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COMMITTEE TO INVESTIGATE CANDIDATES
FOR THE SOUTH CAROLINA
DEPARTMENT OF EMPLOYMENT AND WORKFORCE

S C R E E N I N G S

DATE: Tuesday, April 12, 2016
TIME: 10:00 a.m.
LOCATION: L. Marion Gressette Building
1101 Pendleton Street
Room 209
Columbia, South Carolina
REPORTED BY: NISHA GORDON
Court Reporter

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1 COMMITTEE MEMBERS PRESENT:
2 CHAIRMAN SENATOR ALEXANDER
3 REPRESENTATIVE BINGHAM
4 SENATOR JOHN L. SCOTT
5 REPRESENTATIVE JENNY HORNE
6 MS. MICHELLE P. KELLEY
7 MR. PATRICK M. MICHAELS
8 MR. PATRICK BRYANT
9 MS. LISA MANINI WIDENER
10 MR. KENNETH M. MOFFITT
11 MR. JAMEY GOLDIN

12
13 ALSO PRESENT:
14 CAROLYN YOUMANS
15 REPRESENTATIVE CLARY

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1 PROCEEDING 10:05 a.m.

2 CHAIRMAN SENATOR ALEXANDER: All right.

3 I'm going to go ahead and call this committee meeting
4 for South Carolina Department of Employment and
5 Workforce Appellate Panel review of candidates to order.

6 It's Tuesday, April 12th, and the time is
7 10:05. We have a quorum, and good morning to each and
8 every one of you that are here with us today.

9 I'm going to ask that the members -- I
10 think we have some public, as well as legislative
11 members. If we could start with our newest member, and
12 if you would just briefly introduce yourself and where
13 you're from.

14 MR. BRYANT: Absolutely.

15 It's Patrick Bryant, and I'm an
16 entrepreneur from Charleston, South Carolina. I went to
17 Spring Valley and University of South Carolina and so
18 also a Columbia native.

19 CHAIRMAN SENATOR ALEXANDER: Glad to have
20 you.

21 MR. MICHAELS: And I'm Pat Michaels. I'm
22 the CEO of the Goodwill Industries of Upstate/Midlands
23 South Carolina. I don't have anybody who's -- I have
24 two kids at University of South Carolina and one
25 graduate on May 4th.

1 CHAIRMAN SENATOR ALEXANDER:

2 Congratulations.

3 MR. MICHAELS: Yes, I'm excited.

4 CHAIRMAN SENATOR ALEXANDER: Not that
5 you're counting. May 4th, just around the corner.

6 MS. KELLEY: I'm Michelle Kelley. I'm an
7 attorney from Columbia, South Carolina, at Richardson
8 Plowden, and I went to USC all the way through.

9 MS. WIDENER: I'm Lisa Manini Widener, and
10 I'm director of research for the Labor, Commerce and
11 Industry Committee.

12 REPRESENTATIVE BINGHAM: I'm Representative
13 Kenny Bingham. I serve House District 89 over in
14 Lexington County, which is Cayce, West Columbia,
15 Springdale.

16 MR. GOLDIN: I'm Jamey Goldin, chief legal
17 counsel of the House Labor, Commerce and Industry
18 Committee and House counsel for this joint committee.

19 MR. MOFFITT: Ken Moffitt. I'm assistant
20 clerk of the Senate and Senate legal counsel for this
21 committee.

22 CHAIRMAN SENATOR ALEXANDER: Thank you.
23 And I'm sure we'll be joined by other members, and we're
24 also delighted to have Representative Clary from the
25 Clemson area.

1 And I'm Thomas Alexander, State Senator,
2 District One, the Greater Clemson area of Pickens County
3 and all of Oconee County. So at least we've got one
4 Clemson supporter out of all these Gamecocks. So it's
5 an opportunity for us to work together today.

6 And the purpose of this meeting is for the
7 screening of the candidates for the three positions of
8 the South Carolina Department of Employment and
9 Workforce Appellate Panel. The candidates that we'll be
10 screening today, first will be Ms. Evelyn B. Ayers, seat
11 number 1; Mr. Tim Dangerfield, seat number 2; and
12 Mr. Steve Kelly, seat number 3.

13 So at this point, if there's no other
14 business to come before the Committee, we'll begin the
15 screening. And I am going to ask that Ms. Ayers come
16 forward and be seated, please, ma'am. And make sure
17 your green light is on at that chair right there,
18 please, ma'am.

19 (Senator Scott enters the room.)

20 CHAIRMAN SENATOR ALEXANDER: Good morning.

21 MS. AYERS: Good morning.

22 CHAIRMAN SENATOR ALEXANDER: This is a term
23 that would be commencing on July 1st, 2016, and expiring
24 July 1st, 2020.

25 If you would, please, raise your right hand

1 so I can swear you in.

2 MS. AYERS: (Complying.)

3 CHAIRMAN SENATOR ALEXANDER: Do you swear
4 to tell the truth, the whole truth, and nothing but the
5 truth, so help you God?

6 MS. AYERS: Yes, I do.

7 CHAIRMAN SENATOR ALEXANDER: Okay. Thank
8 you.

9 Well, again, we're delighted to have you
10 with us here. If you will, just briefly tell us
11 something about yourself and why you wish to continue to
12 serve on the South Carolina DEW Appellate Panel, please,
13 ma'am.

14 MS. AYERS: Well, I am Evelyn Belicia
15 Ayers, as he stated, and I am very interested in
16 continuing to serve on the Department of Employment and
17 Workforce Appellate Panel.

18 I have been with the agency for quite some
19 time. Dating back to my college years, during the
20 summertimes I would go for internships, and I've just
21 seen a lot of change and a lot of growth in the agency.
22 I worked as a hearing officer from 2006 on through 2010,
23 and at that time in 2010, I was elected to serve on the
24 appellate panel.

25 And so it's just been a great opportunity

1 to see the growth of the agency and to be a part of this
2 to help serve the citizens of the state of South
3 Carolina.

4 CHAIRMAN SENATOR ALEXANDER: Okay. We've
5 received your personal data questionnaire. We have the
6 statement of economic interest form, the SLED report,
7 background check, credit report, and driving record.
8 They've been reviewed and been found to be complete
9 with, I think, some additional information that you
10 submitted recently; is that right?

11 MS. AYERS: Yes.

12 CHAIRMAN SENATOR ALEXANDER: And it's part
13 of the record.

14 Is there anything else at this time that
15 you would like to either add or make changes to the
16 information that you've provided to the Committee?

17 MS. AYERS: No. I do have a copy of my
18 resume if you all would like to have that.

19 CHAIRMAN SENATOR ALEXANDER: We can get
20 that.

21 And we have some questions for you, and I'm
22 going to ask that Lisa provide these questions and ask
23 that you respond to them, please.

24 MS. WIDENER: Good morning.

25 MS. AYERS: Good morning.

1 MS. WIDENER: Do you or any member of your
2 family own or operate any business which contracts with
3 state or federal government?

4 MS. AYERS: No.

5 MS. WIDENER: Do you or any member of your
6 family own or operate any business which receives state
7 or federal funds from a board to which you are being
8 appointed?

9 MS. AYERS: No.

10 MS. WIDENER: Have you ever been arrested,
11 charged, or held by federal, state, or other law
12 enforcement authorities for violation of the law,
13 regulation, or ordinance, not including traffic
14 violations, for which a fine of \$200 or less was
15 imposed?

16 MS. AYERS: No.

17 MS. WIDENER: Have you, to your knowledge,
18 ever been under federal, state, or local investigation
19 for possible violation of a criminal statute?

20 MS. AYERS: No.

21 (Representative Horne enters the room.)

22 MS. WIDENER: Have federal, state, or local
23 authorities ever instituted a tax lien or other
24 collection procedure against you personally?

