
 6 Q All right. And do you know what kind of activity
 7 went on in that account, whether there were many
 8 deposits made into it?
 9 A As I recall, I believe there were two deposits that
 10 were made into that account. I think--and I think
 11 both of them were from Dr. Gottovi. I think it was
 12 a--a check to open the account, and I think it--I
 13 think it was a check he--he wrote to the bank
 14 account to make a loan interest payment.
 15 Q Right. And what payments were there from that
 16 account--
 17 A Just--
 18 Q --if you recall?
 19 A Just the one. Actually the--the loan interest
 20 payment was the only payment made. And what he
 21 used to open it, that's kind of what--the bank
 22 charges ate it up every month, and that's when--it
 23 actually was not closed. It was charged off when
 24 that money was gone.

1 Q And by "charge off," you mean?

2 A The bank closed the account because there was no

3 money in it.

4 Q All right. Were any of the other--the other

5 accounts that you examined closed through charge-

6 off?

7 A Yes. The Bank of America account that was his

8 campaign account was closed off due to charge-off

9 in November of 2003. The--the service charges

10 was--there was no more money in the account. It

11 kept accruing service charges, so they closed that

12 account. As I said, the--the Community's Health

13 Foundation was closed due to charge-off. And the

14 First Citizens account that was used as a campaign

15 account was closed due to charge-off in June of

16 '05.

17 Q All right. Then you were asked a series of

18 questions this morning about commingled accounts.

19 And I believe it was your testimony that there is

20 no statutory prohibition against commingled

21 accounts; is that correct?

22 A There's no specific, no, statutory prohibition.

23 Q But I believe you also said that there are a number

24 of statutes that committees risk violating when

1 were not given for a political purpose. If--if

2 they are used in any way, then they are--they are

3 part of the campaign and, therefore, subject to

4 disclosure. And they--and they couldn't have been

5 used. They would have been prohibited.

6 Q Okay. And I believe your Exhibit 15--that simply

7 reflects contributions that were received and not

8 disclosed; is that correct?

9 A Only contributions.

10 Q Did you also, when you were doing your

11 investigation, look at the expenditures out of

12 these accounts?

13 A Yes.

14 Q And what did you find when you looked at the

15 expenditures out of the accounts?

16 A There were a large amount of expenditures that were

17 also not reported. From the campaign account,

18 that's--campaign accounts, that's a pretty easy

19 number to come to, because you can just look at any

20 check that was written from the account and say

21 that should have been disclosed.

22 When looking at the commingled account,

23 the account that had his personal funds, what we

24 were trying to determine, which expenditures were

1 they commingle--

2 A Correct.

3 Q --campaign money with personal money? What would

4 those statutes be?

5 A Well, a--a committee is prohibited from receiving

6 business contributions. So if a business check is

7 received, it--and it was for the committee, that is

8 something that couldn't be used. And--and not only

9 could they not receive it; I mean, they can't spend

10 that money, either.

11 Also, contributions in excess of four

12 thousand dollars (\$4,000) generally, to most

13 campaigns, are prohibited.

14 Cont--contributions--well, the--the

15 prohibited-source contributions, not just busin--

16 not just corporations. Businesses, professional

17 associations, labor unions, insurance companies,

18 all of these entities are prohibited from giving to

19 political committees.

20 Q So does the problem arise, then, when monies--when

21 contributions from those prohibited sources go into

22 the account and then are used for campaign-related

23 purposes?

24 A Yes. That's a huge problem. That's even if they

1 subject to disclosure. And the way we had to go

2 about that was look at the--each expenditure, see

3 if it was--appeared to be for a campaign purpose.

4 For example, if--if--if--if there was a check to a

5 TV station and it had "for campaign advertising,"

6 we consider that a campaign expenditure, therefore,

7 subject to disclosure.

8 If there were expenses that were paid

9 from the commingled account that campaign funds

10 paid for, even if it was a personal expense, we

11 considered those expenses were subject to

12 disclosure.

13 And sometimes what we had--we had

14 additional issue. Sometime you would have both

15 some personal money and campaign money. And what

16 we tried to do was say, "Spend your per--we'll

17 spend his personal money first. And then if

18 there's--if--if--sometimes there had to be

19 campaign funds to end up paying the rest of that

20 purchase. So what we did on that was we--we would

21 say that Representative Wright made an in-kind

22 contribution to his campaign, and then the rest of

23 it was an expenditure from the campaign.

24 Q If I understand correctly, are you saying that you

1 assumed that personal purchases were funded at
2 first with personal funds?
3 A Yes.
4 Q And if those were not sufficient to cover the
5 purchase, then campaign funds were applied?
6 A Yes.
7 Q And then vice versa on campaign expenditures? You
8 assumed campaign funds were spent first, and if
9 those were not sufficient, then personal funds--
10 A Yes.
11 Q --were used?
12 A Yes. Exactly.
13 Q All right. And is--you talked some yesterday, I
14 believe, in cross-examination about how it--it was
15 at one time, until recently, legal for candidates
16 to use campaign funds for personal purposes?
17 A Yes.
18 Q That correct?
19 A Yes.
20 Q But that it had to be disclosed?
21 A Yes. Yes. Absolutely. And--and--and usually
22 that's--as I was saying yesterday, that's why a lot
23 of candidates choose not to spend their campaign
24 funds for personal purposes at--prior to October 1,

1 same vendor, but the amounts would be significantly
2 different. So it was difficult for us to match up
3 that expense to what was paid; we're not sure that
4 it was. It--it would be overreported. The--the
5 expense would be. So we couldn't verify through
6 any records that--bank records of how that
7 expenditure was paid, if that was--if we were
8 looking at the same expenditure.
9 Q When you say "overreported," do--
10 A Right. We would have--sorry. We would have--for
11 example, we'd have a check to some sort of media
12 outlet. And we would have the check. And let's
13 just say it was for a thousand dollars thirty--
14 thousand dollars and thirty-two cent (\$1,000.32).
15 In his--on his report, around the same date time,
16 he would have a--a disclosure to the same media
17 outlet, but it may be for three thousand dollars
18 and fifteen cent (\$3,000.15). And that's just an
19 example, that--those numbers. But there would be
20 overdisclosure. We couldn't--that was not the same
21 expenditure amount. But it--he was obviously
22 paying that media outlet. He had disclosed paying
23 that media outlet. But the amount of the ex--the
24 expenditures didn't match. So that presented a

1 '06. Now that is no longer a choice.
2 Q Right. Were there any other things that you noted
3 out of the ordinary when you were looking at
4 expenditures? Any--any other patterns you noticed
5 or--
6 A Well, I mean, there were certainly--there were
7 periods of time that there were only campaign funds
8 in the personal account, and all expenditures
9 paid--and the majority of those expenditures paid
10 were--couldn't be determined to be a campaign
11 nature were paid with campaign funds. And there
12 were--there were--there were many times that that
13 was the case.
14 Q Did you ever find any discrepancies in what was
15 reported for a specific expenditure and what your
16 investigation shows was spent on the expenditure?
17 A We did. One of the things that was also--when we
18 were trying to determine what expenditures had been
19 disclosed and we were looking at what expenditures
20 had been made from each account, trying to match
21 that to what had been disclosed. And there were
22 several instances where Representative Wright
23 reported making expenditures that didn't match up
24 with anything. We would have an expenditure to the

1 problem for us trying to determine what
2 expenditures were disclosed.
3 MR. PETERS: Okay. Could I have just a
4 moment?
5 THE CHAIR: Certainly.
6 MR. PETERS: We have no further questions
7 at this time.
8 THE CHAIR: I'm sorry?
9 MR. PETERS: I said we have no further
10 questions at this time.
11 THE CHAIR: Thank you. Recross?
12 Recross?
13 RECROSS-EXAMINATION BY PROF. JOYNER:
14 Q All Right. Let's--well, let's star--start at the
15 end of this, when you started talking about
16 expenditures. Do you have any reports that you've
17 submitted to this body dealing with these
18 disbursements?
19 A I have not.
20 Q You've not prepared--so you--you--whatever you're
21 testifying to now about disbursements are basically
22 just kind of your random recollection?
23 A No. I mean, we have--our staff has gone back in--
24 in--in preparation for, you know, this proceeding

1 and the criminal proceeding. We have certainly
2 gone back and analyzed all of the records. And so
3 we--even though--all expenditures have been
4 analyzed, as well, and there have been--we have
5 produced documents for internally looking at those
6 expenditures.
7 Q Have--have--have you prepared any charts or reports
8 for this proceeding that you've submitted dealing
9 with these expenditures?
10 A I have not.
11 Q And in making your conclusions about these
12 expenditures, you rely a lot on your assumptions
13 about what was going on?
14 A I would say that I rely on try--in--in--in looking
15 at what is--certainly giving Representative Wright
16 the--the most benefit of the doubt on looking at
17 these. I--I--we have certainly tried to err--and
18 we realize if--if contri--if expenditures were paid
19 with campaign funds, there has to be disclosure of
20 that. The public has a right to know that.
21 Q Well, that--that wasn't my question. My question
22 was that you reached these conclusions based on
23 assumptions that you had made about these payments?
24 A I'm not sure what--I understand what kind of

1 personal nature were any personal expenditures that
2 campaign funds were used to fund. So it wasn't we
3 were trying to assume that certain expenditures
4 were personal or campaign. It was all based on
5 what paid for it.
6 Q In reaching a conclusion about which expenditures
7 were based--or paid from campaign funds or should
8 have been paid from campaign funds, you operated on
9 some assumptions?
10 A I'm not sure that I can agree that it was an
11 assumption. It was--if--if--if a check is written
12 to a media outlet and it has it's for campaign ads,
13 to me, on its face, that's something that needs to
14 be disclosed. I'm not really--
15 Q All right.
16 A --assuming anything.
17 Q You--you don't have any of those checks with you?
18 A I don't.
19 Q Okay.
20 A I don't. But--
21 Q So there's no way that--
22 A But they are available. And I--
23 Q That--my--you don't have that--any of that with you
24 that we can look at and make those determinations;

1 assumptions you mean.
2 Q Well, I don't know what kind of assumptions you
3 made. You talked about some assumptions that you
4 made in your answers to Mr. Peters' questions. So
5 I was just asking you if your determination of
6 these distributions or expenditures were based on
7 assumptions that you had made?
8 A Actually I don't think they were based on
9 assumptions. They were based on money that went
10 into the account that was specifically designated
11 as campaign money. And then other money that
12 didn't have a designation was considered personal.
13 And so those were not--those were not assumptions.
14 That was kind of a--a--a baseline that we used,
15 that anything that has his name on it as his
16 campaign would be considered, I think, subject to
17 our--to our disclosure laws, reportable. And
18 anything that was personal was--was put in a
19 different column.
20 And then when expenditures were made, we
21 didn't really look at trying--other than looking to
22 see what had--on its face was a campaign
23 expenditure, the only other things that we used
24 to--that were subject to disclosure as far as the

1 is that correct?
2 A Well, I--I don't, but they are on the--on the CDs.
3 And they--those can be printed out if--if needed.
4 THE CHAIR: Let me--let me just ask so
5 we're clear. The CDs you're talking about, are
6 those what have previously been marked as Exhibits
7 17A, B, and C?
8 THE WITNESS: Yes.
9 THE CHAIR: Thank you. And those are
10 available to Committee Members and available, I
11 think, to all sets of counsel; is that correct?
12 MR. PETERS: Yes, Mr. Chairman. They've
13 been provided to Representative Wright's counsel.
14 THE CHAIR: Thank--all right. Thank you.
15 Q (By Prof. Joyner) You--you don't have any of those
16 checks here?
17 A I don't.
18 Q Now, you were asked something about did you find
19 any other things out of the ordinary. What do--
20 what do you mean "out of the ordinary" in these
21 accounts?
22 A Well, I think you--are you referring to the
23 overdisclosure of expenditures? That was out of
24 the ordinary to me. When--when we couldn't match a

1 disclosure--a disclosed expense to anything in any
2 of the bank accounts, even though we could see the
3 same vendor around the same date, but the amounts
4 were not--I mean, and we're not talking about just
5 a little bit of difference. We're talking about a
6 significant difference that would make you question
7 whether or not it was the same expenditure.
8 Q And did you present this information to
9 Representative Wright?
10 A Did I present this to Representative Wright?
11 Q Yes.
12 A No. This information, though, was certainly part
13 of the hearing. So--
14 Q Did--did--
15 A These expend--expenditures were discussed at the
16 hearing.
17 Q Did you seek an explanation to help you understand
18 the difference between what you saw and what you
19 assume had occurred?
20 A I--I certainly think that those questions would
21 have been asked of Representative Wright had he
22 testified at--at the hearing.
23 Q But that's not what I asked you.
24 A I have not contacted Representative Wright since

1 questions about the dangers of having a commingled
2 account?
3 A Yes.
4 Q And one of them was that you might have
5 contributions in excess of the four-thousand-dollar
6 (\$4,000) limit?
7 A Yes.
8 Q Did you find that in Representative Wright's
9 account?
10 A Did not.
11 Q Okay. That's just a da--that's speculation?
12 A That--that is--that is--that is something that
13 could happen.
14 Q But it's not something that was present in this
15 case?
16 A It was not present in this case.
17 Q You indicated that there might be checks from
18 prohibited sources for campaign matters?
19 A Yes.
20 Q Did you find that in--
21 A We did find some of that.
22 Q And what--where was that?
23 A We did find some checks that were from businesses
24 that were deposited into one of--one of--more--more

1 the hearing on this matter.
2 Q That's--that's what I asked you. I asked you did
3 you--
4 A No, I have--I have not contacted him.
5 Q Okay. So--so you had these questions about these
6 expenditures, but you never sought to seek--to--
7 sought clarification from Representative Wright
8 about these--these thing that you found
9 questionable?
10 A Well, Dr. Joyner, I have a lot of questions for
11 Representative Wright that I certainly would--
12 Q I--I know you do. I know you do.
13 A I do.
14 Q That's your job to have questions. But that's not
15 what I asked you.
16 A And that certainly would be one of them.
17 Q And--and that's not what I asked you. All right?
18 I asked you did you seek answers from
19 Representative Wright?
20 A I have not sought any answers--
21 Q Okay. Thank you.
22 A --from Representative Wright.
23 Q That's what I asked you. Thank you.
24 You had a number of responses to

1 than one of his accounts. And I--I do not
2 specifically have which accounts with me, but I
3 know we did have prohi--find prohibited
4 contributions.
5 Q From--from a business?
6 A From businesses.
7 Q Okay.
8 A From some businesses.
9 Q And is that on this list here?
10 A No, it is not.
11 Q Which business?
12 A There were--there were less--there were less than
13 ten. And I do not recollect right now what the
14 list is, but I--we do have a list of those. And
15 those were presented at the State Board hearing.
16 Q All right. And--and those checks indicated that
17 they were for a political purpose?
18 A They were written to the Thomas Wright campaign.
19 Q And you talked about--there was one other one that
20 you had mentioned. Or maybe just have the--the two
21 sources. All right.
22 So you did find the--the--find those, but
23 you don't have that with you here?
24 A I do not.

1 Q Okay. And that's not a part of the nonreported?
2 A I--it may--there may be some on the nonreported.
3 I--I'm not sure if some of those showed up on the
4 nonreported or not. We did--we did label those
5 separately, the prohibited contributions.
6 Q And if they are not--
7 A And I'm not sure if they're on there. If they're
8 not, they--they--they were undisclosed
9 contributions to be added.
10 Q Well, you--you went through, and you indicated in
11 your testimony that you listed out all of the
12 undisclosed matters. And that means that those
13 matters that don't appear were matters that were
14 either not political, or they were disclosed?
15 A That is correct. And I--and I would--would--would
16 say that if a--a business contribution that was not
17 disclosed is not on this list and it was made out
18 to the campaign, it should be.
19 Q But you don't have them here?
20 A I don't.
21 Q Let me--you--you had additional questions about
22 when is a contribution received. Let me direct
23 your attention to General Statute 163 dash 278
24 point 8.

1 contribution is disclosed on the report is the date
2 the contribution was received on behalf of the
3 committee. Her accounts just have to be current
4 within that time period.
5 Q Is there any other statute which provides any other
6 date for recognition of the receipt?
7 A Yes.
8 Q And where--where is that?
9 A 163 dash 278 point 11 is the contents of the
10 treasurer's statement of receipts and expenditures.
11 And it states that the statement, meaning the
12 disclosure report, shall list--
13 REP. STAM: Which part of the statute is
14 that?
15 THE WITNESS: I'm sorry. It's A-1.
16 A The statement shall list the name and complete
17 mailing address of each contributor, the amount
18 contributor--contributed, the principal occupation
19 of the contributor, and the date such contribution
20 was received.
21 Q (By Prof. Joyner) Was received by whom?
22 A Well, and also our--our reporting manual states
23 clearly that it's the date that it's received on
24 behalf of the committee.

1 A Yes.
2 Q Is not--does not that statute indicate that the
3 date that the treasurer receives the contribution
4 is the operative date for reporting of the
5 contribution?
6 A It says the treasurer of each--of each candidate
7 shall keep detailed accounts. Is that--is that
8 what we're--we're reading from?
9 Q No, that's--that's--that's--
10 A Right. That's--the treasurer shall keep detailed
11 accounts. It doesn't say that the treasurer is not
12 responsible to--not--to know when a contribution
13 was actually received. They are to keep the
14 detailed accounts current with not--not with more
15 than seven days, but they're still supposed to keep
16 the actual date of receipt of the contribution.
17 Q But it says within seven days after the date of
18 receiving, after the date that the treasurer
19 received a contribution?
20 A Yes. The treasurer is required to have a detailed
21 accounting, if they were asked, of all
22 contributions received within seven days of when
23 she receives that contribu--she or he or she
24 receives that contribution. But the date that the

1 Q Well, I'm talking about the statute right now.
2 What--who is the person that--
3 A When it's received by the committee, because
4 sometimes--
5 Q But the statute doesn't say that, does it?
6 A Well, it says "received," and that's how--
7 Q That's how you read it?
8 A That's how the State Board has interpreted that.
9 Q Okay. All right. But it doesn't say that?
10 A It says "received," and that's--you're right.
11 That's our interpretation.
12 Q Right. Now, you indicated that you were able to
13 track--track and identify cash contributions. Now,
14 would--would you please explain to me once again
15 how you were able to track and identify cash
16 contributions that weren't reported or otherwise
17 designated as political funds?
18 A It's difficult to deal with cash. That's why we
19 don't allow cash over a hundred dollars. But
20 anytime we have cash that's deposited into an
21 account with campaign funds, we don't know who the
22 source is. And so the--there is an assumption that
23 if it's campaign, it should have been reported. So
24 that--those--that is why those cash contributions

1 are listed on--in this amount. They--
2 Q But you--you--you--you--you've indicated that
3 Representative Wright had commingled accounts.
4 A He did.
5 Q Therefore, cash contributions wouldn't necessarily
6 be attributed to political purposes?
7 A Not necessarily. But it--it's certainly--is--is
8 likely that it was or was--it--it's not--it's
9 certainly something I'm not sure--I'm not sure. I
10 can't say that it was that--for a purpose--a
11 campaign purpose, but we don't know. And it's
12 something that needs to be explained and shown why
13 it wasn't a campaign contribution.
14 Q Well, so--
15 A And that's another reason for not commingling an
16 account.
17 Q But you--the--these were then assumptions that you
18 made that whatever cash was deposited into this
19 account was somehow politically related?
20 A Yes. Now, that was an assumption that--that--that
21 I made. And the re--the basis of that was that we
22 tried to give Representative Wright credit or not
23 letting the things subject to disclosure where we
24 could, on their face, see that it was not written

1 disclosure of all contributions that were given for
2 a political purpose. However, when--anytime we
3 audit a committee that has cash in it, first of
4 all, you can't receive cash in increments of over a
5 hundred dollars. So we're going to ask any
6 political committee, whether they commingle it or
7 not, "How did you receive this cash, in what
8 increments, and who--how can you identify it back
9 to a contributor?" You've got a commingled
10 account, we're going to ask those same questions.
11 Q I--I--I understand that you have problems in
12 auditing the account. But an individual who
13 happens to be a politician can deposit more than a
14 hundred dollars in his or her account--
15 A In his personal account.
16 Q --without violating the law?
17 A In their personal account, yes.
18 Q Right.
19 A But it's difficult. We cannot determine that that
20 was for a personal purpose.
21 Q I--I understand the problem that you have. But I
22 want to make it clear that you made the assumption
23 that merely because the hundred dollars or whatever
24 cash contribution is made in an account that has

1 for a campaign purpose. Cash we could not
2 identify.
3 Q Right. So--
4 A Therefore, in a commingled account, there needs to
5 be evidence to us to show us why it's not.
6 Q So your assumption is that any cash contribution in
7 a commi--commingled account is for a political
8 purpose?
9 A I would definitely assume that.
10 Q Okay. So a person can't--who is a politician can't
11 put cash--personal cash into their personal account
12 if they're commingling--
13 A If they're--
14 Q --without you determining that it is a political
15 contribution?
16 A If they're commingling it, then I think that's
17 going to be their burden to prove that it's not.
18 Q Well, there's nothing in the statute that places
19 the burden of them proving that cash that they
20 received and deposited in the account had a
21 political purpose. The--the--the burden placed
22 on the--on the individuals is to report those
23 contributions which are for political purposes.
24 A The burden is for them to--to--right, to provide

1 commingled funds, that that cash contribution has a
2 political purpose. And that's not necessarily
3 correct?
4 A It may not necessarily be correct, but I have no
5 evidence that it's not correct.
6 Q Right. And that's the assumption that you're
7 making. That's--that's--that's my point.
8 A Yes.
9 Q Okay. Now, you indicated that you had records from
10 the Community Health Foundation that your
11 investigators presented?
12 A Yes.
13 Q Showing an opening date of March 17, 2003?
14 A Yes.
15 Q And a closing date of June 28, 2004?
16 A Yes.
17 Q And in that account, you indicated that there were
18 two--two items of note?
19 A That's my recollection.
20 Q Okay. I--I thought you had a report of that.
21 A No, I just--all I have here are just when the--the
22 bank accounts were opened and closed.
23 Q Okay. But for all practical purposes, there were
24 no activity--there was no activity in that account?

1 A I--I think that's a very good--yes, I would agree
2 with that.
3 Q All right.
4 A Other than the--the--the interest payment, that--
5 the only activity in the account.
6 Q So the one--one check written--
7 A Yes.
8 Q --for the interest payment, and then the bank
9 gobbled up the rest of the account in fees?
10 A Yes.
11 Q And then it charged itself off?
12 A That's correct.
13 Q Okay. And you also indicated that Representative
14 Wright had a couple of accounts that were eaten up
15 in bank fees and charged off and closed?
16 A That's correct.
17 Q Is it not true that there will be periods of time
18 in which these bank accounts aren't used by
19 political candidates?
20 A Oh, absolutely.
21 Q Is there any problem with closing and not having an
22 account when there are no funds coming in?
23 A If you--if you have any change in your account
24 activity as far as a financial institution that

1 A You do.
2 Q So then that should be reported, then, as a
3 disbursement?
4 A Right.
5 Q Okay. That's new information.
6 Now, you made reference to this 278 point
7 11, where there should be the listing of the names,
8 mailing address of each contributor, the amount
9 contributed, and the date of such contribution. Is
10 that all the information that is required to be
11 reported?
12 A For contributions.
13 Q For contributions?
14 A Yes. And it gives--it gives specific information
15 about the employer information of exactly what is
16 required to meet that requirement. You also have
17 to give the election-cycle sum to date for that
18 contributor, how much has that contributor
19 contributed over the course of the election cycle.
20 Q Now, you talked about the fact that some quarters,
21 there was an underreporting of campaign receipts;
22 other quarters, there was an overreporting of
23 campaign contributions?
24 A In--in some--right. Correct. There was--for the

1 you're using, if you close one account, you're
2 required within ten days to notify the State Board
3 of Election--
4 Q No.
5 A --with that change.
6 Q I--I--I understand that. It wasn't my question.
7 That's not my question.
8 A I'm sorry.
9 Q All right. My question's a simple one. Is there
10 anything wrong with closing the account if it's not
11 being used?
12 A No, there's nothing wrong.
13 Q Okay. Now, I understand that when you open it up
14 again, you need to report it.
15 A And you need--if there was money in that account,
16 you would have to be able to show where that money
17 was being kept if it wasn't kept in that--
18 Q And--
19 A --in that account.
20 Q And I--and I understand that. And I understand
21 that.
22 Do you have to report when the bank
23 gobbles up the portion that's left in the account
24 for bank fees?

1 report, there was more contributions reported
2 during that period than actually was received
3 during that period.
4 Q All right. And--but you--you have not gone back to
5 identify the specific dates of the receipts of
6 these various contributions?
7 A You--we used the deposit date. So anything that
8 was not--well, it was all based on the deposit
9 date.
10 Q Okay. But as long as they were reported, then they
11 were in compliance with the statute?
12 A No. No. Long as they were reported in the correct
13 reporting period. Because really the--the purpose
14 of disclosure is timely reporting. If things get
15 disclosed after an election, it's not really going
16 to help the public for the purpose that it's there
17 for.
18 Q Well--
19 A So timely disclosure.
20 REP. STAM: Doctor, without being too--
21 are we on the scope of redirect and recross here?
22 Is this anything the--the State asked about?
23 PROF. JOYNER: Yes.
24 REP. STAM: I'll--I'll allow some leeway.

