

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
COMMISSION ON HUMAN RIGHTS
(TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION)
AUSTIN, TEXAS

PUBLIC MEETING FOR THE)
COMMISSION ON HUMAN RIGHTS)
TEXAS WORKFORCE COMMISSION)
CIVIL RIGHTS DIVISION)

COMMISSION MEETING

THURSDAY, OCTOBER 15, 2009

BE IT REMEMBERED THAT at approximately
9:00 a.m., Thursday, the 15th day of October 2009, the
above-entitled matters came on for hearing at the
Texas Workforce Commission, TWC Building, 101 East
15th Street, Room 244, Austin, Texas, before CHAIR
ANDERSON and the COMMISSIONERS of the Human Rights
Commission, Texas Workforce Commission - Civil Rights
Division; and the following proceedings were reported
by Janis Simon, a Certified Shorthand Reporter, in the
State of Texas.

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P R O C E E D I N G S

2

THURSDAY, OCTOBER 15, 2009

3

(9:00 a.m.)

4

AGENDA ITEM NOS. 1 & 2

5

CHAIR ANDERSON: Good morning, everyone,

6

and welcome to the October 15th meeting of the

7

Commission on Human Rights -- TWC Commission on Human

8

Rights. And we welcome everybody to -- to this

9

meeting, and we think that we'll have a good one. And

10

it may be short, depending on how many questions some

11

of us ask. (Laughter) But -- and then we'll have an

12

Executive Session.

13

Do we need to do the Executive Session

14

first for any particular reason?

15

MS. HOLT: No, it's up to you.

16

CHAIR ANDERSON: Okay.

17

Do any of the Commissioners have

18

anything before we get into the agenda?

19

(No response)

20

AGENDA ITEM NO. 3

21

CHAIR ANDERSON: Okay. Seeing none,

22

Mr. Gomez, why don't you go ahead and start off and

23

provide the information in -- in your report.

24

MR. GOMEZ: Yes, sir. Chair Anderson,

25

good morning. Commissioners, good morning. And,

1 guests, good morning. My name, for the record, is
2 Robert Gomez. I am the Director for the Civil Rights
3 Division.

4 And this morning I will report on the
5 highlights of my activities since our last meeting
6 July 15th, 2009. You will find that listed under the
7 Tab -- the Director Tab in your handouts. And with
8 that list, I will cover my administrative report
9 detailing the meetings, Expanded Presence Project,
10 Outreach Projects information, staffing report,
11 networking contact update, summit conference
12 attendance, customer service survey evaluation, and
13 future goals of CRD.

14 First of all, conducted meetings with
15 the Civil Rights Management Team. In fact, we just
16 had one day before yesterday that ran into yesterday.
17 It was kind of a lengthy CRMT but held those as part
18 of the management team in managing CRD.

19 Conducted weekly telephonic meetings
20 with Chair Anderson. Those are on Wednesday, 8:30.

21 Attended meetings with TWC CRD staff.
22 We did hold a full staff meeting, and we're planning
23 one for next week on Thursday with the full staff. We
24 also had meetings with all staff in two separate
25 meetings with the now reorganized Team 1 and Team 2,

1 and that was back in August. And that was simply to
2 explain to them what the reorganization was going to
3 look like, how it was going to impact each individual
4 staffer, and also to provide the investigators with
5 their new performance standards now that we've moved
6 onto a performance standard that is separated into the
7 proficient and outstanding performance standard
8 numbers.

9 Attended the weekly executive staff
10 meetings, TWC executive staff meetings held by
11 Executive Director Larry Temple. That's on Mondays,
12 and the biweekly TWC Commission Meetings, which are
13 now biweekly since the Legislature has adjourned.

14 I also had the opportunity to
15 participate in meetings with TWC Internal Audit staff
16 concerning the activity-based management audit, and I
17 did receive an update on this activity-based
18 management audit from the Auditor on Monday simply
19 stating that they were still working on finalizing the
20 report or the draft reports so we could get that
21 report and address any issues that we needed to
22 address, do any sort of corrective action or respond
23 with corrective action responses on that draft report.
24 And that's the latest update on the activity-based
25 management audit.

1 I also participated with meetings -- in
2 meetings with Mr. Bud Henry, who was our contracted
3 advisor, concerning the audit of the director's
4 position on the reorganization of CRD and the new
5 performance standards for the Investigator 3s and
6 Investigators 5s and also regarding the proficient
7 versus the outstanding ratings. They were very
8 effective. We shared a lot of information, a lot of
9 information that he submitted and suggestions in
10 reorganizing the division and also coming up with the
11 actual numbers for the performance ratings of
12 proficient and outstanding along with concerns with
13 how that would impact our budget for Team CRD.

14 Participated in a Webcast Affirmatively
15 Furthering Fair Housing and Fair Housing Plans
16 sponsored by the U.S. Housing and Urban Development,
17 HUD. This was done in my office, along with the
18 management team, which was proof -- very fruitful in
19 obtaining information regarding fair housing and --
20 and the -- how -- fair housing plans that are upcoming
21 for HUD. And we're still waiting for those final
22 plans to come to us from HUD.

23 Participated in meetings regarding HUD
24 SuperNOFA, Notice of Funds Availability. We have
25 submitted, in fact, three grants for superNOFAs this

1 year. We usually submit one. But our Outreach
2 Coordinator, David Trinidad, working with Dede Webb,
3 who is a -- a staff member, TWC staff member of the
4 Grants Division, they worked on three separate grants
5 that we submitted.

6 And, hopefully, we can get one of those
7 three for Team CRD. And Vickie will give you
8 additional information regarding those grants that
9 they submitted, since Vickie now is the manager of
10 TEEM 2 and also manages the Outreach Program, which
11 encompasses the grant submissions for the superNOFAs.

12 Participated in various meetings with
13 TWC Resource -- Human Resource Division staff
14 concerning personnel issues. We did discuss personnel
15 issues having to do with the closure of Fiscal Year
16 '09 and going into Fiscal Year '10. And those are
17 still pending, and we should get final word either
18 today or tomorrow from HR Management.

19 I do want to point out at this point in
20 time that we have established very good dialogue and
21 communication lines with HR, HR Management, Brenda
22 Nichols, who is now the Director, and also Greg Kelly,
23 who is the attorney for Human Resource Management.
24 And I feel as though we're working very well together
25 in addressing issues, personnel issues, be they

1 positive or a negative. And it's usually more
2 enjoyable when it is a positive personnel issue; I did
3 want to state that, though.

4 Met with representatives of U.S. Equal
5 Employment Opportunity Commission concerning the
6 reorganization of the division. I discussed with
7 them, again, as Mr. Bud Henry and I had discussed, the
8 target for the new Fiscal '10 EEOC contract and how
9 that was going to be addressed and met with the new
10 performance standards that are being set for the
11 investigators on the employment side. I met with
12 Mr. Jaime Valdez, who is the coordinator of the FEPA
13 program for the Dallas region, and he provided very
14 useful information, again, in establishing the CRD's
15 reorganization and also the new performance standards
16 numbers.

17 Participated in meetings with the
18 representatives of -- of HUD to discuss Fair Housing
19 Assistance Program's on-site review. We had a review
20 done almost two years now -- well, it has been two
21 years in September. I believe it was in September of
22 '07 that they conducted the last review.

23 And this time it's being handled a
24 little bit different. What they did was they send us
25 an extensive list of issues and items that they wanted

1 us to either respond to or address prior to them
2 coming out on site. We provided that information
3 about a week before they came out on site.

4 They went over the information we
5 provided and also asked for additional information
6 when we actually met face to face at the CRD office.
7 They are currently working and considering all the
8 information that we submitted prior to the on-site
9 review and also that we provided at the on-site
10 review, and we should have a report coming out from
11 them pretty soon. I don't have a date, but they
12 should be preparing and -- and sending us that report
13 pretty soon.

14 Conducted interviews for the
15 Investigator 6 Lead -- Team Lead vacancy. We did work
16 with HR again, quite extensively, because this
17 particular position was a position that was identified
18 by the Legislature as being reclassified. One of the
19 investigative positions that was impacted, not only
20 with us under TWC CRD, but statewide. There was a
21 reclassification of certain investigative positions,
22 and this was one of them.

23 So, we posted the position, and then we
24 went ahead and reposted the position. We did hire
25 from within, and we hired Janet Quesnel, who was one

1 of our Investigator 5 positions in employment. And
2 Janet is here.

3 If you could stand up, Janet.

4 This is our new Team Lead for -- for
5 Team 2. And she will be working in the employment
6 under Tony Robertson, who is the Manager for Team 2.

7 Since we did hire from within and
8 promote, we are posting. And hopefully, by today, we
9 will send to HR the posting to hire an Investigator 3
10 in housing. We are going to hire a housing
11 investigator because, as you know, the Commissioners
12 that have been on the Commission for a time know what
13 the -- the payments are from EEOC, 550, versus HUD,
14 \$2400.

15 So, we figure that if we hire another
16 Housing Investigator 3 in -- in housing, we will be
17 able to gain additional revenue versus hiring an
18 Investigator 3 in employment. So, we -- we are
19 choosing to hire an Investigator 3 in housing.

20 CHAIR ANDERSON: Are we still going to
21 be able to make the numbers on the employment side,
22 the goals on the employment side?

23 MR. GOMEZ: Yes, sir. And I'll let Tony
24 go a little further into that when he gives his
25 report, Tony Robertson, because we do have quite an

1 ample amount of inventory as far as employment is
2 concerned. And when he held his staff meeting last
3 week, he spoke with the investigators on his team, and
4 they assured him that the inventory would be addressed
5 and the cases would be worked and -- and closed. And
6 so we will address the inventory that we have in
7 employment with the investigators that we do have.