25 MS. AYERS: No.

1 MS. WIDENER: Have you ever defaulted on a
2 student loan?

3 MS. AYERS: No.

4 MS. WIDENER: Have you ever filed for
5 bankruptcy?

6 MS. AYERS: No.

7 MS. WIDENER: Have you ever been
8 disciplined or cited for a breach of ethics or
9 unprofessional conduct by any court, agency,
10 association, or professional group?

11 MS. AYERS: No.

12 MS. WIDENER: Are you now or have ever been
13 employed as a lobbyist or acted in the capacity of a
14 lobbyist principal?

15 MS. AYERS: No.

16 MS. WIDENER: Do you know of any
17 circumstances which would limit your term of service on
18 this board?

19 MS. AYERS: No.

20 MS. WIDENER: Do you understand the
21 obligations and responsibilities of the position on the
22 South Carolina DEW Appellate Panel?

23 MS. AYERS: Yes.

24 MS. WIDENER: Are there any reasons you
25 would have difficulty performing the duties of this

1 appointment?

2 MS. AYERS: No.

3 MS. WIDENER: Is there any comment you
4 would like to make to the Committee?

5 MS. AYERS: I do not have any at this time.

6 MS. WIDENER: Thank you, Ms. Ayers.

7 MS. AYERS: Thank you.

8 CHAIRMAN SENATOR ALEXANDER: Okay. So
9 we're delighted to have join us, a senator from
10 Richland, Senator Scott, and Representative Horne.
11 We're delighted to have y'all. We're kind of going
12 around from that standpoint.

13 Are there questions from members of the
14 Committee of Ms. Ayers?

15 CHAIRMAN SENATOR ALEXANDER: Yes, sir,
16 Senator from Richland.

17 SENATOR SCOTT: Thank you, Mr. Chairman.
18 It's probably more of a comment than a question.

19 Ms. Ayers, as a child -- I've known her all
20 of her life, and she's my constituent. And when we
21 first created the panel and changed the method in which
22 we were reviewing these cases, Ms. Ayers was always one
23 of our choices, and she's really grown in that position.
24 I think she's even had the opportunity at the early part
25 of the panel to act as its chairman, if I'm not

1 mistaken.

2 MS. AYERS: Yes.

3 SENATOR SCOTT: All right. So she's well
4 qualified. She knows the ins and outs of that agency.
5 She grew up in the agency. Prior to, we took her as an
6 employee and made her one of the panelists.

7 And so I think we have the opportunity to
8 put a well-qualified person back on this panel who's
9 doing an excellent job. At least I have not heard of
10 any cases or issues since she's been on that panel that
11 we might need to address.

12 And some of the others may have some
13 questions or some comments. Thank you, Mr. Chairman.

14 MS. AYERS: Thank you.

15 CHAIRMAN SENATOR ALEXANDER: Questions?

16 REPRESENTATIVE BINGHAM: I've got a couple
17 for you, if I could, and for all of the candidates.

18 How does the panel ensure that it operates
19 in compliance with the state and federal administrative
20 requirements, you know, whether it's leave, work hours,
21 workplace location, things of that nature? Are there
22 things to govern y'all from that standpoint and make
23 sure that y'all are in compliance?

24 MS. AYERS: I'm not sure of the governance
25 of that. We are housed at the Department of Employment

1 and Workforce. We hold cases there.

2 As far as submitting leave, we submit that
3 to -- I believe the title would be the executive
4 director. We've had some changes in leadership over
5 there.

6 And so anytime we have leave, it comes from
7 the leave accounts, the state leave accounts that we
8 have, submit that to the executive director, and we
9 proceed from that standpoint.

10 As far as our hearings, we're currently
11 holding hearings on Tuesday; Wednesday, if some spill
12 over. It just depends on the workload. When we first
13 started in 2010, we held cases primarily Tuesday,
14 Wednesday, and Thursday starting at 9:30 a.m., ending
15 around 3:30 p.m. or 4 o'clock, p.m.

16 There was a very, very large backlog of
17 cases when we initially began this journey, as well as a
18 lot of obstacles to overcome with the structure of the
19 higher authority appeals division. At the time it was
20 the legal department. They did not have a computerized
21 system in place.

22 And so the system was very antiquated, and
23 it took a lot of time and dedication to work through
24 those factors. But since then, things have leveled off
25 quite a bit.

1 And so we are back on with doing cases on
2 review, which are the cases that are not granted an
3 in-person hearing. We review the record from the lower
4 authority appeals unit. We check it for any errors,
5 make sure that the hearing officer conducted the hearing
6 in a just fashion, and then address the concerns of the
7 appealing party.

8 And so those are on review, and the more
9 complex issues are held as in-person hearings. And if
10 any person ever requests an in-person hearing, that's
11 initially scheduled for a review. We're more than happy
12 to give them the in-person hearing.

13 And so right now, due to our workload, we
14 do reviews on Tuesday, which today we'll go in and we'll
15 do reviews after our meeting today, and then we'll hold
16 hearings. We don't have any hearings scheduled for this
17 week, but we have our next set of hearings, which, I
18 believe, is on the calendar for next week. We will have
19 those hearings on Tuesday and Wednesday.

20 CHAIRMAN SENATOR ALEXANDER: Okay. Thank
21 you for that.

22 And just, if you could, kind of give me a
23 brief understanding of how you characterize the panel's
24 relationship with the Department of Employment and
25 Workforce as an administrative entity for y'all, and

1 are there any suggested changes that you would like to
2 bring to the Committee?

3 MS. AYERS: Okay. Well, as we discussed
4 earlier, we are housed at the agency. The staff that
5 writes our decisions perform the legal research for us.
6 We search with the law and policy. They report directly
7 to the agency.

8 And so there are certain policies that the
9 agency may instill that may be more burdensome or less
10 burdensome than what the law statutes require. And so
11 in that situation, we have the authority to use the
12 latitude that's given within the statute to either, I
13 guess, be more strict or less strict; whereas the
14 persons that are doing our proposed decisions, they are
15 required to adhere to the policies, because if they do
16 not, then they're subject to the discipline of the
17 agency.

18 And so they present to us proposed
19 decisions that are in accordance with the statutes but
20 also the policies of the agency. And then if we wish to
21 operate still within the statute but deviate from the
22 policy of the agency, which would still be legal because
23 it's a part of the statute, then that direction comes
24 from us. And we would have to send that decision back
25 for editing.

1 CHAIRMAN SENATOR ALEXANDER: Okay. And are
2 those edits always taken into account if y'all provide
3 those edits?

4 MS. AYERS: What do you mean?

5 CHAIRMAN SENATOR ALEXANDER: Do they always
6 adhere to those? Does the buck stop with y'all --

7 MS. AYERS: Oh, yes.

8 CHAIRMAN SENATOR ALEXANDER: -- or does the
9 agency still try to persuade their view on that ruling?

10 MS. AYERS: Well, they may persuade their
11 view, but they cannot persuade our view.

12 And so we individually just have to know
13 what it is we're working with and what the statutes
14 require to stop it there. You know, so if this is not
15 required in this statute, then this is what we can do
16 under the statute, and this is how I wish to rule, and I
17 will vote accordingly.

18 And so we have to individually stop. If I
19 see a problem, then I'm going to do that.

20 CHAIRMAN SENATOR ALEXANDER: And I would
21 assume when you're talking about the agency, making sure
22 it's in compliance, that's also with the federal law
23 that really governs that as well too, that you're in
24 compliance from their requirements as well?

25 MS. AYERS: Correct. We have federal,

1 state statutes, the judicial code that we're governed
2 by, as well as the Ethics Act.