1 PROF. JOYNER: No, you're not going to
2 allow any leeway. That's what they asked about.
3 Q With respect to--your final conclusion with respect
4 to items that were not disclosed that is contained
5 in Exhibit 15?
6 A That would be the--there--there may be some
7 additional contributions that we determined in our
8 review that they were not added to that. This is--
9 the--we have taken off the three. There are no--
10 there is--there are no more that come off. There
11 may be some additional ones that could be added,
12 but we did not add those.
13 Q Now--now--all right. Now, are you telling me that
14 you're still working through--
15 A No, we're not working--
16 Q --the final--
17 A --through it. No.
18 Q Well, is this final or not?
19 A Well, the--the review of--of the one-eighty-five
20 sheet, we went through and--and made sure all the
21 information on that was correct. In doing that,
22 there were three that came off. What we did--what
23 we did find when going back and looking through
24 every one of our records, there were some PAC

1 A Yes.
2 Q --which allowed legislators to come back, as you
3 said, years later and amend their reports?
4 A Yes.
5 Q So conceivably any legislator can now go back and
6 amend their report 2003, 2004 and bring it in
7 compliance with the full recorded--reporting
8 requirement of the statute?
9 A Yes.
10 Q So the mere fact that an item is reported late does
11 not mean that it is not reported? It's not timely
12 reported, but, if you allow the amendment, then it
13 can be amended at any point to bring it in
14 compliance?
15 A It can be. And none of those that were late are
16 included in the nondisclosed. These were never
17 disclosed in any reporting period.
18 Q I--I--I understand.
19 Were these commingled accounts that you
20 found for Representative Wright--did not his wife
21 also have access to those accounts?
22 A She had access to one account. We said there was
23 only one five-hundred-dollar contribution. The
24 other account saw no--I saw no evidence that she

1 contributions that a PAC disclosed making a
2 contribution to Representative Wright. However, we
3 didn't have proof that he received it, because he
4 hadn't deposited it in his account. So we
5 certainly did not include those contributions on
6 this.
7 But in order to make sure that--verify
8 whether or not those contributions were actually
9 received by him, we contacted each one of those
10 PACs. Some of them he never received. Some of
11 them he received, and there were a couple where he
12 cashed. So those would have been subject to
13 disclosure. This was done later than this sheet,
14 and we did not add those to this.
15 But I--to--to be clear, yes, there--there
16 could be some additions based on the late
17 investigating we did with respect to the PACs.
18 Q So you, then, intend to amend this item at some
19 point to correctly reflect the items that were not
20 disclosed?
21 A If--if there is a need for an amendment, yes, I can
22 do that.
23 Q Now, you indicated earlier that the Board of
24 Election had a liberal amendment policy--

1 had access on it. She was not on any of the
2 signature cards. It was just his--his--he was the
3 only one that had access to that account.
4 PROF. JOYNER: All right. I have no
5 further questions.
6 THE CHAIR: All right. We are going to
7 take a ten-minute break this morning now, and we'll
8 be back at--well, a little more than ten minutes--
9 ten after eleven for committee questions. Thank
10 you.
11
12 (SIXTEEN-MINUTE RECESS)
13
14 THE CHAIR: All right. And, Dr. Joyner,
15 may we proceed without--all right. I think we are
16 at Committee counsel questions. I'll start with
17 Representative Stam.
18 REP. STAM: Thank you.
19 Just three areas of inquiry. First, Ms.
20 Strach, did you determine the amount or quantity
21 of--of campaign expenditures that were not
22 reported?
23 THE WITNESS: We did. I do not have that
24 specific number. Based on the process that I

1 explained, we did come up with amount of contribu--
 2 of expenditures that were not reported. And I--I
 3 do not have that number with me. But--
 4 REP. STAM: What was the order of
 5 magnitude of that number?
 6 THE WITNESS: I mean, it was--it was
 7 around--my recollection, we're--we're looking
 8 around close to two hundred thousand dollars
 9 (\$200,000).
 10 REP. STAM: And would that all be,
 11 therefore, reportable income for tax purposes?
 12 THE WITNESS: I can't answer that
 13 question.
 14 REP. STAM: Okay. Second question. You
 15 testified that there were a couple of PACs that
 16 contributed and that Representative Wright just
 17 cashed, that didn't even come into the accounts.
 18 What were those amounts? What PACs were those?
 19 THE WITNESS: I--I specifically remember
 20 a two-thousand-dollar (\$2,000) check from the North
 21 Carolina Dental PAC that was cashed. And there
 22 were a couple of other checks in--in much smaller
 23 amounts.
 24 REP. STAM: Okay. If you would, look at

1 (\$4,000). April 6. I'm sorry.
 2 THE WITNESS: Yes, I see that one.
 3 REP. STAM: And I'll use this as a
 4 surrogate for some of the others. The--in addition
 5 to it not being reported, the question I would have
 6 would be whether it was even a lawful contribution.
 7 Now, if this were forty different--or forty or more
 8 different cash amounts totaling four thousand
 9 (4,000), and if he had kept records of it, could he
 10 have received that?
 11 THE WITNESS: If he--if they had been
 12 those numbers of contributors in those--in those
 13 amounts and he'd kept records, yes, he could have.
 14 Representative Stam, that--that 4-6-2004,
 15 there wasn't another account at that time other
 16 than the commingled account open.
 17 REP. STAM: And for that four thousand
 18 dollars (\$4,000), though, is--isn't four thousand
 19 (4,000) significant because--for another reason?
 20 THE WITNESS: It's very significant to
 21 me. It always raises a red flag when I see the
 22 four thousand (4,000), 'cause that's the
 23 contribution limitation.
 24 REP. STAM: Has there been any attempt by

1 Page 4 of 10 of Exhibit 15. Just wanted to look at
 2 a couple of the cash contributions. If you'd look
 3 at the one right in the middle of the page, that
 4 has a date of June 22, 2004. And that's in Bank of
 5 America 5071. Is that what's been described as the
 6 personal account that's in the name of Thomas
 7 Wright?
 8 THE WITNESS: It is.
 9 REP. STAM: And is that for a time period
 10 for which there was no campaign account in
 11 existence?
 12 THE WITNESS: What's the time on that?
 13 It was--
 14 THE CHAIR: 6-22-oh--6-22-04.
 15 THE WITNESS: 6-22-04?
 16 REP. STAM: Or maybe not.
 17 THE WITNESS: Yes, that--that--the--first
 18 there was another campaign account during that
 19 time.
 20 REP. STAM: All right. Look at the one a
 21 little above that, cash contributions. It might be
 22 the tenth line down. August 6, '04.
 23 THE WITNESS: Are we--
 24 REP. STAM: For four thousand dollars

1 checking some of the other PACs or other
 2 contributors to see if somebody else contributed
 3 four thousand (4,000) right then that just--
 4 Representative Wright just happened to cash?
 5 THE WITNESS: We've checked. Every PAC
 6 that has disclosed making a contribution to
 7 Representative Wright, we have verified receipt of
 8 that check in his account. Or if we didn't have
 9 receipt of that--we didn't have that, we contacted
 10 the PAC to see if the check was ever negotiated.
 11 REP. STAM: No further questions.
 12 THE CHAIR: All right. Thank you.
 13 Representative Lucas.
 14 REP. LUCAS: No inquiries at this time.
 15 THE CHAIR: Thank you.
 16 Representative McGee.
 17 REP. MCGEE: Thank you, Mr. Chair. I do
 18 have three inquiries.
 19 THE CHAIR: Absolutely.
 20 REP. MCGEE: Thank you.
 21 When the treasurer or the campaign
 22 receives the check--or a check, is there a time-
 23 limitation requirement that says you've got to get
 24 it in the bank by one day, two days, three days?

1 THE WITNESS: There's nothing in the
2 statute that says that you have to deposit it in a
3 certain length of time. Your--your obligation is
4 on disclosing it on that date. Your--your records
5 have to be current, no more than seven days. So
6 certainly your--if your records are current, you
7 would want to have gotten that check in the bank in
8 order for it to be current.
9 REP. MCGEE: Thank you. And second
10 question, if I may.
11 THE CHAIR: Certainly.
12 REP. MCGEE: What is the forty-eight-hour
13 reporting?
14 THE WITNESS: Forty-eight-hour reporting
15 is--any political committee that receives a
16 contribution of over a thousand dollars (\$1,000) or
17 more during basically the two weeks prior to a
18 primary or general election when there are no other
19 reports required, you have to report within forty
20 hours--forty-eight hours of receipt of that. And
21 it's--you fax that report in to our office.
22 REP. MCGEE: Then to follow up that
23 question, were there forty-eight-hour reports
24 furnished by Representative Wright, if he in fact

1 did receive any contributions of that amount?
2 THE WITNESS: He filed no forty-eight-
3 hour reports.
4 REP. MCGEE: Did he have any
5 contributions that would have qualified the report
6 being needed?
7 THE WITNESS: Based on disclosure, there
8 are contributions that would have been in those two
9 weeks that it would have been over a thousand
10 dollars (\$1,000). I'm not sure of the amount, but
11 there were--there were some.
12 REP. MCGEE: Thank you. Then a further
13 question, if I may.
14 THE CHAIR: Certainly.
15 REP. MCGEE: On October--in October of
16 '06, the way you can use your campaign
17 contributions changed; is that correct?
18 THE WITNESS: That is correct.
19 REP. MCGEE: Okay. I note on Exhibit 15,
20 on the last two pages, beginning with October,
21 campaign funds continued to come into
22 Representative Wright's accounts. Was that the
23 commingled account that they came into?
24 THE WITNESS: Yes.

1 REP. MCGEE: Do you have--or were you
2 able to determine that all these monies were spent
3 for campaign purposes? Or were someone's medical
4 personal purposes?
5 THE WITNESS: There were some that we
6 could certainly not determine they were for a
7 campaign purpose. So it would--because they were
8 not a campaign purpose, it--it would appear that
9 they were for a per--personal purpose.
10 REP. MCGEE: Thank you, Mr. Chair.
11 THE CHAIR: Thank you, Representative
12 McGee.
13 Representative Warren.
14 REP. WARREN: No questions.
15 THE CHAIR: Thank you.
16 Representative Wiley.
17 REP. WILEY: One quick question.
18 THE CHAIR: Certainly.
19 REP. WILEY: In going through Exhibit 15,
20 was it ever analyzed or reported that in addition
21 to things that were reported, if you added these on
22 to it, it would have gone over the four-thousand-
23 dollar (\$4,000) threshold?
24 THE WITNESS: I don't think we had any

1 contributors that went over the four-thousand-
2 dollar (\$4,000) threshold, no.
3 THE CHAIR: Is that it, Representative?
4 All right. The Chair has several
5 questions. And I'm going to be referring to
6 several documents. But before we do that, just a
7 couple of general questions.
8 You had--Ms. Strach, had indicated in
9 your testimony with regard to--on redirect that
10 there were some patterns of expenditures where
11 campaign funds were used for personal items. It
12 was--am I correct, first, that the law prior to
13 this year allowed that to occur provided that there
14 was a reporting or disclosure of that expenditure?
15 THE WITNESS: Correct.
16 THE CHAIR: All right. Can you give us
17 examples, several examples of--if there are any, of
18 items where campaign funds were spent for personal
19 expenditures that were never reported and,
20 therefore, violated the law?
21 THE WITNESS: I would--I--I note--
22 specifically remember two instances, 'cause our--
23 when our staff was pulling this together, there
24 were two instances where Representative Wright paid

1 Safeway Chevrolet in '06, in January of '06, two
2 payments that totaled eighteen thousand dollars
3 (\$18,000), and campaign funds paid all of the
4 eighteen thousand dollars (\$18,000).
5 The other thing--and I guess it just--is
6 just what sticks out in my mind--is that there
7 were--over the course of our review, there were
8 total of close to six thousand dollars (\$6,000) in
9 checks that were written to Reeds Jewelers, and all
10 of those expenses were paid from campaign funds.
11 Those are only two I can recall.
12 THE CHAIR: All right. Let me follow up
13 on that. Were either of those expenditures
14 reported as required by law?
15 THE WITNESS: They were not reported.
16 THE CHAIR: Were any amendments made to
17 any campaign-finance statement that amended the
18 failure to disclose?
19 THE WITNESS: No amendments were filed.
20 THE CHAIR: Now, if you will, look with
21 me at Exhibit Number 16. And we're going to start
22 with 16A.
23 THE WITNESS: Okay.
24 THE CHAIR: At the bottom of the first

1 page on 16A, there is a sworn affirmation as to
2 that report. Would you read what the affirmation
3 is--or the oath?
4 THE WITNESS: Sure. "Being duly sworn, I
5 depose, affirm, and say that the Committee is in
6 compliance with all provisions of Article 22A,
7 including that no funds are commingled with funds
8 for a federal or out-of-state PAC. I further say
9 that this report is complete, true, and correct."
10 THE CHAIR: Who signed that? Can you
11 tell?
12 THE WITNESS: Thomas E. Wright.
13 THE CHAIR: All right. And this is a
14 notarized statement?
15 THE WITNESS: It is.
16 THE CHAIR: And was this report complete,
17 true, and accurate?
18 THE WITNESS: No, it was not.
19 THE CHAIR: And, therefore, did it
20 violate the criminal law?
21 THE WITNESS: Yes.
22 THE CHAIR: If you'll turn to the next
23 campaign report as part of that 16A package, which
24 would be the second quarter. If you'll look at

1 that Is the same affirmation there by
2 Representative Wright that the report is complete,
3 true, and accurate?
4 THE WITNESS: Yes.
5 THE CHAIR: Was it complete, true, and
6 accurate?
7 THE WITNESS: It was not complete, true,
8 and accurate.
9 THE CHAIR: Does that violate the
10 criminal law?
11 THE WITNESS: It--it is--it is a criminal
12 violation for this report to be not--signed, being
13 false.
14 THE CHAIR: Just out of curiosity, who's
15 the notary on that particular verification?
16 THE WITNESS: Meredith L. Norris.
17 THE CHAIR: Thank you. If you'll go with
18 me to the third-quarter campaign report in that
19 same package, dated October 31, 2000. Is there a
20 certification on that report?
21 THE WITNESS: I'm sorry. I haven't
22 gotten there yet.
23 Yes.
24 THE CHAIR: And what--does that

1 certification certify that the report is complete,
2 true, and ac--and correct?
3 THE WITNESS: It does.
4 THE CHAIR: Was it?
5 THE WITNESS: It was not.
6 THE CHAIR: Does that violate the
7 criminal law?
8 THE WITNESS: It does.
9 THE CHAIR: All right. Thank you.
10 And finally, if we'll go to the fourth
11 statement on that same package. Is there a
12 certification by Representative Wright again that
13 the report is complete, true, and correct?
14 THE WITNESS: Yes.
15 THE CHAIR: And was it?
16 THE WITNESS: It was not.
17 THE CHAIR: And does that violate the
18 law?
19 THE WITNESS: It does.
20 THE CHAIR: All right. Turn with me to
21 16B, please. On 16B, again is there a
22 certification, this time not notarized, by
23 Representative Wright that this report for midyear
24 2002--midyear 2001--I'm sorry--is complete, true,

1 and accurate--or complete, true, and correct?
2 THE WITNESS: Yes.
3 THE CHAIR: Was it complete, true, and
4 correct?
5 THE WITNESS: It was not.
6 THE CHAIR: And does that violate the
7 law?
8 THE WITNESS: It does.
9 THE CHAIR: Same thing in the middle of
10 that package, if you will, for the year-end
11 semiannual report for 2002. Is there a signature
12 by Representative Wright that the report is
13 complete, true, and correct?
14 THE WITNESS: Yes.
15 THE CHAIR: Was it?
16 THE WITNESS: It was not.
17 THE CHAIR: Does that violate the
18 criminal law?
19 THE WITNESS: It does.
20 THE CHAIR: The next package, 16C. If
21 you'll look at what is the first-quarter report for
22 2002. Is there a signature by Representative
23 Wright that the report is complete, true, and
24 correct?

1 correct?
2 THE WITNESS: It was not.
3 THE CHAIR: Does it violate the criminal
4 law?
5 THE WITNESS: Yes.
6 THE CHAIR: And finally, for the fourth-
7 quarter report--I'm sorry. The interim report is
8 the next report in that package, I think. Is there
9 a signature by Representative Wright that the
10 report is complete, true, and correct?
11 THE WITNESS: Yes.
12 THE CHAIR: Was it?
13 THE WITNESS: No.
14 THE CHAIR: Does that violate the
15 criminal law?
16 THE WITNESS: Yes.
17 THE CHAIR: The next is the fourth-
18 quarter report. Same question. Is there a
19 signature by Representative Wright?
20 THE WITNESS: Yes.
21 THE CHAIR: And does he state that the
22 report is complete, true, and correct?
23 THE WITNESS: Yes, he does.
24 THE CHAIR: Was that complete, true, and

1 THE WITNESS: Yes.
2 THE CHAIR: Was it?
3 THE WITNESS: It was not.
4 THE CHAIR: Does that violate the
5 criminal law?
6 THE WITNESS: Yes.
7 THE CHAIR: If you'll look in the middle
8 of that package to the next certification. And I'm
9 going to go with you there. For the next quarter,
10 is there a signature by Representative Wright that
11 that report is complete, true, and correct for the
12 second quarter?
13 THE WITNESS: Yes.
14 THE CHAIR: Was it?
15 THE WITNESS: It was not.
16 THE CHAIR: Does that violate the
17 criminal law?
18 THE WITNESS: It does.
19 THE CHAIR: As to the third quarter, same
20 question. Is there a signature by Representative
21 Wright that the report is complete, true, and
22 correct?
23 THE WITNESS: Yes.
24 THE CHAIR: Was it complete, true, and

1 correct?
2 THE WITNESS: No.
3 THE CHAIR: Does that violate the
4 criminal law?
5 THE WITNESS: Yes.
6 THE CHAIR: All right. Let's turn to
7 16D, please. For the third midyear report in 2003,
8 is there a signature by Representative Wright the
9 report is complete, true, and correct?
10 THE WITNESS: Yes.
11 THE CHAIR: Was it complete, true, and
12 correct?
13 THE WITNESS: No.
14 THE CHAIR: Does that violate the
15 criminal law?
16 THE WITNESS: Yes.
17 THE CHAIR: If you'll turn with me to the
18 middle of that exhibit. There's a year-end
19 semiannual report. Is there a signature by
20 Representative Wright on January 29, 2004, that the
21 report is complete, true, and correct?
22 THE WITNESS: Yes.
23 THE CHAIR: Was it complete, true, and
24 correct?

1 THE WITNESS: No.
2 THE CHAIR: Does that violate the
3 criminal law?
4 THE WITNESS: Yes.
5 THE CHAIR: All right. If you'll turn
6 with me now to the next package, which is 16E. Is
7 there a signature on the first-quarter report dated
8 April 26, 2004, by Representative Wright?
9 THE WITNESS: Yes.
10 THE CHAIR: Does he certify that the
11 report is complete, true, and correct?
12 THE WITNESS: Yes.
13 THE CHAIR: Was it complete, true, and
14 correct?
15 THE WITNESS: No, it was not.
16 THE CHAIR: Does that violate the
17 criminal law?
18 THE WITNESS: Yes.
19 THE CHAIR: All right. Now if you look
20 with me on the second-quarter report. Is there any
21 signature by Representative Wright as to that
22 report?
23 THE WITNESS: There is not.
24 THE CHAIR: All right. Let's turn to the

1 THE WITNESS: Yes.
2 THE CHAIR: Is there a signature by
3 Representative Wright?
4 THE WITNESS: Yes.
5 THE CHAIR: And does that say that the
6 report is complete, true, and correct?
7 THE WITNESS: It does.
8 THE CHAIR: And is that a violation of
9 the criminal law to so say when the report is not?
10 THE WITNESS: Yes.
11 THE CHAIR: If you'll turn with me in the
12 middle of that package to the report dated January
13 26, 2006. Is there a signature by Thomas Wright
14 that the report is complete, true, and correct?
15 THE WITNESS: Yes.
16 THE CHAIR: And was it complete, true,
17 and correct?
18 THE WITNESS: No.
19 THE CHAIR: Does that violate the
20 criminal law?
21 THE WITNESS: It does.
22 THE CHAIR: And let's turn to 16G, which
23 is the last part of the packet. Is there a
24 signature on the first--on that first report by

1 next document. On the third-quarter report, is
2 there a signature by Representative Wright that the
3 report is complete, true, and accurate?
4 THE WITNESS: There is not.
5 THE CHAIR: Is there a date?
6 THE WITNESS: 10-25-04.
7 THE CHAIR: All right. If you'll turn
8 with me to the fourth-quarter report, which is a
9 few pages later. Is there a signature by
10 Representative Wright that that report is complete,
11 true, and accurate--or correct?
12 THE WITNESS: Yes.
13 THE CHAIR: And there's a date of--looks
14 like January 10th, 2005?
15 THE WITNESS: Yes.
16 THE CHAIR: And was that report complete,
17 true, and correct?
18 THE WITNESS: No.
19 THE CHAIR: Does that violate the
20 criminal law?
21 THE WITNESS: Yes.
22 THE CHAIR: If you'll turn with me to
23 16F. There is a certification on 16F, which is the
24 report dated--looks like July 28th, 2005?

1 Representative Wright which has not got a date but
2 has a received stamp of April 27--April 24, 2006?
3 THE WITNESS: Yes.
4 THE CHAIR: And is that signature by
5 Representative Wright stating that the report is
6 complete, true, and correct?
7 THE WITNESS: Yes.
8 THE CHAIR: Was the report complete,
9 true, and correct?
10 THE WITNESS: No.
11 THE CHAIR: And is that violation of the
12 criminal law?
13 THE WITNESS: Yes.
14 THE CHAIR: Middle of that packet,
15 there's a report signed by Representat--or there is
16 a report dated July 10, 2006?
17 THE WITNESS: Yes.
18 THE CHAIR: And is there a signature
19 there?
20 THE WITNESS: Yes, there is.
21 THE CHAIR: Whose signature?
22 THE WITNESS: Thomas E. Wright.
23 THE CHAIR: And does Doc--Representative
24 Wright state that this report is complete, true,

1 and correct?
2 THE WITNESS: He does.
3 THE CHAIR: Was it complete, true, and
4 correct?
5 THE WITNESS: No.
6 THE CHAIR: Does that violate the
7 criminal law?
8 THE WITNESS: Yes.
9 THE CHAIR: The next document in that
10 same package looks like the report dated October--
11 either 21 or 31, probably 31, 2006?
12 THE WITNESS: Yes.
13 THE CHAIR: And is there a signature as
14 to that report being complete, true, and correct?
15 THE WITNESS: Yes.
16 THE CHAIR: Whose signature?
17 THE WITNESS: Thomas E. Wright.
18 THE CHAIR: And was this report complete,
19 true, and correct?
20 THE WITNESS: No, it was not.
21 THE CHAIR: And does that violate the
22 criminal law?
23 THE WITNESS: Yes.
24 THE CHAIR: And finally, the last part of

1 that package, you'll see a document dated January
2 10, 2007.
3 THE WITNESS: Okay.
4 THE CHAIR: And it says that there's a
5 report--that the report dated January 10, 2007, is
6 complete, true, and correct. Whose signature is
7 that?
8 THE WITNESS: Thomas E. Wright.
9 THE CHAIR: And was that report complete,
10 true, and correct?
11 THE WITNESS: It was not.
12 THE CHAIR: And does that violate the
13 criminal law?
14 THE WITNESS: Yes.
15 THE CHAIR: Last several questions for
16 you, Ms. Strach. My understanding--and I just want
17 to be correct. Were there reports required to be
18 filed last year, in 2007?
19 THE WITNESS: Yes.
20 THE CHAIR: Were any reports--other than
21 this January 10, 2007, report, were there any
22 reports filed by Representative Wright?
23 THE WITNESS: No, there were not.
24 THE CHAIR: Does that violate the

1 criminal law?
2 THE WITNESS: It--it does.
3 THE CHAIR: Finally as to the mention
4 that you made of approximately ten businesses that
5 had contributions in the account. Is it a
6 misdemeanor for a corporation or a business to give
7 a campaign contribution to a candidate?
8 THE WITNESS: It is.
9 THE CHAIR: And is it a misdemeanor to
10 accept?
11 THE WITNESS: It is.
12 THE CHAIR: And would those--each of
13 those contributions be an independent violation of
14 the criminal law?
15 THE WITNESS: Yes.
16 THE CHAIR: I have no further questions.
17 Redirect.
18 MR. PETERS: We don't have any further
19 questions.
20 THE CHAIR: Recross.
21 RE CROSS-EXAMINATION BY PROF. JOYNER:
22 Q You--you've just gone through a lengthy recital of
23 the numerous violations of the criminal law. And
24 you did that quite well.

1 A Thank you.
2 Q The signature page or pages that you referred to.
3 A Yes.
4 Q Does every legislator who files a disclosure report
5 sign that same page?
6 A No. Only the appointed treasurer, or, if the
7 treasurer doesn't, the candidate can.
8 Q Well, for every campaign that reports to you, did
9 they have to file or sign the same certification?
10 A Every legislator?
11 Q No, every campaign--
12 A Every campaign, yes.
13 Q --which reported a campaign contribution, did they
14 have to sign this same certification?
15 A Every treasurer, yes, that files a report has to
16 sign that same certification, yes.
17 Q So that would be either the treasurer or the
18 legislator?
19 A Correct.
20 Q Be--
21 A The treasurer or the candidate.
22 Q Right. Because the candidate can be the treasurer,
23 as well?
24 A He--the treasurer can be.

1 Q Right.
2 A They--and the--the candidate now, just--just for
3 your information, can't sign if they haven't taken
4 treasury training.
5 Q Well, I'm--well, I'm not--I'm not talking about
6 now. I'm talking about then.
7 A Well, some of those reports would be involved with
8 that.
9 Q Okay. All right. Well, at any rate, every report
10 would have to carry the same certification?
11 A Yes.
12 Q Now, is it not also true, then, that for every
13 report in which a treasurer or candidate offers an
14 amendment have also violated the law?
15 A Well, it says that it--that you're signed this
16 knowing it not to be true, I guess. So if--if a
17 treasurer files an amendment and they're stating
18 they didn't know it wasn't true and they're--
19 they're correcting that report so they're not
20 filing a false report.
21 Q At the time that they file the report, before there
22 has been an amendment, is not that report in
23 violation of the law?
24 A It is.