8 CHAIR ANDERSON: That report that -- not
9 this item, but the item before, when you were talking
10 about that report --

11 MR. GOMEZ: The HUD report --

12 (Simultaneous discussion)

13 CHAIR ANDERSON: Yeah, the HUD report.

14 MR. GOMEZ: -- yes, sir?

15 CHAIR ANDERSON: Are we going to get a
16 heads up on that, or is that going to be kind of
17 thrown at us at the last minute like the last time we
18 had a report?

19 MR. GOMEZ: I believe this time, as I
20 mentioned, Chair Anderson -- and that's a good point.
21 Last time it was conducted very differently or, should
22 I say, this time it's being conducted very differently
23 from last time. Last time we did not receive a list
24 of -- giving us an opportunity to respond to certain
25 issues and -- and -- in areas that they wanted us to

1 respond to prior to them coming out on site.

2 They did that this time. This time they
3 came out on site and basically went over that
4 information and asked for additional information. My
5 understanding from Mr. Joe Castillo with HUD,
6 San Antonio office, was the lead on the on-site
7 review, he stated to me that they will prepare a draft
8 report and then send it to us and give us an
9 opportunity to address those issues that we, perhaps,
10 need to take corrective action on and then, after
11 that, prepare a final report.

12 So, it will be handled a little bit
13 differently. I think they kind of listened to us last
14 time when we had some concerns about the way that that
15 review was conducted. So, it is a -- a different type
16 of review that they're conducting this time, yes, sir.

17 I participated with meetings -- in a
18 meeting with representatives of the Sunset Advisory
19 Commission. This was set up by Tony Robertson,
20 Manager for Team 2. Basically, they called us to
21 discuss the EEO data that we collected and reported.

22 What they wanted to do was when they
23 submitted their reports for certain agencies, they
24 didn't want to reinvent the wheel. So, what they
25 wanted to meet with us on was they wanted to see what

1 the source of our statistical data was and also if we
2 had any problems if they use that data. And basically
3 we, you know, are trying to stay on the good side of
4 the Sunset Advisory Committee. We, of course, told
5 them that, by all means, they could use our
6 statistical information that we put together for both
7 the -- your report, the TCHR Annual Report, and also
8 for the biannual report that we send out there
9 coinciding with the legislative session every other
10 year, the Minority Hiring Report.

11 So, their request basically when we met
12 was, you know, again, they didn't want to reinvent the
13 wheel. They -- they wanted to see if they could use
14 the numbers that we put together when they reviewed an
15 agency. And so we didn't have a problem with that.

16 So, maybe that will score some points
17 with us when they come and do the review on TWC. Who
18 knows? We did mention that during the meeting, by the
19 way.

20 Attended the TWC quarterly performance
21 briefing meeting. Again, as per those copies of the
22 performance briefing meeting regarding the -- the
23 budget that I sent to you on a monthly basis -- and,
24 in fact, I will probably send it to you tomorrow, we,
25 again, came out on the positive side of that. And we

1 were -- throughout the Fiscal Year '09, were within
2 the variance and usually in the variance below the
3 target.

4 And the last bullet on there will show
5 you the -- the contacts that I made since our last
6 meeting, and they're listed there. And so I don't
7 have any other information other than I do want to
8 take the opportunity right now, if I may, to present a
9 couple of awards.

10 First, in his absence, because he did --
11 Mo -- Mo Attafi is the IT staff that I have on staff.
12 And he did ask me for sick leave, since I'm his direct
13 supervisor now, with the reorganization. So, I had
14 forgotten about that, but I had told him that I was
15 going to present his 25 year service award.

16 And this is in recognition for 25 years
17 of time, thought, and energy contributed by Mohamed
18 Attafi, sincere appreciation. And this was effective
19 July, 3rd, 2009. So, this is what Mo would get.

20 I am very excited to present this next
21 certificate.

22 And, Cynthia, come on up.

23 I'd like to present this to Cynthia
24 Washington. As you-all know, when we give the report
25 on housing that's coming up -- and -- and Vickie will

1 now do the report on housing, but when we give the
2 report on housing, we usually mention the National
3 Fair Housing Training Academy in Washington D.C. that
4 we send all our investigators to.

5 Well, Cynthia Washington -- let me read
6 this. "This certificate acknowledges that Cynthia
7 Washington has successfully completed the prescribed
8 five-week Fair Housing Assistance Program
9 Investigative Course given at the National Fair
10 Housing Training Academy -- Academy, Washington D.C.,
11 July 17, 2009." So, she is our first graduate. We
12 have two that are almost there.

13 (Laughter)

14 MR. GOMEZ: So, congratulations.

15 (Applause)

16 MS. WASHINGTON: Thank you.

17 (Laughter)

18 COMM. JAMES: Whew, that's great. We
19 can all go home now.

20 (Laughter)

21 MR. GOMEZ: Okay. Well, thank you for
22 allowing me to do that. I just did want to recognize
23 her, because it does take a long time, five weeks
24 going out there to Washington D.C.

25 Like I say, we have Vickie. I think

1 Vickie needs two weeks, and Ray needs one week. And
2 our other investigators are up to their second week, I
3 believe, and we'll start sending them out there
4 probably towards the end of the Fiscal Year, because
5 it does involve out-of-state travel. So, we're happy
6 to -- to recognize her in doing that.

7 At this point in time, unless you have
8 any questions for me over what I have presented to you
9 all, I will have Daryl come up and present the
10 information on the budget.

11 CHAIR ANDERSON: Any questions?

12 (No response)

13 AGENDA ITEM NO. 4

14 MR. STEGLICH: Good morning, Chair
15 Anderson, Commissioners. For the record, my name is
16 Daryl Steglich, Texas Workforce Commission, Finance
17 Department. I'm going to provide you with a little
18 bit of information on the financial aspect of the
19 Career -- Civil Rights Division, sorry.

20 I have -- on the first slide I have one
21 correction. The employment cases, first line, instead
22 of being 1157 -- 1155, it should be 1157. For the
23 year, these are the 2009 numbers. The budgeted
24 numbers for the employment cases was 1120. We
25 actually closed 1157.

1 For housing cases the budgeted number
2 was 380, and we actually closed 352. Our total -- the
3 total cases, of course, were -- 1500 total cases were
4 budgeted, and 1507 cases were actually closed. The
5 2008 and 2007 information is there for your reference.

6 Next slide, please.

7 The next slide is comparison revenues
8 and expenditures in total, both budgeted and
9 projected. I'll direct your attention to the -- to
10 the lower left-hand schedule. On the very bottom line
11 is the 2009 actual expenditures, actual revenue
12 compared to the actual expended, and our revenue
13 exceeded -- exceeded our expenditures.

14 We expended 98 percent of our revenue.
15 So, we covered -- we covered our total costs for the
16 year. The budgeted amount, of course, was 2701.

17 There's a small difference in there
18 related to -- we collected a little bit more on some
19 of our reviews in -- in monitoring activities than we
20 had before -- than we had anticipated. We also had a
21 hundred thousand dollar additional funding that was
22 associated with the -- during the year, and that
23 offset the -- the generation of revenue in the HUD
24 cases.

25 CHAIR ANDERSON: That was from the

1 lawsuit -- that was from the lawsuit settlement --

2 MR. STEGLICH: Yes, sir. That's
3 correct.

4 CHAIR ANDERSON: -- that hundred
5 thousand?

6 MR. STEGLICH: Yes, sir. That's the
7 outreach.

8 Okay. Next slide, please.

9 This slide just compares the fiscal --
10 fiscal year expenditures for -- at the bottom two
11 lines, the -- the budget and the expended amounts.
12 '07 and '08, again, have been provided for your
13 reference.

14 Our salaries were a little bit above the
15 expected level. Part of that is due to a -- the
16 Legislature mandated an \$800 retention bonus for
17 employees meeting certain criteria during the year.

18 Travel was a little bit less. Our other
19 operating expenditures were a little less to offset.
20 So, basically, from a -- from a budget perspective, we
21 came in really close to what we had anticipated.

22 Next slide, please.

23 And now the 2010 amounts for both
24 revenue and budget. The top section, of course, is
25 revenue. We have our general revenue amount.

1 Inherent in the revenue amounts that we expect to
2 collect are 27 reviews and 8 training sessions, which
3 will generate our training and monitoring revenue.

4 A thousand and 56 EEOC cases, and then
5 we get an additional \$1200 for travel that's
6 associated with the EEOC. We anticipate 420 cases
7 of -- for HUD at \$2400 a case, and then we estimate
8 that there's a portion of that, 17 cases, that would
9 be closed for cause, which is an additional \$500.
10 And, again, that's budget -- what we assumed in the
11 budget.

12 And then we estimated the amount of
13 administrative costs and the HUD training costs that
14 are associated with -- with the -- the HUD award.
15 Total amount is -- of the budget is \$2.7 million. At
16 the -- in the bottom section it breaks out how we
17 expect to expend the \$2.7 million, and we have 36
18 FTEs.

19 CHAIR ANDERSON: How's the -- the
20 revenues compare with 2009? The -- because we don't
21 have that level of detail, of course, on the other --

22 MR. STEGLICH: Well, the revenues for --
23 compared to 2009, it's -- it's about a \$50,000
24 increase in the total revenues.

25 CHAIR ANDERSON: That's from -- the

1 general revenue is about the same?