3 CHAIRMAN SENATOR ALEXANDER: Okay. Other
4 questions?

5 MR. MICHAELS: (Indicating.)

6 CHAIRMAN SENATOR ALEXANDER: Yes, sir.

7 MR. MICHAELS: And this is really just more
8 for my edification. All of the folks that have kind of
9 wanted to be reappointed today have lots of connections
10 in the community, and I'm just wondering how you handle
11 it when you have a claimant or a business representative
12 and you know those people.

13 In other words, they're a family member of
14 yours, they're a friend of the family, or they're
15 somebody you may have gone to school with or you know.
16 How do you handle that when you have a connection to one
17 side or the other and that matter is coming before the
18 panel?

19 MS. AYERS: I understand.

20 I recuse myself. I do not hold that case.

21 What the code of judicial conduct requires
22 is that the conflict -- it's called a conflict -- that
23 the conflict be disclosed to the parties if you want to
24 proceed, and you can give the parties the option to
25 proceed with you presiding over the case or not.

1 And so you can always open it up to the
2 parties, but the cleaner way, if we do have, you know,
3 the two other panelists present to take care of that,
4 then I just simply recuse myself from it, and I state
5 the conflict and keep a record of that.

6 MR. MICHAELS: Does that happen frequently
7 or from time to time?

8 MS. AYERS: Well, I used to work as a
9 hearing officer. And so the cases that I held, of
10 course, I could not do another review, you know, of my
11 work below.

12 And so that right there is an example. And
13 with just that small transition there, there was a
14 period of time where there were quite a number of cases
15 that I had to recuse myself from. But I'm thankful to
16 say that a lot of people I know are not coming before
17 me, so they must be working.

18 MR. MICHAELS: Thank you. Thank you.

19 CHAIRMAN SENATOR ALEXANDER: And I think to
20 your point there, that at the appellate level, they've
21 already gone through the agency. They've gone through
22 several hearings before they get to the appellate level
23 from that standpoint.

24 Representative Bingham.

25 REPRESENTATIVE BINGHAM: And just to follow

1 up, it's a really good question. I appreciate you
2 asking that. In the situation, hypothetical or real,
3 let's say one of you have to recuse yourself --
4 obviously, since you're up there now, you'll respond to
5 it -- but then you have two left -- and, of course, the
6 reason we have three on the panel is so that we always
7 have a two to one or something and we have a ruling that
8 would win one way or the other --

9 MS. AYERS: Right.

10 REPRESENTATIVE BINGHAM: -- what happens in
11 a situation where a person recuses themselves and you've
12 only got two now listening to the appeal? And let's say
13 that the two that are there disagree and it's a split
14 vote, how is that handled?

15 MS. AYERS: Okay. Well, there's no
16 authority in South Carolina for handling those types of
17 situations. We turn to the courts in Georgia. In
18 Georgia, in that type of situation, the lower authority
19 appeals decision will stand as the final decision of the
20 agency. And if the parties wish to appeal it further,
21 it will go before the Administrative Law Court.

22 REPRESENTATIVE BINGHAM: So it would go as
23 a -- the appeal would just go back to whatever the
24 original ruling was, correct?

25 MS. AYERS: Right.

1 We would issue a decision just explaining
2 and citing the Georgia statute, and then --

3 REPRESENTATIVE BINGHAM: If it's a tie
4 vote, meaning if it failed in whichever way.

5 MS. AYERS: Right.

6 REPRESENTATIVE BINGHAM: Okay. Has that
7 happened since y'all have been on the --

8 MS. AYERS: (Nodding head.)

9 REPRESENTATIVE BINGHAM: Oh, it has?

10 MS. AYERS: Yes, it has.

11 REPRESENTATIVE BINGHAM: Oh, okay. Well, I
12 thought it was hypothetical. It has happened then.

13 MS. AYERS: It has happened.

14 REPRESENTATIVE BINGHAM: Is there a better
15 remedy for that?

16 MS. AYERS: We've even had three that
17 didn't agree. The three of us didn't agree, and that's
18 happened on an occasion. And I, personally, in my own
19 review, have not seen a better way to handle that,
20 because you want to -- you can't go with one person on
21 it, you know. The part -- or I guess what makes it a
22 fair opportunity to be heard is the fact that you have
23 three persons that can offer their vote.

24 And so what could work in favor of the
25 parties is for their arguments' sake when they go before

1 the Administrative Law Court is, well, here we have
2 three persons that could not agree here. There's
3 clearly some error that may have occurred on the appeal
4 below. That would be an argument in favor of the
5 claimant or an argument in favor of the employer.

6 And so it can just be utilized in their
7 preparation for their appeal before the Administrative
8 Law Court.

9 REPRESENTATIVE BINGHAM: When you say that
10 the three couldn't agree, how is there -- because I'm
11 ignorant, I guess, on the question I'm asking you. How
12 does that happen? It's either you uphold it or you
13 don't uphold it, or is there a great latitude of how you
14 can rule on that decision?

15 MS. AYERS: It depends on the case. We
16 have cases where it's disputed as to whether a party
17 quit their job or whether they were discharged. That
18 could be a situation.

19 If one person feels that the party
20 definitely quit their job, they may vote that they quit.
21 It depends on what the lower authority appeals unit
22 held. So if the lower authority said, Hey, this person
23 quit their job, then, of course, that would be one
24 panelist that would be voting to affirm the decision of
25 the hearing officer.

1 But the other two could say, Hey, it's not
2 quite crystal clear. This person was actually
3 terminated due to the actions of the employer.

4 And so now when we look at a termination,
5 there are various reasons for which a party could be
6 terminated. They could be terminated for gross
7 misconduct, misconduct, there could have been
8 termination for incapacity or inability, you know, to
9 perform the functions. And so each of those fall under
10 a different statute.

11 And so that's how you could have a
12 three-way split. It would be a termination for one
13 reason; the other person could view a termination for
14 another reason. One gross misconduct, one misconduct.

15 REPRESENTATIVE BINGHAM: Got it.

16 CHAIRMAN SENATOR ALEXANDER: Representative
17 Horne.

18 REPRESENTATIVE HORNE: First of all,
19 Ms. Ayers, and to the other members of the appellate
20 panel, thank you for your service to our state. And I
21 realize what a back load you had when you began this
22 endeavor many years ago, so I commend you. And thank
23 you for sending us the statistics that you do on a
24 regular basis to keep us advised of how these claims are
25 being processed in the timely manner in which you work.

1 Just to kind of help clarify some things,
2 Representative Bingham, when there's a tie, the lower
3 decision always stands. We found that out with the
4 Supreme Court very recently in a very recent decision of
5 the court. If there is a tie four to four, which there
6 was very recently in a case, then the lower court of
7 appeals decision stands. So how they're conducting
8 their business is really kind of like a -- it's kind of
9 how the system works.

10 But, again, I want to thank you again for
11 your service.

12 CHAIRMAN SENATOR ALEXANDER: And that is,
13 if one person recuses themselves --

14 MS. AYERS: Right.

15 CHAIRMAN SENATOR ALEXANDER: -- so that
16 you'll have that. Normally, that would not be the
17 circumstance.

18 MS. AYERS: Well, it could happen again if
19 it's a three-way.

20 CHAIRMAN SENATOR ALEXANDER: Oh, okay.

21 Other questions?

22 If not, the senator from Richland --

23 SENATOR SCOTT: Motion for a favorable
24 report.

25 CHAIRMAN SENATOR ALEXANDER: Favorable.

1 Is there a second?

2 REPRESENTATIVE HORNE: Second.

3 CHAIRMAN SENATOR ALEXANDER: Any discussion
4 on the motion?

5 Hearing none, we'll go to a vote.

6 All in favor of reporting out Ms. Ayers
7 favorably from the Committee, please raise your hand.

8 Let the record reflect that it's a
9 unanimous vote.

10 Thank you for the job that you are doing
11 and your willingness to continue to serve --

12 MS. AYERS: Thank you so much.

13 CHAIRMAN SENATOR ALEXANDER: -- and being
14 with us this morning.

15 MS. AYERS: Thank you.

16 MS. WIDENER: If you want to give your
17 resume to her so we can get it too.

18 CHAIRMAN SENATOR ALEXANDER: Yes. Yes. If
19 we could please get that, yes.

20 Now we will go to screen the appellate
21 panel seat number 2. The candidate is Mr. Tim
22 Dangerfield.

23 Good morning, sir.

24 MR. DANGERFIELD: Good morning.

25 CHAIRMAN SENATOR ALEXANDER: Good to see

1 you this morning.