1 information to be untrue is guilty of a Class I
2 felony."
3 Q Now, notwithstanding the legal requirement, the
4 Board of Election has chosen to allow people to
5 come back at any point and amend these reports?
6 A They have, because this certification says that--
7 the best of the--of the person's knowledge. So if
8 that person comes back and says, "I didn't know it
9 at the time, and I'm amending my reports," then
10 yes, we're certainly going to allow that.
11 Q The--again, the statute does not allow that?
12 A The statute does not provide for amending.
13 Q Right. Now--and technically speaking, a late
14 report violates the law?
15 A A late report, right. And there are civil
16 penalties that can be incurred with a late report.
17 Q Right. Notwithstanding that, a late report
18 violates the law?
19 A It does.
20 Q Okay. That's what the statute said?
21 A That's right.
22 Q Because the statue provides no grace?
23 A Correct.
24 Q Okay. You indicated in your testimony that you

1 Q It is. So everyone, right?
2 A Until it is in compliance, you're right, it is in
3 violation.
4 Q Now, which law is violated by this?
5 A You're talking about the signing--
6 Q Right.
7 A --of this?
8 Q Right.
9 A Can I look at my law book?
10 Q You can.
11 A 163 dash 278 point 32, Statements Under Oath. "Any
12 statement fi--required to be filed under this
13 article shall be signed and certified as true and
14 correct by the individual, media, candidate,
15 treasurer, or others required to file it, and shall
16 by certified as true and correct to the best of the
17 knowledge of the individual, media, candidate,
18 treasurer, or others filing the statement, provided
19 further that the candidate shall certify as true
20 and correct to the best of the knowledge the
21 organization report and report of treasurer. A
22 certification under this article shall be treated
23 as under oath, and any person making a
24 certification under this article knowing the

1 had, I guess, this past year five hundred and
2 thirty-seven amendments?
3 A I think it's five-sixty-nine, but--
4 Q Five-sixty-nine?
5 A Uh-huh (yes).
6 THE CHAIR: All right. That--that
7 question, if you--was in the redirect that was
8 issued that you've already recrossed on it. Wasn't
9 a question that came up in the second set by
10 Members of the Committee. So may want to limit it,
11 please, to questions related to anything we asked
12 about.
13 PROF. JOYNER: Well, Mis--Mr. Chairman,
14 this is related to the litany of questions that you
15 raised.
16 THE CHAIR: Go ahead.
17 Q (By Prof. Joyner) With respect to that five
18 hundred and sixty-nine, do--do you know offhand
19 what time frame those amendments covered?
20 A I--I glanced at the report. And they--they cover
21 things that were in 2006, and they cover--cover
22 years prior to that, as well. There are some
23 amendments for things prior to that.
24 I--I--I--I did notice that on a couple of

1 them--one of the things that happens if you--if
2 you--if you file a report and you realized you--
3 you--basically, you left some bank interest off and
4 you have to go back, you have to go back to the
5 report where you did that and then amend every
6 subsequent report. So sometimes that's why you
7 will see reports that we allow people to go back in
8 order to fix a mathematical error that's going to
9 continue with them.
10 Q So it's like a domino effect?
11 A It is a domino effect.
12 Q So you have to go all--
13 A All the way back.
14 Q --the way back to the very--but technically each of
15 those prior reports were in violation of the law?
16 A Technically, yes.
17 PROF. JOYNER: Okay. No further
18 questions.
19 THE CHAIR: All right. We are--I think
20 that ends our testimony with Ms. Strach. You may
21 step down.
22 Question. Do we want--or--or is there a
23 counsel objection to releasing Ms. Strach from her
24 subpoena, or--

1 And we are not introducing the document, for the
2 reasons I stated yesterday. But I do have a couple
3 of other paragraphs I want to refer you to.
4 If you'll look with me specifically on
5 Page 11--I'm sorry--Page 12. Can you just read the
6 paragraph, the first full paragraph on Page 12?
7 THE WITNESS: Would that be the one that
8 starts with "ASAC Umphlet asked"?
9 THE CHAIR: It is.
10 THE WITNESS: Okay. "ASAC Umphlet asked
11 Representative Wright if he ever commingled funds
12 in a personal bank account. Wright advised that
13 may be improper, but it was not illegal. Wright
14 stated, 'I'll save that answer. I've got an answer
15 to why and how that occurred, but I'll save it.'"
16 THE CHAIR: All right. If you will, turn
17 to Page 11. And if you will--actually--I'm sorry.
18 If you'll turn to Page 9. Actually--apologize
19 again. I've got the page wrong.
20 Bottom of Page 7, top of Page 8. If
21 you'll read into the record the last paragraph on
22 Page 7 and then the first full paragraph on the top
23 of Page 8. And you can indicate the sentence in
24 between that shows the break time.

1 MR. PETERS: We may want to keep her, not
2 knowing what is coming.
3 THE CHAIR: Then we don't need to go any
4 further.
5 Ms. Strach, you are--you--you are--must
6 stay. I'm sorry.
7 All right. Any further witnesses, Mr.
8 Hart?
9 MR. HART: Mr. Chairman, we have no
10 further witnesses. But at this time--
11 THE CHAIR: Well, before you move into
12 your exhibits, then, I think there's still a matter
13 that's open with Agent Umphlet. So the Chair
14 held--withheld his questions till he could review
15 more fully the statement. And so the Chair on his
16 own motion recalls Agent Umphlet to the stand.
17 Agent, this is just a reminder that you
18 remain under oath. And hope you and your dog got
19 sleep last night.
20 THE WITNESS: Yes, sir.
21 THE CHAIR: I'm going to ask you if
22 you'll look at the document that's in front of you
23 that had been previously discussed by Mr. Joyner
24 and--and then ultimately, as well, by Mr. Hart.

1 THE WITNESS: Reading from Page 7.
2 "Representative Wright advised he'd not--he did not
3 recall how he communicated with AT&T to receive the
4 fifteen-hundred-dollar (\$1,500) donation from them.
5 ASAC Umphlet asked Wright if he knew Lawrence
6 Bewley and was his request for the fifteen hundred
7 dollars (\$1,500) from AT&T through Bewley. Wright
8 advised he did not recall but added it was probably
9 an official request. Wright advised he knew Bewley
10 as Bewley was a registered lobbyist in the Raleigh
11 area. Wright advised he knew Bewley through his,
12 parentheses, Wright's, end parentheses, work in the
13 legislature. Wright added that Bewley assisted him
14 with a frun--fundraiser or two. ASAC Umphlet
15 showed Wright a three-thousand-dollar (\$3,000)
16 check which was dated July 8, 2002, to Lawrence
17 Bewley & Associates. The check was Check Number
18 632 and was written on a Thomas Wright campaign
19 account."
20 Would you like me to--
21 THE CHAIR: Continue.
22 THE WITNESS: --read the account number
23 there?
24 THE CHAIR: Why don't you go ahead and--

1 and redact the count--account number and stop there
2 and just read on to the next sentence?
3 THE WITNESS: Okay. "With an account
4 number of--Wright advised he could not recall if
5 the three-thousand-dollar (\$3,000) check to Bewley
6 was for reimbursing Bewley for a fundraiser. At
7 this point in the interview, a break was taken from
8 eleven-ten A.M. to eleven-twenty A.M.
9 "Wright then recalled the three-thousand-
10 dollar--three thousand dollars (\$3,000) was a
11 reimbursement for advanced costs of Bewley setting
12 up a reception. Wright advised the costs were for
13 postage and printing costs for invitations. Wright
14 reported he recalled the information about the
15 fundraiser and the three-thousand-dollar (\$3,000)
16 check after calling and speaking to Bewley by
17 telephone."
18 THE CHAIR: All right. All right. I
19 have nothing further. That ends the Chair's
20 questions.
21 As a result of the two paragraphs read,
22 any redirect, Mr. Hart?
23 MR. HART: No, sir.
24 THE CHAIR: Any recross, Dr. Joyner?

1 principal clerk, Denise Weeks, the Exhibit 19
2 containing the list of bills that were filed by
3 Representative Wright from 1999 through 2008. And
4 she certified those to be true and accurate.
5 THE CHAIR: All right. Any objection,
6 Dr. Joyner?
7 PROF. JOYNER: No objections.
8 THE CHAIR: All right. Nineteen is
9 admitted, as well.
10 Mr. Hart.
11 MR. HART: Mr. Chairman, if I could just
12 check one other thing. Our records show that we
13 have introduced and you have admitted Exhibits 1,
14 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 16A through G,
15 and 18 and 19 now. Is that correct?
16 THE CHAIR: All right. Let me double-
17 check my notes. But while I'm doing that, Dr.
18 Joyner, do you have anything different showing on
19 any of those exhibits?
20 PROF. JOYNER: Give me that listing
21 again, please.
22 THE CHAIR: Sure. It's Exhibit 1, 2, 3,
23 4, 5, 6, 7, 8, 10, 11, 13, 15, 16A through G, 18,
24 and 19.

1 PROF. JOYNER: No.
2 THE CHAIR: All right. Thank you very
3 much, Agent. You may step down.
4 Now, Mr. Hart, further evidence for the
5 Committee counsel?
6 MR. HART: That would conclude the
7 presentation of witnesses by Committee counsel.
8 The--I--I would ask that the Chair refer to Exhibit
9 18 in the notebooks. And I would ask specifically
10 that the Committee take official notice of its own
11 records and take notice of the official record
12 certified by the principal clerk of the House that
13 the--the attached committee and commission
14 appointments for Representative Thomas E. Wright
15 from 1999 to 2008 are listed in Exhibit 18.
16 THE CHAIR: All right. That's Exhibit
17 18.
18 Dr. Joyner, any objection?
19 PROF. JOYNER: No objection.
20 THE CHAIR: All right. With no
21 objection, Exhibit 18 is admitted.
22 MR. HART: I'd also ask that the
23 Committee take official notice of Exhibit 19, which
24 is again certified records of the House from the

1 PROF. JOYNER: Yes. No--no--no
2 objection.
3 THE CHAIR: And I have the same notes, as
4 well. So those are all already previously
5 admitted.
6 MR. HART: If I might approach and--and I
7 have the originals of--of those documents to
8 actually present to the Chair for inclusion in the
9 official record of--
10 THE CHAIR: That would be fine.
11 MR. HART: --the Committee.
12 THE CHAIR: Anything further, Mr. Hart?
13 MR. HART: No, sir.
14 THE CHAIR: All right. Will there be
15 evidence for Representative Wright?
16 I'm sorry. Give me one minute. I'm
17 sorry.
18 We've got potentially one question that I
19 need to resolve with staff. We're going to take a
20 recess for five minutes, and we'll be back in five
21 minutes. Thank you.
22
23 (FIVE-MINUTE RECESS)
24

1 THE CHAIR: Mr.--Mr. Hart, you ready?
2 Mr. Peters? I apologize to everyone for taking a
3 moment.
4 What we want to do is try to amend two
5 counts that the evidence suggested need to be
6 amended to conform to the evidence that's so far
7 in. And then I'll sign, if those are adopted,
8 amended counts so that when Representative Wright
9 is defending those counts, he actually has the
10 benefit of the--of the amended counts to defend,
11 which--both amendments to--to his favor in terms of
12 the evidence that's so far come in.
13 So the first thing we want to look at is
14 count--I'm looking over the shoulder 'cause I don't
15 have it in front of me--Count Number 7, because
16 there was testimony by Ms. Strach that that
17 hundred-and-eighty-five-thousand-dollar (\$185,000)
18 number really is slightly less. So Representative
19 Stam is recognized for a motion.
20 REP. STAM: Mr. Chair, I move that Count
21 7 of the charges of unethical conduct by
22 Representative Wright adopted by the Committee at
23 its meeting on January 9, 2008, and amended on
24 February 11, 2008, be amended by deleting the

1 REP. WARREN: Aye.
2 THE CLERK: Representative Wiley.
3 REP. WILEY: Aye.
4 THE CHAIR: All right. That count is
5 amended for that amount.
6 Representative Stam is recognized for a
7 second motion.
8 REP. STAM: And Mr. Chair--
9 PROF. JOYNER: Mr. Chairman, before you
10 do that, note our objection.
11 THE CHAIR: Sure. Sure. Objection is--
12 is noted, overruled. And exception is noted to the
13 ruling.
14 REP. STAM: This--this one is slightly
15 different than what was passed out, as you'll see
16 when I get to the--what would be on there "April,"
17 I'm going to read the word "August" 2004.
18 I move that Count 8 of the charges of
19 unethical conduct by Representative Wright adopted
20 by the Committee at its meeting on January 9, 2008,
21 and amended on February 11, 2008, be amended to
22 read as follows: Count 8, between on or about
23 October 2001 and on or about August 2004, while a
24 member of the North Carolina House of

1 amount one hundred eighty-five thousand (185,000)
2 and substituting the amount one hundred eighty
3 thousand (180,000).
4 THE CHAIR: All right. There's a motion
5 by Representative Stam to amend the count. Is
6 there a second by any member of the Committee?
7 REP. MCGEE: Second.
8 THE CHAIR: All right. Second by
9 Representative McGee. All right. Discussion and
10 debate by members of the Committee. This is not an
11 outside-counsel issue. This is a Committee issue.
12 Any discussion or debate?
13 Seeing none, all those in favor will vote
14 aye. All those opposed will vote no. And the
15 Clerk will call the roll.
16 THE CLERK: Chairman Glazier.
17 THE CHAIR: Aye.
18 THE CLERK: Vice-chairman Stam.
19 REP. STAM: Aye.
20 THE CLERK: Representative Lucas.
21 REP. LUCAS: Aye.
22 THE CLERK: Representative McGee.
23 REP. MCGEE: Aye.
24 THE CLERK: Representative Warren.

1 Representatives, Thomas E. Wright did engage in a
2 pattern of conduct unbecoming and unfitting a
3 member of the House of Representatives by
4 improperly, fraudulently, deceptively, and
5 unethically soliciting a financial institution for
6 a loan and corporations for donations to a
7 charitable corporation, The Community's Health
8 Foundation, Inc., and by converting to his own
9 personal use money contributed to that charitable
10 organization. As part of this pattern of conduct,
11 Thomas E. Wright solicited a false document and
12 used that false document in the loan solicitation.
13 THE CHAIR: All right. And the basis of
14 the change, Representative Stam?
15 REP. STAM: Yes. The reason for the
16 change is primarily because we withdrew Count 6.
17 This deletes the references that were in Count 6
18 and then also corrects the date for the deposit of
19 the money.
20 THE CHAIR: All right. Any discussion or
21 debate by any member of the Committee on that
22 change?
23 All right. Is there a second to
24 Representative Stam's motion?

1 REP. WILEY: Second.
 2 THE CHAIR: Second by Representative
 3 Wiley. Any discussion or debate?
 4 Seeing none, all those in favor will vote
 5 aye. Those opposed will vote no. The Clerk will
 6 call the roll.
 7 THE CLERK: Chairman Glazier.
 8 THE CHAIR: Aye.
 9 THE CLERK: Vice-chairman Stam.
 10 REP. STAM: Aye.
 11 THE CLERK: Representative Lucas.
 12 REP. LUCAS: Aye.
 13 THE CLERK: Representative McGee.
 14 REP. MCGEE: Aye.
 15 THE CLERK: Representative Warren.
 16 REP. WARREN: Aye.
 17 THE CLERK: Representative Wiley.
 18 REP. WILEY: Aye.
 19 THE CHAIR: All right. That amendment
 20 likewise is passed six-nothing.
 21 PROF. JOYNER: And note our objection?
 22 THE CHAIR: Absolutely. Objection by Dr.
 23 Joyner. The objection is overruled. His exception
 24 to that ruling is noted.

1 counsel on Constitutional grounds, so we don't have
 2 witness list at this point, if there will be
 3 witnesses this afternoon, those names will need to
 4 be disclosed, and then we'll talk about whether
 5 there's voir dire needed or not. But let's go
 6 ahead and take our lunch recess until one-fifteen.
 7 Thank you.
 8
 9 (EIGHTY-TWO-MINUTE RECESS)
 10
 11 THE CHAIR: We're back in session
 12 following lunch. And I think it was with Dr.
 13 Joyner. Is Representative Wright going to be
 14 presenting evidence?
 15 PROF. JOYNER: Mr. Chairman, we choose
 16 not to present any evidence.
 17 THE CHAIR: All right. All right. Then
 18 I think we've now reached the point where closing
 19 statements by Committee counsel and Representative
 20 Wright's counsel will be made. Just a couple of
 21 comments on closing statements. Like--members of
 22 the Committee, like with opening statements,
 23 closing arguments are advocacy summaries of what
 24 the attorneys believe the evidence has shown you.

1 Does the Chair's ruling on either of
 2 those objections--does any member of the Committee
 3 wish to reverse the ruling?
 4 Seeing none, no--we are done with that.
 5 I'm going to need a minute. Again we'll
 6 stand at ease, not in recess, for a minute for me
 7 to sign the amended counts, and then those will be
 8 handed out to the counsel and to the Committee.
 9 Thank you.
 10 All right. With those changes, now back
 11 to the question, I think. All right. Dr. Joyner,
 12 will there be evidence for Representative Wright?
 13 PROF. JOYNER: Mr. Chair, we would ask
 14 that we take our lunch break now and that we make
 15 that decision and report back after lunch.
 16 THE CHAIR: I have no problem with that.
 17 We will go ahead and take our lunch break and
 18 return at--give you a little bit of extra time--
 19 one-fifteen P.M.
 20 Hang on just one minute. And again,
 21 just--we'll take the break in a minute. Just to
 22 reiterate what's already been told to counsel, that
 23 because there was not the compliance due to some
 24 objection or concern by Representative Wright's

1 You should not consider closing statements as
 2 evidence, but you are to determine the evidence
 3 based on the testimony you've heard and the
 4 evidence as you have considered it.
 5 With that, since there wasn't evidence
 6 presented by Representative Wright, as I think the
 7 rules are is that, Dr. Joyner, you have the right
 8 to open and close the closing argument. And so
 9 I'll turn to you for first opening--first opening
 10 closing.
 11 PROF. JOYNER: I will waive the first
 12 opening and will close.
 13 THE CHAIR: All right. Dr. Joyner waives
 14 the opening of the closing arguments.
 15 Mr. Hart and Mr. Peters. Yes, please.
 16 And if--you--it probably is easier if you use this
 17 and--
 18 MR. HART: One question we have. May we
 19 split the argument into two parts, be--since he
 20 dealt with the campaign contributions?
 21 THE CHAIR: Sure. That's granted.
 22 MR. PETERS: Thank you, Mr. Chairman and
 23 members of the Committee.
 24 As you heard Ms. Strach testify, the

reason for the campaign-finance-disclosure laws is for the public interests. It's so the voting public can look as an election is going on and see where contributions are coming from for a particular candidate so that they know where the support for that candidate is coming from and they know how that candidate is spending money. And that's so they can take that information into account in deciding how to vote themselves. That is the primary reason for it. It's in the public's interest to know where a candidate's support's coming from so that a decision--an informed decision can be made about whether or not a particular voter wishes to support that candidate.

That's why the campaign-finance laws are in place, for the protection and for the information of the public. It certainly is a lot of paperwork. No one denies that. It's a lot of paperwork for the candidates, and it's a lot of paperwork for the State Board of Elections. But it's a lot of paperwork for a very important purpose, and that is the integrity of the electoral process itself.

Now, Count 7 against Representative

Wright specifically charges him that between January 1st, 2000, and January 31st, 2007, during all that time while he was a member of this House, he did improperly--and I'm reading here-- fraudulently, and unethically engage in a pattern of conduct unbecoming and unfitting a member of the House of Representatives by intentionally failing to disclose approximately one hundred and eighty thousand dollars (\$180,000) in contributions received by his campaign during that time period, which disclosures are required by law and are intended to safeguard the public trust and to preserve the integrity of the electoral process, the integrity of the House of Representatives, and the integrity of the legislative process.

That count specifies that the contributions in question are the ones you see before you in Exhibit 15. You have heard Ms. Strach testify that Exhibit 15, the contributions listed there, were prepared by her or by her staff under her supervision. You have heard her testify that the information in it came directly from Representative Wright's bank accounts, the bank accounts that had been identified as having

campaign money in them, some of which were campaign accounts and one of which, at least, was a personal account into which campaign contributions were put. You heard her testify that every contribution listed in that Exhibit 15, with the exception of the three that she pulled out at the very beginning of her testimony, you heard her testify that every one of those were contributions that could be attributed to the campaign. These were checks-- there is cash in there, about eight or nine thousand dollars in cash. But otherwise, these are all checks that were either made payable to Thomas Wright's campaign or that, on the memo line, indicated they were for the campaign.

There are no checks in that list-- according to her testimony, there are no checks anywhere in that list that could be construed as personal checks to Thomas Wright, because on each one of them, there is a clear indication that the check was a contribution for the campaign. There is no evidence before you that that is not the case. There is no challenge to any one of the entries on here. Even though the checking accounts are available and the checks can be compared, there

is no challenge that any one of these has been improperly identified as a campaign contribution when it was in fact simply a check to Thomas Wright for his personal use.

And you can see looking through that account, looking through that spreadsheet, that these cover every reporting period from the beginning of 2000 until two thous--the end of 2006. There is not a single reporting period in that seven-year period in which Ms. Strach and her staff could find, in their investigation, not a single reporting period where all contributions received by the campaign were disclosed. In every single reporting period, there were undisclosed contributions.

And as you heard Ms. Strach testify, in quite a few of those reporting periods, it was a significant amount of money that was not disclosed. In the fourth quarter--excuse me--the second quarter of 2004, the campaign received twenty-eight thousand five hundred dollars (\$28,500). Those are listed in that Exhibit 15. You can see in there they're grouped together by the campaign reporting period, twenty-eight thousand five hundred dollars

(\$28,500). And the disclosure report for that period showed zero contributions.

The first quarter of 2006, the contributions were fifty-four thousand dollar-- fifty-four thousand seventy-four dollars and fifty-two cents (\$54,074.52). And of that amount, five thousand nine hundred and fifty (5,950) were disclosed. That is around forty-eight thousand dollars (\$48,000) that were not disclosed.

The following quarter, thirty-seven thousand dollars plus--thirty-seven thousand four hundred and six dollars (\$37,406) that should have been disclosed, and only twenty thousand nine hundred and twenty-five (20,925) were disclosed. Again, that's about a sixteen-thousand-dollar (\$16,000) difference.

You add those first two quarters together, and right there you have over fifty thousand (50,000), over sixty thousand dollars (\$60,000) that were not disclosed in the first two quarters of an election year.

Now, as Ms. Strach testified, everybody understands that when these disclosure reports are filed, mistakes can be made. Everybody understands

that. We're all human. And particularly when you're dealing with large amounts of money, it's easy to miss a check here or there or to miss a contribution or to fail to get it into the right report. Everyone understands that happens. But you heard Ms. Strach testify that in the seven years that she has been overseeing these audits this was the worst she had ever seen in terms of contributions' not being disclosed. She has audited, as she said, accounts that are worth over a million dollars, that regularly have over a million dollars in them, and she has never seen this level of nondisclosure.

I would submit to you that when you see the pattern that is in Exhibit 15 and compare it to the disclosure reports in Exhibits 16A through G, when you see that, every single reporting period, there is a failure to disclose contributions, and when you see that in some reporting periods that failure is stark, twenty-eight thousand dollars (\$28,000) in contributions received and zero reported--everybody makes mistakes, but I put it to you that a candidate is going to know if he has received twenty-eight thousand dollars (\$28,000) in

contributions during three-month quarter of the year. He's going to know that zero is not the correct answer in filing a disclosure report. If you've received that much money, you know you have received some money in that quarter, and you don't report zero dollars.

There were actually, as you can see when you look through here, one, two, three, four, five reporting periods in which zero contributions were disclosed. In one of those, it was a low amount of contribution, seven hundred and fifty dollars (\$750). In the others, it was at least a thousand, two thousand. 2005 it was three thousand five hundred and fifty-nine dollars (\$3,559).

There just exist too many discrepancies here for this to be accidental, for it to be sloppy bookkeeping or for it to be an oversight. There just are too many failures to disclose here. And as I said, when you see that that failure sometimes results in reporting no contributions when there are in fact over twenty-eight thousand dollars (\$28,000) in contributions, I submit it is simply unreasonable to believe that's a mistake or that it's sloppy bookkeeping.

Now, you have heard some other evidence through Ms. Strach about Representative Wright's campaign finances, about the expenditures, about expenditures that were overreported, when, for example, they could find a check paid to a media outlet for one amount, and the disclosure that, as best they can tell, is supposed to reflect that expenditure is for a few thousand dollars more. You heard her say that they found in his accounts close to, her recollection was, two hundred thousand dollars (\$200,000) in expenditures that should have been reported that were not reported.

Now, those don't go directly to the count you have in front of you. The count you have against Representative Wright is that he failed to disclose. But I would submit to you the count also says that he engaged in a pattern of conduct. And I would submit to you you can consider the other evidence you have heard with regard to expenditures which were not reported, with regard to the fact that in 2007 no reports have been filed--were filed, that you can consider that at no time since 2000 has Representative Wright ever amended a campaign-finance report that he had filed. I think

you can consider all of those things in determining that the failure to disclose the one hundred and eighty thousand dollars (\$180,000) was in fact part of a pattern. It was a pattern to withhold from the public knowledge contributions that Representative Wright was receiving, who those contributions came from in some instances, and how those contributions were being used.

Ms. Strach was exactly right. As this Committee knows, until 2006 it was legal to use campaign funds for personal purposes, but you had to disclose it so that the voters knew that's what you were doing, so that the people who gave to your campaign knew that's what you were doing. There was no disclosure here. And I submit to you that those things taken together show overwhelmingly a pattern of conduct designed to hide from the voters of North Carolina, designed to hide from the people where Representative Wright's support was coming from and what he was doing with the money that came to him.

We said at the outset those rules are in place to protect the electoral process. They're also in place to protect the integrity of the House

in the legislative process, because it feeds the perception that deals might be made behind closed doors, that things are not out in the open, that government is not running for the benefit of the people in the open.

I do not believe any reasonable observer can look at the evidence that has come in, particularly through Ms. Strach, and come to any conclusion other than Representative Wright was intentionally failing to disclose these contributions. And I do not believe that any reasonable observer can look at that and say that did not harm the integrity of the House, and it did not harm the integrity of the electoral process, and that as a result, it was without question unethical conduct for a legislator to engage in.

Thank you.

THE CHAIR: Thank you very much, Mr. Peters.

Mr. Hart.

MR. HART: Thank you, Mr. Chairman, members of the Committee.

This is a solemn and sad occasion. I

of Representatives. They're in place to protect the House from any allegation that someone's vote might be being bought in considering a specific piece of legislation. When a piece of legislation is being considered, anyone in the State can look and see if a legislator who might--who will be voting on it, who might be a position of influence with regard to that bill can look and see if that legislator's support is coming from somewhere that would call into question, for a better way of putting it, whether the legislator's vote has been bought. It's there to protect the members of the House, as well as the members of the public.