2 MR. STEGLICH: The general revenue, yes,
3 sir. That -- it's -- it's -- I'm sorry. I don't have
4 the exact figure, but it is slightly higher than what
5 the '09 amount was. I can provide you with that --

6 (Simultaneous discussion)

7 CHAIR ANDERSON: Yeah, if you would --
8 if you or Robert would send to all the Commissioners.
9 It doesn't have to be fancy, just a side-by-side of
10 2009 revenue for budget actual -- budget and actual
11 and then the -- and then the -- the budget for the
12 revenue for 2010.

13 MR. STEGLICH: I'll get that taken care
14 of for you, yes, sir.

15 CHAIR ANDERSON: That's a pretty
16 optimistic -- HUD, 420 compared to -- what did we have
17 listed here, 320 or something?

18 MR. STEGLICH: 352.

19 CHAIR ANDERSON: 352. And we didn't
20 make -- and the budget was 380, and we only made 350.
21 So, what -- what makes us think we're going to make
22 420?

23 MR. GOMEZ: During last fiscal year, if
24 you remember at the last meeting, I did present the
25 fact that we had hired five new housing investigators.

1 Those five new housing investigators have now
2 completed their learning curve of six months. And, in
3 fact, two of them have already been promoted to
4 Housing Investigator 5s because of their number of
5 closures.

6 So, yes, it's optimistic. It's an
7 aggressive number, but I think we will achieve that
8 number.

9 CHAIR ANDERSON: What's -- what's the
10 number of housing investigators we'll have with this
11 new hire for replacement of Janet?

12 MR. GOMEZ: 10. 10, and the break down
13 is two Investigator -- or four Investigator 5s and --
14 and -- and six Investigator 3s, and then six
15 employment investigators.

16 CHAIR ANDERSON: So, we'll have -- those
17 10 will get 42 cases a year? Well, it will be less
18 than that, because the 3s don't have to generate the
19 same number. Right?

20 MR. GOMEZ: They have the -- both the 3s
21 and the 5s have different numbers, and then within the
22 3s and the 5s we now establish the proficient and
23 outstanding performance standards. Yes, sir. So, it
24 depends on how each individual will perform and -- and
25 then how many cases each individual investigator will

1 close, whether it be a 3 or a 5.

2 We're still holding out that carrot,
3 saying that if they achieve they're outstanding
4 numbers, they'll be the ones that -- if we do have any
5 merit money at the end of the year, those are the ones
6 that will be considered for merit raises in as far as
7 achieving their outstanding numbers. So, we're
8 holding out that carrot for our investigators.

9 CHAIR ANDERSON: The salaries and the --
10 the salaries and benefits are pretty fixed. I mean,
11 that's not going to change much. Right? It shouldn't
12 change at all.

13 MR. STEGLICH: We wouldn't expect them
14 to change, unless the classifications change some --
15 somewhat.

16 MR. GOMEZ: I think it will -- for us I
17 see it as changing in a positive, simply because, as I
18 stated before, with a simple promotion that we had of
19 Janet Quesnel, Janet Quesnel was an Employment
20 Investigator 5. And she has been promoted, but if
21 y'all remember, we did have a manager that retired
22 effective the end of August. So, that's reflected in
23 that, and also in hiring to replace Janet's FTE as an
24 investigator, we're not hiring an Investigator 5;
25 we're hiring an Investigator 3 at a lower salary.

1 CHAIR ANDERSON: I guess it's incumbent
2 upon Gene and Daryl and -- and you to make sure that,
3 obviously, the numbers stay in balance, because if we
4 don't close five or 10 housing cases, it's going to
5 have a pretty substantial impact on the budget. And
6 we would be looking at doing what?

7 It's incumbent upon -- to make sure
8 we're closing -- we don't get behind the eight ball
9 like we did last year and have to scramble at the end
10 of the year to -- to make, you know, the number of
11 closures, because if we get behind, we can't make it
12 up. And arguably that 2.7 could be 2.6 pretty --
13 pretty easily. It only takes a few cases to -- to
14 lose \$100,000 at \$2400 a case.

15 MR. GOMEZ: Yes, sir. We'll -- we'll
16 stay on top of that. And like I say, the managers now
17 are -- all housing is under Vickie Covington, the
18 Manager for Team 1, and she --

19 CHAIR ANDERSON: Ah-ha.

20 MR. GOMEZ: -- has two team leads. And
21 so it's -- it's a lot more uniform. It's -- it's a
22 lot -- I think the review of actual cases and the
23 processing of cases now is -- is more standardized and
24 more uniform, which was the opportunity that this
25 reorganization allowed us to do, both within housing

1 and employment.

2 CHAIR ANDERSON: So, Vickie, who's done
3 employment for a long time (laughter) will now have
4 housing?

5 MR. GOMEZ: Yes, sir.

6 CHAIR ANDERSON: Okay.

7 MR. GOMEZ: And like I stated before,
8 she needs, I think, one class to graduate the National
9 Fair Housing Training Academy.

10 CHAIR ANDERSON: Any of the
11 Commissioners have any questions about the budget?

12 COMM. JAMES: No questions. Just I --
13 I -- I think you make some important points, and that
14 number seems really, really aggressive. And I would
15 just offer that -- that there are a couple of
16 fail-safes in there, because the Chair and I will
17 start to get nervous and pull what's left of our hair
18 out as quarters start to come and we start to see
19 those numbers not kind of match up with the budget.

20 So, I appreciate the aggressiveness, and
21 I -- I -- I share the optimism until the first quarter
22 numbers come in.

23 (Laughter)

24 COMM. JAMES: And then I'll start to
25 lose my optimism, but go for it.

1 MR. GOMEZ: All right. Yes, sir. Thank
2 you.

3 CHAIR ANDERSON: Janet will be a very
4 important meeting, because I -- you know, just
5 speaking for myself and not for the other
6 Commissioners. But, you know, if we're -- if we're
7 falling behind on our trend line early in -- in the
8 fiscal year in January, then we're going to -- Daryl
9 and Gene and Robert, we need to see what's --
10 what's -- what are you going to do to both correct it
11 and to make sure we're in balance by, what is it,
12 August?

13 MR. GOMEZ: August, yes, sir.

14 CHAIR ANDERSON: August 2010.

15 MR. GOMEZ: Uh-huh. Yes, sir.

16 CHAIR ANDERSON: It could be an action
17 item, Becky --

18 (Discussion off the record)

19 MR. GOMEZ: Any other questions for
20 Daryl?

21 (No response)

22 MR. GOMEZ: Thank you, Daryl.

23 AGENDA ITEM NO. 3 (Continued)

24 MR. GOMEZ: I'd like to finish my
25 presentation with the customer service evaluation, and

1 I just got this put in my box, in fact, today. So,
2 these are the numbers for September, and I will go
3 ahead and -- and -- and PDF them and -- and send them
4 to you-all electronically. These are for the month of
5 September, and they look really good.

6 The questions, again: No. 1, staff was
7 courteous and helpful. No. 2, staff provided accurate
8 information. No. 3, staff was provided timely
9 response to inquiries. No. 4, staff was knowledgeable
10 of CRD procedures. No. 5, would recommend our
11 services to others.

12 Again, they're broken down -- the
13 responses are, under strongly agree, agree, and then
14 disagree, and strongly disagree. And we had 38
15 responses that strongly agree and agree, versus five
16 that disagree and strongly disagree. So, that gives
17 us an 89 percent versus an 80 percent, positive versus
18 negative.

19 So, it's a really good report. So, I
20 will send it to you-all out tomorrow. And with that,
21 I am finished with my presentation.

22 If there's no questions, then I'll hand
23 it over to Tony Robertson, who is now the new manager
24 for Team 2.

25

1 AGENDA ITEM NO. 5

2 MR. ROBERTSON: Thank you, Mr. Gomez.

3 Good morning, Commissioners, Chair
4 Anderson. For the record, Tony Robertson, Team 2
5 Manager. I'm also excited I'm the first one to go
6 now. So, you guys don't have to worry about me being
7 last anymore and being quick, but I will be brief.

8 The first slide depicts employment case
9 inventories. The information reflects, on this
10 particular slide, dealing with FY '09 year-to-date
11 totals for employment case inventories. What is
12 important that I want you-all to note on this
13 particular -- excuse me, particular slide is that Team
14 2 did meet our contract obligation.

15 Although August resolutions show 25
16 cases resolved, a total of 85 cases were reported.
17 And the remaining 60 cases were not allowed to be
18 credited, due to the fact that EEOC did not allow all
19 the FEPAs nationwide -- and I -- what we call an
20 upward modification. So, in years past, we've --
21 we've had the opportunity to have what you call upward
22 mods and -- when we go over the caseloads or the case
23 resolutions that we close.

24 And so within that time frame -- and
25 this is based on the -- the economy now, the -- the

1 new administration that we're dealing with as well, as
2 well as EEOC going through the changes that they're
3 dealing with and their structure and -- and the
4 leadership that they're dealing with. So, we had a
5 chance to meet with them, and we always request an
6 upward modification, as you will see in years past,
7 the two fiscal years. But for this particular fiscal
8 year, FY '09, none of the FEPAs were allowed a -- an
9 upward modification.

10 So, we were able to hold these cases,
11 which will allow us to go into our 2010 Contract Year.
12 And then the cases that we were able to be credited
13 for, that's what shows us to meet out contract year.

14 CHAIR ANDERSON: The number of
15 inventory -- the ending inventory is way too high.
16 What -- what are we going to do -- what are we doing
17 to work that down?