2 Again, seeking reelection to seat number 2.
3 The term commencing on July 1st, 2016, to a term
4 expiring July 1st of 2020.

5 If you would, please raise your right hand
6 and I'll swear you in.

7 MR. DANGERFIELD: (Complying.)

8 CHAIRMAN SENATOR ALEXANDER: Do you swear
9 to tell the truth, the whole truth, and nothing but the
10 truth, so help you God?

11 MS. KELLEY: I do.

12 CHAIRMAN SENATOR ALEXANDER: Okay. If you
13 would, maybe tell us just briefly about yourself and why
14 you would like to continue to serve on the appellate
15 panel, please, sir.

16 MR. DANGERFIELD: Well, I know you have a
17 copy of my resume. I think you can see I've got a lot
18 of different things in my life, but I've enjoyed doing
19 what I've been doing. I think I bring common sense to
20 the panel. I'm kind of a no-nonsense-type person, but
21 common sense is important.

22 So I look forward to continue serving.

23 CHAIRMAN SENATOR ALEXANDER: Okay.

24 MR. DANGERFIELD: Well, before I forget, I
25 just noticed on the resume it said that I spoke with

1 these different conferences. I found out yesterday that
2 I will be the president of that conference starting
3 July 1st because I was second vice president and the
4 first vice president stepped down. So I was informed
5 yesterday that I'll be president of the National
6 Association of Unemployment Insurance Appeals
7 Professionals.

8 CHAIRMAN SENATOR ALEXANDER:
9 Congratulations.

10 MR. DANGERFIELD: I guess...

11 CHAIRMAN SENATOR ALEXANDER: And I trust
12 you'll be bringing that conference to South Carolina in
13 your tenure.

14 MR. DANGERFIELD: I did three years ago.
15 It was in Charleston. But I was hoping to do that
16 again, but it was already planned, and it's going to be
17 in Seattle. So I, you know...

18 CHAIRMAN SENATOR ALEXANDER: You inherited
19 that.

20 MR. DANGERFIELD: I inherited it.

21 CHAIRMAN SENATOR ALEXANDER: All right.
22 Mr. Dangerfield, it's so good to see you this morning,
23 and we appreciate your service.

24 We have received your personal data
25 questionnaire, your statement of economic interest. We

1 have also had the SLED background check. You have
2 before you the credit court report and driving record.

3 They've been reviewed. They've been found
4 to be complete with information, as well as references.
5 Everything is in order.

6 Are there any changes, additions,
7 deletions, or anything that you have for the Committee
8 this morning for the information you have provided?

9 SENATOR SCOTT: No.

10 CHAIRMAN SENATOR ALEXANDER: Then if you
11 would, respond to these questions that Lisa has for you,
12 please, sir.

13 MS. WIDENER: Good morning.

14 MR. DANGERFIELD: Good morning.

15 MS. WIDENER: Do you or any member of your
16 family own or operate any business which contracts with
17 state or federal government?

18 REPRESENTATIVE BINGHAM: No.

19 MS. WIDENER: Do you or any member of your
20 family own or operate any business which receives state
21 or federal funds from a board to which you are being
22 appointed?

23 MR. DANGERFIELD: No.

24 MS. WIDENER: Have you ever been arrested,
25 charged, or held by federal, state, or other law

1 enforcement authorities for violation of the law,
2 regulation, or ordinance, not including traffic
3 violations, for which a fine of \$200 or less was
4 imposed?

5 MR. DANGERFIELD: No.

6 MS. WIDENER: Have you ever, to your
7 knowledge, been under federal, state, or local
8 investigation for possible violation of a criminal
9 statute?

10 MR. DANGERFIELD: No.

11 MS. WIDENER: Have federal, state, or local
12 authorities ever instituted a tax lien or other
13 collection procedure against you personally?

14 MR. DANGERFIELD: No.

15 MS. WIDENER: Have you ever defaulted on a
16 student loan?

17 MR. DANGERFIELD: No.

18 MS. WIDENER: Have you ever filed for
19 bankruptcy?

20 MR. DANGERFIELD: No.

21 MS. WIDENER: Have you ever been
22 disciplined or cited for a breach of ethics or
23 unprofessional conduct by any court, agency,
24 association, or professional group?

25 MR. DANGERFIELD: No.

1 MS. WIDENER: Are you now or have ever been
2 employed as a lobbyist or acted in the capacity of a
3 lobbyist principal?

4 MR. DANGERFIELD: I was a lobbyist at one
5 time, but I'm not now.

6 MS. WIDENER: Okay. Do you know of any
7 circumstances that would limit your term of service on
8 this board?

9 MR. DANGERFIELD: No.

10 MS. WIDENER: Do you understand the
11 obligations and responsibilities of the position on the
12 SC DEW Appellate Panel?

13 MR. DANGERFIELD: Yes, I do.

14 MS. WIDENER: Are there any reasons you
15 would have difficulty performing the duties of this
16 appointment?

17 MR. DANGERFIELD: No.

18 MS. WIDENER: Is there any other comment
19 you would like to make to the Committee?

20 MR. DANGERFIELD: Nope. I just look
21 forward to serving.

22 MS. WIDENER: Thank you, Mr. Dangerfield.

23 CHAIRMAN SENATOR ALEXANDER: Okay.

24 Questions of the Committee?

25 We'll start with Senator Scott.

1 SENATOR SCOTT: Thank you, Mr. Chairman.

2 Members of this panel, just to comment, Tim
3 was one of the ten Dangerfields, was one of the original
4 members when this panel began when we went through the
5 complete restructuring of the organization. Tim has
6 done an excellent job in the work.

7 I guess the biggest point is that Tim
8 brought to this experience -- his experience as an owner
9 and manager of a number of stores across both South
10 Carolina and other states. I think some are in Georgia.

11 MR. DANGERFIELD: Georgia.

12 SENATOR SCOTT: And that in itself is what
13 we were going through as we separated the two, the
14 workforce and investment, from the panel, because they
15 all used to be one combined. It made the process of --
16 a much smoother process with his experience.

17 Roger would talk about his experience with
18 the department of commerce as chief of staff. So he
19 knew the process pretty well, and that's what we needed.
20 We needed an attorney who could hit the ground running,
21 so we took the staff person, and then we needed some
22 other folks who had spent years in business who had
23 already been through that whole process.

24 I think we've put together a pretty good
25 group of panelists who can get this job done. And at

1 least we've seen much better results come out of the
2 agency.

3 Thank you, Mr. Chairman.

4 CHAIRMAN SENATOR ALEXANDER: Thank you for
5 those comments, and we appreciate your involvement with,
6 that reform as well.

7 Any other questions?

8 Yes, sir, Representative Bingham.

9 REPRESENTATIVE BINGHAM: Just a general
10 question. Tim, I mean, as you've been through there --
11 and all three of you have been there since we
12 transformed the new board at the Department of
13 Employment and Workforce, and let me just make a general
14 statement.

15 All of you -- since I guess we kind of are
16 in the middle of it -- I really appreciate the job that
17 you've done. I know that when it started, it clearly
18 had an incredible backlog, as we know, and a lot of work
19 had to be done. And when we made the overhaul of the
20 administrative structure, you know, there's a learning
21 curve with all of that. Anytime you do a major overhaul
22 of an agency, you're never going to get it perfect the
23 first time, but there was a couple of iterations those
24 first couple of years after we passed the initial
25 legislation.