And in this case, the evidence is clear that Representative Wright tried to evade that and did evade it. He acted to evade anyone being able to know where the contributions were coming from or how many there were or what was being done with them.

I put to you that hits at the heart, I believe, of what is ethical and unethical conduct for a legislator. It goes directly to the public's ability to have faith in the electoral process. It goes directly to the public's ability to have faith

don't believe that there is anyone here that really wants to be here today doing what we're doing. We've all taken this very seriously through the entire process. We've been involved in a very painstaking process to determine the truth about the allegations contained in the charges that are set forth before you. None of us would like to believe that a member of this House has done the things that are set forth in these charges.

But I believe that what we have done over the course of this week is to present to you through a number of witnesses, all of whom I would suggest to you are very credible--and I'll talk about that later. But what we have presented to you is a pattern, a several-year pattern, from 2000 through 2006, of unethical and improper conduct by one of your members.

What we have seen is evidence of fraud. We have seen ev--evidence of a violation of trust. Think about some of the witnesses that came forward, Torlen Wade, Dan Gottovi. Think about how they testified about how they trusted this man, how they believed in him, had no idea that he could be taking them down the wrong road. They trusted him,

1 and they acted in reliance on that to their
2 detriment, to our detriment, to the people of the
3 State of North Carolina's detriment.

4 We've heard evidence of all kinds of
5 unauthorized activities. And as Mr. Peters said,
6 even though some of the testimony of Kim Strach
7 about the expenditures and other violations that
8 are not specifically contained in the one count
9 about a pattern of disclosures, failure to
10 disclose, all of those instances, all of those--all
11 of that evidence of unauthorized activity is
12 corroborating evidence, evidence that you can use
13 to decide whether you believe that Representative
14 Wright acted unethically and engaged in a pattern
15 of conduct in all of the counts that are presented
16 before you.

17 You have also heard evidence of deceit,
18 evidence of concealment, evidence of abuse of power
19 and influence. You've heard Torlen Wade talk about
20 how he wouldn't have done what he did if
21 Representative Wright had not been a member of the
22 legislature, chairman of one of the committees that
23 he had to deal with, and a member of the
24 appropriations subcommittee that he had to deal

1 are before you.

2 How do you go about doing that? You have
3 to do similar to--similarly to what jurors do.
4 You, as judges would tell jurors, have to determine
5 the credibility of witnesses. You had an
6 opportunity to have many of the people involved in
7 Representative Wright's scheming over the last
8 seven years to--to be here before you where you
9 could look them in the eye. You could determine
10 for yourselves whether you believe any--none or any
11 part of what those witnesses told you. You've had
12 an opportunity to look at all the documents that
13 were presented to you and match those documents up
14 against what those witnesses say.

15 And you've had corroborating evidence.
16 When a witness testifies and there is some document
17 or another piece of evidence that's offered by
18 another witness, you can look at whether that
19 evidence corroborates what one witness says and
20 might make you believe that witness even more
21 simply because there's supporting evidence to that.

22 Those are the tools that you're going to
23 use. And I ask you to think about those as I take
24 you through the several counts that Mr. Peters did

1 with. You've heard evidence of conversion, which
2 is similar to other words that you're familiar
3 with, theft and embezzlement.

4 You've heard evidence of intentional
5 violation of campaign laws. And as Mr. Peters so
6 aptly point out to you, we're not talking about
7 just some minor violations that anyone may make
8 simply by oversight, inadvertence, things of that
9 nature. What we have seen, what you have seen,
10 what we have presented to you is a striking pattern
11 of impropriety.

12 We have seen evidence of an attitude of
13 entitlement. The term "sweat equity" shouts
14 entitlement, and it's inappropriate. And I submit
15 to you we have seen evidence of arrogance,
16 arrogance that he could take the power that he has,
17 the influence he has, and abuse it over a period of
18 time in the way that we have shown that he has.

19 Our job has been to present evidence to
20 you. And it's now your job to decide whether that
21 evidence shows you--whether that evidence is clear
22 and convincing evidence that shows you that
23 Representative Wright has actually committed the
24 acts that are contained in all of the counts that

1 already speak about.

2 And the first count I want to talk about
3 is Count 1. And in some ways perhaps this is the
4 most disturbing count, because it directly involves
5 Representative's Wright pos--Wright's position as a
6 legislator. I submit to you if you think about the
7 testimony of both Torlen Wade and Ronnie Burbank, I
8 contend to you that what happened in this case is
9 that Representative Wright wanted to buy this
10 building down in Wilmington for the purposes that
11 you've heard about, and I believe that--that Dr.
12 Gottovi and Torlen Wade believed that he was
13 certainly going to do that--and maybe he was--but
14 that he was running into a problem because he
15 didn't have the money. He had an opportunity to
16 buy a piece of property. He didn't have the money.
17 And yet he needed to have the money to be able to
18 purchase the property.

19 And when he went to the bank and he told
20 them that what he was going to do is to repay it
21 with money that he obtained from state and federal
22 financing, that what happened was he realized he
23 was going to have to come up with some kind of
24 documentation to that effect. And that's when he

1 went to Torlen Wade. And you remember--you--there
2 was a small part of Torlen Wade's testimony where
3 he said that when he got the phone call from
4 Representative Wright, there was a tone of urgency.
5 There was an insistence in what Representative
6 Wright was asking him to do in signing a letter
7 that Torlen Wade didn't feel comfortable doing.

8 He talked about the fact that
9 Representative Wright said, "I need you to give me
10 a letter of commitment, letter saying that--that
11 you're going to provide me with a hundred and fifty
12 thousand dollars (\$150,000) in funds to support
13 this museum project." And Torlen Wade said, "No, I
14 can't do that. You know I can't do that." And
15 Representative Wright said, "Well, we--yeah, you
16 can. We can--here's what we can do. We can--we
17 can say that--that it's partly because we're going
18 to put some medical facilities in there, something
19 to serve the--the--the health, which--which is in
20 your--in your bailiwick."

21 And Torlen Wade said, "Well, you know,
22 we've got a process. You know, there would have to
23 be"--he told you all about the process they'd have
24 to go through. If they were going to do this, if

1 legislator, as chairman of the committee that he
2 dealt with as part of the appropriation's
3 committee. And he told you because of that and his
4 longstanding association with Representative Wright
5 and his belief that he was trying to do a good
6 thing, that he succumbed, and he agreed to do that
7 letter.

8 And then you've seen the documents.
9 You've seen the e-mail from Representative Wright
10 to Torlen Wade. And he very careful set out--
11 Representative Wright very careful set out exactly
12 what he knew he needed to have to be able to go to
13 Coastal Federal Bank. And he laid it all out there
14 and had it faxed to Torlen Wade. And that's
15 Exhibit Number 2 in your packet.

16 And I'd ask you to compare that to
17 Exhibit Number 3, the letter. Torlen Wade said he
18 essentially took the e-mail; he knew what
19 Representative Wright wanted him to say even though
20 he knew it was false. And he then put it in the
21 letter that's Exhibit Number 4. And he signed it,
22 and he sent it to Representative Wright two days
23 later.

24 That's essentially what Count 1 deals

1 he were actually going to be authorized to commit
2 these funds, he had to go through a formal process
3 where Representative Wright would have had to
4 present him with the project plans, what part the
5 museum was going to play, where the funding was
6 coming for--from for the museum, what part was
7 going to be funding needed for the--the portion
8 that was going to be for the health center. And
9 all that was going to have to be formalized and go
10 through a process, and then he would be able to
11 commit to that small portion that was part of the
12 health center. That was the only authority he had,
13 and only if he went through that process.

14 And he tried to explain that to
15 Representative Wright, but Representative Wright
16 wouldn't listen to him. Said, "No, I want you to
17 do this. And, look, I'm not going to come back to
18 you for that money. All I need is a letter saying
19 I've got it. Even if you can't commit, I want a
20 letter from you saying that you can commit and that
21 you are committing so that I can take that to a
22 financial institution." That's what Torlen Wade
23 told you. And he told you he felt pressured
24 because of Representative Wright's position as a

1 with, all of what we've just talked about.

2 Did Representative Wright unethically and
3 improperly go to Torlen Wade and solicit a false
4 document? Is there any question in your mind?
5 Certainly by clear and convincing evidence. I
6 would submit much higher than that. There should
7 be no question in your mind that this was a false
8 document and that Representative Wright solicited
9 that document knowing that it was in fact a false
10 document and that it was intended to be presented
11 to a financial institution.

12 We now turn to Count 2. And this is sort
13 of the--the second part of Count 1, if you will.
14 Count 1 was the--the first step in this scheme of
15 Representative Wright. He then took the letter
16 that he had Torlen Wade send him. And if you
17 notice, the letter is--falls between the March 5th,
18 2002, initial approval of the loan by Ronald
19 Burbank--Ronnie Burbank--I believe that's Exhibit
20 Number 5. No. I'm sorry. That's--that's Exhibit
21 Number 4. Where they met on March 5th of 2002, and
22 Ronnie Burbank made his initial notes as to what he
23 was approving and why he was approving it. And it
24 was just shortly after that that Representative

1 Wright made the call to Torlen Wade and that the
2 Torlen Wade letter was written and sent.

3 And then between then and the first part
4 of April, early April--I--I believe the testimony
5 may have been April 5th. I can't recall the exact
6 date. But between those two dates, Ronnie Burbank
7 testified that Representative Wright presented him
8 in some form or fashion--he couldn't remember
9 whether it was hand-delivered by Representative
10 Wright or whether it was faxed or--or sent in
11 some--some fashion. But he testified that
12 Representative Wright did present him with that
13 Torlen Wade letter, the March 15th Torlen Wade
14 letter, and that it was at least partly in reliance
15 on that letter that the bank made the loan, that he
16 recommended the loan and that the bank made the
17 loan.

18 Now, why is that important? Well, we--we
19 know that--we know that the--the loan was
20 eventually foreclosed. Maybe that would have
21 happened anyway. We--we don't know. But the
22 bottom line is that banks have a reason why they
23 make inquiry as to how something is going to be
24 repaid. They have a right to know what is going to

1 certainly relied on that letter that was presented
2 to him. And I would submit to you that he was a
3 very credible witness. He had nothing to gain from
4 coming in here and telling you what he--what he
5 told you.

6 Same situation with Torlen Wade.
7 Torlen--Torlen Wade didn't have anything to gain.
8 I'm cer--I'm certain that was embarrassing for him
9 to come in here and tell you what happened. He
10 lost his job over this. But he came in here, and
11 he told you what he did, that he had done something
12 that was wrong, something that he never should have
13 done, something that was false, something that that
14 man--(indicating)--asked him to do.

15 Ronnie Burbank testified that at least in
16 part, he relied on that letter. And that certainly
17 is fraud. And certainly fraud is something that is
18 unethical and improper for a member of the House of
19 Representatives of North Carolina. I would submit
20 to you that both Counts 1 and Count 2, the special
21 counsel has presented more than sufficient evidence
22 for you to find by clear and convincing evidence
23 that those charges have been proven.

24 Counts 3, 4, and 5 I'm going to treat

1 be the collateral, what is going to be the
2 repayment method, how--what kind of a risk am I
3 taking? Before they loan out their money, they
4 have--have a right to ask these questions. And
5 that's important. That's important to our banking
6 industry and our--our--the foundations of our--of
7 our civil society, that people can rely on people
8 to tell the truth and to rely on documents they
9 present to them to be accurate and truthful
10 documents, not false documents that falsely commit
11 to something that someone has no authority to
12 commit to and that the bearer and presenter of
13 knows that that person had no authority to commit
14 to.

15 And Mr. Burbank was questioned at length
16 about that document. And he was unshaken. You--
17 again, you've got to decide credibility. If Torlen
18 Wade and Ronnie Burbank--Ronnie Burbank didn't
19 really seem to have much of a relationship with
20 Representative Wright. He knew he--who he was.
21 They had some dealings. He wasn't in the position
22 that Torlen Wade and--and Dan Gottovi were in terms
23 of perhaps being led astray by their past dealings
24 and the trust relationship that they had. But he

1 together. Those counts all deal with
2 Representative Wright soliciting corporations to
3 make charitable contributions to the Community
4 Health Foundation, Incorporated, a foundation that
5 he helped incorporate with Dan Gottovi and a couple
6 of others, of which he apparently was president.
7 We're not sure about that, but at least there's
8 been some testimony that everybody thought he was
9 president. We don't know, because we haven't seen
10 any bylaws. We have testimony that no bylaws were
11 ever approved.

12 We do know, though, from the evidence
13 that's been presented, that he did send three
14 documents to those corporations. And here's how we
15 know it. Representative Wright admitted that he
16 sent the letters to Anheuser-Busch and AstraZeneca.
17 You heard that from Agent Umphlet, that
18 Representative Wright looked at those letters that
19 you have before you, Exhibits Number 6 and 8, and
20 that he specifically admitted that he had those
21 documen--that he prepared those documents and
22 signed those documents and sent them to those
23 organizations.

24 And I'd ask you to read the language in

1 each of those documents. And it's clearly--it's
2 interesting. The language is a little bit
3 different in each one of those. But what--what I
4 would suggest, in--in the Anheuser-Busch, he talks
5 about funding the museum. In the AstraZeneca
6 letter, he talks about wanting to be able to help
7 the underserved population in New Hanover County in
8 dealing with their medical needs, certainly
9 something that AstraZeneca Pharmaceuticals might be
10 more interested in than Anheuser-Busch might have
11 been interested in. But he care--very carefully
12 tailored his solicitation letters to these
13 corporations, and he specifically told them that it
14 was a charitable cor--contribution that he sought.

15 And he mentioned the 501C3 designation, that they
16 had in fact--they were in fact--that Community
17 Health and Foun--Foundation, Incorporated, was a
18 charitable cor--contri--corporation under 501C3.

19 Now, there's been some question about
20 that, was--was it or wasn't it. It's not necessary
21 for you to determine in deciding the Counts 3, 4,
22 and 5. If you notice the language of those counts,
23 we did not draft those counts specifically saying
24 that he falsely represented that he was a

1 charitable cor--corporation under 501C3. We simply
2 stated in those counts that he said in his letters
3 that he was a charitable corporation, a 501C3
4 corporation. What is clear is that after
5 soliciting that money from each of those
6 corporations as a charitable contribution, he then
7 deposited those checks in his own personal account,
8 something he had no authority to do. And I'll talk
9 about that in a minute.

10 By this own admission to Agent Umphlet,
11 he did take each of those three checks that you
12 have in evidence, and he deposited them in his--
13 what has been referred to, the commingled account,
14 which was a personal account slash campaign
15 account. But there's no question that he took
16 those monies which were intended as a charitable
17 contribution by these corporations and that he
18 deposited them in his own account.

19 John Policastro testified as to the AT&T
20 solicitation. We don't have a letter there. If
21 you remember, what he testified was that there had
22 been an inquiry where someone from the Community
23 Health Foundation, Incorporated, had made inquiry
24 about getting a contribution from AT&T and how they

1 would go about doing that. And Policastro let that
2 person know, someone within the agen--within the
3 corporation, that what had to happen was there had
4 to be an invoice from that corporation. And then
5 some time after that, an invoice comes in with the
6 letterhead of the Community Health Foundation,
7 Incorporated, the same essential letterhead as on
8 those two letters. Also has Thomas Wright's name
9 on the--the letterhead of the invoice. And
10 specifically for the fifteen-hundred-dollar
11 (\$1,500) amount that had been indicated about the
12 inquiry having been made.

13 Now, Representative Wright in talking to
14 Agent Umphlet did not admit that he remembered that
15 particular invoice. Said there was something about
16 it. He wasn't sure. He didn't specifically say
17 absolutely no, as I recall. But he did admit that
18 he had solicited a fifteen-hundred-dollar (\$1,500)
19 contribution from AT&T as a charitable donation to
20 the Community Health Foundation. So I would submit
21 to you that what--what you have, then, is clear and
22 convincing evidence that he did solicit charitable
23 contributions from each of those three
24 organizations in the amounts indicated and that he

1 did deposit those monies in his own account. The
2 question is was he entitled to do that.

3 Well, there's been a lot of talk. And
4 again, I would submit to you, ladies and gentleman,
5 one of the things you have to look at is the--the
6 credibility of--of the witnesses. And I would
7 submit to you that even more so than Torlen Wade,
8 Dan Gottovi, Dr. Gottovi, had a--a longstanding
9 relationship with Representative Wright. And Mr.
10 Joyner brought that out very fully, talked about
11 the family relationship and all they'd done over
12 the years. And they've done a lot. And--and Dr.
13 Gottovi was involved in a lot of the projects that
14 Representative Wright had been involved in over the
15 years. No question about it. And I would submit
16 to you that Dr. Gottovi's testimony may have
17 changed a little bit from time to time about what
18 really happened in terms of bylaws and meetings and
19 authority.

20 I think Dr. Gottovi felt very pained
21 having to be here and testifying to some of the
22 things he had to testify about. And I think there
23 may have been times where he wanted to give
24 Representative Wright the benefit of the doubt,

that maybe some of those times that they had lunch together or happened to see each other somewhere were board meetings perhaps. But that's not the law in North Carolina. There are specific laws involving nonprofit corporations. It's called the North Carolina Nonprofit Corporation Act. In Article 2, under organization, Statute 55A--excuse me--55A dash 2 dash 03, under incorporation, says, "Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed."

So that corporation actually began, if you look at Exhibit 1, on April 18th, 2001. It was no longer in the planning stages. It was no longer a steering committee. That corporation was in existence on April 18th, 2001. The incorporator's job was completed, and it was now up to the board of directors under the bylaws to run the corporation.

General Statute 55A dash 2 dash 06, bylaws. The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation. That's a requirement by statute. The evidence before you is that that was never done.

incorporation. What you heard from Dr. Gottovi was that the board never authorized any of the actions of Representative Wright, never authorized him to put that money into his own account. And that's significant.

You've heard the expression coined in this case by Representative Wright "sweat equity." He talked to Johnnie Umphlet about what he thought he deserved based upon his number of hours that he had worked for the foundation. And that's all well and good. But I believe, ladies and gentlemen of the Committee, that there are folks all over North Carolina every day that are board members of nonprofit corporations who don't get a dime for anything that they do, who are not authorized to dip into the corporate till and take money at their pleasure.

And in fact, by statute, again, that's covered. General Statute 55A dash 8 dash 12, compensation of directors. Unless the articles of incorporation provide otherwise, a board of directors may fix the compensation of directors. Was there any testimony that there was any compensation fixed for the directors? No. You

We've heard some vague talk about there may be some bylaws somewhere. We haven't seen any. But the testimony was, from--from Dan Gottovi, that they never met and approved any bylaws. And that was a job that the incorporators had to do. They didn't do it. There were no bylaws. Therefore, there was no--nothing to authorize anybody to take any action at all.

In Article 3, purposes and powers, there is a Statute 55A dash 3 dash 02 involving the general powers of a corporation. And certainly corporation has--has a number of powers to be able to purchase property, to be able to conduct affairs, to make contracts and guarantees, all those things. But again, that has to be under the authority of the bylaws of the corporation, and there were none.

In Article 8, General Statute 55A dash 8 dash 01, requirement for and duties of board. Under Subsection B, all corporate powers shall be exercised by or under the authority of and the affairs of the corporation managed under the direction of its board of directors as--except as otherwise provided in the articles of

head Dr. Gottovi. There were no meetings. There were no bylaws. There were no meetings. There were no minutes. There were never actually any official actions by the--the board of--of the Community Health Foundation, Incorporated.

Meetings and action of the board, Part 2 of that article, Section 55A dash 8 dash 20, regular and special meetings, Subsection A. The board of directors may hold regular or special meetings in or out of this state. Subsection B. Unless the articles of corp--incorporation or by--bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by or conduct the meeting through use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present and in person at the meeting.

Action without meeting, Section 55A dash 8 dash 21. Unless the articles of incorporation or by--bylaws provide otherwise, action required or permitted by this chapter to be taken at a board of

1 directors' meeting may be taken without a meeting
2 if the action is taken by all members of the board.
3 The action shall be evidenced by one or more
4 written consents signed by each director before or
5 after such action, describing the action taken and
6 included in the minutes or filed with the corporate
7 records reflecting the action taken.

8 There has been absolutely no evidence of
9 any kind of written consent by any of the purported
10 board members of the Community Health Foundation,
11 Incorporated, for Agent--for Representative Wright
12 to be able to do any of the things he did in
13 converting the charitable contributions to his own
14 personal use.

15 And the last statute I'd cite you to is
16 in Part 3 of that article, Section 55A dash 8 dash
17 30, general standards for directors. A director
18 shall discharge his duties as a director, including
19 his duties as a member of a committee, one, in good
20 faith, two, with the care an ordinarily prudent
21 person in like position would exercise under
22 similar circumstances, and, three, in a manner the
23 directory--director reasonably believes to be in
24 the best interests of the corporation.

1 committed the acts contained in that count.

2 Now, in a few minutes, Mr. Joyner is--is
3 going to come up, and he'll argue to you. Remember
4 that much of what you heard in terms of questions
5 that Mr. Joyner asked during the hearing where he
6 was seeking some kind of answer that he hoped might
7 help Representative Wright, oftentimes he didn't
8 get the answer he--he was hoping for. He threw
9 some speculation out there as to what might have
10 been Representative Wright's motives or what might
11 have been valid authority for him to do something
12 or what might have been a valid explanation that
13 might cause you not to find one of these counts.
14 But where is the evidence? There simply is no
15 evidence to counter the clear and convincing
16 evidence that we have presented to you that
17 Representative Wright is guilty of each one of
18 these counts before you.

19 I would ask you to listen carefully to
20 Mr. Joyner and his argument. Listen carefully to
21 any instructions that the Chair might have as to
22 other areas of the law that I have not covered.
23 And special counsel would ask you to find that
24 Representative Wright has committed each of the

1 I believe that goes towards the ethics of
2 what he did here, as well as the--the conversion,
3 which is a crime, and the fraud involved in
4 soliciting a charitable contribution that he
5 apparently intended to convert to his own use. But
6 you have him violating the trust that he owed to
7 the Community Health Foundation, Incorporated, as a
8 director and--and member of the board.

9 I would submit to you, members of the
10 Committee, that as to Counts 4--3, 4, and 5, once
11 again, special counsel has presented evidence to
12 you which should certainly convince you by that
13 clear and convincing evidence that Representative
14 Wright has committed the acts charged in those
15 counts.

16 And the last count that I'm going to ad--
17 dress is count 8. And if you examine that, that
18 count is essentially a summary type of count. It
19 alleges a pattern of conduct which very much tracks
20 all of the activity in Counts 1, 2, 3, 4, and 5.
21 And for all of the reasons that I have laid out to
22 you from the evidence, I would submit to you that
23 we have, again, shown to you by clear and
24 convincing evidence that Representative Wright has

1 violations that are alleged in the counts before
2 you.

3 THE CHAIR: All right. Thank you very
4 much, Mr. Hart.

5 Dr. Joyner, closing argument for
6 Representative Wright. And, Dr. Joyner, when you
7 get up to the podium, if you'll switch that other
8 switch off. With your other mike on, it'll--so--
9 thank you.

10 PROF. JOYNER: I'm going to try this
11 thing out. Know how it's going to work.

12 Clearly this has been an unusual
13 experience in many ways. I'm used to arguing
14 before a jury. And there have been references made
15 to you as jurors. But we all know that you're not.
16 And the protections which are provided for
17 defendants in most proceedings where there are
18 jurors aren't present here. Jurors have not served
19 as the originators of the complaint. You have.
20 You have grand jurors that will look at claims from
21 a prosecutor and will issue an indictment that
22 brings the person before the court. But the
23 members of that grand jury don't sit as jurors at
24 the trial.

1 And in this situation, you received from
2 Mr. Peters and Mr. Hart information about the
3 claims against Representative Wright. And at that
4 time, you made the determination that there was
5 probable cause to believe that they were true. I--
6 I don't know what documentation they provided to
7 you for you to reach that conclusion. But clearly
8 you reached that conclusion, and that's evidenced
9 by--by yet this second revised notice of charges.
10 And merely by doing that, you attested to the fact
11 that you believed that these charges were probably
12 true. So you don't sit here as--as jurors.

13 The other issue has to do with the
14 prosecution of the case. You sit as prosecutors in
15 this case. Now, clearly the four of you did not do
16 a whole lot in that regard. You asked questions.
17 But the chair and the vice-chair did. Mr. Stams
18 (sic) even went out and found evidence, documents
19 that neither Mr. Peters nor Mr. Hart brought in to
20 present as evidence in this matter, and wanted to
21 present it himself. So he was clearly not serving
22 as a juror. He was serving as an adjunct to the
23 prosecution. So I'm not--I'm not used to coming
24 before the body with that.

1 "Don't go out and look for information. Don't go
2 to the site. Don't conduct any research. Don't
3 conduct any tests. But keep yourself in a position
4 that you can decide this case based on the evidence
5 presented from the witness chair right there." And
6 that's why you have a witness chair, and that's why
7 you swear witnesses.

8 Is this impartial? Is this impartial,
9 where the person who is being tried walks into the
10 chambers with a presumption of innocence? Not
11 here. Not here. Representative Wright did not
12 come into this chamber protected by the presumption
13 of innocence, because you had already removed that
14 presumption from him when you issued these claims.
15 So is this fair and impartial? Not in America.
16 Not in North Carolina. Maybe in some foreign land
17 it would be, but not here.

18 Now, I--I do understand that this is the
19 General Assembly. And because this is the General
20 Assembly, you can do pretty doggone well what you
21 want to do. But I want to know--I want you to know
22 that as I start, that I recognize the hill that I
23 have to climb, and I know that I'm trying to walk
24 up a slippery slope. I recognize that from the

1 And then in every trial in North
2 Carolina, and indeed in every trial in America,
3 every trial in America, the evidence upon which the
4 jury reaches its verdict is only the evidence
5 that's presented from the witness chair under oath.
6 Clearly that is not the situation in this case,
7 because while you did hear testimony from
8 witnesses, there was other evidence presented
9 without the benefit of witnesses that you have in
10 your possession and you have reviewed.