18 MR. ROBERTSON: We're working those
19 cases, Chair Anderson. What -- what we're doing now
20 is we have, once again, the new requirements for our
21 Investigator 3s and Investigators 5s -- well, excuse
22 me. I only have Investigator 5s, but we have the --
23 what we call our new performance measures, and that
24 would be a 9 for -- if you want to look at proficient,
25 or 11 if you want to look at dealing with an

1 outstanding performance evaluation. The average
2 investigator out of the six that I deal with, they're
3 closing upwards of 10 to 12, if not 13, 14 cases per
4 month.

5 So, they're doing their job. Their
6 inventory is being released, so to speak. And so,
7 with that said, we also wanted to look at a fact of --
8 of talking to EEOC and seeing how we can defer cases.

9 But our staff, we met with them, Janet
10 and I, and -- and we had an opportunity to have a good
11 meeting with them. And they said, "Hey, look, keep
12 the cases coming, because we want it to come and go
13 from that point." Now, keep in mind, ADR has a
14 substantial amount of these cases as well, because the
15 three mediators that I used to have, they also have an
16 inventory that is required for them to do what they
17 want to do as well, and they also have been increased,
18 which Vickie will share with you in her report on
19 their closures as well.

20 And they have no problem with that. And
21 when you get a staff that is -- is excited about
22 having an inventory that's a little bit higher than
23 the norm, an average of 15 cases higher than the norm,
24 that excites me as a manager as well, because they
25 want to work those cases. They don't want to defer

1 them. They want to get them out there and get them
2 done.

3 Now, we're focusing a lot on the C
4 cases, which is -- are the cases that we're closing
5 and getting them out of the inventories quick, fast,
6 in a hurry through intake. But the bottom line is
7 our -- our -- with the economy the way it is, our case
8 inventory is going to -- is going to rise. This is as
9 of FY '09 ending year. So, that's why that inventory
10 is at 640 cases.

11 (Discussion off the record)

12 CHAIR ANDERSON: Sorry for that
13 off-side.

14 I don't see how we can get a thousand
15 cases from six investigators at, let's say, 12 a month
16 times -- times 12 months will leave us around 850, -60
17 cases.

18 MR. ROBERTSON: Well, once again, Chair
19 Anderson, we have to also include the ADR staff. They
20 are a major player in this equation as well with the
21 closures that they close as well. So, you're looking
22 at the total of nine investigators, if you really want
23 to look at the big picture, although we have the
24 firewall that has to separate us --

25 CHAIR ANDERSON: Right.

1 MR. ROBERTSON: -- from them. So --

2 MR. GOMEZ: The -- the report that I am
3 going to send out and hopefully finalized with the
4 information we get from Budget to establish the cost
5 per case, and as soon as we get those figures I will
6 send them out to you-all. But just to give an
7 example, for the first month of this fiscal year,
8 the -- the target for the mediators is the --
9 proficient is five each, which would make it 15 per
10 month. The outstanding is six closures each, which
11 would make it 18.

12 Well, for the month of September, they
13 closed 26. So, you add that number with the number of
14 the employment investigators, whether they be
15 proficient or outstanding. I don't foresee all of
16 them being proficient. I don't see -- foresee all of
17 them being outstanding.

18 But as Tony mentioned, they're mostly
19 closing 11 -- 10, 11, or 12 --

20 MR. ROBERTSON: That's correct.

21 MR. GOMEZ: -- closures. So, you add
22 that to the outstanding closure number that the
23 mediators have of 26 versus what they should have
24 closed, even as an outstanding of 18. Then, again,
25 we're very optimistic that we will meet that number

1 and address the inventory at the same time.

2 COMM. DIGGS: What's the inventory
3 number at the end of September?

4 MR. ROBERTSON: It's 640, ma'am.

5 COMM. DIGGS: It's still 640?

6 MR. ROBERTSON: Oh, at the end of
7 September?

8 COMM. DIGGS: Yes, uh-huh.

9 MR. ROBERTSON: Oh, I'm sorry. It
10 was -- as a matter of fact, it was 818.

11 COMM. DIGGS: Okay.

12 CHAIR ANDERSON: And we've got to get
13 that number down. Are those aged cases, or you're --
14 you're going to get into aged cases in a second --

15 MR. GOMEZ: Well, we have several
16 avenues that we can utilize, several tools or avenues,
17 I should say. And we -- if you'll recall, about two
18 years ago when we had a -- the opposite situation,
19 where we had a very low inventory, where we worked
20 with EEOC and somehow got EEOC to send us their cases
21 from Houston because they had sent their staff over to
22 New Orleans when the hurricane happened and all that.
23 So, we have that working relationship with EEOC.

24 We have had preliminary -- preliminary
25 talks and discussions with Jaime Valdez. Again, he's

1 the coordinator for the FEPA program of this region,
2 and our partnership agreement with EEOC and our MOU
3 with the City of Austin allows us to send any excess
4 inventory to Austin or the other local FEPAs.

5 We have one in Austin. We have one in
6 Corpus, one in Fort Worth. So, we're allowed to do
7 that, and discussions -- preliminary discussions have
8 already started on that. And this allows us to work
9 as a partner with EEOC, not only with the EEOC, but
10 also work as a partner with the local FEPAs.

11 So, we do have several avenues that we
12 can utilize, because we do not want to age these
13 cases. We want to close them as soon as we can, but
14 we don't want to age these cases.

15 MR. ROBERTSON: And, Chair and
16 Commissioners, effective on Tuesday, our staff meeting
17 with Mr. Gomez, we are implementing that process right
18 now and deferring some of those cases that are mailed
19 into us, that we're going to be sending towards the
20 folks at Austin EEO office to -- that will help us and
21 assist in that inventory as well. Now, we are going
22 to continue to keep our -- our call-in intakes and go
23 from that point, but we're going to do this through --
24 through -- through the rest of this year and -- and
25 then take a look at it again in January and see

1 exactly where we are at that point in time.

2 MR. GOMEZ: And a substantial number of
3 those waivers or deferrals, if you want to call them,
4 to the Austin local FEPA are those intakes that are
5 incomplete.

6 MR. ROBERTSON: That's correct.

7 MR. GOMEZ: And the reason being that
8 they do have a contract with EEOC regarding intake.
9 They have an intake contract with EEOC, as we don't,
10 but they do. They get paid \$50 for each intake that
11 they process.

12 So, that's why the deferral and waiver.
13 And, of course, again, as I mentioned before, we do
14 have that in the partnership agreement with EEOC and
15 the MOU with the local FEPAs, which allows us to do
16 that.

17 CHAIR ANDERSON: The financial people
18 left. But the general revenue for this year is
19 substantially the same, the general revenue for
20 next -- the next fiscal year, because we're on a
21 biannual budget. Right? And so is that about the
22 same, too, where we're not getting anything more from
23 the state? So, you know, the only flexibility we have
24 is -- is the -- is the money we get from HUD or EEOC.

25 MR. GOMEZ: Yes, sir. And really to

1 pinpoint it down even further it's really the money
2 from HUD because, as -- as Tony mentioned, we had to
3 hold some cases and sending them to EEOC, because this
4 year I believe the figures are the -- the budgeted
5 amount from EEOC for the FEPAs was 30 -- was supposed
6 to be 35 million. They cut it down to 28 million for
7 all FEPAs.

8 So, as Tony mentioned, all the FEPAs
9 across the nation were not provided their upward
10 modifications. In -- in fact, we were fortunate that
11 we weren't given a downward modification. We were
12 kept at the same number.

13 But be that as it may, 60 cases, if we
14 would have submitted them to EEOC, we wouldn't have
15 gotten them paid for, because we had that -- that --
16 that numbers target. So, yes, it depends on the
17 closures. But, again, we can work with our partner,
18 EEOC, in doing that.

19 And, in fact, I think Jaime Valdez,
20 again, the coordinator for the -- for the region for
21 the FEPAs, in that he advised us to do that. He says,
22 "You know, we're only going to be able to pay you this
23 much. We cannot give you -- this year we will not be
24 able to allow you an upward modification. So, these
25 are the only cases we're going to pay."

1 So, we went ahead and did that.

2 CHAIR ANDERSON: What's -- what's --
3 what's the process? I don't know, maybe John Moore
4 knows also as far as the contract. But if they submit
5 cases to us, and we don't get reimbursed, are we still
6 required to -- to handle the cases?

7 MR. GOMEZ: Well, those cases have
8 already been handled. They -- they've already been
9 investigated and closed.

10 CHAIR ANDERSON: John is coming up right
11 now. But I'm talking about the future, also, I mean,
12 you know, this year. If you -- if they send you X --
13 we've already got 818 in the inventory. And let's --
14 let's say you work them down plus some new cases and
15 they're only going to reimburse us for 1,000 and we
16 have 1200 or 1300 cases, do we just work those others
17 for free?

18 MR. GOMEZ: No, we hold -- I'm sorry.

19 MR. MOORE: Go ahead, Robert.

20 MR. GOMEZ: We -- we do it like this
21 year. Again, fortunately, we have a good FEPA
22 coordinator that advises us as to what to do. So,
23 that's what we did this year; we held those 60 cases
24 for this fiscal year or for this contract year, and
25 that came from our working relationship with EEOC.

1 And basically that's the way we'll work it.

2 Our new contract does call for 1,021 for
3 Fiscal '10. So, that is our target with -- with EEOC.

4 MR. MOORE: For the record, John Moore,
5 Director of Regulatory Integrity. It's -- it is well
6 and good that they are working with us in -- in
7 getting -- handling these extra cases. But under the
8 contract, if those -- if we go over those numbers and
9 there's no way to extend them into the next year, talk
10 about unfunded mandate.