1 And I think that, clearly, the organization
2 is financially sound. It is structurally sound, and
3 we're seeing, you know, a lot better results in timing
4 and stuff in the reports you guys send out. We really
5 appreciate that, knowing how processes are moving there.

6 You know, sometimes if things are moving so
7 smoothly, you don't hear anything. You're just kind of
8 out of sight, out of mind. But that's a good thing, and
9 we want to make sure we keep it that way for as long as
10 we possibly can; however, we never want to be
11 complacent.

12 And so is there anything, Tim, that you're
13 seeing, you know, through your role, through your eyes,
14 whether it's directly something that's in your purview
15 or something else that you would just like to make the
16 Committee aware of or something that we need to look at
17 going forward to change, to make the system more
18 efficient, more fair, more balanced for all parties
19 concerned?

20 MR. DANGERFIELD: Well, I would say when we
21 got there in 2010, in my lifetime, I've never seen a
22 dysfunctional group in what we had. I'm not an
23 attorney; I'm a businessperson. And --

24 REPRESENTATIVE BINGHAM: You haven't served
25 in the general assembly, either, right?

1 MR. DANGERFIELD: No.

2 REPRESENTATIVE BINGHAM: I'm just kidding.

3 MR. DANGERFIELD: My dad did.

4 But anyway, you know, we took some business
5 ideas and put in place -- I believe it was an attorney.
6 So now we've got an attorney. They would always have a
7 representative attorney and then two businesspeople, and
8 I think between that combination, we fine-tuned it, got
9 it down. I'd say the amount of money we've saved that
10 organization -- because we've gone to, you know, reviews
11 instead of every time they transcribe -- they wanted to
12 transcribe everything, and that was just so expensive.
13 So we have brought some good business approaches there.

14 It's two things I think you might consider
15 doing. And you'll have to wait until after this
16 election, but I really think you ought to stagger the
17 terms, because what it is is all three of us running at
18 the same time, and if we all three next year -- I mean
19 four years from now decide not to run again, you've got
20 three new inexperienced persons. So I think you need to
21 stagger the terms, number one.

22 Number two, I think we had to go through an
23 ethics training of three hours when we first got there,
24 but it's every year. I think one hour is plenty. I
25 mean, we have a hard time.

1 We get the state ethics to come over, and,
2 I mean, they just -- you know, what can we tell you in
3 three hours? I mean, we can tell you the changes that
4 have been made. But I think an hour is really
5 efficient. If we need more, we can always get more, but
6 we struggle to get three hours.

7 And so those are the two things I would
8 say.

9 The agency is stable. They have a good
10 executive director. She's brought a lot of -- you know,
11 she just knows what she's doing.

12 We went through six assistant directors,
13 you know, when we were there. I mean, every year I
14 didn't know who was going to be -- that was our point of
15 contact.

16 And so now I think we've got someone who's
17 steady. If we keep that going, I think it should run
18 fine.

19 REPRESENTATIVE BINGHAM: The things that
20 you just mentioned -- I know the staggering of the
21 terms, I guess, that's statutory. But how about the
22 ethics training? Is that statutory or is that --

23 MR. DANGERFIELD: Yes.

24 REPRESENTATIVE BINGHAM: Both of those are
25 in --

1 MR. DANGERFIELD: Yes.

2 REPRESENTATIVE BINGHAM: Those are good
3 opportunities.

4 I'm sorry I didn't think of asking you
5 that, Ms. Ayers, when you were up there.

6 MS. AYERS: That's all right.

7 REPRESENTATIVE BINGHAM: I'm just trying to
8 make sure if there's something we need to do, it's a
9 great opportunity for you guys to give us some feedback,
10 and those are two good examples. I don't believe in
11 wasting time just sitting there and having training that
12 you don't need.

13 MR. DANGERFIELD: Right.

14 REPRESENTATIVE BINGHAM: I think it's a
15 waste of time, and we probably need to look at that
16 going forward, both of those things you said.

17 MR. DANGERFIELD: Okay.

18 REPRESENTATIVE BINGHAM: I think they're
19 good ideas, you're right, because what happens, you
20 know, the worst happens and we clear the slate, you
21 know, everybody that runs at the same time for whatever
22 reason, then you don't really have any overlap
23 whatsoever.

24 MR. DANGERFIELD: Right.

25 REPRESENTATIVE BINGHAM: And that could be

1 somewhat problematic.

2 So those are two good suggestions. Thank
3 you.

4 MR. DANGERFIELD: Thank you.

5 CHAIRMAN SENATOR ALEXANDER: I would like
6 for you to respond as well too as to how you ensure --
7 the panel ensures that operation compliance with state
8 and federal administrative requirements to leave work.
9 I think I heard you say that you do hearings on Tuesday,
10 Wednesday, and Thursday. I assume you're in the office
11 on Mondays and Fridays.

12 MR. DANGERFIELD: No. Usually, I work from
13 the house. I mean, I have a secure computer, but
14 everything is type and read. I mean, there's no need
15 for me to drive, you know, when I can read it sitting at
16 home.

17 And so, I mean, times when I have to come,
18 we're here, five days if we have to, but if we can do it
19 from home, we do it from home.

20 CHAIRMAN SENATOR ALEXANDER: Okay. And
21 what is the biggest challenge that you're seeing facing
22 the panel?

23 MR. DANGERFIELD: Getting the higher
24 authority to get the work to us. I mean, we're willing
25 to do more work.

1 Like I said, I told you earlier, in 2010, I
2 think we did 2,750 cases. Last year, we did 1,635. So
3 you can see the big decrease, but the part of the
4 problem is they're not getting the work to us because
5 they have to turn over --

6 CHAIRMAN SENATOR ALEXANDER: "They" being
7 the agency?

8 MR. DANGERFIELD: Right. And that's been
9 their --

10 CHAIRMAN SENATOR ALEXANDER: They're having
11 a lot of turnover.

12 MR. DANGERFIELD: The higher authority or
13 either the lower authority.

14 The lower authority was having problems.
15 They used to fall within, you know, the top ten in the
16 country of getting it all out. Well, they actually fell
17 to last because they couldn't get the material out. Now
18 they've been hiring more people, particularly attorneys,
19 and they've gotten a lot better.

20 The higher authority is short a person here
21 or there, so they cannot write the case. So the biggest
22 problem has been getting the cases to us. It's getting
23 better, but it's not there yet.

24 CHAIRMAN SENATOR ALEXANDER: Do you have
25 any idea of how many cases are in the backlog at the

1 agency?

2 MR. DANGERFIELD: No.

3 CHAIRMAN SENATOR ALEXANDER: They don't
4 provide you any data on that or anything?

5 MR. DANGERFIELD: No. We did a weekly --
6 like this week, we've got 73 cases that came in last
7 week. So we get a report each week on how many cases
8 are being heard. So 73 is a good number.

9 It's been 35 to 40, but 73, you know, show
10 as picked up or either, you know, they're writing more.
11 So I encourage them to do that.

12 CHAIRMAN SENATOR ALEXANDER: Other
13 questions?

14 Yes, sir, Mr. Michaels.

15 MR. MICHAELS: I think it's just kind of a
16 global question, and I have a little bit of a bias in
17 what I'm thinking you're going to answer. But, you
18 know, the nature of claimants, the nature of matters
19 that come before the appellate panel, has that changed
20 in the mix over the time that you've been there?

21 In other words, did you used to see a lot
22 of these type of issues and you don't see as many of
23 those anymore, but you see a lot more of that type of
24 issue? Has the nature of claims changed that gets to
25 your level?