11 Case in point: Mr. Stams (sic) brought
12 in two documents, a--an application for business
13 credit and a settlement statement, neither of which
14 Mr. Peters nor Mr. Hart intended or attempted to
15 get introduced. And he circulated them to
16 everybody in here. You got a copy of it. You got
17 a copy of it. And then he wanted to ask questions
18 about it. But that's in your package of evidence.
19 Now, jur--jurors--jurors would not be in receipt of
20 this type of extraneous evidence not presented from
21 the witness chair under oath.

22 And in fact, at a real trial--at--at a
23 real trial in North Carolina and the rest of
24 America, the judge would instruct the jurors,

1 outset, basically because of the things that I've
2 just said. So we might make this pronouncement
3 that we sit as jurors, but the reality is contrary
4 to that. This is not that situation. And I
5 understand the political nature of these
6 proceedings. And with that, I want to address some
7 of the claims.

8 Your charge for your rules say that you
9 have to find by clear, cogent, and convincing
10 evidence that Representative Wright has committed
11 the acts described here. And I will say to you
12 that what you have instead of clear, cogent, and
13 convincing evidence is evidence that is murky,
14 confusing, and disconnected. Nothing clear about
15 it. Nothing cogent about it. Nothing convincing
16 about it.

17 And I want to start with Counts 1, 2, and
18 8. Mr. Hart dealt with 1 and 2 first and then
19 summarized 8 as a--they're all duplications of--of
20 the same thing, 1, 2, and 8. And Counts 1, 2, and
21 8 deals with the solicitation or the granting of a
22 loan for a hundred and fifty dollars (sic) for the
23 purpose of purchasing a building in Wilmington that
24 could be used as a 1898 Wil--Wilmington Memorials

1 museum, office space for the Community Health
2 Foundation, office space for the Community Health
3 Center that needed space to grow.

4 And I think that the documents that's
5 been--that have--that have been presented here
6 amply supports the conclusion that the Community
7 Health Foundation--and I want to just look at
8 Exhibit 1, articles of incorporation--that that was
9 filed with the North Carolina Secretary of State,
10 that that was accepted by the North Carolina
11 Secretary of State and registered as a nonprofit
12 corporation in the State of North Carolina. To
13 that point, there is no disagreement.

14 And we can further say, if you look at
15 Exhibit 14, Exhibit 14 deals with the articles of
16 incorporation of the Community Health Foundation,
17 and that articles--and those articles of
18 incorporation were signed by the Secretary of
19 State.

20 REP. STAM: Objection.

21 MR. HART: Yeah, Mr. Chairman, that--

22 REP. STAM: Exhibit 14 was never
23 introduced.

24 THE CHAIR: Objection sustained. Exhibit

1 14 was not admitted into evidence, so it is not
2 relevant to closing argument.

3 PROF. JOYNER: Exhibit 14 was discussed.

4 It was presented in the package to mem--your--your
5 body. And as such, it is in evidence. Even though
6 the document itself was not introduced, it was a
7 part of the evidence presented in this session.

8 THE CHAIR: Exhibit 14 is not--correct me
9 if I'm wrong, members. But I had Exhibit 14
10 pulled, so you should not have Exhibit 14 in your
11 notebooks. Am I correct?

12 Exhibit 14, since it was not pursued, was
13 pulled from the beginning.

14 PROF. JOYNER: Mr. Chairman, we discussed
15 it.

16 THE CHAIR: That were the--I will
17 certainly let you talk about information that you
18 want. But the exhibit itself and nothing in the
19 exhibit's in evidence.

20 PROF. JOYNER: So a corporation was
21 accomplished. And then there was evidence that the
22 Community Health Foundation received an employer's
23 identification number from the Internal Revenue
24 Service, Tax Identification Number 562252434.

1 There's no dispute about that. And that is the tax
2 exempt number--tax identification number which
3 appears in at least one--two of the letters that
4 we'll talk about later on. These are official
5 actions taken in furtherance of establishing the
6 existence of the Community Health Foundation. And
7 to that, there is no--no dispute.

8 There is evidence, a document in the
9 file, Exhibit 3, of a letter from Torlen Wade
10 addressed to Thomas Wright, chairperson of the
11 Community Health Foundation, that letter being
12 issued on March 15th, 2002. Passed out to you but
13 not formally introduced into evidence was a
14 business credit application that Mr. Stams (sic)
15 found and sought to question.

16 MR. HART: Objection. I don't believe
17 that's ever been passed out to the Committee.

18 THE CHAIR: Hold for a minute on the
19 objection. I--I want to make sure about that.

20 Think the document was initially passed
21 out and retrieved immediately when I denied
22 admission. But because it at least was discussed,
23 I think Dr. Joyner has the right to discuss the
24 information that was discussed about it, the

1 questions about it. Again, the document itself is
2 not admissible--admitted; it's not in evidence; and
3 it's not before the Committee.

4 REP. STAM: Mr. Chairman, if--if I could
5 just recollect, actually no questions were allowed
6 about it when Dr. Joyner objected to it. I asked
7 why they would object to it, since it was signed by
8 his client. But their objection was sustained.

9 THE CHAIR: Well, that's my recollection,
10 as well. But I'm going to let Dr. Joyner argue as
11 he wishes about that without direct reference to
12 anything that wasn't talked about in any way,
13 shape, or form by others. But at least the
14 document's not in; the document can't be
15 referenced. But if there's information that was
16 discussed by a witness, he can certainly talk about
17 that.

18 PROF. JOYNER: Well, Mr. Chairman, the
19 document was passed for the members, including
20 yourself, to see. And when they saw it, obviously
21 they saw the content of the document. It was not
22 elaborated on in testimony, but it was circulated
23 for the purpose of people seeing what the document
24 spoke to.

THE CHAIR: I will go ahead and let you argue your point, Dr. Joyner. But I am going to instruct the members, when I do instruct, that, again, that anything that was not admitted into evidence is not to be considered in their determination. So in terms of the documents--but I will go ahead and let you make your argument.

PROF. JOYNER: Thank you, Mr. Chairman. I appreciate that.

Business credit application with the Coastal Federal Bank from the Community Health Foundation with the same tax ID number-- identification number that I referenced before dated February 22nd, 2002, for the purchase of a building, a hundred and fifty thousand dollars (\$150,000). That's the application.

In your packet and introduced into evidence is Exhibit Number 4. And Exhibit Number 4 is the approval document which Mr. Burbank testified about and to which there is considerable reliance upon it. And it is a--a document of approval, because it says in the document that the loan requested by the Community Health Foundation was approved. And that document is signed by R.

that's a projection. It's not a guarantee. It's a projection. If things are as we see them now, they can repay this from their wages or from grant money from state and federal government. And then secondarily, they listed the equity in the building, because the worth of the building exceeded the amount of the loan.

Clear, cogent, and convincing. Clear, cogent, and convincing evidence. Clear, cogent, and convincing evidence is needed to show that this letter was used for the purpose of getting this loan. It wasn't.

Well, how else--how else do you know--how else would you support that notion?

I recall Mr. Burbank testifying that he was pretty unclear about the dates that things occurred. He testified that at some point, without specific reference, that he knew about a letter. He knew about a letter. But he couldn't tell us when that was. But from the documentation, it wasn't on March 5th, when he approved this loan. And I recall asking Mr. Burbank when the SBI agents came, when the files of the Coastal Federal Bank was reviewed, was the letter in the file. And the

Burbank, who was the loan officer who had the authority to approve that loan. But what is important--important about this document is, one, that it does not note a need for a letter or any other documentation from Representative Wright in order to secure this mortgage money.

You--you can look at all over. And some of your have purchased homes. And you know that if there is a condition which has to be satisfied before a mortgage is granted, it is in the file in order that that condition can be satisfied before the loan is granted. Yet, in this situation on March 5th, 2002, we have a notice of approval which does not mention the necessity of a letter, document, or any other information that is a precondition to getting this loan. It's not there.

It notes that the primary source of repayment, not guarantee, will be state and federal government grants, which is a projection. Anytime you get a loan, you get a mortgage, and they talk about how you're going to repay it, it's a projection. I mean, if it's your job and your income, your salary, that's a projection, because the next day, you might just lose your job. So

answer was no. The answer was no. The answer was no.

Why is that important? Because if it was a document on which he relied to grant a loan for a hundred and fifty thousand dollars (\$150,000), you know where it would have been? In the file. So that if the auditors came in to find out why he gave that loan and that was a precondition, the record would be clear that that was a condition. It was not in the file.

SBI Umphlet was asked about this, "Well, where did you get the letter?" Say, "Well, I got it from two or three different sources. I got it from Kim Strach. I got it from another agent. I got it from the files of Health and Human Resources."

Among the missing situses (phonetic) for that letter was the Coastal Federal Bank. They subpoenaed the records from the Coastal Federal Bank, and not included in that file was this letter. And you know why it wasn't in there? Because he did not have it, did not need it, did not require it at the point that he approved this loan.

1 Torlen Wade's letter is dated on, well,
2 March 15th. The approval date of this loan is
3 March 5th. Torlen Wade's letter is written on
4 March 15th. If it's written on March 15th, in the
5 day of Pony Express, it gets to Wilmington by March
6 16th, by snail mail March 17th, by e-mail
7 instantaneously. But if it was by e-mail, it would
8 have come from Torlen Wade. And Mr. Burbank said,
9 "No, he--no, no, no. Wade did not send me a
10 letter. I don't know who I got it from. I could
11 have gotten it from Tommy Wright. I could have. I
12 don't know who I got it from. But it did not come
13 from Torlen Wade." So the e-mail option is out.
14 Let's go on. So it had to be by Pony
15 Express or snail mail. No matter which mail you
16 use, it's ten days after the loan was approved.
17 You've got to explain that discrepancy. You've got
18 to explain it.
19 Burbank, who is a career banker, is going
20 to rely on a letter to guarantee a loan and doesn't
21 get it for almost two weeks after he approved a
22 loan for a hundred and fifty thousand dollars
23 (\$150,000)? Well, I understand a hundred and fifty
24 thousand dollars (\$150,000) is not a lot of money

1 convincing evidence that Representative Wright ever
2 used this letter--ever used this--ever used this
3 letter to secure a loan.
4 Representative--well, I'm getting him
5 elected now. SBI Agent Umphlet testified that when
6 he sat down and talked to Thomas Wright for nine
7 hours, nine hours, almost as long as you've been
8 here, for nine hours, voluntarily, came in without
9 a lawyer, had his own video camera, and sat down
10 and talked with Agent Umphlet for nine hours. He
11 told him exactly the same thing. He said, "I got
12 the letter from Torlen Wade, and I asked him to do
13 it. And I'm sorry that I asked him to do it,
14 because I got him in a lot of trouble." That's
15 what he told Agent Umphlet. He didn't say, "No,
16 Wade is lying." Said, "I did it." That's what he
17 said. And he said, "I'm sorry I did it. But I
18 didn't use the letter to get a loan. I didn't need
19 the letter to get a loan. Didn't need a letter to
20 get a loan." And the record supports exactly what
21 he said to Agent Umphlet.
22 Now, anything else is speculation.
23 Anything else is speculation. But the physical
24 evidence does not support a conclusion that this

1 for them. I understand that. I understand that.
2 I understand that. To most of us, yeah. But you
3 don't make a loan for a hundred and fifty thousand
4 dollars (\$150,000) in which you have not satisfied
5 the conditions that you set. You don't do it.
6 This letter was not a condition of that
7 loan, because had it been a condition of this loan,
8 there would have been some documentation of that
9 need somewhere in that file, somewhere, on the file
10 cover, on the printout sheet of things that we need
11 to get, or on a notice, or on the note in the
12 closing package to the attorney that's closing the
13 loan that we need to have this information. It is
14 not there.
15 We're talking about clear, cogent, and
16 convincing evidence. Now, if that's clear, cogent,
17 and convincing to you on their part, then clearly
18 we're in a political determination. But as jurors,
19 as jurors, the evidence is nonexistent, does not
20 support that point. Doesn't support it.
21 Evidence does support a conclusion that
22 Torlen Wade wrote this letter, and he wrote the
23 letter at the request of Representative Wright.
24 There is absolutely no clear, cogent, and

1 letter was used by Thomas Wright for the purpose of
2 securing this loan for a hundred and fifty thousand
3 dollars (\$150,000).
4 Murky, confusing, and disconnected is not
5 the standard that supports a conclusion that he
6 used the letter for the purpose--the fraudulent
7 purpose of inducing the Coastal Federal Bank to
8 grant a loan.
9 Going to just move, as Mr. Hart did, to
10 Claims 3, 4, and 5. 3, 4, and 5. These claims
11 deal with the solicitation of grants from AT&T,
12 AstraZeneca Pharmaceuticals, and Anheuser-Busch.
13 AstraZeneca Pharmaceuticals, a medical concern;
14 Anheuser-Busch, a cause for medical concern; AT&T.
15 That's interesting.
16 Mr. Policastro came in here to testify,
17 and his testimony was really quite amazing. I
18 mean, it really--it--it was really quite amazing,
19 because obviously he was a bigwig in the giving
20 line, in the giving line at AT&T. But, you know,
21 I--I remember his--his testimony. And--and you'll
22 have to remember it for yourself. But he said,
23 "You know, I was sitting there at my desk one day,
24 and I got a call from one of our people."

1 Later on, when asked, he said that it was
2 Larry Bra--Breely--Breely--Bewley, Larry Bewley.
3 Remember that? That's what he said--right?--from
4 right up--right up there. "And I was asked how
5 do--how do--how do--how do I get a grant, 'cause I
6 got these people that want to get a grant. So what
7 do we have to do to get it?" And he said that he
8 provided his people, not a representative of the
9 Community Health Foundation, his people, Larry
10 Breeley, with that information and subsequently
11 received this letter from the Community Health
12 Foundation that was signed by Thomas Wright.

13 Well, he didn't say. He said he received
14 an invoice, Exhibit 11. Exhibit 11. He didn't
15 say, "I received a letter where someone from the
16 Community Health Foundation requested a grant."
17 Instead, he said, "I received an invoice, an
18 invoice." And then he went on to identify Exhibit
19 11 as an invoice. And then he passed it on up the
20 line. And somebody added the writing on the letter
21 after that. And there are a number of marked--one
22 is a PO number, which I assume is a purchase-order
23 number, which sounds significant to me, because
24 it's not a grant number but a purchase-order

1 because of that representation or misrepresentation
2 that they granted this fifteen hundred dollars
3 (\$1,500). Not one person got up there under oath
4 to say that.

5 Now, you might find--you might conclude
6 that that's what happened. But if you do, it is
7 pure T rank speculation, because there has been
8 absolutely no evidence at all from this chair, that
9 masquerades as a witness chair, which says that.

10 Now, Policastro is the strongest case,
11 because they didn't even bring anybody in here from
12 Anheuser-Busch. They didn't even bring anybody in
13 here from AstraZeneca. Not one per--unless I went
14 to sleep, because I know some people go to sleep
15 during these things, you know what I'm saying? It
16 gets warm in here, and people nod off. And then
17 they come back an hour later saying, "What
18 happened?"

19 But un--unless I went to sleep, not one
20 person appeared in this room from Anheuser-Busch.
21 Not one person appeared in this room from
22 AstraZeneca. Yet you are asked to find by clear,
23 cogent, and convincing evidence that they were
24 mislead, that they received a representation that

1 number.

2 And then he identified the check, Exhibit
3 13, for fifteen hundred dollars (\$1,500), which
4 went to the Community Health Foundation. And he
5 said that--that that check looked like the check
6 that A&T--AT&T sent to charitable organizations.
7 But it also looked like the check that they sent to
8 other organizations. And it also looked like the
9 check that they sent to vendors. And it also
10 looked--well, this is a check that looked like just
11 about anything that AT&T was going to mail out.
12 But that he thought that this was a charitable
13 donation.

14 There's nothing in this invoice that says
15 anything about a charitable donation, charitable
16 organization, or a request for a grant. It's an
17 invoice. That happened, and the check went out.

18 This Committee makes the claim that AT&T
19 was fraudulently induced to send this check to the
20 Community Health Foundation. No one from AT&T has
21 pres--presented themselves on that witness stand in
22 that chair under oath to say that they were
23 deceived, that they relied upon this invoice as a
24 request for a charitable donation, and that it was

1 proved to be false to--that caused them to grant,
2 in the case of Anheuser-Busch, five thousand
3 dollars (\$5,000), in the case of AstraZeneca,
4 twenty-four hundred dollars (\$2,400). And if you
5 do, it is supported by rank speculation, nothing
6 else, rank speculation.

7 They had so much faith in this case that
8 they didn't even bring anybody in here to testify
9 to that, because it wasn't necessary, they thought,
10 because the fix is in. Now, if you're going to be
11 the jury, you--you--you need to act like you're
12 going to be the jury and you're going to be
13 objective and fair. And if you are objective and
14 fair, Stevie Wonder can see that there's no
15 evidence to support those two claims--those three
16 claims.

17 Clear, cogent, and convincing evidence is
18 needed to find in favor of your Claims 3, 4, and 5.
19 And on these points, the evidence is more murky,
20 more confusing, and more disconnecting than it is
21 with the other three claims. The evidence does not
22 support that conclusion.

23 Now, I know you can work it out, and you
24 can sit down, and you can talk about what if. What

1 if this happened? What if they had come in and
2 said this, that, and the other? They didn't. They
3 didn't. And if we're going to--unless we're going
4 to be swamped by the masquerade, evidence has to be
5 presented. It has not been presented. It has not
6 been presented.

7 It's not that it's not clear, cogent, and
8 con--it's not present at all. It is not present at
9 all. Say, "Well, we got--we got a letter that was
10 written to Anheuser-Busch." Yeah, you got a
11 letter. "Well, we got an invoice to AstraZeneca."
12 Well, you got an invoice. "We have a letter"--I'm
13 sorry. A letter to An--AstraZeneca, invoice to
14 AT&T. Clearly that's there. That's--that's there.
15 But that's not the issue. The issue isn't the
16 presence of the letter. The issue isn't the
17 presence of the invoice. The issue is was there a
18 representation made to these people which caused
19 them--which they relied upon, and, in reliance on
20 that representation, they provided this grant. You
21 can't find that conclusion unless somebody comes in
22 here to testify to that. It doesn't exist.

23 Mr. Hart says that was fraud; that was
24 deceit; that was concealment. In his mind. In his

1 and sixty-nine reports were made from legislators
2 or their treasurers to amend false reports from
3 previous times dating back from 2006 as far back as
4 2001 and '2. Five hundred and sixty-nine just
5 during this past year. I didn't ask her about last
6 year and the year before that and the year before
7 that. But in this past year, five hundred and
8 sixty-nine re--you had more reports than you have
9 legislators. You don't even have five hundred and
10 sixty-nine legislators in the North Carolina
11 General Assembly. You have five hundred and sixty-
12 nine people who lied on their reports this past
13 year, this past year.

14 And either there was mass confusion;
15 there was mass--massive fraud; or there was massive
16 intentional conduct designed to conceal campaign
17 activities--campaign finance activities. Well, I
18 know that new law came into being, and that
19 probably sparked some of it.

20 There was a lot of talk about the
21 importance and just how critical campaign-financing
22 reporting is to the citizens of North Carolina.
23 And in fact, the statute seems to be very clear.
24 Within a specific period of time, you have to file

1 mind. Where's the witness? Or--there's this old
2 commercial. Well, I don't want to date myself.
3 But, you know, there's this commercial that asks,
4 "Where's the beef?" You remember that? "Where's
5 the beef? Where's the beef? Where's the beef?"
6 Where's the beef?

7 If you are going to buy that claim, show
8 me the beef. It has not been presented in this
9 room. And there is nothing clear, cogent, and
10 convincing about what we call in the law a failure
11 of proof, a failure of proof, the inability to find
12 evidence to support your claim. 'Cause anybody can
13 make a claim. Anybody can make a claim. Proving
14 it is another thing. And it has not been proven by
15 clear, cogent, and con--it hasn't been proven by
16 any standard. It does not even rise up to the
17 "what if" standard.

18 Then we go--we go to the campaign
19 contributions. My Lord, my Lord, my Lord.
20 Campaign contributions, an area of the law that
21 absolutely nobody understands. Well, you might
22 understand it better than most people. But based
23 on what I heard from the chair here, from the
24 witness chair, during this past year, five hundred

1 a report that truly and honestly reflects campaign
2 contributions and disbursement. That's what the
3 statute says.

4 Statute goes on to say--it's right in
5 that little yellow book. Statute goes on to say
6 that if upon review, if you find a problem with it,
7 you refer it to the district attorney in the
8 district in which the member resides, for action.
9 That's--that's what the law says right in the
10 yellow book. That's what the law says. It makes
11 no exception for anybody, does not provide any
12 exceptions for reasons or anything else. That is a
13 law that you or your former colleagues passed,
14 which was in place up until 2006. I didn't do it.
15 I--I didn't--I didn't--I didn't write this. It
16 didn't--didn't come from D.C. It didn't come down
17 in the Bible. You--you enacted that. North
18 Carolina General Assembly enacted that. And it did
19 not provide an exception or wiggle room for
20 anybody.

21 And in response to that, the Board of
22 Elections, which was given authority to administer
23 that and supervise that, they decided in their
24 infinite wisdom that they would allow these reports

1 to be amended at any time for any reason in the
2 world. Remember that? And I was just floored. I
3 said, "What? You mean four years later, you can"--
4 "Oh, yes, because we want to have the stuff
5 reported." "Really?" You remember that? She
6 said, "Well, we--we just want to get it." Years
7 later. In spite of what the statute says, years
8 later you can come back, and you can amend your
9 report, your report which falsely states your
10 campaign-finance activities, years later. This
11 liberal amendment procedure. Never heard of
12 anybody being prosecuted for not reporting
13 campaign--"We have a liberal policy. We want
14 them--we want them to amend it."

15 Mr. Peters got up there and said, "Well,
16 it's important. It's important that we have this
17 law in place, because the citizens need to be able
18 to see, need to be able to see, as the campaign is
19 going on, who is financing the operation." That--
20 that's not the purpose of campaign-finance reform
21 or the reporting laws, because when you're running,
22 you don't report it. You don't report it until
23 certain quarters. And typically when you--after
24 you run, then you report what you--the income that

1 document that included incorrect information was a
2 violation of the law.
3 And I asked. I said, "Well, what about
4 these other legislators who come in and amend their
5 reports? Did they violate the law?" "Well--well,
6 technically." Kind of like being half-pregnant.
7 You either violated the law, or you didn't. You
8 either violated the law, or you didn't. If we're
9 going to have a liberal application, it ought to be
10 across the board. Instead of persecuting--I mean--
11 I'm sorry. Instead of prosecuting Thomas Wright,
12 we should be encouraging him to amend his report,
13 because we have this liberal policy here, and
14 that's the way we want it done. That's the way we
15 want it done from the Board of Elections, from the
16 Board of Elec--now, clearly North Carolina statutes
17 does not say that. North Carolina statutes don't
18 say that. They don't say that. There's absolutely
19 nothing in the statute which allows for the
20 amendment of these reports, nothing in the statute.
21 Nothing allows for the amendment of these reports.
22 It is a policy decision made by the Board of
23 Elections. And that liberal policy applies to
24 everybody except Thomas Wright, except Thomas

1 you had, the disbursement that you had during the
2 campaign, not while you're running, unless while
3 you are running you run into one of those periods.
4 Well, that's not really critical. What
5 is critical is the importance that all of a sudden
6 is attached to Representative Wright's failure to
7 disclose or present all of his contributions. And
8 that's what we're talking about. Often it's--it's
9 like the most important thing in the whole wide
10 world, notwithstanding the fact that our liberal
11 amendment policy that--that he talked about would
12 allow us today to walk over to the Board of
13 Elections and file an amendment for every report
14 from 2000 up until yesterday. Because when we
15 listened to Kim Strach, she said you could do that.
16 We could do that. And every legislator or
17 treasurer of the committee, they can do that. But
18 for Thomas Wright, we want to kick him out. Every
19 legislator here can come in and amend their report
20 right now going back for years, except for Thomas
21 Wright. With Thomas Wright, we want you to kick
22 him out. We want you to kick him out because what
23 he did was unethical, fraudulent, and criminal,
24 because he signed a document and the--signing a

1 Wright. And because it's Thomas Wright, we want
2 you to kick him out of his position for which he
3 has been elected by voters from his district.
4 So on the one hand, it is the most
5 important law in the whole wide world, and if we
6 let him get away with this, the galaxy is just
7 going to fall apart. Or--or it is a law in which
8 we encourage legislators to reveal fully their
9 campaign-finance activity, and if they run into a
10 problem with doing that, we will work with them to
11 make sure that the reports are done correctly even
12 if they are not timely filed.
13 Statute does allow the Board of Elections
14 to provide civil fines for each date that a report
15 is late. That's not an issue here. It's not an
16 issue here. But we're picking and choosing. We're
17 picking and choosing.
18 Either we're going to require faithful
19 adherence to the statutes, or we're going to have a
20 liberal interpretation of the rules that applies
21 equally to everyone.
22 Now, this is decision that you make, if
23 it's not been made already. You have to wrestle
24 with it. And unlike in a criminal trial, where

we're dealing with proof beyond a reasonable doubt and some assurance that the jurors are impartial, unbiased, haven't made up their mind before they came in here. I--I reckon that--that's--that's not where we are. And I recognize, as I said at the outset, that I'm trying to walk up a slippery slope, because you have already found, before we even started this thing on Monday morning, that the claims raised against Representative Wright were probably true, and you were going to go forward with these hearings to make sure that you were able to make a decision about that as soon as possible.

So we leave it in your hands. It's been in your hands all along. But I wanted to present you with those things that we see as deficiencies, significant deficiencies in this--in these claims and in this case.

Thank you, Mr. Chairman.

THE CHAIR: Thank you very much, Dr. Joyner.

This Committee will stand in recess for fifteen minutes. We will return--actually twenty minutes. We will return at three-forty and begin instructions and deliberations by the Committee on

the counts. Thank you.

TWENTY-FIVE-MINUTE RECESS

THE CHAIR: All right. Members of the Committee, I have several instructions to give you, not many, as we begin our deliberations. If you will be mindful of these instructions, I would appreciate it very, very much.

Members of the Committee, you have all heard the evidence presented in this case. Under the rules, the burden is on the Committee's outside counsel to present evidence to satisfy you by clear and convincing evidence that the allegations of unethical conduct exist in any count. In order to make a finding, for each count you will have to find by clear and convincing evidence that the conduct alleged in the count occurred and that the conducted committed was unethical.