11 CHAIR ANDERSON: Huh. And we're losing
12 on the cases anyway. I mean, if we go down to zero,
13 it's -- it's even worse. So, people are still filing
14 cases, and they're all -- almost all of them are dual
15 filed. Right? So --

16 MR. ROBERTSON: That's correct.

17 CHAIR ANDERSON: And we can't shift them
18 to another FEPA. We're going to have to work them.
19 Right?

20 MR. MOORE: We're going to have to work
21 them.

22 MR. GOMEZ: Yeah, but we have those two
23 avenues. We either can waive them or defer them to
24 the local FEPAs, or if we see that the number is going
25 to be too great or our inventory is too great in aging

1 of cases and the investigators being able to
2 investigate them or handle their inventory, or towards
3 the end of the year, like I say, with our relationship
4 that we have, working relationship and partnership
5 with EEOC, they'll let us know, you know, "You need to
6 only submit this many cases in August," and usually
7 that comes around July and August or June and July --

8 MR. ROBERTSON: June and July.

9 MR. GOMEZ: -- because that's when
10 the -- the -- the contract year ends. I believe it's
11 the end of July.

12 MR. ROBERTSON: That's correct.

13 MR. GOMEZ: And so, around June and
14 July, Jaime will tell us, "Well, you know, you're this
15 close to meeting your -- your target or your
16 contracted number of cases, and there's a possibility
17 of no upward modification. So, I suggest that you
18 submit this many cases only, because there is not a
19 possibility of an upward modification." And so that's
20 what happened this year, so we held those other 60
21 cases for this fiscal year.

22 CHAIR ANDERSON: And -- and -- go ahead.

23 MR. MOORE: The only hope I'm going to
24 hold out for you is, is I don't know if EEOC even
25 knows what the impact of the -- the amendments to the

1 ADA are going to be upon the number of cases that they
2 are going to be receiving, let alone what we're going
3 to be receiving. And it may cause them to take a
4 re-evaluation of what they're doing in terms of
5 referring cases and paying. So, we'll keep on top of
6 that.

7 CHAIR ANDERSON: If -- if a gender
8 identity legislation is passed --

9 MR. MOORE: That is another bill that
10 would have a huge impact. I've asked our -- the TWC
11 federal liaison up there to go back and see what the
12 intent is in terms of paying on those type of cases:
13 Are they -- are those cases going to be an unfunded
14 mandate, or are they going to be included and are --
15 are they going to be paid for? So, we'll see what
16 happens with that.

17 CHAIR ANDERSON: Okay.

18 MR. ROBERTSON: Thank you. And -- and
19 just for a point of clarification, the Chairman
20 brought up a -- a -- a good point in reference to two
21 new laws that were -- that are going to be coming out,
22 one on October 22nd and the other one in November.
23 And the first was GINA, and what that is -- what that
24 stands for is Genetic Information Nondiscrimination
25 Act. And then the second one is the Lilly Ledbetter

1 Pay Act, and that's going to probably -- as Mr. Moore
2 indicated, it's going to have a direct effect on how
3 EEOC looks at it and how they process that down to the
4 FEPAs, as well as how we deal with it as well.

5 Now, under the new ADAAA, we are
6 working -- working that to the best of our ability.
7 We have gotten some guidelines and some guidance on
8 it, and we understand how it takes effect. Anything
9 that is reported to us or that is filed with us after
10 January 1st of this year, we focus on the new
11 processes dealing with the new ADAAA. Anything prior
12 to January 1st of this year, we still focus it under
13 the new ADA -- excuse me, under the old ADA of 1990.

14 So, our staff has that ability. They
15 have that understanding, and we are well aware and --
16 and quite ready to deal with that and those issues as
17 they come forward. And we'll keep you further abreast
18 as those two new laws come into place this year.

19 Thank you. Next slide.

20 MR. ROBERTSON: This next slide deals
21 with employment type case closures. The information
22 reflects FY '09 fourth quarter and year-to-date total
23 employment closures by -- by type of case. What I
24 would like to point out on this slide is that when you
25 look at the FY '08 no fault settlements and

1 withdrawals with settlements combined totals, it will
2 provide you a total of 213 cases resolved, as compared
3 to FY '09's year-to-date totals of those same two
4 categories, which will give you a total of 241.

5 This increase from FY '08 to FY '09 was
6 due to Title VII cases basically being resolved more
7 so than our ADEA cases or our ADAA cases.

8 Any questions?

9 (No response)

10 MR. ROBERTSON: Thank you. Next slide.

11 Employment cases closed by selected
12 categories. One of the key things with this
13 particular slide is that you'll see Title VII
14 continues to lead the way in the cases that we deal
15 with the case closures. Because we were so far
16 ahead -- well -- well, because we were ahead of our
17 contract and we met our -- our closure numbers, we
18 were -- once again, we were less 60 cases, again, that
19 we're holding because of our -- of our contract or the
20 lack of our upward modification for that contract
21 year.

22 So, once again, the -- the key here is
23 those Title VII cases are -- are our main cases that
24 we're getting a lot of that we're dealing with and
25 going from that point.

1 CHAIR ANDERSON: Will we see a big spike
2 in September as a result of working the cases in
3 August for which we didn't -- didn't close and get
4 paid? So, I would expect that September would have a
5 big spike in case closures --

6 MR. ROBERTSON: Well, I can -- I believe
7 Mr. Gomez will share with you some closures for
8 September as well, but I can go ahead and -- and let
9 you know what we've -- what we've closed for September
10 already. The combined total has been 95 cases and
11 along with the 60 additional cases that we'll be
12 adding to our -- our contract for FY '10 as well. So,
13 we're -- we're moving ahead quite well on those.

14 CHAIR ANDERSON: 95 case closures in
15 September?

16 MR. ROBERTSON: That's correct.

17 MR. GOMEZ: Yes, sir. Our preliminary
18 numbers show us 95 and then plus the 60 that we held
19 back from August, which gives 155.

20 CHAIR ANDERSON: For one month?

21 MR. ROBERTSON: That's correct.

22 CHAIR ANDERSON: That's more than you
23 had in the fourth quarter of this -- this last year.

24 MR. GOMEZ: That's because of those 60
25 cases we have in there.

1 MR. ROBERTSON: We have that. And, once
2 again, that is because -- Chair Anderson, because of
3 the 60 cases that we're able to carry over into this
4 fiscal year.

5 Thank you. Next slide.

6 Age of pending employment case. At the
7 end of FY '08 49 cases were over 300 days due to our
8 priority of -- of case management. If you look at
9 that, we have decreased -- we have decreased our cases
10 in FY '09 by 26 cases. And we're currently, once
11 again, processing our old cases.

12 The investigators are -- are going
13 through their caseloads right now. As I took over
14 this section and are honored to take over this
15 section, we -- we had an opportunity to sit down and
16 meet. And the first thing that I went through with
17 those investigators, as well as Ms. Quesnel, who was
18 interim at that point in time working with us, is the
19 focus on our aged cases.

20 And we do a monthly report every --
21 every month that we provide to Mr. Gomez and look at
22 all our 300-day and older cases and where we are on
23 those cases. Now, once again, those cases have been
24 decreased, which is a great thing that's happening.
25 But -- but for the record, so you-all will thoroughly

1 understand how that also works as well, that a lot of
2 these aged cases is that we're having major, major
3 issues in getting responses back from the respondent,
4 and not only from the respondent, from the
5 complainant.

6 So, I am charging them at this point in
7 time that they will have now a certain time frame to
8 get our response times back, to get the information
9 needed back. And if we don't get those -- those --
10 those responses or that additional information that we
11 need to deal with this case, we're closing them,
12 and -- and we're moving forward with that case.

13 Now, will that case turn into a cause
14 case because we don't get -- get a response back from
15 the employer? We don't know. We have to look at that
16 case case-by-case, but we are going to close those
17 cases and get them out of our inventories so that
18 these additional cases that we're having that are
19 stacking -- stacking up on us don't age as well.

20 And -- and so it's working quite well
21 right now. The month of September we closed a lot of
22 aged cases, and -- and I'm proud of the investigators
23 for doing so. And so that's what we're looking at,
24 at -- at our cases dealing on age or pending cases for
25 FY '09 to close out.

1 CHAIR ANDERSON: Zero to 180 days has
2 jumped up quite a bit. Was it -- what did it do in
3 September? Do you have that number?

4 MR. ROBERTSON: Say it again. I'm --
5 I'm sorry.

6 CHAIR ANDERSON: Zero to 180 days, which
7 I -- I guess is, you know, for the most part brand new
8 cases have jumped up quite a bit from July to August.
9 What did it do in September? Is that -- is the trend
10 still going up as far as intake cases?

11 MR. ROBERTSON: Are we receiving a lot
12 more -- a lot more cases daily, is that what you're
13 saying, in the month of September? Yes, we are. As a
14 matter of fact, in the month of September we received
15 basically 126 cases that came in for the month of
16 September through intake.

17 And a lot of those cases, once again,
18 Commissioners and Chair Anderson, we've identified
19 those that are C cases. We -- we're -- we're getting
20 them out of there. We deferred at least a -- a fourth
21 of those cases because they don't have the
22 notarization, they're not certified, they don't have
23 the ample information, at least a prima facia need
24 that we need to process those cases or their lack of
25 jurisdiction. They have been moved out of -- out of

1 the process, but we did receive 126 cases in the month
2 of September.