1 MR. DANGERFIELD: No. I could write a book
2 about them, but no. I don't think so.

3 I mean, it's just -- you're going to have
4 people who are late, people who, you know, that will
5 cuss someone out, you know, just drugs. It's just a
6 combination. I don't think it's changed.

7 MR. MICHAELS: As a matter of course in
8 terms of your decision, do y'all track where you find
9 for the employer and where you find for the claimant and
10 has that mix changed?

11 And here's my bias. Goodwill has about 900
12 employees. We occasionally have folks who work their
13 way through the unemployment system.

14 My experience six years ago was that they
15 just handed out unemployment insurance, and it was hard
16 to get that overturned. Our experience now is its much
17 more balanced. We win some. We lose some.

18 And I'm just wondering have your findings
19 changed in scope? Do you track that?

20 MR. DANGERFIELD: We, at times, have. I
21 will tell you that I think the business approach that
22 we've taken in the last six years has made a difference.

23 MR. MICHAELS: Okay.

24 MR. DANGERFIELD: And so we send a report
25 talking about case aging, how many was issued in 45

1 days, how much was issued in, you know, 75 days. That's
2 gotten just so much better. And I think just taking the
3 business approach has made a difference, and I think the
4 employers out there, they see that, because in the past,
5 they wouldn't even come to the hearings, but they said,
6 Why? Because you're going to give it to them anyway.
7 And that's not the case.

8 CHAIRMAN SENATOR ALEXANDER: Okay. No
9 other questions?

10 Senator from Richland.

11 SENATOR SCOTT: Move for a favorable
12 report.

13 CHAIRMAN SENATOR ALEXANDER: A second from
14 anybody?

15 REPRESENTATIVE BINGHAM: Second.

16 REPRESENTATIVE HORNE: Second.

17 CHAIRMAN SENATOR ALEXANDER: Numerous
18 seconds.

19 Okay. And then any questions before us?
20 Any discussion of that motion?

21 Hearing none, we'll go to the vote.

22 All in favor, please raise your right hand.

23 Okay. Any opposed?

24 I see none that you have.

25 MR. DANGERFIELD: Thank you very much.

1 CHAIRMAN SENATOR ALEXANDER: Thank you. We
2 appreciate your willingness to continue to serve.

3 Steve Kelly is panel seat number 3. So
4 come forward, please, sir.

5 Good morning.

6 MR. KELLY: Good morning.

7 CHAIRMAN SENATOR ALEXANDER: Again, seat 3,
8 term commencing July 1st, 2016, to expire July 1st,
9 2020. If you would, please, raise your right hand so
10 you can be sworn in.

11 MR. KELLY: (Complying.)

12 CHAIRMAN SENATOR ALEXANDER: Do you swear
13 to tell the truth, the whole truth, and nothing but the
14 truth, so help you God?

15 MR. KELLY: Yes, I do.

16 CHAIRMAN SENATOR ALEXANDER: Okay. Thank
17 you.

18 We're delighted to have you with us this
19 morning, and if you would briefly tell us a little bit
20 about yourself and why you would like to continue to
21 serve on the appellate panel for the Department of
22 Employment and Workforce.

23 MR. KELLY: Okay. Thank you very much.

24 I'd like to say it's been quite an honor
25 and a pleasure to serve the state of South Carolina in

1 this capacity. Senator Scott had mentioned earlier one
2 of the folks involved in the panel early on, and it was
3 quite a restructuring in a completely different
4 direction. And it's been a challenge, and, quite
5 frankly, it's been nice to be a part of that to see the
6 change that I think has been a very positive change with
7 all the restructuring and statutes that the general
8 assembly passed in that direction. So that's been a
9 pleasure.

10 I grew up in Camden. I've been a small
11 businessowner for a little over forty years. I've had
12 33 years of public life as a county council person and
13 chairman, and, of course, I've been here at the
14 department appellate panel for the last five and a half
15 years. But with my business background and my public
16 service background, I feel like I meet the
17 qualifications that I need to make good decisions for
18 the panel.

19 CHAIRMAN SENATOR ALEXANDER: Okay. The
20 staff has received your personal data questionnaire and
21 your statement of economic interest form, as well as a
22 SLED background check, credit report, and driving
23 record. For the committee members, they've been found
24 to be complete, and with the information requested,
25 everything is in order.

1 Are there any changes, deletions, or
2 additions of any of the information that you've provided
3 to the Committee that you need to make this morning?

4 MR. KELLY: No, sir.

5 CHAIRMAN SENATOR ALEXANDER: Okay. If not,
6 then I would ask that Lisa provide you with a series of
7 questions for you to respond to, please.

8 MS. WIDENER: Good morning.

9 MR. KELLY: Good morning.

10 MS. WIDENER: Do you or any member of your
11 family own or operate any business which contracts with
12 state or federal government?

13 MR. KELLY: No.

14 MS. WIDENER: Do you or any member of your
15 family own or operate any business which receives state
16 or federal funds from a board to which you are being
17 appointed?

18 MR. KELLY: No.

19 MS. WIDENER: Have you ever been arrested,
20 charged, or held by federal, state, or other law
21 enforcement authorities for violation of the law,
22 regulation, or ordinance, not including traffic
23 violations, for which a fine of \$200 or less was
24 imposed?

25 MR. KELLY: No.

1 MS. WIDENER: Have you, to your knowledge,
2 ever been under federal, state, or local investigation
3 for possible violation of a criminal statute?

4 MR. KELLY: No.

5 MS. WIDENER: Have federal, state, or local
6 authorities ever instituted a tax lien or other
7 collection procedure against you personally?

8 MR. KELLY: No.

9 MS. WIDENER: Have you ever defaulted on a
10 student loan?

11 MR. KELLY: No.

12 MS. WIDENER: Have you ever filed for
13 bankruptcy?

14 MR. KELLY: No.

15 MS. WIDENER: Have you ever been
16 disciplined or cited for a breach of ethics or
17 unprofessional conduct by any court, agency,
18 association, or professional group?

19 MR. KELLY: No.

20 MS. WIDENER: Are you now or have ever been
21 employed as a lobbyist or acted in the capacity of a
22 lobbyist principal?

23 MR. KELLY: No.

24 MS. WIDENER: Do you know of any
25 circumstances that would limit your term of service on

1 this board of commission?

2 MR. KELLY: No.

3 MS. WIDENER: Do you understand the
4 obligations and responsibilities of the position on the
5 South Carolina Department of Employment and Workforce
6 Appellate Panel?

7 MR. KELLY: Yes, I do.

8 MS. WIDENER: Are there any reasons you
9 would have difficulty performing the duties of this
10 appointment?

11 MR. KELLY: No.

12 MS. WIDENER: Is there any other comment
13 you would like to make to the Committee?

14 MR. KELLY: No.

15 MS. WIDENER: Thank you, Mr. Kelly.

16 CHAIRMAN SENATOR ALEXANDER: Questions for
17 Mr. Kelly?

18 Representative Bingham.

19 REPRESENTATIVE BINGHAM: The same one that
20 I've asked. And I appreciate the job all of you have
21 done on the panel and the approach you've taken.

22 And just to follow up a little bit of what
23 Mr. Michaels said earlier and asked that question about,
24 you know, the difference between 2010 and what you see
25 now, you're absolutely correct. Several things have

1 happened, including at the administrative, the appellate
2 panel level, as well as the general assembly changing
3 some of the laws and the structures in order to make
4 sure we define what justifies proper termination versus
5 what justifies just being unemployed and receiving
6 benefits. And there was some gray area, and there was
7 some past history with the department where they made
8 some rulings and judgments that we believe was in
9 conflict with what we believe the statute said. So we
10 clarified that for them so that we have a lot more
11 strict lines than we maybe had before so we could try to
12 keep some of that out of there, because we had tons of
13 issues, just like you said, prior the change.