As part of these deliberations, you should not consider what sanctions if any might be recommended if any count is found to be true by clear and convincing evidence. If you do not find a count by clear and convincing evidence, you

should vote to so find--I'm sorry--you should vote that the count is not found and find in favor of Representative Wright on that count.

Finally, you should note that if you believe that Representative Wright not only should not be found to have committed any count by clear and convincing evidence but if you believe, as well, that a preponderance of the evidence establishes that Representative Wright did not commit the act, then you may make a motion for full exoneration, as well.

That being said, you are the sole judges of the credibility, that is the believability, of each witness. You must decide for yourselves whether to believe the testimony of any witness. You may believe all or any part or none of what a witness has said on the witness stand.

In determining whether to believe any witness, you should apply the same tests of truthfulness which you apply in your everyday affairs. These tests may include, among other things, the opportunity of the witness to see, hear, know, or remember the facts or occurrences about which he testified; the manner and appearance

of the witness; any interests, bias, or prejudice the witness may have; the apparent understanding and fairness of the witness; whether the testimony is reasonable; and whether the testimony is consistent with other believable evidence that's been presented.

You, we, are the sole judges of the weight to be given any evidence. And by this I mean if you decide that certain evidence is believable, you must then determine the importance of that evidence in light of all the other believable evidence that has been presented.

There are two types of evidence from which you may find the truth as to the facts of this case, direct and circumstantial evidence. Direct evidence is the testimony of one who asserts actual knowledge of a fact, such as an eyewitness. Circumstantial evidence is proof of a chain or group of facts and circumstances pointing to the existence or nonexistence of certain facts. The law makes no distinction between the weight to be given to either direct or circumstantial evidence, and neither should you. Nor is a greater degree of certainty required of circumstantial evidence than

of direct evidence.

The law in this action simply requires to the extent--sorry. The law in this action requires that the party having the burden of proof, that is the Committee counsel, satisfy you as to any issue in the case by clear and convincing evidence. And we had previously been instructed and hold what clear and convincing evidence is by Mr. Krehely before we began. Again a reminder: Representative Wright has no burden of proof in this case to prove anything. The burden of proof is on Committee counsel to prove by clear and convincing evidence that, number one, the conduct in any particular case occurred--count occurred, and, two, that the conduct committed was unethical.

With that, it is my intention to proceed this way in Committee deliberations: There will be no discussion. Evidence is closed. Arguments are done. This is a discussion and a vote among the six of us. You may ask, obviously, as we normally do in any Committee proceeding, any question of our legislative counsel.

What I propose to do is to take us through count by count. And we'll start, as it was

that the best remedy for allegations of corruption is just a lot of sunshine. And what we have here is a complete shutdown of the blinds so that no one could see what Representative Wright was receiving and--and was spending.

It's so massive as to be unethical. There's been some suggestion that somehow the State Board of Election and the district attorney has a duty to prosecute every violation and that nobody's ever been prosecuted for this. Of course that's not true. We have--we've had people in prison for violations of the campaign-finance laws, some very well-known people.

And--but this is not a clerical error. There's not a--just forgetfulness. And what is so striking about it is that even after being charged with this last May, there's even a continuing refusal to file reports in May. I--when I began this proceeding, well, in January when we had our probable-cause hearing, enough--enough evidence was presented to make me think that there was probably something there and that it was of an unethical idea--unethical proportions. But I held out the possibility that maybe there was an explanation,

argued, with Count 7.

Count 7 is the count with regard to campaign contributions. And what I will do is open up the discussion to any member of the Committee for discussion with regard to evidence on Count Number 7.

Well, at this point, if there's discussion, I mean, I'll--I'll be glad accept motions, but I--I'd like to kind of get the debate started on this particular one. If you remember, this is the count on which Kim Strach testified at length for the better portion of what amounted to close to a day with regard to Exhibits Number 15 and 16A through 16G.

Representative Stam is recognized.

REP. STAM: Yeah. Thank you, Mr. Chairman.

This seems to be a massive violation of the campaign-finance laws that protect not only the public but also the contributors to Mr. Wright-- Representative Wright's campaigns, that protect the tax system, that protect the integrity of the legislative process so we know who's receiving contributions. It's been said many, many times

that maybe Representative Wright would amend everything, that he would refund monies improperly received, that he would, you know, take steps to rectify things. But even that has not occurred. And I've seen the evidence now, and there it is.

THE CHAIR: Representative McGee?

REP. MCGEE: Thank you, Mr. Chair.

I would only add to that that during no reporting period did we have a correct report or an attempt to correct that report.

THE CHAIR: I think--the Chair, in reviewing the evidence, as well--I think there is-- and I've handed out--or I've asked to be handed out to you several statutes and tried to hand out the statutes that were referred to by--by both counsel during arguments. The statute that deals with campaign contributions requires that for there to be a violation, the violation be intentional. And in fact, there is a saving-grace statute that talks about best efforts.

And--and Dr. Joyner is absolutely, I think, correct in his argument that given the amount of contributions, given how campaigns are run, there are errors. But there is a difference

between an inadvertent error or even a series of mistakes or innocent errors, ones correctable, which the process should allow to be corrected by amended reports, and what has occurred here.

The fraud in this count on the public is breathtakingly massive. It is the largest that Kim Strach said she has seen even in million-dollar campaign accounts in her time at the State Board of Elections. Literally almost forty percent of the contributions that were received over a seven-year period were not reported. I cannot conceive of another circumstance like that in this General Assembly. There may be. And if there is, it should be prosecuted equally and as fully.

But this is not inadvertent. This is not a mistake. And if there is any doubt about whether there was intentional conduct, I find it very difficult to accept the argument made in closing arguments about amendments. The argument was we should give Representative Wright the opportunity, as we do others, to amend. He has had seven years of opportunities to amend the first set of reports. I do not know what the State could possibly do to convince this representative to amend the false

reports that have been filed year in and year out, report in and report out.

These are not simple errors. This was a pattern, as the count said, that has continuity, pervasiveness, and severity to it. I cannot understand how it occurred. It's not my intent to try to do that. But there is beyond clear and convincing evidence in this case. This count is utterly inescapable in terms of the conclusion that can be drawn, in my opinion, that there was a massive fraud perpetrated through the deliberate decision made year in, year out, for twenty-two straight reporting periods to nondisclosure.

No capacity--the capacity fully existed to amend. It was never taken advantage of. And then to talk about the fact that we need to provide an opportunity to amend. We can't even get the law now to provide an incentive for the representative to file a report, let alone even a fraudulent one.

I've come to absolutely the conclusion that of all the counts, there is overwhelming evidence supporting this count, and there is no reasonable alternative--indeed, almost no attack was made, no evidence presented to justify, even in

closing argument, any of these violations.

I will vote to find clear and convincing evidence on this count.

Other comments?

I'll accept a motion at this point.

REP. STAM: Mr. Chairman, I move the Committee find by clear and convincing evidence that between January 1, 2000, and January 31, 2007, while a member of the North Carolina House of Representatives, Thomas E. Wright did improperly, fraudulently, and unethically engage in a pattern of conduct unbecoming and unfitting a member of the House of Representatives by intentionally failing to disclose approximately a hundred eighty thousand dollars (\$180,000) in contributions received by his campaign during that time period, which disclosure is required by law and are intended to safeguard the public trust and to preserve the integrity of the electoral process, the integrity of the House of Representatives, and the integrity of the legislative process.

The contributions that are the subject of this count are set out in Exhibit 15 of the Committee hearing held March 3 to 6, 2008, as

modified by the testimony of Kim Strach, Deputy Director of the State Board of Elections, and incorporated into this count by reference.

THE CHAIR: Is there a second to the motion? Is there a--second by Representative Wiley.

Discussion and debate on the motion?

Seeing none, all those in favor of the motion will vote aye. Those opposed to the motion will vote no. The Clerk will call the roll.

THE CLERK: Chairman Glazier.

THE CHAIR: Aye.

THE CLERK: Vice-chairman Stam.

REP. STAM: Aye.

THE CLERK: Representative Lucas.

REP. LUCAS: Aye.

THE CLERK: Representative McGee.

REP. MCGEE: Aye.

THE CLERK: Representative Warren.

REP. WARREN: Aye.

THE CLERK: Representative Wiley.

REP. WILEY: Aye.

THE CHAIR: Count Number 7 is found by clear and convincing evidence by a unanimous vote

1 of this Committee.
2 We'll now proceed--and I'm trying to
3 group the counts. We'll proceed to Count Number 3.
4 Count Number 3 is the count related to
5 the solicitation from AstraZeneca Pharmaceuticals.
6 Discussion on Count Number 3 and the evidence
7 presented with regard to Count Number 3.
8 REP. STAM: Mr. Chairman?
9 THE CHAIR: Yes, Representative Stam.
10 REP. STAM: What I'd like to say about
11 Count 3, most of it will also apply to Count 4 and
12 5. And I'll try not to be duplicative.
13 THE CHAIR: With--yeah. And let's--and--
14 that'll be fine. But we'll stick with 3.
15 REP. STAM: Yes. Right.
16 Exhibit 1 gives the purpose of this
17 corporation, charitable, educational, scientific
18 purposes, and says no part of the net earnings of
19 the corporation shall inure to the benefit or be
20 distributable to its members, directors, officers,
21 or other private persons.
22 Exhibit 8 is the solicitation by
23 Representative Wright to AstraZeneca--AstraZeneca
24 Pharmaceuticals. The gravamen of the count is not

1 year. But again, that's a--a tangent.
2 It was solicited. But then the gravamen
3 of the complaint, of course, is Exhibit 10, where
4 he just took that check to Community Health
5 Foundation, Inc., which, according to the
6 testimony, he told everybody was a charitable
7 nonprofit, and he just put it right in his own
8 pocket.
9 And again, when we had our meeting in
10 January, you know, there was enough evidence there
11 for probable cause. I was hoping that maybe before
12 today, Representative Wright would have showed us
13 that that was just a mistake; it went in the wrong
14 account, and the next week he sent it to the right
15 account; or that perhaps he had refunded it to
16 AstraZeneca; or that he had refunded it to some
17 equivalent charity that exists. But no. It just
18 went into his private account where he paid for his
19 campaigns and his cars and everything else. It's
20 an unethical, unlawful thing to do and obviously
21 not by mistake.
22 THE CHAIR: Is there other--other
23 comments?
24 Representative Lucas.

1 really the solicitation but the conversion of funds
2 to his personal account which were intended as
3 charitable. And we can infer that it was intended
4 as charitable because we have the solicitation
5 letter by Representative Wright that told how it
6 would be used.
7 The--there was some suggestion in the
8 first day of testimony that maybe this was in fact
9 a charitable organization, 501(c)(3). Really
10 whether it is or is not is really beside the point.
11 But I would mention that it--it almost certainly is
12 not, because the exception under Section 908 that
13 Dr. Joyner educated us on only applies if normally
14 there's going to be five thousand (5,000) or less
15 in receipts. And immediately upon the formation of
16 this corporation, the purpose of it was to buy a
17 building. And they started soliciting hundreds of
18 thousands of dollars. They got a hundred and fifty
19 thousand (150,000) receipt in 2002. And when we're
20 soliciting tens of--I think the Counts 3, 4, and 5
21 is ten thousand dollars' worth of--in other words,
22 to buy a building worth three hundred and fifty
23 thousand dollars (\$350,000) and operate it, you
24 need more than five thousand dollars (\$5,000) a

1 REP. LUCAS: Thank you, Mr. Chairman.
2 You know, I think we have to place things
3 in somewhat of a context of involvement. Initially,
4 I think, the intentions were very, very amiable.
5 And they were certainly needed in terms of minority
6 health intentions. We--we can't deny the fact that
7 the minority community does not receive the same
8 health benefits that many of the other communities
9 receive. There's a great need for that, and I
10 think we have to commend Representative Wright and
11 those who worked with him--Dr. Gottovi alluded to
12 that--that they were intentionally initially on the
13 right path toward alleviating minority health
14 issues.
15 Now, I don't know at what point in time--
16 I think it's commendable of them to re--solicit
17 contributions toward that effort. Beyond that, I
18 don't know what happened there. But I--I think we
19 need to really put things in the total perspective.
20 THE CHAIR: I agree with Representative
21 Lucas in--in this regard. And I think that
22 initially the plan--it seems to me, at least, the
23 evidence creates a possibility that what was being
24 done or eventually what were to be done would be to

1 create the Foundation in order to provide these
2 services. And I think, although we can take
3 notice, you'll see in Representative Wright's past,
4 I think, that he's been an active advocate for
5 minority health issues for many years. That--this
6 is simply consistent with what he's done.

7 The problem I have and--and where I--I
8 think that the issue is is that there, number one,
9 was absolutely no authorization for the
10 solicitation by anyone on the Community's Health
11 Foundation. That's the first issue.

12 The more critical issue is that the
13 Foundation letterhead solicits--specifically
14 Representative Wright solicits these funds from
15 AstraZeneca for a specific purpose, and that is a
16 charitable purpose.

17 If the money came in and, when this was
18 solicited and when it was received, the Community
19 Health Foundation account was open, all that had to
20 be done to be, for lack of a better term, kosher is
21 for that money, that check, to simply be put in the
22 Community Health Foundation account. But it
23 wasn't, even at a time when it was critical to have
24 money for that foundation to be moving forward.

1 the instigation. I think that the evidence at best
2 is ambiguous, and giving credit, I think where it
3 should, given Representative's prior his--
4 Representative Wright's prior history. It seems to
5 me that the solicitation, perhaps not done in the
6 right way, was not anything that was improper.
7 What was improper is what occurred after that. And
8 of that, there's simply no defense. This is beyond
9 clear and convincing evidence to me, as well,
10 because of the conversion of the money, totally not
11 allowed.

12 Further discussion and debate by any
13 member?

14 Yeah, ready for a motion.

15 REP. STAM: Mr. Chairman.

16 THE CHAIR: Representative Stam is
17 recognized.

18 REP. STAM: And I apologize. I--I can't
19 see any other member of the Committee to see if
20 they're seeking recognition. But I move that the
21 Committee find by clear and convincing evidence
22 that on or about December 15, 2003, while a member
23 of the House of Representatives, Thomas E. Wright
24 did engage in conduct unbecoming and unfitting a

1 Instead what we have is the checks were held and
2 then not returned when the Foundation went belly-
3 up, not placed in assistance like Dr. Gottovi did
4 to try to make the payments for the Foundation.
5 They were deposited in a personal account.

6 They would never have been given for that
7 purpose, because they weren't solicited for that
8 purpose. And that's where the problem comes in.
9 That's the unethical conduct, when they were then
10 put into an account that absolutely the funds were
11 never solicited for, and--on top of which, there's
12 a full admission to this. I mean, this isn't a
13 case where we don't have evidence. It was argued
14 we didn't have anybody from AstraZeneca to be here.
15 That's true. But why in the world would you need
16 someone when you have the admission by
17 Representative Wright that he sent the letter, that
18 he took the money, and he took it and put it in his
19 account because he believed it to be sweat equity?

20 Well, there is no legal authority for him
21 to convert that money into his own use for sweat
22 equity or otherwise. It is simply unethical, bar
23 none, to have done that.

24 So I agree with Representative Lucas in

1 member of the House of Representatives by
2 improperly, fraudulently, and unethically
3 converting money intended to be a charitable
4 contribution to the Community's Health Foundation,
5 Inc., to his own personal use. Thomas E. Wright
6 wrote a letter on the letterhead stationary of the
7 Community's Health Foundation, Inc., to a
8 representative of AstraZeneca Pharmaceuticals, LP,
9 requesting as the foundation's president a donation
10 to the foundation, a charitable organization, that
11 Thomas E. Wright represented to be qualified to
12 receive tax-deductible donations that would be used
13 by the foundation for various health-related
14 purposes, including but not limited to educational
15 initiatives, a needs assessment, identification of
16 trends, and bridging the gap of minority healthcare
17 for an underserved population in New Hanover
18 County. Thereafter, when, on December 15th, 2003,
19 a representative of AstraZeneca Pharmaceuticals
20 signed and sent to Thomas E. Wright and the
21 Community's Health Foundation, Inc., a check made
22 out to Community's Health Found, Inc., quote, in
23 the amount of twenty-four hundred dollars (\$2,400),
24 Thomas E. Wright deposited that check into his own

1 personal account rather than into the account of
2 the Community's Health Foundation, Inc.
3 THE CHAIR: Is there a second?
4 Second by Representative Warren.
5 Discussion and debate on Count Number 3?
6 Seeing none, all those in favor will vote
7 aye. Those opposed will vote no. The Clerk will
8 call the roll.
9 THE CLERK: Chairman Glazier.
10 THE CHAIR: Aye.
11 THE CLERK: Vice-chairman Stam.
12 REP. STAM: Aye.
13 THE CLERK: Representative Lucas.
14 REP. LUCAS: Aye.
15 THE CLERK: Representative McGee.
16 REP. MCGEE: Aye.
17 THE CLERK: Representative Warren.
18 REP. WARREN: Aye.
19 THE CLERK: Representative Wiley.
20 REP. WILEY: Aye.
21 THE CHAIR: Count Number 3 is found by
22 the Committee by clear and convincing evidence by a
23 unanimous vote.
24 Count Number 4--Count Number 4 alleges

1 know when the receipt of the check by
2 Representative Wright was, but certainly he had it
3 in his account, on his desk, I believe the
4 representation was made. And the account that the
5 check could have been deposited into was open at
6 that time, because it was not closed until June the
7 28th. So I again think that this check was misused
8 and should have gone into the account to which it
9 was written.
10 THE CHAIR: Representative Wiley is
11 recognized.
12 REP. WILEY: Thank you.
13 I agree that I think the best of
14 intentions were there when this charity started
15 out. But as I was listening to the evidence, I
16 even asked a few questions of my own, trying to
17 ascertain if perhaps some money--personal monies
18 had been spent on utilities, perhaps insurance
19 payments for a building. I saw no evidence
20 presented to that effect. I wanted to believe
21 that. But lacking any evidence, I find the notion
22 of being paid for sweat equity rather abhorrent.
23 Many of us have served on charities.
24 Some of us have tried to start them up. And I know

1 essentially the same solicitation with regard to
2 the quasimedical facility of Anheuser-Busch
3 Companies, Inc. And the count is open for debate
4 and discussion.
5 REP. STAM: Mr. Chairman?
6 THE CHAIR: Representative Stam is
7 recognized.
8 REP. STAM: Here I incorporate some of my
9 own previous remarks except that, of course, here
10 it was Anheuser-Busch and specifically was--the
11 solicitation was solicited for the museum with
12 regard to the 1898 race riot, for historical
13 events. And of course, the victims, of course, of
14 this conversion of funds are not just the public in
15 general but the people who would learn something
16 from that exhibit, because the money that was
17 intended for that went into the personal checking
18 account of Representative Wright.
19 THE CHAIR: I'm sorry. Representative
20 McGee.
21 REP. MCGEE: Thank you, Mr. Chair.
22 I will also note, as you indicated on
23 your remarks about AstraZeneca, that this check in
24 fact was received--or dated 3-5-04. And I don't

1 it's a tremendous amount of hard work.
2 At the stage when these checks were
3 deposited, I even hoped that perhaps it would have
4 been considered if maybe the charity wasn't going
5 to make a go of it, that they could have been given
6 to another charity. And I was hoping to find
7 evidence on that, perhaps even the Health
8 Foundation--or the Health Center. They were not.
9 I'm left with nothing to conclude that
10 these were put into a personal account. That's it.
11 THE CHAIR: Representative Warren is
12 recognized.
13 REP. WARREN: Thank you, Mr. Chairman.
14 Certainly we want to commend
15 Representative Wright for his efforts through the
16 years in regards to minority health issues, where
17 he has really made a difference. However, here we
18 have a check that was written for that purpose, and
19 the evidence shows that it went into Representative
20 Wright's personal account versus being used for a
21 health purpose that could have made a difference.
22 THE CHAIR: And here, I think, as well,
23 the particular letter also included the 1898 museum
24 that would have exhibited the historical events,

1 which, again, the Representative had worked on
 2 very, very hard.
 3 Don't see any difference in the evidence,
 4 sadly, between this count and the prior one.
 5 Chair is willing to accept a motion.
 6 Representative McGee is recognized.
 7 REP. MCGEE: Thank you, Mr. Chair.
 8 I move that the Committee find by clear
 9 and convincing evidence that on or about February
 10 6, 2004, while a member of the House of
 11 Representatives, Thomas E. Wright did engage in
 12 conduct unbecoming and unfitting a member of the
 13 House of Representatives by improperly,
 14 fraudulently, and unethically converting money
 15 intended to be a charitable contribution to the
 16 Community's Health Foundation, Incorporated, to his
 17 own personal use. Thomas E. Wright wrote a letter
 18 on the letterhead stationary of the Community's
 19 Health Foundation, Incorporated, to a
 20 representative of Anheuser-Busch Companies,
 21 Incorporated, requesting as the foundation's
 22 president a donation to the foundation, a
 23 charitable organization that Thomas E. Wright
 24 represented to be qualified to receive tax-

1 deductible donations that would be used by the
 2 foundation for acquisition and development of a
 3 building in Wilmington, North Carolina, that would
 4 serve as a museum. Thereafter, on March 5th, 2004,
 5 when a representative of Anheuser-Busch Companies,
 6 Incorporated, signed and sent to Thomas E. Wright
 7 and the Community's Health Foundation,
 8 Incorporated, a check made out to Community's
 9 Health Foundation, Incorporated, in the amount of
 10 five thousand dollars (\$5,000), Thomas E. Wright
 11 deposited that check into his own personal account
 12 rather than into the account of the Community's
 13 Health Foundation, Incorporated.
 14 THE CHAIR: Is there a second? Sorry.
 15 Is there a second?
 16 I'm sorry. Representative Stam seconds
 17 the motion by Representative McGee.
 18 Further discussion and further debate on
 19 this count?
 20 Seeing none, those in favor of the motion
 21 will vote aye. Those opposed to the motion will
 22 vote no. The Clerk will call the roll.
 23 THE CLERK: Chairman Glazier.
 24 THE CHAIR: Aye.

1 THE CLERK: Vice-chairman Stam.
 2 REP. STAM: Aye.
 3 THE CLERK: Representative Lucas.
 4 REP. LUCAS: Aye.
 5 THE CLERK: Representative McGee.
 6 REP. MCGEE: Aye.
 7 THE CLERK: Representative Warren.
 8 REP. WARREN: Aye.
 9 THE CLERK: Representative Wiley.
 10 REP. WILEY: Aye.
 11 THE CHAIR: Count Number 4 is found by
 12 clear and convincing evidence by unanimous vote.
 13 Brings us to Count Number 5, the third in
 14 the group of counts.
 15 This count relates to the apparent
 16 solicitation of AT&T Corporation and the testimony
 17 that was given by John Policastro, as well as the
 18 exhibits that were referred to both by Dr. Joyner
 19 and by Mr. Hart.
 20 Discussion generally on Count Number 5?
 21 REP. STAM: Mr. Chairman.
 22 THE CHAIR: Representative Stam is
 23 recognized.
 24 REP. STAM: The--the only real difference

1 between this and Counts 3 and 4 is that
 2 Representative Wright did not sign this
 3 solicitation and doesn't--and there was no
 4 testimony that he remembered sending it. Of
 5 course, the gravamen of the complaint, however, is
 6 Exhibit 13, the check, which was converted to its
 7 use. And Exhibit 11 merely explains how that came
 8 to be.
 9 And Exhibit 11 on its face, you know,
 10 shows a health foundation with a federal tax ID
 11 number. And unless somebody just--you know, he was
 12 the only person operating the corporation, and
 13 unless somebody got ahold of his letterhead, he
 14 sent it. I mean, that's a reasonable inference.
 15 This is at a time, of course, coming up on a short
 16 session in April of '04. He's a member of the
 17 Public Utilities Committee. And AT&T, you know,
 18 sends him fifteen hundred dollars (\$1,500) to his
 19 favorite charity. That's fine. But what's not
 20 fine is that he put it in his own pocket instead of
 21 turning it over to the charity.
 22 THE CHAIR: I do want to highlight some
 23 testimony for y'all, because this argument was
 24 discussed by Dr. Joyner as to John Policastro's

testimony. And the argument was that--and I think correctly that Policastro got a call. And if I recall, it was Bewley. You've heard, of course, of the relationship between Bewley and Wright that was entered through the SBI statement and Agent Umphlet taken. If you'll remember, Mr. Bewley, according to Representative Wright, was involved in a three-thousand-dollar (\$3,000) contribution that-- actually reimbursement that Representative Wright gave to Mr. Bewley for postage and an invitation to a reception he threw for him.

And the question that was raised was, well, there's nothing--I think the argument Dr. Joyner made was there was nothing in the invoice that says anything about it being a charitable contribution, and that in order for this count to be found, you'd have to show some reliance on AT&T be--sending that to Representative Wright as a charitable contribution. And I--I think that that's correct, because otherwise it could have been placed into his account, although we could get into what account it should have gone into. But you don't have essentially the request for a charitable contribution being converted.

was a charitable contribution.

The argument, then, is that Representative Wright didn't know it was being made. That is simply belied by Exhibit 11. Exhibit 11 is his own invoice or the invoice that the Community Health Foundation sent with Thomas Wright as president. The only people who even had access to this were Dr. Gottovi, one would assume--and he indicated he never sent anything--and Representative Wright. There simply isn't anybody else who would have sent this. There's no evidence that you can rely on that anyone else could have sent it.

And so it seems again inescapable that the solicitation was made; it was intended to be a charitable contribution; the corporation sent it for that regard; the check was received in time to be deposited--this one sent September--or was invoiced in 2003. This check--or the request was sent in September, and the check issued on April 1, 2004. This check sat again for several months. The account remained open until sometime in June. It was not deposited in the foundation account and ended up in Representative Wright's account, which

Here's the testimony from Mr. Policastro. Question by Mr. Hart: "Mr. Policastro, from your knowledge involving this particular contribution, was it intended to be a charitable contribution to a 501(c)(3) corporation?"

Answer--I'm sorry. "Professor Joyner: Objection.

"The Chair: Basis?

"Professor Joyner: Unless he knows, but he said he knew.