3 Thank you. Next slide.

4 And I'll -- I'm almost through. Hang in
5 there with me.

6 Let's go to training and monitoring.

7 Once again, the staff dealing with EEO compliance
8 training numbers and four-hour workshops conducted for
9 Fiscal Year '09 we conducted 24 cases that were
10 requested by state agencies and institutions of higher
11 ed. We had -- we conducted seven workshops or
12 trainings, so to speak, for the private sector, and
13 out of those 16 were based on Texas Labor Code Chapter
14 21, 21.556, which is the mandatory training based on
15 those complaints with merit.

16 CHAIR ANDERSON: Mr. Robertson --

17 MR. ROBERTSON: Yes, sir?

18 CHAIR ANDERSON: -- did a good job, very
19 good job in Houston presenting to some HR people. As
20 a matter fact, they requested that he come back again.

21 I don't know if they set up another date
22 for you yet.

23 MR. ROBERTSON: It's -- they're looking
24 at January.

25 CHAIR ANDERSON: January?

1 MR. ROBERTSON: Yes, sir.

2 CHAIR ANDERSON: So, obviously, very
3 well received, both him and the -- the information,
4 and they've -- they've invited him back for another --
5 another session to HR professionals. So, that's
6 great.

7 MR. GOMEZ: On that same note, Chair
8 Anderson, I do want to state that I think Tony came
9 into my office Monday saying that he was requested to
10 go out there and do a training, because an individual
11 on the -- on the agenda of this particular group --

12 MR. ROBERTSON: Right.

13 MR. GOMEZ: -- and you can go into
14 detail on that. But they requested Mr. Robertson go
15 out there and -- and fill in for that particular
16 individual that was -- had already been scheduled on
17 the agenda for yesterday. So, we decided that on
18 Monday. So, he went out there yesterday on a one-day
19 trip out there to San Antonio, was it?

20 MR. ROBERTSON: That's correct.

21 MR. GOMEZ: And he made that
22 presentation, also. So, Mr. Robertson is in demand,
23 and he's on call. So, we sent him out there.

24 MR. ROBERTSON: I'm just trying to feel
25 the love, sir. That's all I'm trying to feel.

1 (Laughter)

2 MR. ROBERTSON: Thank you, Chair
3 Anderson and Mr. Gomez. I want to say -- also echo
4 the -- the point that Chair Anderson did an
5 outstanding job letting the folks know what you-all as
6 Commissioners do as well. And so that took a lot of
7 pressure off of me trying to tell them exactly what it
8 is you-all do, although I know. But I appreciate that
9 very much.

10 So, next slide, please.

11 EEO and housing presentations conducted
12 for Fiscal Year '09 resulted in a year-to-date total
13 of EEO presentations of 10 and a year-to-date total
14 for housing presentations of 15.

15 Next slide, please.

16 Individuals at event -- at events,
17 excuse me, or EEO trainings or -- slash presentations.
18 Once again, we surpassed our number, which is our LBB
19 target, that we look at each year that I'm measured on
20 and -- and evaluated on as well. For FY '09 we
21 conducted a total of 800 and -- well, a total of 809
22 people attended our EEO trainings throughout the state
23 of Texas. 2,770 individuals, excuse me, attended our
24 presentations or our presentations that we were a -- a
25 part of or presentations that we requested -- that we

1 were requested to attend and -- and provide exhibit
2 booth information, et cetera.

3 And then, individuals in housing
4 presentations for FY '09 were 69.

5 MR. GOMEZ: Chair Anderson, if you
6 recall, and the Commissioners that were here at the
7 start of last fiscal year and also the start of the
8 previous fiscal year, this was always -- on the
9 performance measures report this was always an item
10 that we had to submit an EOV because usually state
11 agencies or organizations waited until the end of
12 their fiscal year to schedule any trainings and
13 schedule their individuals for training. And I
14 remember Chair Anderson advising us to try to schedule
15 those -- or schedule those in -- in the beginning of
16 the fiscal year so we could be meeting those numbers
17 at -- as the year went.

18 So, on that note, again, this
19 performance measures report that I'm sending out to
20 you as soon as we get those cause per case numbers,
21 just to give you an example -- and thank you for that
22 direction, Chair Anderson -- for the month of
23 September Tony's shop has already trained 243
24 individuals. The LBB target is 650. So, he's -- you
25 know, for the first month, we're supposed to achieve

1 8.33 percent, and he's already achieved 37.38 percent.

2 So, again, thank you for that direction.

3 And, you know, we -- we had the opportunity to train

4 those individuals, and we report those individuals.

5 So, we're at 37.38 percent.

6 CHAIR ANDERSON: Good.

7 MR. ROBERTSON: Thank you.

8 The next two slides are -- let me go

9 with this slide, then our final slide. Personnel

10 policy reviews, we're tasked to conduct 31 personnel

11 policy reviews. For FY '09 we have finished that.

12 You show on your -- on your

13 documentation that you have in your -- in your folders

14 that 28 have been certified. Those additional two --

15 or, excuse me, those additional three have now been

16 certified. We -- they were conducted in August.

17 So, we have to give them that time frame

18 to make the changes, allow the technical assistance,

19 bill them, and then get those numbers recorded back

20 for us. So, it is 31 and 31 as of this date. And,

21 finally, the fire fighter reviews, we have conducted

22 60 reviews completed for the FY '09 year on our

23 firefighter reviews.

24 If there's nothing else, I -- once

25 again, I want to congratulate Janet Quesnel, my new

1 Team Lead. She hit the ground running, and one of the
2 things that is -- that is a beauty with me is that she
3 is already -- has the skill level that's already
4 there. So, what we're going to be teaching her is the
5 management skills, but she has the investigative
6 skills. And -- and the investigators respect her,
7 which is key in our decision in -- in selecting
8 Ms. Quesnel as well.

9 So, Janet, once again, congratulations
10 for the position.

11 And if there's nothing else, I am
12 through with my report and open it up to any
13 questions.

14 MR. GOMEZ: And Janet -- Janet, really,
15 as of tomorrow, she will be in charge of Team 2
16 because Tony is going on military duty leave so --
17 through November 2nd?

18 MR. ROBERTSON: That's correct.

19 MR. GOMEZ: So, Janet has been thrown
20 into the deep end of the pool here, but she can handle
21 it.

22 MR. ROBERTSON: Absolutely.

23 I turn it back over to Mr. Gomez, if
24 there's no -- no questions. Thank you.

25 MR. GOMEZ: Thank you, Tony.

1 Next, I have the new manager for Team 1,
2 Vickie Covington, and she will be doing the housing
3 and ADR presentation.

4 AGENDA ITEM NO. 6

5 MS. COVINGTON: Good morning. For the
6 record, my name is Vickie Covington, Manager
7 Investigation Team 1, and that consists of Housing,
8 ADR, and Outreach.

9 The first slide that covers the housing
10 shows the cases filed for Fiscal Year 2009 as 283. We
11 closed 352 cases with -- leaving us with an ending
12 inventory of 120 cases. The -- there was an increase
13 of case closures of 137 cases from Fiscal Year 2008
14 and a decrease in the ending inventory of 69 cases.

15 Are there any questions?

16 CHAIR ANDERSON: And that was --
17 obviously, that's -- that's -- those are good numbers,
18 and that's -- that's great -- great to accomplish.
19 But we also had additional investigators. Correct? I
20 mean, you -- your number of investigators have gone
21 from 2007/2008 to a greater number in 2009. I don't
22 know what that number is, but --

23 MR. GOMEZ: Yes, sir. We did increase
24 our numbers, but in increasing our numbers, we also
25 keep -- have to keep in mind again -- and go back to

1 the learning curve of these individuals. So, once
2 they hit the ground running, which is what we hope
3 after their learning curve of six months, then that
4 reflects on the closures.

5 CHAIR ANDERSON: And we can only use --
6 again, the financial people aren't here. But we can
7 only use the housing money for the housing side. You
8 can't -- you can't use it to supplement any
9 shortcomings that occur in -- in the employment side.

10 MS. COVINGTON: That's my understanding.

11 MR. GOMEZ: For the housing
12 investigators and also for any housing outreach money
13 that we get, we get housing outreach money, and also
14 for support staff; for example, Becky, myself, the
15 administrative assistants, the receptionist, so on and
16 so forth. Any amount of time that they spend in
17 housing, they can charge that time to housing
18 revenues.

19 MS. COVINGTON: Next slide.

20 This shows the cases by closure type.
21 The highest category are the no cause at approximately
22 41 percent of our closures. What I'd like to point
23 out are the withdrawals with settlements as well as
24 the conciliations. They were approximately 40 percent
25 of our case closures, and that's an increase of

1 approximately 12 percent from last year.

2 Are there any questions?

3 (No response)

4 MS. COVINGTON: Next slide.

5 We've been working diligently to close
6 the cases that are in the over 100 days category, and
7 last year approximately 55 percent of our cases were
8 100 days or over. So, we're pretty pleased with the
9 progress we've made. They now consist of
10 approximately 33 percent of our pending inventory, and
11 these cases continue to be our priority cases.

12 We hope to -- at our next Commission
13 Meeting we hope to be able to report that they only
14 consist of 23 percent of our pending inventory.
15 That's our goal.