14 And as you saw it, I guess, in your own
15 organization, as many people have, it was part of the
16 reasons why we undertook the scope. And what happens
17 is, when you give benefits to people who don't deserve
18 them, that reduces the amount of benefits we can give to
19 those who do and because the fund is only so big. So in
20 order to take care of those and put those in, I think
21 we've been as successful as we can. There's always room
22 for any improvement no matter what we do.

23 But anyway, I just want to give you a
24 little bit more information on that from our perspective
25 of what we did in the general assembly to try to help

1 these guys have tools to work with to get a better
2 outcome that you had mentioned earlier.

3 Steve, have you got any other suggestions
4 or -- I mean, we've got two good suggestions already
5 about things that maybe we need to look at from the
6 general assembly to make things a little smoother, a
7 little better, and more efficient. Anything else that
8 you may want to add?

9 And Ms. Ayers can talk to me afterwards and
10 share anything she's got.

11 MR. KELLY: Representative Bingham, I don't
12 have anything to add. I do think both of the ideas that
13 were mentioned are excellent ideas.

14 And, again, I do applaud the general
15 assembly for addressing either one of the Lucas reports
16 prior to the restructuring that the state went through
17 in separating the day-to-day operations of the agency in
18 making the agency director an appointment of the
19 governor and then having the appellate panel appointed
20 by the general assembly and then having us housed at the
21 Department of Employment and Workforce for being
22 separate and distinct. I think that's been outstanding.

23 I know when I first got over there, there
24 were a lot of people who -- as you all know, we are a
25 board of review. We are limited and restricted to the

1 elements in the testimony that's presented at the Appeal
2 Tribunal at the lower level. You have a lot of folks,
3 Mr. Michaels, that would get frustrated when they
4 attended the hearings and say, Hey, you know, we're not
5 getting a fair shake.

6 So the confidence that you all put in us
7 with the ethics in place and the judicial code and the
8 professionalism to try to provide both of the parties
9 with justice and being fair is what we've tried to do.
10 And I think that has created a climate, that people feel
11 like they get a fair shake in our state, and I think
12 we're starting to see a lot more participation.

13 We don't track those methods, per se. The
14 agency does occasionally. But I think you will find
15 that those statistics were probably skewed one way or
16 the other probably pretty strongly, and I think now that
17 you will see more of a balance to where I think all
18 parties feel like it's important, you know, to attend
19 the hearings, and then I feel like hopefully they get a
20 very professional, fair shake when it comes to the
21 panel.

22 So I think what you all did there was
23 excellent, and I think it's working.

24 CHAIRMAN SENATOR ALEXANDER: Mr. Bryant.

25 MR. BRYANT: Mr. Kelly, being the new guy

1 here, I want to ask something that's out of your
2 purview. But is there a way that you feel like your
3 panel and our group could communicate that to the
4 public? Because I agree with you 100 percent.

5 Walking in today and not knowing a lot
6 about the process, I would say that I have three small
7 businesses that have played this game a couple of times,
8 and we felt very much that feeling back then. So is
9 there something that we should do to maybe pull together
10 some of those statistics and put it out in the world
11 somehow to let employers know that there's been a
12 positive change here? Because I certainly see one and
13 think it's something we can communicate.

14 MR. KELLY: Yes, sir. And I think there's
15 certainly a fine line, as you all know. Y'all have a
16 separate and distinct -- and they do have us under the
17 judicial code and code of ethics, and also our
18 administrative assistants, which completely disallows
19 any ex parte communication, any type of discussion of
20 any cases before the panel, which I think is an
21 excellent approach to take.

22 Probably maybe periodically we will meet
23 with the director. Not very often, maybe once a year.
24 We always encourage just as feedback, just as informal
25 feedback, to say this is good information to get out to

1 the public. I think we have to be very careful since we
2 hear the cases, and we are very particular about that,
3 but I think there are mechanisms through the agency and
4 through the state chamber. There's a lot of
5 organizations that could be engaged -- maybe not by the
6 appellate panel by any means -- but I think there's some
7 avenues there, you know, generally speaking, that we can
8 pass on what we observe, generally speaking.

9 But that would have to be facilitated, I
10 think, by some of your organizations to get that word
11 out and let people know that very fact. Quite frankly,
12 I think it's improved quite a bit, but I think it's an
13 area, like Mr. Bingham I think said, there's always room
14 for improvement.

15 And as far as performance of the panel,
16 that's something that's been utmost in our minds, to be
17 able to -- as far as time lapse and things, they would
18 be able to get these cases out. I think that's fair to
19 all parties, whether it be the claimant or whether it be
20 the business, to have those cases heard in a timely
21 manner. And it's already been mentioned here and I
22 don't want to beat it to death, but there's thousands of
23 backlogged cases that, you know, have now been, thank
24 goodness, eliminated, and we were able to do that.

25 I would add too, Senator, there's a lot of

1 preparation work. We had 41 cases last week. The panel
2 meets as a panel, like the statute requires. A lot of
3 good questions about what happens in certain
4 circumstances, I think, have been asked here today,
5 which are good, but there's a lot of preparation work
6 that had to go on prior to the panel meeting to be
7 prepared when we do these cases, either on review or
8 whether we have them live and in person.

9 And I would like to just mention -- I think
10 it had been mentioned earlier -- just as good public
11 policy, we've never turned anybody down that asked to
12 request for a public hearing. I think that's never been
13 a problem, but I think that's good public policy if
14 someone insists on an in-person hearing that they are
15 granted that hearing.

16 CHAIRMAN SENATOR ALEXANDER: Mr. Bryant, I
17 would say too that I think that maybe it would be more
18 in the preview of the agency itself to help communicate
19 from that standpoint, and I do know they engage with a
20 lot of organizations. But I think, obviously, there's
21 always room for improvement from that standpoint. So
22 thank you for bringing that to us.

23 Senator Scott.

24 SENATOR SCOTT: Again, Steve, let me also
25 thank you for your time that you've spent and how

1 valuable -- people don't really realize that you had the
2 opportunity to serve them in your years on county
3 council. One of the largest agencies of getting
4 information out to the general public is local
5 government, especially through the Association of
6 Counties. It's probably one of the largest employers of
7 people all across -- because I think a lot of times you
8 don't recognize it, but if you're coming with the
9 experience and the many years you've served as the
10 chairman and you understand public policy and how
11 important it is to get that message out, I think that
12 experience is really also the kind to come down the
13 government side with pending cases too and whether or
14 not them coming through will give a fair shake in
15 looking at both the employer and the employee in terms
16 of making those decisions of whether or not these cases
17 are actually handled right.

18 So thank you again for your many years of
19 experience on the panel and also off the panel.

20 CHAIRMAN SENATOR ALEXANDER: Thank you,
21 Senator.

22 And let me just clarify for the record too
23 to make sure I understood this correctly, because it was
24 a question I was going to have for you, and I think you
25 spoke to it. When a case gets to your level, at the

1 appellate level, what is before you is the information
2 that has been included from that record from the get-go;
3 is that right?

4 In other words, if someone is coming to
5 appeal, they, at that level, don't have the ability to
6 add additional information to -- or do they have the
7 ability to add -- let me ask you that -- additional
8 information to be considered before -- from the
9 standpoint?

10 MR. KELLY: Okay. Senator, when it comes
11 before us, we have access to the complete record. Of
12 course now we're on the computer.

13 CHAIRMAN SENATOR ALEXANDER: I understand
14 you have access to the record --

15 MR. KELLY: Yes.

16 CHAIRMAN SENATOR ALEXANDER: -- but if it's
17 new information other than what was already in the
18 record, I guess is my question, does someone have that
19 ability to provide additional information that was not
20 considered in the lower decisions?