"The Chair: Well, let me ask."

Again, the question: "Did you intend it to be a contribution to a 501(c)(3)? And I understand you to say 'yes'; is that correct?

"The witness: Yes.

"Question, Mr. Hart: Regardless of whether it was specifically a 501(c)(3) corporation, did you intend it to be a charitable corp--contribution to the Community's Health Foundation, Incorporated?

"Answer: Yes, sir."

I think Mr. Policastro's testimony is clear that the intent of AT&T was not a personal contribution, was not a political contribution, but

he admits, again, as part of sweat equity.

You know, there's an argument that was made that there's no evidence, been no one testified. Well, in this case, the evidence is Representative Wright's own statements. That's my view of the evidence.

Other members?

Representative McGee.

REP. MCGEE: Thank you.

I do believe that it couldn't have been a contribution to his political account, because it's a--written directly on Northern Trust Company.

THE CHAIR: That's true, too.

Other members? And the Chair will receive a motion when--on that from any member at this point.

REP. STAM: Mr. Chairman?

THE CHAIR: Representative Stam is recognized.

REP. STAM: I have a motion on it. I move that the Committee find by clear and convincing evidence that on or about April 1, 2004, while a member of the House of Representatives, Thomas E. Wright did engage in conduct unbecoming

1 and unfitting a member of the House of
2 Representatives by improperly, fraudulently, and
3 unethically converting money intended to be a
4 charitable contribution to the Community's Health
5 Foundation, Inc., to his own personal use. Thomas
6 E. Wright wrote an invoice on the letterhead
7 stationary of the Community's Health Foundation,
8 Inc., to a representa--representative of AT&T Corp.
9 as a solicitation of a charitable contribution to
10 the foundation, a charitable organization that
11 Thomas E. Wright represented to be qualified to
12 receive tax-deductible donations. Thereafter, on
13 April 1, 2004, when a representative A--of AT&T
14 Corp. signed and sent to Thomas E. Wright and the
15 Community's Health Foundation, Inc., a check made
16 out to Community's Health Foundation, I, in the--in
17 quote, in the amount of fifteen hundred dollars
18 (\$1,500), Thomas E. Wright deposited that check
19 into his own personal account rather than into the
20 account of the Community's Health Foundation, Inc.
21 THE CHAIR: Is there a second to
22 Representative Stam's motion?
23 Representative Warren seconds.
24 Discussion and debate?

1 Number 3. And before we do any motions, obviously,
2 I'm opening the count to discussion on the
3 evidence.
4 REP. STAM: Mr. Chairman?
5 THE CHAIR: Representative Stam is
6 recognized.
7 REP. STAM: Just for clarity, Count 1 is
8 distinguished from Count 2 in that Count 1 is
9 soliciting the letter--
10 THE CHAIR: That's correct.
11 REP. STAM: --is that right?
12 THE CHAIR: Count 1 is soliciting the
13 letter knowing that the letter--provisions in the
14 letter were false.
15 REP. STAM: It--it seems to me that--that
16 it's clear from Torlen Wade's testimony and from
17 the agent's testimony of what Representative Wright
18 told him that they both knew it was false, that
19 they used state government equipment and resources
20 to generate the letter, and that it was done for a
21 fraudulent purpose.
22 THE CHAIR: Other Committee members'
23 discussion?
24 REP. STAM: And--and--I'm sorry.

1 Seeing none, all those in favor of the
2 motion on Count Number 5 will vote aye. Those
3 opposed will vote no. The Clerk will call the
4 roll.
5 THE CLERK: Chairman Glazier.
6 THE CHAIR: Aye.
7 THE CLERK: Vice-chairman Stam.
8 REP. STAM: Aye.
9 THE CLERK: Representative Lucas.
10 REP. LUCAS: Aye.
11 THE CLERK: Representative McGee.
12 REP. MCGEE: Aye.
13 THE CLERK: Representative Warren.
14 REP. WARREN: Aye.
15 THE CLERK: Representative Wiley.
16 REP. WILEY: Aye.
17 THE CHAIR: Count Number 5 is found
18 unanimously by clear and convincing evidence.
19 That moves us into the last set of
20 counts. And I will take these in the following
21 order: Counts 1, 2, and 8.
22 Count 1 is the count related to the
23 request from Torlen Wade--request to Torlen Wade by
24 Representative Wright for the letter that's Exhibit

1 THE CHAIR: I'm sorry, Representative
2 Stam.
3 REP. STAM: I apologize. And--and I--
4 at--at a time when Representative Wright was--
5 chaired the health committee, which would have
6 jurisdiction over some of the matters, and was a
7 member of the appropriations subcommittee that
8 appropri--was the key committee for appropriating
9 money for the division that Torlen Wade headed.
10 THE CHAIR: Torlen Wade was, it seems to
11 me, a very credible and pained witness. And I
12 don't remember if that was the term used by Mr.
13 Hart in the discussion. There's--again looking at
14 the simple document, there's no question--and
15 Representative Wright did admit this, and, I think,
16 commendably in his statement, that he solicited the
17 letter. There's--that's not in question. And that
18 he was--felt bad about what happened to Torlen Wade
19 as a result.
20 This letter commits a hundred and fifty
21 thousand dollars (\$150,000) in funding towards the
22 completion of the conversion project. Simply,
23 purely, utterly a false statement. That the
24 funding will be awarded by June 30, 2002, utterly a

1 false statement. That is exactly what was
2 requested in Exhibit 2 in the e-mail that was sent.

3 Torlen Wade complied with the request, I
4 think, out of the combination. I think it was in
5 part because Representative Wright's position but,
6 I think, clearly, as well, a friendship
7 relationship in both cases.

8 The problem for me is twofold. One,
9 placing--placing any state employee in that
10 position is just untenable. To allow a legislator
11 to do that would--it--it's--it utterly chills good
12 government and effective government and fair
13 government. That is just untenable to put that
14 state employee in that position, to ask that
15 employee to commit in a letter to funding that
16 didn't exist and he couldn't provide and then to
17 say, whether it was said or not, "Well, I'm not
18 going to use the letter." Well, if you're not
19 intending to ever use the letter, what in the world
20 would be the purpose of the letter? I mean, why,
21 if--that just is--escapes me. If the letter wasn't
22 to be seen by somebody, then why would you ask a
23 friend to write a false letter that, if it was ever
24 seen, could get the friend fired, if you don't

1 intend to use the letter? That makes no sense to
2 me whatsoever.

3 I think that this letter was intended as
4 the argument was made by Committee counsel. I
5 think it was requested in the sense that one of the
6 reasons there was no guarantor on Exhibit 4, one of
7 the ways that Burbank was able to satisfy both his
8 community commitment and his commitment to the
9 project was that he was told by Representative
10 Wright there would be state funding. This was one
11 of the ways to get state funding.

12 No, I don't think the letter was a
13 requirement in the direct sense. But Burbank
14 clearly testified that he likely would not have
15 given the loan if it didn't--wasn't there.

16 Now, why it's not in the file is a
17 question. But it is an irrelevant question for
18 purposes of this count. It's irrelevant because
19 Burbank's uncontradicted testimony is he relied on
20 it. Burbank's uncontradicted testimony is he
21 likely would never have given the loan without the
22 letter.

23 So regardless of why you think or don't
24 think, there was no assault on Burbank's

1 credibility at all as to that issue. And he
2 certainly has nothing to gain one way or the other.

3 In the end, though, the gravamen, as
4 Representative Stam has said, of this count isn't
5 there. The gravamen is going to Torlen Wade in
6 asking him to write a false letter. And that's
7 exactly what happened.

8 I--I--I--this count, in--as much as I
9 think the breach was massive in quantity in Count
10 Number 7, this offense in quality is utter fraud.
11 And--and someone lost their job and their career
12 and their reputation because it was asked for. And
13 legislators cannot be allowed to do this. That's
14 my opinion.

15 Other discussion?

16 If not, is--is there a motion?

17 Representative Wiley is recognized for a
18 motion.

19 REP. WILEY: I move that the Committee
20 find by clear and convincing evidence that on or
21 about March 13th, 2002, and on or about March 15th,
22 2002, while a member of the North Carolina House of
23 Representative, Thomas E. Wright did engage in
24 conduct unbecoming and unfitting a member of the

1 House of Representatives by orally and in writing
2 improperly and unethically soliciting Torlen L.
3 Wade, acting director of the North Carolina
4 Department of Health and Human Services Office of
5 Research, Demonstrations, and Rural Health
6 Development, to write and mail to him a fraudulent
7 letter stating that such office was endorsing the
8 Community's Health Foundation's project to convert
9 a building located on the 900 block of 4th Street
10 in Wilmington, North Carolina, into Community's
11 Health Foundation offices, New Hanover Community
12 Health Center offices, and a history museum, and
13 committing of one hundred and fifty thousand
14 dollars (\$150,000) in funding toward the completion
15 of that project. At the time of the solicitation,
16 Thomas E. Wright was an officer of the Community's
17 Health Foundation, Incorporated, located at 322
18 South 17th Street, Wilmington, North Carolina.
19 Thomas E. Wright confirmed his earlier oral
20 solicitation by having his legislative assistant
21 type the necessary details needed in the commitment
22 letter in an e-mail that was sent to Torlen L. Wade
23 by use of his state e-mail account and on a state
24 computer, both of which were authorized for him

1 based on his position as a member of the North
2 Carolina House of Representatives. At the time of
3 the oral solicitation, the typing and sending of
4 the e-mail, and the typing and the sending of the
5 Torlen L. Wade letter, both Thomas E. Wright and
6 Torlen L. Wade knew that the Office of Rural Health
7 would not make such a grant and that Thomas E.
8 Wright would use the letter in seeking to
9 fraudulently obtain funding for the Community's
10 Health Foundation from other sources, such as
11 financial institutions and other organizations that
12 make grants and that would believe and rely on the
13 false representations in Torlen L. Wade's letter.
14 THE CHAIR: Is there a second to
15 Representative Wiley's motion?
16 REP. MCGEE: I second the motion.
17 THE CHAIR: Second by Representative
18 McGee.
19 Discussion and debate?
20 Seeing none, those in favor of the motion
21 will vote aye. Those opposed will vote no. Clerk
22 will call the role.
23 THE CLERK: Chairman Glazier?
24 THE CHAIR: Aye.

1 presented the letter to the bank for the purpose of
2 getting a loan. And it's--what's charged is April
3 5th, 2002, which is the date of the closing. Dr.
4 Joyner presented that loan application date, April
5 5, 2002, in his final conclusion, and it was
6 referred to. There was some discussion about
7 whether Exhibit 4--that since that was already
8 approved, how could Mr. Burbank be relying on the
9 letter when the letter wasn't sent till March 15th.
10 But of course, Exhibit 4, dated March 5th, 2002, is
11 an internal document to the bank. And what it says
12 is grant money--"Source of repayment: grant money
13 from state and federal government is a source of--
14 primary source of payment." And then under "debt
15 service coverage," "funded by state and federal
16 grant money."
17 So what is the clear inference is that
18 Representative Wright told him he was going to get
19 some grant money. Ten days later, he got a letter,
20 'cause he knew he needed to have it. And then
21 before the closing three weeks later, he showed the
22 letter to Ronnie--Mr. Burbank. Mr. Burbank said he
23 saw it and he relied on it. And so then the bank
24 released the money. And that's called obtaining

1 THE CLERK: Vice-chairman Stam?
2 REP. STAM: Aye.
3 THE CLERK: Representative Lucas?
4 REP. LUCAS: Aye.
5 THE CLERK: Representative McGee?
6 REP. MCGEE: Aye.
7 THE CLERK: Representative Warren?
8 REP. WARREN: Aye.
9 THE CLERK: Representative Wiley?
10 REP. WILEY: Aye.
11 THE CHAIR: Count 1 is found by clear and
12 convincing evidence by a unanimous vote of the
13 Committee.
14 That moves us to the second-from-last
15 count, Count Number 2.
16 Count Number 2 is part of the Wade issue,
17 but it does not relate directly to the
18 solicitation. It now relates to the use of the
19 letter as to whether the letter then was used as
20 part of the award of loan by Coastal Federal Bank.
21 Discussion open on the evidence with
22 regard to Count 2.
23 Representative Stam is recognized.
24 REP. STAM: Yes. This is where he

1 money--obtaining property by false pretenses, which
2 was the title to the property and the loan by the
3 false pretense and the fraudulent false pretense of
4 having a source of payment that you don't have.
5 THE CHAIR: Representative Lucas is
6 recognized.
7 REP. LUCAS: Thank you, Mr. Chair.
8 I certainly concur that there was some
9 effort made to obtain this loan. But I'm a little
10 bit perturb--concerned about the absence of the
11 letter. And this is not an indictment of the
12 Coastal Federal Bank or Mr. Burbank or anybody else
13 in that office. But it seems to me a little bit
14 strange that that letter did disappear, or at least
15 it's not--wasn't present in the evidence.
16 And with that being said, I have a little
17 bit of a problem in determining that the evidence
18 is clear, cogent, and convincing, only because of
19 the letter not being there.
20 THE CHAIR: Representative McGee, I just
21 have--just kind of in discussion. I know that you
22 were formerly in the industry. Can you create any
23 highlights or give us some thoughts on why the
24 letter would or wouldn't be in the file?

1 REP. MCGEE: I cannot recall any reason
2 that a letter supporting a loan would not be
3 included in the file. No, I don't have any reason.
4 THE CHAIR: Here's the testimonies that
5 we have of Rep--of Representative--now I'm
6 promoting people--of Mr. Burbank. And this is from
7 his testimony earlier.
8 "Question: The actual loan on the
9 purchase of the property took was another month
10 later; is that correct?
11 "Answer: I think that's correct, yes."
12 And then it goes on, and he's talking
13 about that. Let me get to the specific.
14 "Question: Early April?
15 "Answer: I think that's correct.
16 "Question: Okay. Was there further
17 discussion between you and Representative Wright
18 about the grants and any kind of documentation of
19 the grants?
20 "Answer: At some point prior to closing,
21 I received a copy of the letter from Mr. Wade.
22 "Question: All right. And when you
23 speak of the letter, I want to ask you to look at
24 Exhibit Number 3, and that's before you. Have you

1 "Question: And why is that?
2 "Answer: I didn't feel the need to do
3 so.
4 "Question: Did you trust Representative
5 Wright to be giving that to you in good faith?
6 "Answer: I did.
7 "Professor Joyner: Objection.
8 "The Chair: Overruled.
9 "Question: Mr. Burbank, would you have
10 authorized this loan without a guarantor if it had
11 not been for that letter, Exhibit Number 3?
12 "Answer: Possibly not. I don't think
13 so. I really can't answer that, because I had the
14 letter. I--
15 "Question: All right. Let me ask you
16 this. As a banker and as someone concerned with
17 repayments and collateral, as you said,
18 guaranteeing the loan, was this letter at least a
19 factor in your approval process?
20 "Answer: Yes.
21 "Question: Did you rely upon this letter
22 to grant the loan?
23 "Answer: Yes."
24 That's the end of that discussion.

1 had a chance to look at that, sir?
2 "Yes, I have.
3 "Question: And do you recognize that?
4 "Answer: I do.
5 "Question: What do you recognize that as
6 being?
7 "Answer: That appears to be the letter
8 that I received to confirm grant money was the
9 primary source of repayment for our loan request.
10 "Question: All right. And did you
11 receive that letter or see that letter from--
12 received it from Representative Wright; is that
13 re--correct?
14 "Answer: I recall receiving the letter.
15 I can't specifically say that Representative Wright
16 handed it to me or delivered it to me, but I recall
17 getting a copy, as I stated in my interview.
18 "Question: All right. And did you take
19 the letter at face value?
20 "Answer: I did.
21 "Question: Did you call in any way to
22 check with the Department of Health and Human
23 Services or Torlen Wade or anybody else?
24 "Answer: I did not.

1 That's the testimony that Mr. Burbank gave earlier.
2 REP. STAM: Mr. Chairman?
3 THE CHAIR: Representative Stam?
4 REP. STAM: Coup--couple things. I--I
5 certainly don't want to defend the way this loan
6 was handled, because it seems to me that there's a
7 whole lot less documentation here than what would
8 be required of almost all of us to get a loan.
9 But it really has nothing to do with whether this
10 account is true or not, because the testimony is
11 yes, that's what the bank relied on.
12 It may have also relied on, if you recall
13 the testimony of the SBI officer--I'm sorry--
14 Agent--
15 THE CHAIR: Umphlet.
16 REP. STAM: --Umphlet, that he showed the
17 closing statement to Representative Wright and
18 asked him about the earnest money that was showed
19 of twenty-five thousand (25,000) and that
20 Representative--if I--as I recall the testimony,
21 Representative Wright said no, they didn't actually
22 have that money. So he may have seen some equity
23 down that never existed.
24 But this county only relies on the

1 promise of a hundred and fifty thousand (150,000),
2 which would have been enough to take out the bank
3 on its debt.

4 THE CHAIR: Comments by other members of
5 the Committee?

6 Representative McGee.

7 REP. MCGEE: Thank you.

8 After--I thought I had remembered that he
9 in fact did say that he depended on the letter.
10 And I'm glad he reviewed the information, because
11 he did in fact rely on the letter. He said he did.

12 THE CHAIR: My con--my concern--and I--
13 this is the least clear count. The others, to me,
14 are, putting it mildly, easily clear and
15 convincing. This is a closer call for me, for the
16 reasons Representative Lucas said.

17 Where I--where--what--what is partially
18 dispositive for me and the difficulty I'm having,
19 number one, is it's uncontradicted in that he made
20 that statement. There was no cross that made it
21 unclear that he didn't rely in part on the letter.
22 And in fact, he was questioned pretty extensively,
23 if I recall, on cross about whether he received it.
24 And he remembered he received it. That's when we

1 got in--if you'll remember, into this is it your
2 recollection or was it your statement.

3 But why would you get the letter? I
4 mean, there was only one reason that letter was
5 solicited from Torlen Wade. That's the difficulty
6 I have in saying it didn't happen or that there's
7 not significant evidence to--to say it did, because
8 he says it did. Burbank says he received it.
9 Burbank says he relied on it. And the only
10 possible reason you'd get the letter, particularly
11 given the timing, is to show it to somebody to
12 secure the loan. There's no other justifiable
13 reason for soliciting the letter. So, you know,
14 I'm trying hard not to throw my common sense out
15 the door here. And that's, at least for me right
16 now, my dilemma.

17 Other members of the Committee?

18 Representative McGee is recognized.

19 REP. MCGEE: You asked, because I have
20 had some expertise in this area many, many years
21 ago, what might have happened to the letter. And I
22 don't want to speculate on what might happen--have
23 happened to the letter. It wasn't in the file. It
24 may have been in the desk of the person who

1 approved the--the loan. But that doesn't--that's
2 only speculation on my part. He said he had the
3 letter.

4 THE CHAIR: Representative Stam is
5 recognized.

6 REP. STAM: Mr. Chairman, I move that the
7 Committee find by clear and convincing evidence
8 that on or about April 5, 2002, while a member of
9 the North Carolina House of Representatives, Thomas
10 E. Wright did engage in conduct unbecoming and
11 unfitting a member of the House of Representatives
12 by orally and in writing improperly, fraudulently
13 and unethically presenting to a representative of
14 Coastal Federal Bank as a factor to consider in
15 whether to loan one hundred and fifty thousand
16 dollars (\$150,000) to the Community's Health
17 Foundation, Inc., a corporation of which Wright was
18 an officer, a letter from Torlen L. Wade, acting
19 director of the Office of Research, Demonstrations,
20 and Rural Health Development of the North Carolina
21 Department of Health and Human Services, falsely
22 stating that the office endorsed the foundation's
23 museum-conversion effort and was committed to
24 funding the project in the amount of one hundred

1 and fifty thousand (150,000) and that the award of
2 the funding would occur by June 30th, 2002. At the
3 time, Thomas E. Wright presented the letter to the
4 representative of Coastal Federal Bank, he knew
5 that the assertions in the letter were false, that
6 the commitment of funds was not authorized, and
7 that the award of funding would not be forthcoming.
8 The one-hundred-and-fifty-thousand-dollar
9 (\$150,000) loan to the Community's Health
10 Foundation, Inc., obtained from Coastal Federal
11 Bank was made in part relying on the contents of
12 the fraudulent letter presented by Thomas E.
13 Wright.

14 THE CHAIR: All right. That's the motion
15 by Representative Stam. Is there a second to the
16 motion to place it in discussion?

17 All right. There is no second as to the
18 motion with regard to Count Number 2. The
19 Committee will not take a vote with respect to
20 Count Number 2.

21 Is there any further motion with regard
22 to Count Number 2?

23 There being no further motion with
24 respect--I'm sorry.

1 THE CLERK: Representative Lucas.
2 THE CHAIR: I'm sorry. Representative
3 Lucas.
4 REP. LUCAS: Mr. Chairman?
5 THE CHAIR: Yes, sir.
6 REP. LUCAS: In light of not receiving a
7 second on Count Number 2, I'd like to offer a
8 motion that the Committee dispense of Count Number
9 2.
10 THE CHAIR: Help me understand what the
11 "dispense" means.
12 REP. LUCAS: That we--one moment.
13 THE CHAIR: Certainly.
14 Are you suggesting we withdraw
15 consideration of Count Number 2? Is that not--
16 REP. LUCAS: I'm thinking.
17 Sir, I'd like to offer motion that we
18 withdraw consideration of Count Number 2, because
19 of the lack of a second.
20 THE CHAIR: What I'll--what I'll do,
21 without taking a vote, is I'll simply withdraw
22 Count Number 2 from Committee consideration at this
23 time.
24 That leads us to the last count, which is

1 Count Number 8. Count Number 8 is that there was a
2 pattern of evidence unbecoming and unfitting a
3 member of the House by improperly, fraudulently,
4 deceptively, and unethically soliciting a financial
5 institution for the loan and corporations for
6 donations to the charitable corporation the
7 Community's Health Foundation by converting to his
8 own personal use money contributed to that
9 charitable organization. And then as a pattern of
10 the conduct, Representative Wright solicited a
11 false document.
12 I'm going to--I do want to proceed on
13 this count, but I want to amend the count. And if
14 you'll give me a minute, I'm going to make an oral
15 motion to amend the count.
16 All right. The Chair is going to make a
17 motion with respect to Count Number 8 since Count
18 Number 8 is encompassing of previous conduct in a
19 pattern-and-practice way.
20 As to Count Number 8, I move that the
21 Committee find by clear and convincing evidence
22 that between or on or about October 2001 and on or
23 about August 2004, while a member of the North
24 Carolina House of Representatives, Thomas E. Wright

1 did engage in a pattern of conduct unbecoming and
2 unfitting a member of the House of Representatives
3 by improperly, fraudulently, deceptively, and
4 unethically soliciting a false document from a
5 state agency and soliciting corporations for
6 donations to a charitable corporation, the
7 Community's Health Foundation, Inc., and by
8 converting to his own personal use money
9 contributed to that charitable organization.
10 That is--I'm sorry?
11 PROF. JOYNER: Would you read that again
12 slowly.
13 THE CHAIR: Read it again slowly?
14 PROF. JOYNER: The middle part.
15 THE CHAIR: All right. The middle part
16 reads that "Thomas E. Wright did engage in a
17 pattern of conduct unbecoming and unfitting a
18 member of the House of Representatives by
19 improperly, fraudulently, deceptively, and
20 unethically soliciting a false document from a
21 state agency and soliciting corporations for
22 donations to a charitable"--I'm sorry--"and
23 soliciting," yes, "corporations for donations to a
24 charitable corporation, the Community's Health

1 Foundations, Inc., and by converting to his own
2 personal use money contributed to that charitable
3 organization."
4 Right. Right. All right. Is there a
5 second to that motion as to Count Number 8?
6 REP. STAM: Second.
7 THE CHAIR: Second by Representative
8 Stam.
9 I'm making that motion because it's
10 consistent entirely with the individual counts that
11 were previously found by clear and convincing
12 evidence in this case, however, alleging that it
13 was more than coincidental, that this is in fact
14 part of a pattern of conduct, the pattern of
15 conduct, the three solicitations, as well as the
16 solicitation from Torlen Wade.
17 REP. STAM: Mr. Chairman, just for
18 clarity, is this intending to incorporate Counts 1,
19 3, 4, and 5?
20 THE CHAIR: Essentially, yes.
21 REP. STAM: As a pattern?
22 THE CHAIR: As a pattern.
23 All right. There's a motion and a
24 second. Discussion and debate.

1 Seeing none, all those in favor of the
2 motion will vote aye. Those opposed will vote no.
3 The clerk will call the role.
4 THE CLERK: Chairman Glazier?
5 THE CHAIR: Aye.
6 THE CLERK: Vice-chairman Stam?
7 REP. STAM: Aye.
8 THE CLERK: Representative Lucas?
9 REP. LUCAS: Aye.
10 THE CLERK: Representative McGee?
11 REP. MCGEE: Aye.
12 THE CLERK: Representative Warren?
13 REP. WARREN: Aye.
14 THE CLERK: Representative Wiley?
15 REP. WILEY: Aye.
16 THE CHAIR: Count Number 8 is amended
17 through the motion, is adopted again by clear and
18 convincing evidence, unanimously.
19 This Committee has now found six counts
20 by clear and convincing evidence. Count number--
21 the other two counts have been withdrawn from
22 consideration at this time. Committee retains
23 jurisdiction over those counts.
24 At this point, it is our--thank you.