16 CHAIR ANDERSON: And it's what right
17 now? What --

18 MS. COVINGTON: We're at 33 percent --

19 CHAIR ANDERSON: 33.

20 MS. COVINGTON: -- currently.

21 Are there any questions?

22 CHAIR ANDERSON: Do you ever look at the
23 complexity of how many cases that you get in are
24 relatively simple and others are construction and --

25 MR. GOMEZ: That's basically the basic

1 difference that we do look at, is the cases that come
2 in with your basic issues and bases for the case and
3 also the design and construction case. We --
4 previously last year, before we reorganized, we did
5 have two investigators that primarily focused on D&C
6 or design and construction cases. But now they are
7 going to be receiving regular cases also, and then D&C
8 cases are going to be spread around among the other
9 investigators.

10 I do want to point out that when --
11 since we are a partner with HUD, we are compared to
12 the national FHAPs, Fair Housing Assistance Programs,
13 which is what we are in partnership with HUD. And
14 Vickie mentions that we are at 33 percent, and we are
15 below the tolerance level that HUD has established
16 for -- nationally for all the FEPAs. And we are way
17 below that in as far as the age of pending cases. So,
18 I did want to point that out.

19 MS. COVINGTON: Are there any other
20 questions?

21 COMM. JAMES: Yeah, a quick question.
22 The numbers are kind of unbelievable in a good way, I
23 should say. So, it -- help me, again, understand the
24 over 100 days kind of trajectory, because that's
25 pretty significant. And I don't want to just brush it

1 off as, "Oh, the numbers are lower," if we should be,
2 you know, going out for a drink afterwards.

3 (Laughter)

4 COMM. JAMES: You know, I -- help me
5 understand kind of that over 100 days trend over the
6 last 12 months and the cases, from 103 to 40. Is that
7 significant, or am I reading that wrong?

8 MS. COVINGTON: That -- that -- that is
9 significant. And, basically, what we decided to do at
10 the beginning of the fiscal year is to make those
11 cases our priority. And so, similar to employment,
12 what we do is we run a report every month, and we
13 target -- specifically target cases that are in
14 those -- in that category for resolution.

15 We -- and we work with the investigators
16 to make sure that they know that those cases are the
17 priority but also to make them aware that the newer
18 cases, they can't let those age, also. So, basically,
19 what -- what they do is they look at their
20 inventories. They look at our priorities, and they
21 look at the newer cases that they receive.

22 And they kind of work them from both
23 ends to the middle, and some of the investigators have
24 been very successful in almost completely eliminating
25 any cases in their inventory over 100 days. And so

1 then we shift our focus to some of the investigators
2 that seem to have -- need to -- need a little bit more
3 assistance with handling the aged cases.

4 COMM. JAMES: So, we're able to do --
5 based on the way you've operationalized it, we're --
6 we're able to see this kind of success by really
7 honing in every month and identifying where -- where
8 the problem --

9 MS. COVINGTON: That's correct.

10 COMM. JAMES: -- children cases are and
11 really --

12 MS. COVINGTON: That's correct. And we
13 do it at the beginning of the month so we can have
14 like a reasonable expectation of maybe being
15 successful. If we target all of the cases, then we
16 know that a certain percentage of those are going to
17 be resolved.

18 COMM. JAMES: Now --

19 (Simultaneous discussion)

20 MR. GOMEZ: Commissioners -- I'm sorry,
21 Commissioner James, just to add to that.

22 We have to also look at it from the
23 staffing perspective, because if you remember the year
24 previous, we lost some tenured and experienced
25 investigators. And then, as I mentioned previously to

1 you-all, we did hire about five or six new
2 investigators. And then, again, in the fiscal year
3 itself, they went through their learning curve.

4 So, these individuals have learned it,
5 have applied it, have closed the cases. And -- and
6 that also has a reflection on the numbers.

7 As -- as you pointed out, it is -- it is
8 significant, from 104 to 40. I agree with you 100
9 percent on that. And this is another attribute that
10 had an impact on -- on that on the 100 days and over
11 cases.

12 COMM. JAMES: Sure. Thanks for reading
13 my mind on that one, because that was my next
14 question.

15 Related to that, though, were we not
16 fully staffed in 2007? Didn't we --

17 MS. COVINGTON: If -- if you will
18 recall, I believe at that time we were generalists --

19 COMM. JAMES: Oh, that's right.

20 MS. COVINGTON: -- and the -- the
21 investigators were conducting both employment and
22 housing investigations at the time, and they were --
23 their numbers for housing were two to three cases. We
24 had quite a bit of turnover during that time period,
25 also.

1 COMM. JAMES: Okay. That's a great
2 point. Thank you.

3 MR. GOMEZ: And along with that, if
4 you-all recall, one of the issues that the
5 investigators had when they were generalists was the
6 fact that they had to go from one program to the
7 other, which proved more difficult for some
8 investigators than others. And so the numbers in
9 their closures -- reflected in their closures were
10 much lower.

11 COMM. JAMES: And even though I thought
12 it was a good idea back then, for the record, I don't
13 think that was a good idea.

14 (Laughter)

15 MR. GOMEZ: Thank you, sir. I'm glad we
16 went the right way.

17 COMM. JAMES: Yeah, absolutely.

18 MS. COVINGTON: Next slide.

19 Since our last meeting, as you know,
20 Ms. Washington, one of our team leads, graduated from
21 the National Fair -- National Fair Housing Training
22 Academy.

23 And I just want to say, good job,
24 Cynthia, and maybe I can catch up with you sometime.

25 (Laughter)

1 MS. COVINGTON: She also attended the
2 mortgage lending training, which was given here in
3 Fort Worth, which was a plus, because we got to save
4 on some of the travel expenses. And normally this
5 class was -- you'd have to have a prerequisite to
6 attend -- you would have had to have graduated, but
7 this particular class, from what I was told, was a
8 pilot program. And we're hoping that they will be
9 bringing more of the classes to Fort Worth, because
10 what that would mean is that we will be able to save
11 on our travel funds.

12 We also participated in the HUD on-site
13 with -- which Robert talked about earlier. The team
14 leads were also a part of that meeting. We also
15 issued a charge in June, and that charge is now
16 pending litigation with the Attorney General's Office.

17 And I'd also like to let you know that
18 during the last fiscal year we received relief for
19 complainants to include housing. We received 378
20 thousand, 165 thousand dollars in monetary relief for
21 complainants and for the public. And this was through
22 litigation, conciliation, and withdrawals with
23 benefits.

24 In addition, we received public interest
25 relief in the form of housing, changes in respondent's

1 policies, procedures, and practices, training for
2 respondents and their staff, approval of reasonable
3 modifications, approval of reasonable accommodations,
4 and retrofitting of properties that were -- that were
5 identified to be out of compliance with the Fair
6 Housing Design and Construction Manual. We also
7 coordinated with Finance and RID so that future public
8 interest relief may be -- may include education and
9 outreach public funding for TWC CRD, and we're still
10 working with RID and Finance to see how exactly that's
11 going to work out. We did receive our first check for
12 \$100 last month, but this is going to be something in
13 progress.

14 Are there any questions?

15 (No response)

16 MS. COVINGTON: Next slide.

17 This slide shows the performance of our
18 mediators for Fiscal Year 2009, and I'll -- I'd like
19 to let you know that this resulted in \$1,537,955 in
20 relief to complainants and, thereby, savings to the
21 parties, because they didn't have to go through the
22 litigation process. The cases closed included public
23 relief in the form on employer staff training, as well
24 as changes in policies, procedures, and practices.

25 Are there any questions?

1 (No response)

2 MS. COVINGTON: Robert discussed the
3 superNOFA grants that we applied for, and -- I'm
4 sorry. I lost my notes -- and I'd like to let you
5 know that we worked with the grants coordinator, Dede
6 Webb, to submit three grant proposals. Thanks to her
7 and David Trinidad, our Outreach Coordinator and
8 Investigator, we were able to submit three proposals
9 that will target the aged disabled populations in
10 North, South, and Central Texas.

11 Many of the complaints we receive are
12 based on disability, and we found that respondents are
13 often making housing choices for people at their sole
14 discretion, rather than the residents making the
15 decision or the resident's families. What we've also
16 found is that respondents are unaware of or do not
17 understand fair -- fair housing laws as they apply to
18 people with disabilities. And so if we are awarded
19 these grants, what that will do is give us the
20 opportunity to educate both housing providers and
21 people who use housing in different avenues about what
22 their rights and responsibilities are as far as fair
23 housing.

24 The -- the populations that are growing
25 the fastest are located in Denton, Collin, Williamson,

1 and Hays Counties. And these are some of the counties
2 that we have targeted.

3 CHAIR ANDERSON: All three grants -- all
4 three grants, are they all for the same general
5 topics, the elderly disabled and disabled?

6 MS. COVINGTON: Yes, Chair. Although,
7 when we conduct our outreach, we include all the
8 protected bases. But the primary focus will be for
9 the disabled.

10 Are there any questions?

11 (No response)

12 MS. COVINGTON: I would like to back up
13 and let you know that on July the 24th, 2009, Alice
14 MacKenna, Tony Robertson, and I participated in the
15 Rio Grande Valley Fair Housing Seminar. It was
16 sponsored by the Fair Housing Council of San Antonio.

17 Alice and I were speakers, along with
18 Sandra Tamez, and she's the -- their executive
19 director. We also were co-speakers with HUD's Fair
20 Housing and Equal Opportunity Director, Thurman Miles,
21 and their attorney, Betsy Darling.