21 MR. KELLY: No, sir. The original
22 adjudication record and the Appeal Tribunal record, it
23 is what it is.

24 Now, if this panel deems that the record
25 has been developed very poorly or there may be -- the

1 panel can vacate and remand that decision back or
2 complete the review. Or just let's say, for example, a
3 medical record was missing that would have been very
4 pertinent to the case, then you can remand that hearing
5 back, vacating the matter back for the specific purpose
6 of medical records. We don't do that a whole lot.

7 If it's on the record and it's enough to
8 make a decision -- because of the cost and things
9 involved in remanding and redoing hearings. But if the
10 panel feels like the record has not been developed the
11 way it should, then they can remand it. That's the
12 avenue that we would take to do that, sir.

13 But we don't receive any new information at
14 a hearing that comes before the appellate panel.

15 CHAIRMAN SENATOR ALEXANDER: I guess my
16 point is, it's critical -- it kind of gets to some of
17 these points that I think is the reason that maybe
18 things are going well. But all parties involved from
19 the very get-go, it's very helpful to have them as much
20 engaged as providing all the pertinent information so
21 that appropriate decisions are made throughout the
22 process from that standpoint.

23 MR. KELLY: Absolutely.

24 CHAIRMAN SENATOR ALEXANDER: Other
25 questions?

1 Yes, sir, Mr. Michaels.

2 MR. MICHAELS: This will be the last thing
3 y'all will hear. I promise.

4 CHAIRMAN SENATOR ALEXANDER: No, it's fine.
5 You're good.

6 MR. MICHAELS: Let me see if I can ask this
7 right.

8 In the course of discharging your jobs as
9 appellate panelists, do you ever encounter a situation
10 which, as a result of a decision you made, you
11 personally feel unsafe or threatened? Do you ever have
12 a situation where someone is inflamed and that you felt
13 like, I'm not sure about my own safety or situation?
14 How is this going to roll?

15 MR. KELLY: Mr. Michaels, I know that we
16 deal a lot sometimes with sensitive matters, and,
17 obviously, when decisions come to us, there's going to
18 be one party that's going to be probably happy and one
19 party that's not going to be very happy, usually. I
20 think we always need to be aware and concerned about our
21 surroundings. I've never been overly concerned about
22 it, but I've always been cognizant of it.

23 And we've had some situations where at the
24 lower level, there may have been some concerns about
25 behavior of either party. These things are usually

1 passed on just for an awareness, and we would notify,
2 you know, security and that sort of thing. It's
3 something that's very subliminal, but if there's
4 concerns there, which has been rare -- but if there's
5 concerns there, we try to address those concerns in a
6 professional, discreet way.

7 MR. BRYANT: Can I get one more question?

8 CHAIRMAN SENATOR ALEXANDER: Let me ask
9 him.

10 MR. MICHAELS: Oh, I'm sorry. I have
11 another question.

12 CHAIRMAN SENATOR ALEXANDER: Did you have
13 another question?

14 MR. MICHAELS: I only just wanted to note
15 that I'm familiar with Mr. Kelly. He and I served on
16 the State Workforce Investment Board together.

17 And so I just wanted to have that be known
18 here.

19 CHAIRMAN SENATOR ALEXANDER: All right.
20 Thank you, sir.

21 Mr. Bryant.

22 MR. BRYANT: I just wanted to ask, and,
23 obviously, there were a couple of: What could be better
24 about the panel? Speaking specifically about the
25 statutes that you guys use, your governing law, do you

1 feel like those are crystal clear? Is there anything in
2 those that leave ambiguity that causes problems for you
3 guys in your decision-making process?

4 MR. KELLY: That's a good question.

5 I think the almost six years I've been
6 there, I think that, like Representative Bingham said,
7 there's been some tweaking of the statutes. You know,
8 that governs, obviously, what we do. There is some
9 discretion within the statutes for some latitude as far
10 as just qualifications and things of that nature. But I
11 think there's been some ongoing tweaking that I think
12 has -- each time the statute, I think, in my personal
13 opinion, has probably improved with some of the things
14 that we do, I think it's vitally important that in this
15 process that, you know -- let me explain it to you kind
16 of this way.

17 You know, obviously the statute is the
18 opinion that we look at. You know, there's always
19 interpretations of that statute, which we all know, and
20 then the agency has made their interpretations or made
21 some policy decisions that they have about the statute.
22 But when it really falls to us the way you all have it
23 set up, we have to weigh all those aspects in that
24 decision. Obviously, we want a very time-sensitive
25 decision, but we want a quality decision that would

1 weigh all those aspects of making that decision, and I
2 feel like that pretty much we have that latitude to do
3 that within the statute.

4 The agency's position on it may be
5 completely different than what we have in regards to
6 that, but we have that latitude and feel free and don't
7 feel pressured by doing that. So I think if there are
8 some concerns that we have, then I think that we need
9 to, you know, pass them on to you all if we see any
10 trends and whatever mechanism that y'all would deem
11 appropriate and more than the judicial code and the code
12 of ethics and that kind of thing.

13 But I think the statute has been tweaked a
14 number of times, as far as I'm concerned, and I think
15 it's so much better than it was when I first got there.
16 That's just my opinion.

17 CHAIRMAN SENATOR ALEXANDER: Other
18 questions?

19 Are y'all considered full-time employees?

20 MR. KELLY: Yes, sir.

21 And I might add also that as far as
22 accountability, the agency director usually puts in
23 place one of the assistant directors that we -- we go
24 through the SCEIS program where we actually -- for
25 vacation leave, sick leave and that sort of thing, and

1 that's the accountability that we use to make those
2 requests in order -- what we do is we meet as a panel,
3 as mentioned. Sometimes we meet every Tuesday,
4 sometimes on Wednesday, have it to pass on Thursday,
5 depending on the workload of the case management. But
6 there's a lot of preparation work that goes on.

7 Like I said, last week there was like 41
8 cases. So what you have is quite a bit of preparation
9 work in between those times, and whether a person comes
10 into the office or they take a computer home or whatever
11 they choose to do, it's a lot of work to keep up with
12 every week in order to be prepared to hear those cases.

13 We're usually working about a week or two
14 weeks ahead. We've got cases now that we'll be looking
15 at. We'll do reviews for this week when we leave here,
16 and then we will have reviews for next week that we will
17 start working on to go through those files and go
18 through the necessary due diligence if we need to be
19 prepared when we meet next week.

20 CHAIRMAN SENATOR ALEXANDER: Okay. Any
21 questions?

22 SENATOR SCOTT: Favorable report.

23 CHAIRMAN SENATOR ALEXANDER: Having a
24 motion for favorable, is there a second?

25 MR. BRYANT: Second.

1 REPRESENTATIVE HORNE: Second.

2 CHAIRMAN SENATOR ALEXANDER: Numerous
3 seconds.

4 Any discussions on that motion?

5 Hearing none, all in favor, please raise
6 your hand.

7 Any opposed?

8 Seeing none, then the record will reflect a
9 unanimous recommendation screened out of this committee,
10 and thank you for your continued service and willingness
11 to continue to serve and thank all the members of the
12 panel for the work that you're doing.

13 And so if there's no other business to come
14 before us, we'll stand adjourned. Thank you.

15 (The screenings concluded at approximately
16 11:03 a.m.)

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CERTIFICATE OF REPORTER

I, Nisha Gordon, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing screenings were taken before me on the date and at the time and location stated on the title page of this transcript; that the candidates were duly sworn to testify to the truth, the whole truth and nothing but the truth by the Chairman; that the testimony of the candidates and all comments made at the time of the screenings were recorded stenographically by me and were thereafter transcribed; that the foregoing screenings as typed is a true, accurate and complete record of the hearing to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 17th day of April, 2016, at Columbia, Richland County, South Carolina.

N. Gordon



Nisha Gordon
Notary Public
State of South Carolina at Large
My Commission Expires:
June 14, 2022

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