1 This point, it becomes our responsibility under the
2 charge for this Committee, having found six counts
3 by clear and convincing evidence, to make a
4 recommendation as well to the House of
5 Representatives as to an appropriate sanction. The
6 way that the Committee has bifurcated the
7 proceedings, there'll be no further evidence before
8 the Committee as to sanction, but the counsel will
9 be allowed to make final argument to the Committee.
10 As to the appropriate sanction that
11 should issue for the six counts found, this is,
12 obviously, for many of us, the saddest evening that
13 we'll spend in the General Assembly and one of the
14 most important. In that respect, it has been a--a
15 long day. We're going to make this decision this
16 evening. But counsel needs some time to get their
17 thoughts together based on our findings. Think we
18 need some time to sit for a minute. And everybody
19 needs time to grab some dinner so they can make
20 their notes.
21 I'm going to recess Committee to
22 reconvene at six-thirty this evening for the
23 decision with respect to sanction. But a couple of
24 things before we go to reconvene at six-thirty in

1 this room.
2 First, is there any reason that Ms.
3 Strach and Agent Umphlet cannot--can now--cannot
4 now be released from their subpoena? Anybody need
5 either one here?
6 All right. Both can be released with the
7 thanks of the Committee, as to all witnesses, from
8 their subpoena.
9 Second, because we are in the process of
10 making this final decision, I'm going to ask the
11 Committee members to stay together for purposes of
12 our time during this break. We will hopefully be
13 all going to dinner. And I will ask us again to
14 ad--to be admonished as to the charge I gave
15 earlier, which I'm going to actually reread.
16 Before we take this break, I want to
17 remind the members of the Committee, the attorneys
18 for the Committee and Representative Wright,
19 Representative Wright, and members of the public,
20 because we are now in the final deliberative fact-
21 finding stage, I think it would be appropriate--in
22 fact, I am directing that the members of the
23 Committee refrain from discussing this matter with
24 the press, the Committee's outside legal counsel,

1 Representative Wright's attorneys, Representative
2 Wright until after final deliberations are
3 completed. I'll ask Mr. Hart, Mr. Peters, Dr.
4 Joyner, Mr. Harris, Representative Wright from
5 discussing evidence in the case with the Committee
6 members, other than the Chair, during this period
7 of time.
8 I'll also ask the members of the public
9 to not approach Committee members or witnesses--
10 well, there are no more witnesses--Committee
11 members in this matter until after our
12 deliberations are final and completed this evening.
13 In that regard, I have asked the
14 sergeant-at-arms not only to assist but to escort
15 Committee members in assuring compliance with this
16 request for the remainder of the evening.
17 Any further matters, Mr. Reagan, before
18 we take a dinner recess?
19 And just so that we're clear, there will
20 be no discussion of this case at all during dinner.
21 We will talk about anything but this case.
22 Anything further from anybody prior to
23 recess?
24 All right. We're in recess until six-

1 thirty. Thank you.
2 _____
3 (WHEREUPON, THE PROCEEDINGS WERE RECESSED AT 4:58 P.M.)
4 _____

STATE OF NORTH CAROLINA
COUNTY OF WAKE

C E R T I F I C A T E

I, Holly McGhin, a Notary Public in and for the State of North Carolina, duly commissioned and authorized to administer oaths and to take and certify hearings, do hereby certify that these proceedings were held before me at the time and place aforesaid, that all parties were present as hereinbefore stated, and that the record as set forth in the preceding Pages 2 through 245 represents a true and accurate transcription of the proceedings, to the best of my ability and understanding.

IN WITNESS WHEREOF, I have hereto set my hand, this
the ____ day of March 2008.

Notary Public
Notary Public No. 200424500712

My Commission Expires 9-7-2009

Holly McGhin
PACE REPORTING SERVICE
P. O. Box 252
Cary, North Carolina 27512
Telephone: 919/859-0000 - Raleigh
910/433-2926 - Fayetteville
910/790-5599 - Wilmington

A L S O I N A T T E N D A N C E

Rep. Thomas E. Wright
Prof. Irving Joyner, Counsel to Rep. Wright
Mr. Douglas Harris, Counsel to Rep. Wright

Mr. William Hart, Outside Counsel to the Committee
Mr. Alexander Peters, Outside Counsel to the Committee

Ms. Carin Savel, Committee Clerk

Mr. O. Walker Reagan, Staff Attorney
Ms. Kory Goldsmith, Staff Attorney
Mr. Brad Krehely, Staff Attorney
Ms. Heather Fennell, Staff Attorney
Ms. Denise Huntley, Research Assistant
Ms. Amanda Smith, Research Assistant

E X A M I N A T I O N I N D E X

<u>Witness</u>	<u>Examination/By Whom</u>	<u>Page No.</u>
K. Strach	Cross/Joyner	3
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K. Strach	Recross/Joyner	99
J. Umphlet	Committee	106

Hearing re: Thomas E. Wright, Day 4 Pgs 248 CR HM

Date taken 3-6-08 Date to go out 3-7-08 Mail/Del Date
3-7-08

of Exhibits 0 Pgs Retained Y By Whom VIDEO N

Signed Mileage/Town Raleigh Hrs 9:00 AM-4:58 PM

Bill original and one copy to

Attorney needs by Expedite overnight FT N

Atty responsible for obtaining signature:

CASE CAPTION: Hearing Re: Thomas E. Wright

Attorneys' addresses and orders

SPECIAL INSTRUCTIONS: Day 4 of Wright hearing, goes with
Katherine's portion of proceedings starting at 6:30
PM.

MEETING OF THE HOUSE SELECT COMMITTEE
TO INVESTIGATE ALLEGED MISCONDUCT AND OTHER MATTERS
INCLUDED IN INDICTMENTS REGARDING
REPRESENTATIVE THOMAS E. WRIGHT

TRANSCRIPT OF THE PROCEEDINGS

(Volume IV, Part II)

March 6, 2008

THE SELECT COMMITTEE:

Rep. Rick Glazier, Chair
Rep. Paul Stam, Vice-chair
Rep. Marvin Lucas
Rep. William McGee
Rep. Edith Warren
Rep. Laura Wiley

In Raleigh, N.C.
6:38 P.M.

Reported by:
Katherine M. Becker

1 THE CHAIR: All right. I now call this
2 evening's session to order. I understand that--for
3 the record, that sergeant-at-arms staff have
4 checked; Representative Wright and his attorneys
5 are not in the building. I understand that while
6 we were on our dinner break there was an indication
7 that they would not be participating this evening.
8 At this point, we are well past getting started, so
9 we will move into the sanction proceeding this
10 evening. Thank you.

11 Based on the findings that this Committee
12 has made in Counts 1, 3, 4, 5, 7 and 8, we will
13 proceed with deliberations on what sanction, if
14 any, the Committee will recommend to the House of
15 Representatives. I have asked Committee outside
16 counsel to present their recommendations on
17 sanction, including arguments and precedents, but
18 not testimony, in support of any recommendation.
19 After they've completed the presentation, Committee
20 members certainly will be available to ask them
21 questions.

22 At this point in the proceed--at that
23 point in the proceeding, if Representative Wright
24 and counsel are available, we will ask

1 Representative Wright's counsel to present his
2 recommendation on sanctions, including arguments
3 and precedents, but not testimony, in support of
4 his recommendation. After Dr. Joyner or Mr. Harris
5 have completed their presentations, I would allow
6 Committee members to ask them questions, as well.

7 At this point, Mr. Hart, Mr. Peters, and
8 your presentation, if you don't mind--thank you.

9 MR. HART: Thank you, Mr. Chairman,
10 members of the Committee.

11 What I'd like to do first is take a look
12 at some of the North Carolina precedents on what
13 the General Assembly has--has done in the past in
14 terms of similar conduct to what you have found
15 Representative Wright has committed, and also to
16 look at what other public officials have been--
17 have--what kind of sanctions have been levied
18 against other public officials who have engaged in
19 conduct such as what Representative Wright has
20 engaged in.

21 In an earlier session, one of our earlier
22 hearings in this matter, staff counsel presented
23 this Committee with a number of prior legislators
24 who had been expelled from the House or the

1 Senate--I believe mostly from the House--for
2 various types of conduct. And I'd just like to go
3 through those and--and tell you what--when they
4 were expelled and for what offense we have
5 indicated.

6 And first was James Carter, expelled from
7 the House in 1757 for mishandling public funds.
8 Second was Francis Brown, expelled from the House
9 in 1758 for perjury and conduct unworthy. Next was
10 Hermon Husband, expelled from the House in 1770 for
11 gross prevarication, falsehood, and promoting riot
12 and seditions; William Gilbert, expelled from the
13 house in 1779 for intentionally defrauding the
14 public; Edward Clay, expelled from the House in
15 1784 for petty larceny--and that was a situation
16 that we understand there was no criminal charge
17 pending at the time--Henry Montfort, expelled from
18 the House in 1786 for fraud in disbursement of
19 public money; John Bonds, expelled from the House
20 in 1787 for fraud; John Roberts, expelled from the
21 Senate in 1816 for forgery and fraud committing
22 during--committed during the War of 1812, four
23 years earlier; Robert Potter, expelled from the
24 House in 1835 for engaging in a fight after a card

game and drawing a pistol and a knife; J. William Thorne, expelled from the house in 1875 for advocating and promulgating "a most sacrilegious doctrine subversive of the principles of the Constitution of the State of North Carolina and of sound morality"; Josiah Turner, censured, then expelled when he left the House chamber, for gross improprieties, disorderly conduct, defiant conduct and disrespectful manner. That was in 1880.

Those are the prior incidents in which the General Assembly has expelled one of its members, one--one house of the General Assembly has expelled one of its members, and I would submit to you that the conduct of Representative Wright matches and exceeds that conduct in those cases.

Now, we don't know exactly what was involved in each one of those cases, but in some of those cases, there at least appears to be an indication that there was a single incident of fraud or dishonesty or theft. And what you have just found is six counts involving fraud, dishonesty, conversion, deceit, concealment, the very kind of conduct which has justified expulsion in the past.

conduct prejudicial to the administration of justice. The North Carolina Supreme Court has held in several cases that when a judge's willful misconduct involves personal financial gain, moral turpitude, or corruption, then removal is a proper consequence for that action, for that willful misconduct.

And willful misconduct has not been limited to time in court or to actions that involve official duties of judges. The courts have upheld removals for willful misconduct, such as possession of cocaine, marijuana and drug paraphernalia, in the case of *In Re: Sherrill*, a 1991 case, failing to file federal tax returns in *In Re: Inquiry Concerning a Judge*, a 2007 case.

So we do treat public officials outside of the legislature in a way where we require them to be responsible and hold themselves appropriately as public officials and require that their conduct be appropriate, because otherwise it affect--it reflects adversely upon the position that--that they hold.

And I would submit to you in similar manner the conduct of Representative Wright that

Again, in an earlier proceeding, Representative Wright's attorneys discussed the case of *In Re: Spivey*, who was a district attorney in New Hanover County in the 1990s who went into a public restaurant and used a racial epithet in arguing with one of the other people in the restaurant, and he was removed from his position as the elected D.A. of New Hanover County. And that removal by a superior court judge was upheld by the North Carolina Supreme Court, and saying that even though that conduct occurred not in the district attorney's office or in court, that the conduct of an elected official outside of where they ordinarily conduct business is still conduct of a public official, and in that case found that that conduct that occurred in a public restaurant not having to do with any particular case that the D.A. was prosecuting was conduct prejudicial to the administration of justice.

In similar manner, the Judicial Standards Commission treats judges very--very similarly. There are two different things that the Judicial Standards Commission looks for. They look for willful misconduct by a judge, and they look for

you have found by clear and convincing evidence has not only been in violation of the law--and much of his conduct, I would submit to you, has--has involved felony violations. Certainly signing the--signing the campaign disclosure reports and willfully and intentionally falsifying those reports is a felony in North Carolina. The conversion of the checks to his own personal use, each of those is a felony. Each of those was over a thousand dollars, so is a--is a felony in North Carolina. So you have several felonies which you have found that Representative Wright has committed over a period of time, showing a pattern of--of criminal conduct involving felony offenses. And I would submit to you that that puts a blight upon this chamber and adversely affects the public's view of the Legislature.

I would also point out that for only one of the offenses that you have found Representative Wright has committed, Torlen Wade lost his job and his career, certainly was embarrassed, came in here yet and told you what happened. And if anything, perhaps in some ways he's, to at least a certain extent, a victim of the power that Representative

Wright exploited. Certainly, he did something that was wrong, and he suffered the appropriate consequences.

And that's something that you need to think about as you determine what are the appropriate consequences, not only for that action, soliciting the false statement, but for the entire pattern of conduct. And I would submit to you that that's important. It's not looking at each one of these things individually, but it's that pattern of conduct that Representative Wright began to engage in at some point in his career.

And we all sat and we listened to Dan Gottovi and Torlen Wade talk about Representative Wright in glowing terms of the person he was at one time and what he did for his community and what he did for the people of this state. But at some point, Representative Wright went astray. Why? We don't know. Did he become--did--did he lose sight of the duty that he had to rein in the power that he had as a legislator? Did he start believing that he could commingle funds and do whatever he wanted to with whatever funds he had? We don't know. We don't know what the--the circumstances

were that caused him to go astray, but clearly he went astray at some point back in the early part of this century, went astray from that person that he was, that official that he was, and he began to engage in a pattern of conduct of fraud, violation of trust, deceit, concealment, abuse of power and influence, and entitlement.

I heard at least one comment during the deliberations about the concern of the "sweat equity" that Representative Wright felt he was entitled to. And--and certainly we all ought to be concerned about that. No one is entitled to money that--that is not theirs. No one is entitled to use power in a way that is not appropriate.

I would submit, Ladies and Gentlemen of the Committee, that the only appropriate consequence for the pattern of conduct that you have found that Representative Wright has engaged in is expulsion from the House, and I would urge you to recommend that to the full House.

THE CHAIR: Any questions that any Committee member has of Mr. Hart? All right. Thank you, Mr. Hart.

I want to draw Committee members'

attention just so they also--I know you've seen the document before. In your notebook, under the March 3rd--black notebook under March 3rd--I'm sorry? Well, it's in the blue notebook under March 3rd. You'll find the tabs of other states and the penalties that--issued to legislators throughout the country. It's the same information consolidated that you've looked at through the motions process, but it's there for your review, as well.

I also want to provide information that we obtained and you've, again, had in your notebook previously from a synopsis of other state disciplinary actions, from Connecticut, citing a New Mexico rule, which I think is probably pretty appropriate, which elaborates on the punishment possibilities.

Under New Mexico House rules, a reprimand--this is quote--"A reprimand is normally appropriate for a single, relatively minor act of unethical conduct or disorderly behavior. Censure is normally the appropriate sanction for a more serious act or repeated acts of unethical conduct in the presence of the House, although aggravated

or repeated violations may merit expulsion." Then it goes, "The power of expulsion is reserved for very serious breaches of legal or ethical responsibilities that impugn the integrity of the House, reflect adversely on the House, or undermine public trust in the institution of the House."

And I pass that information along to you from the Connecticut study and the New Mexico House rule.

With that, the Chair has generally, throughout the proceedings, taken the position that it should question last and has done that. But on this evening, it's going to take the lead in making comments.

I said before we broke that this is the saddest thing--and I said it in the person, but I think it relates to all of us--that we will ever have to do in public life. And this has been a extraordinarily difficult process, I know, for the six members of this Committee, as well as for Counsel and Committee staff.

The argument was made that Representative Wright's violations in many cases were a paradigm of incompetence, in terms of the campaign

violations. They were not a paradigm of incompetence; they were a paradigm of arrogance unchecked and unfounded, and with each set of misconduct seemingly allowing and emboldening another step forward.

I think Counsel's argument was on point. This man, who once was a very good legislator, from everything I know before I came, and who used his position to further the public good, somewhere some time ago lost his way, to the point that he used and abused a friend, and that friend, as a result of the fraud committed, lost his job. I am at a loss to see how the innocent party loses his job and the far more culpable one in any way gets to keep his.

The allegations that were contained particularly in Count 7 were, as I described them earlier, in my view, breathtakingly massive, literally spanning years. To allow someone to continue in public service in the House of Representatives after violating literally hundreds of times over seven years the law of this state would make--would, I think, hinder in ways I can't even imagine the House's ability to govern.

unprecedented with regard to campaign violations.

I understand what my comments and what my motion will be in a minute and the solemnity of what we are doing here. And there are good reasons why no member has been expelled in the North Carolina House of Representatives since 1880. But Representative Wright's conduct over the last number of years makes this decision, for me, not even a close one.

For someone to continue to hold public office, elected office, after lying for years to his voters, to his colleagues, would be, to quote a word used today, a sham of immense proportions. He has, in my opinion, disregarded his oath of office, disgraced the House of Representatives, and dishonored himself by his conduct.

In that regard, and for me, I move that the Committee recommend based on its findings that the allegations in Counts 1, 3, 4, 5, 7 and 8 as amended were true, that Representative Wright be expelled from the North Carolina House of Representatives.

Is there a second to that motion? Second by Representative Stam. Discussion and debate?

We depend on public confidence and, in many ways, on the moral authority to govern. If one of our members can simply disobey the law hundreds of times over years, and then even with being shown the violations, essentially thumb his nose continually at the law, not even bothering to comply with it in any respect this year, how do we possibly argue as an institution to our fellow citizens that they must obey the law and that there are consequences when they do not?

Representative Wright holds public office because of his lies. If he had candidly admitted all the violations that he had, he would never have been certified by the Board of Elections to be a representative in 2002, 2004, and certainly in 2006.

There has been in this proceeding, in my view, absolutely no acceptance of responsibility or contrition. The severity of the offenses here and the number of offenses are more than consistent with every state's expulsion power, and this state's. The harm involved, although not irreparable to this institution, has been significant, and in my view, almost on a scale

Representative Stam?

REP. STAM: Thank you, Mr. Chairman. And I, too, will vote to expel.

The precedents that were listed, I think, are of limited usefulness. We just don't know enough about the circumstances, and we don't know about maybe the bad people who were not expelled to really compare. But it's--it's good as a check on what we're doing.

I see there are four issues here, most of which have been covered by the Chair. I'll just very--be very brief.

First are the rights of the voters in Representative Wright's district. An election should never be overturned by an expulsion, but because Representative Wright concealed his frauds from the public, there's no way that the voting public of New Hanover and Pender County can be said to have actually judged him as a candidate. Would anyone have--would they have voted for him if they knew he was pocketing charitable contributions? Would they have voted for him if they knew he was receiving contributions from XYZ group when he refused to tell them that?

Secondly are the rights of the House. We have to operate here on some level of trust. We just don't have time in the course of a legislative day to negotiate a twenty-page contract to get something--get something done. We have to be able somehow to believe each other at some level when we agree on things, or the House would just come to a standstill. And what we know here is that Representative Wright is willing to lie under oath multiple times.

In a debate, we need to know that the other side, you know, hasn't been bought, that they're making real arguments. And we have no way of knowing that, since he adamantly and to this day refuses to accurately report his finances.

Third are the rights of third parties, which have been mentioned, such as Torlen Wade. I--I think of the corporations whose money was taken that was intended for charitable deductions. I think about the contributors to his campaign who may have thought he was desperate for money to win, not knowing that he had an extra hundred and eighty thousand in his account from time to time.

But probably the fourth thing that just

ices the cake is I have seen absolutely no remorse from day one. This is not a person who has said, "I was wrong. Let me fix it."

If--if we do not expel him from the House, then we are saying we want him to continue the behavior that we have found that he's engaged in.

THE CHAIR: Representative Lucas is recognized.

REP. LUCAS: Thank you, Mr. Chair.

It's with mixed emotions that I consider the really criminal action that we are attempting to address at this forum. We have to weigh every side of this coin.

We must recognize that regardless of the circumstances, Representative Wright was duly elected by the citizens of House District 18 and that his term is still current. I wish that we had some barometer by which we could measure the sentiments of the citizens of House District 18 to see if they still consider Representative Wright their representative. But, of course, we've moved along--much further along on that, and that no longer can be considered. There would have been an

opportunity in May to determine how the folk in that district feel.

You know, I don't have a vote in District 18. If I did, I think I probably would--I know how I would vote. But those citizens have to be recognized as the ones who have determined who they want to lead them. Their minds may have changed, but, again, like I said, we have no barometer at this point, recall or some other circumstance, to make that determination. So it becomes quite difficult.

I suppose it's tempered, though, by considering the egregious and abhorrent acts that we've come to know, or that we've agreed upon, that are true. And so I will, with heavy heart, have to vote for expulsion.

THE CHAIR: I'm sorry. Other comments by any member of the Committee? Representative McGee?

REP. MCGEE: Thank you, Mr. Chair.

It is a sad--sad time for us. But our employees who work for the State and work for the people of North Carolina must not be asked to do unlawful and untrue things by House members. Torlen Wade, if he was doing his job well--and it

seems he was, and I believe he thought he was. The one time he sat up straighter and was more forceful seemed to me to be when he grasped that he had done a good job.

But his services have been lost to the citizens of North Carolina. And he changed back to a more somber reflection upon his aban--upon his realization that his abandonment of protocol and good judgment had cost his job, had cost his--cost him to lose his job, or to be forced to give up his job. And for that reason being one of the main reasons, I am going to vote to--for expulsion. Thank you.

THE CHAIR: Representative Warren is recognized.

REP. WARREN: Thank you, Mr. Chairman.

This is a most solemn time, the most solemn that I have experienced in this body. It is with a very heavy heart that we all sit here tonight.

Thinking back over the testimony that we have heard over recent days and what we have read in these exhibits, there appears to be a pattern that we cannot overlook. Representative Wright, in

the past, has done many, many good things for the good of his district, the good of his state, looking at health issues and the differences that he has made there.

But tonight we are at this very difficult point that we must look at the decision that we must make. And I will support expulsion with a very heavy heart.

THE CHAIR: Representative Wiley is recognized.

REP. WILEY: Thank you, Mr. Chair.

This is perhaps one of the most difficult and saddest things that I have ever had to do in elected office, and I'm sure that's for all of us.

I'm very sure, from listening to what Represen--Representative Wright has done in his career, that he started out as a very good legislator. This is an example of the most dangerous path one in elected office can start down, and that is the errant belief that we can use any means to accomplish something that we think is good. It's dangerous because it quickly diminishes the internalized knowledge of adherence to the law.

Once one is outside the law, it is much

too easy to rationalize one's errant behavior. A sense of entitlement is the result, and a disregard for the very law we create and must abide by. No one is above the law, no matter what good they may be--they may be trying to accomplish.

What we have seen and heard and believe here today should serve as a cautionary tale to anyone in elected office. There is no excuse for deliberate flaunting of the laws that we ourselves make. And so it is with a very, very heavy heart that I will also support expulsion from the House.

THE CHAIR: Any further comments by any member of the Committee? All right.

The motion has been made and seconded that the recommendation from this Committee to the Speaker and the North Carolina House of Representatives be that Representative Wright be expelled from the North Carolina House for unethical misconduct.

The motion has been seconded. All those in favor will vote "aye." Those opposed will vote "no." The clerk will call the role.

THE CLERK: Chairman Glazier?

THE CHAIR: Aye.

THE CLERK: Vice-chairman Stam?

REP. STAM: Aye.

THE CLERK: Representative Lucas?

REP. LUCAS: Aye.

THE CLERK: Representative McGee?

REP. MCGEE: Aye.

THE CLERK: Representative Warren?

REP. WARREN: Aye.

THE CLERK: Representative Wiley?

REP. WILEY: Aye.

THE CHAIR: That recommendation is unanimous.

We have some logistics things that we need to take care of for a moment, if you'll bear with me.

First, I'm going to ask--move that the Chair of the Committee be directed by the Committee to have prepared and submitted to the Speaker of the House on behalf of the Committee the report of the Committee setting forth the findings of the Committee with regard to Counts 1, 3, 4, 5, 7 and 8 as amended, together with the Committee's recommendation on sanctions, and that the appropriate transcripts of all relevant meetings

and hearings, motions, pleadings and rulings, be attached to the report in the discretion of the Chair.

Do I have a second as to that motion? Representative Warren has--has seconded. Any discussion or debate? Mr. Reagan, do I need to take a roll call on that?

MR. REAGAN: No, sir. I don't think you do.

THE CHAIR: All right. All those in favor, please say--signify by raising your hand. All those opposed? That motion carries unanimously.

This has been most difficult, but I want to do a couple commendations to some folks before we close out.

I want to thank the Attorney General of the State of North Carolina and the Deputy Attorney Generals Mr. Hart and Mr. Peters for a great sacrifice of time and a tremendous public service and their advocacy on behalf of the Committee and their representation of the citizens of the state.

Although they're not here, I want to thank and commend Dr. Joyner and Mr. Harris,

1 Dr. Joyner particularly during these proceedings,
2 for eloquent and passionate and zealous
3 representation of their client.
4 I want to thank the court reporter and
5 her staff, who have changed schedules constantly to
6 meet us and who have turned transcript over
7 overnight.
8 I want to thank Committee clerk, who has
9 just done a tremendous job in--in keeping this
10 Committee going, and its chairman.
11 I want to thank the Committee staff, who
12 also have sacrificed immensely for many weekends
13 and much time and many birthdays to be here and to
14 do this service. Mr. Hart and Mr. Peters have
15 commented, and I agree, and I think all of us know,
16 there is no finer committee staff in the United
17 States than the committee staff for this Committee
18 and in this House of Representatives, and--and our
19 work is immensely better because of it, as it is
20 because of the counsel who appeared here.
21 I want to thank the sergeant-at-arms, who
22 have had to put in extraordinary overtime and have
23 had stressful times in making sure that this
24 building is always open and secure to us and taking

1 care of--of us and making a very difficult task
2 much easier.
3 With that, are there any further motions
4 or anything we needed to do, Mr. Hart and
5 Mr. Peters?
6 MR. HART: No, sir.
7 THE CHAIR: Mr. Reagan?
8 This case is submitted to the Speaker of
9 the North Carolina House of Representatives on
10 unanimous recommendation of this Committee. We are
11 adjourned.

12
13 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED AT 7:15 P.M.)
14

STATE OF NORTH CAROLINA

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COUNTY OF WAKE

C E R T I F I C A T E

I, Katherine M. Becker, a Notary Public in and for
the State of North Carolina, duly commissioned and
authorized to administer oaths and to take and certify
hearings, do hereby certify that these proceedings were
held before me at the time and place aforesaid, that all
parties were present as hereinbefore stated, and that the
record as set forth in the preceding Pages 247 through 271
represents a true and accurate transcription of the
proceedings, to the best of my ability and understanding.

IN WITNESS WHEREOF, I have hereto set my hand, this
the 7th day of March, 2008.

Notary Public
Notary Public No. 20023570191

My Commission Expires 12-29-2012

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Mr. Alexander Peters, Outside Counsel to the Committee

Ms. Carin Savel, Committee Clerk
Mr. O. Walker Reagan, Staff Attorney
Ms. Kory Goldsmith, Staff Attorney
Mr. Brad Krehely, Staff Attorney
Ms. Heather Fennell, Staff Attorney
Ms. Denise Huntley, Research Assistant