22 Are there any questions?

23 (No response)

24 MS. COVINGTON: If there are no
25 questions, then I'm done.

1 (Laughter)

2 MS. COVINGTON: And thank you very much.

3 MR. GOMEZ: Okay. Thank you, Vickie.

4 CHAIR ANDERSON: Robert, the employees,
5 as -- as Commissioner James was indicating, are not
6 generalists anymore; they just focus on housing or
7 employment. Do -- and I assume this is -- I'm
8 assuming this, and I guess I shouldn't. The -- the
9 leadership, you and your managers, are comfortable
10 going and providing assistance and guidance to the
11 employees on either Title VII or Title VIII issues
12 or --

13 MR. GOMEZ: Yes, sir. Our management
14 team, as we had discussed when we were discussing part
15 of the discussions that we had prior to the
16 reorganization or -- or planning to going to the
17 reorganization, was the fact that we would still have
18 our management team being trained both in employment
19 and housing and having knowledge in both employment
20 and housing. I do want to state that on the job
21 vacancy notice that we put out there for Janet's
22 position that she just obtained we did advertise for
23 both employment and housing. The screening was done
24 for both employment and housing, and the interview
25 questions themselves were geared towards employment

1 and housing.

2 So, we will continue to do that. Our
3 three lead investigators are two managers, myself
4 and -- and also Becky, because she does get a lot of
5 the questions that come into my office, will remain
6 proficient and trained in both employment and housing.

7 CHAIR ANDERSON: Okay. Good.

8 MR. GOMEZ: And, with that, I have no
9 further information, and my staff is finished with
10 their reports. So, unless there's any questions, I am
11 finished.

12 AGENDA ITEM NO. 8

13 CHAIR ANDERSON: Okay.

14 The next item on the agenda, before we
15 get into the -- John Moore's presentation, is the
16 meetings for 2010, with January being, as we already
17 mentioned, a very important meeting to make sure
18 that -- because the -- the budget is so critical and
19 so tight (laughter), that January meeting will be very
20 important. So, we need to make sure we've got all
21 the -- all the dates where people are comfortable but
22 particularly the January meeting.

23 Becky, what -- what dates do you think
24 we need to have on those meetings for 2010?

25 MS. SMITH: Well, we --

1 We normally go the middle of the month
2 and then like a Wednesday, excuse me.

3 MS. SMITH: Yeah. It's primarily been
4 the third Wednesday of the month. I do believe that
5 the third Wednesday of January some of our staff are
6 going to be out Monday and Tuesday due to national and
7 state holidays. So, the January 20th is really not a
8 good date for us.

9 CHAIR ANDERSON: Okay.

10 MS. SMITH: And Tuesdays are not good,
11 because this room is occupied by TWC Commissioners.

12 COMM. JAMES: So, should we just go
13 January 13th?

14 COMM. DIGGS: Or the 27th.

15 CHAIR ANDERSON: Or the -- or the 14th,
16 which would be a Thursday. What -- what would be good
17 for -- for staff?

18 MR. GOMEZ: The 13th or the 27th would
19 be okay.

20 CHAIR ANDERSON: And normally it would
21 be on a -- on Wednesday the 20th?

22 MS. SMITH: Yes, sir.

23 CHAIR ANDERSON: Or we could -- the 21st
24 which is, again, a Thursday. I'm not trying to change
25 it, but do like a Thursday, or is that still going to

1 create some problems for staff?

2 MR. GOMEZ: No. The only situation that
3 exists or will exist in January is the fact, as Becky
4 said, the 18th and 19th are state and federal
5 holidays. And if we're out those two days, that gives
6 us that Wednesday, I guess, to prepare for the
7 meeting. So, there wouldn't be any -- any issue.

8 CHAIR ANDERSON: Would it be better
9 later or earlier, like the 27th? Some -- some said
10 the 27th, which is a Wednesday. Is that better
11 than --

12 MR. GOMEZ: Like I said, Chair Anderson,
13 the 13th or 27th would be okay. I don't see any
14 problems.

15 (Discussion off the record)

16 CHAIR ANDERSON: It would be better?
17 Commissioner Morris.

18 COMM. MORRIS: That's fine.

19 CHAIR ANDERSON: Okay. 13th.

20 All right. The next -- the next one is
21 April. May was an -- was an unusual one this year.
22 It's the last page of the agenda, if you want to look,
23 Commissioners, last -- last page of the booklet that's
24 been submitted.

25 The May one was an unusual one. So,

1 April, July, and October. Just want to go with the
2 regular -- Becky, we -- what -- what -- do you have a
3 calendar with you?

4 MS. SMITH: Uh-huh.

5 CHAIR ANDERSON: What is it in April?

6 MS. SMITH: April 21st.

7 CHAIR ANDERSON: The 21st. And what
8 about July?

9 (Discussion off the record)

10 MS. SMITH: Okay. April 21st is a
11 skeleton crew day.

12 CHAIR ANDERSON: Is a what?

13 (Discussion off the record)

14 MS. SMITH: The 21st is fine, April 21st
15 is fine. July, do y'all want to go with the 21st
16 again?

17 CHAIR ANDERSON: Is that -- is that a --
18 that's the Wednesday, the third Wednesday?

19 MS. SMITH: Third Wednesday of the
20 month, yes, sir.

21 CHAIR ANDERSON: Okay.

22 Any of the Commissioners speak up if any
23 of these dates are -- create a big problem for them.

24 Commissioner -- Commissioner Michalka
25 doesn't have a vote, so --

1 (Laughter)

2 MS. SMITH: Okay. And then October
3 20th.

4 CHAIR ANDERSON: Okay. January 13th,
5 April 21st, July 21st, October 20th. Do we need to
6 make a motion on that or just set it? Okay. Those
7 are the -- those will be the dates for the meeting for
8 2010.

9 AGENDA ITEM NO. 7

10 CHAIR ANDERSON: Before John comes up,
11 which is the next item on the agenda, the action items
12 for last -- last -- that came out of the last meeting
13 in July are Commissioner James requested that copies
14 of the customer survey results be sent to the
15 Commissioners. That was done on July 23rd.

16 Did all the Commissioners get that?

17 (Commissioners nodding)

18 CHAIR ANDERSON: Okay. I see --

19 MR. GOMEZ: And I will send out this one
20 this afternoon.

21 CHAIR ANDERSON: Okay. We've already
22 taken care of the second item on there, which is the
23 2010 Calendar. No. 3, Chair Anderson advised the
24 Commissioners and (inaudible) focus on general areas
25 of Civil Rights Division, and the areas are Housing,

1 Employment, ADR, Training and Monitoring, and note at
2 the next meeting decide which Commissioners would be
3 serving in each area.

4 And right now we have -- Employment is
5 Commissioner James and Michalka, Housing, Commissioner
6 Stidvent and Commissioner Osterhout, and Training and
7 Mediation, Michelle -- or Commissioner Diggs and
8 Commissioner Morris. And then I would focus on
9 Budget, Finance, and Legal. It doesn't mean that we
10 wouldn't -- we would ignore the other areas and not --
11 in the area of responsibility.

12 Does anybody have any questions or
13 concerns or want to -- to change those assignments,
14 which are not locked in stone and won't last forever?
15 But -- Commissioner Morris?

16 COMM. MORRIS: That's fine.

17 COMM. DIGGS: Uh-huh.

18 CHAIR ANDERSON: Okay. So, we'll go
19 with that for the present time, let's say at least
20 through 2010. Then we'll take a -- revisit this item
21 in 2011.

22 I think we're up to the Open Meetings
23 and Open Records -- oh, there's one other item.
24 Commissioner -- Chair Anderson instructed Ms. Smith to
25 send the two new Commissioners the information that

1 was sent via e-mail to the Commissioners on April 16th
2 and also the information Mr. Gomez sent on April 23rd
3 to the Commissioners. That information was sent to
4 Commissioner Diggs and Morris on June 23rd.

5 COMM. DIGGS: Uh-huh.

6 Did you get that, Commissioner Morris?

7 COMM. MORRIS: Yes, sir.

8 CHAIR ANDERSON: So, it looks like all
9 the action items are completed, except for Mr. Moore.

10 What do we have for action items for
11 this next time, Becky?

12 MS. SMITH: Okay. You have instructed
13 Budget and Mr. Gomez to prepare a side-by-side 2009
14 budget revenue as compared to 2010. We are going to
15 be looking at the first quarter's budget and numbers
16 in January. And prior to that meeting, if things do
17 not look like they should, Mr. Gomez, Mr. Crump, and
18 Mr. Steglich are supposed to work on a plan to bring
19 that into -- where it will level out where we will
20 meet budget and numbers.

21 CHAIR ANDERSON: Okay.

22 MS. SMITH: And Mr. Gomez has advised he
23 will send out the customer survey, the current one,
24 and have set -- scheduled our meetings for January
25 13th, April 21st, July 21st, and October 20th.

1 CHAIR ANDERSON: Okay. Are there any
2 other items that need to be on the action list from
3 any of the Commissioners, something we haven't thought
4 about?

5 (No response)

6 MS. SMITH: Okay. Thank you, Becky.

7 AGENDA ITEM NOS. 9, 10 & 11

8 CHAIR ANDERSON: Mr. Moore, you're on.

9 (Training: 10:29 a.m. to 11:05 a.m.)

10 (Executive Session)

11 (Meeting adjourned)

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C E R T I F I C A T E

STATE OF TEXAS)
COUNTY OF TRAVIS)

I, JANIS SIMON, a Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me or under my supervision, later reduced to typewritten form under my supervision and control and that the foregoing pages are a full, true, and correct transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this day of 2009.

JANIS SIMON
Certified Shorthand Reporter
CSR No. 7076 - Expires 12/31/09
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