

THE OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA

IN THE MATTER OF:  
STATE ELECTION BOARD MEETING  
PUBLIC MEETING

THE OFFICE OF THE SECRETARY OF STATE  
SLOPPY FLOYD BUILDING  
2 MARTIN LUTHER KING, JR. DRIVE SE  
5th FLOOR, WEST TOWER, ROOM 512  
ATLANTA, GEORGIA 30334

WEDNESDAY, DECEMBER 16, 2009  
10:00 A.M.

PRESIDING OFFICER: KAREN C. HANDEL  
SECRETARY OF STATE

APPEARANCE OF THE PANEL FROM LEFT TO RIGHT

**SHAWN LAGRUA**

**CHRIS HARVEY**

**KELLY FARR**

**WESLEY TAILOR**

**L. KENT WEBB**

**SECRETARY KAREN HANDEL**

**DAVID WORLEY**

**ANN BRUMBAUGH**

**SECRETARY HANDEL**: Good morning, everyone. We will go ahead and call our meeting to order. If everyone can please stand we will have the invocation and the pledge.

(INVOCATION)

(PLEDGE OF ALLEGIANCE)

**SECRETARY HANDEL**: There are just three of us, but it is a quorum. I got e-mails early this morning that Mr. Evans had an issue that has delayed him or will keep him from being here. And a second e-mail from Tex McIver. He is going to make every effort to join us later this morning. With David Worely, myself, and Kent Webb we do have a quorum. So, we will call the meeting to order. First order of business is our public comment time. Again, I'm going to ask, right now, is there anyone else who wants to submit a public comment card on an issue unrelated to a case? Just making sure we have everyone, because then that will be it. The first individual is Doris Carol, followed by Garland Favorito. Is Doris Carol here?

**MS. FARR**: I think she deferred to me.

**SECRETARY HANDEL**: I need her to come, Garland, and give us her name and address and say that. I need to know that the people who are deferring are actually in the room. Are you Doris?

**MS. CAROL**: Yes, I am, yes. And I did confer my minutes.

**SECRETARY HANDEL**: All right. Thank you.

**MR. FAVORITO**: Okay. Thank you. I got a letter. I requested to have --

**SECRETARY HANDEL**: I'm sorry; we need your name and address

**MR. FAVORITO**: I'm sorry, Garland Favorito. 220 Telebox Drive, Roswell Georgia. I figured everybody knows by now

**SECRETARY HANDEL**: Well, we do, but we still need it for the minutes, Garland.

**MR. FAVORITO**: Okay. Thank you. Towards the end of the last meeting I mentioned that I had some evidence relevant to a case that I wanted to present. The defendant requested to have it reopened. For a variety of reasons, the Board ruled that they could not reopen it. I find that rather strange because the Inspector General serves at the pleasure of the Board in this matter and

the fact that you cannot control your own lawyer seems very, very, very, strange to me. In reviewing this matter I have also noticed a lot of the other discrepancies. And I wanted to bring to the Board's attention, because there is a question as to whether or not this defendant got an appropriate hearing under 21-2-33.1(a) of the code under which the Board operates. So as y'all know, she mentioned that she did not realize that she was a defendant and was not interviewed and has not been provided a copy of the investigative summary or any of the allegations against her. Now, even if all of that was false, I would still like to make a point here, that if the charges against her are not chargeable to the technician, they are chargeable to the superintendent, and the Deputy IG acknowledged at the hearing that she had always followed the instructions as provided. No evidence was presented to support the allegations, that I can see from the DVD and also the charges against her were unrelated to the certification violations, under which the attention was brought to this case to the first place. So, I'm, again, appealing to the first code of conduct of the Board to be honest, fair, and avoid any appearance of conflict of interest or any improprieties. I have got a letter here that outlines all of what I have just stated and much more. Again, what I would like to ask you to consider is consider this matter and give her a chance to have an appropriate hearing under 21-2-33(1)(A) as required by law.

**SECRETARY HANDEL**: Thank you. All right. Our next speaker is Laura Gallegos. If you could wait one second. Colleagues, I have a letter submitted to us by Garland Favorito. At the Board's pleasure, I will entertain a motion to accept it into the record.

**BOARD MEMBER**: I will make a motion to accept this into the record.

**BOARD MEMBER**: Second.

**SECRETARY HANDEL**: All right. A motion and a second. All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES) .

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: All right. Thank you. Ms. Gallegos, before you start, I really need to just make sure you understand that anything and everything that you say here, it will be in the record. That is public. And it can be used in the OSAH hearing that will be happening next month. So, please understand that anything and everything you say can either work for you, but can also work against you.

**MS. GALLEGOS**: Yes, ma'am.

**SECRETARY HANDEL**: You understand that?

**MS. GALLEGOS**: Yes, ma'am.

**SECRETARY HANDEL**: Okay. All right.

**MS. GALLEGOS**: Good morning. My name is Laura Gallegos. 2435 \*\*Rockwell Road,

Valdosta, Georgia. I just came to -- Mr. Garland just about said everything I would have brought up, but I just wanted to mention that I did not receive an appropriate proceeding. The way things happened, I have written a letter. And I have written a second letter. And I just wanted to confirm that the Board received my letter and everything else has already been mentioned.

**SECRETARY HANDEL**: Where did you send the letter?

**MS. GALLEGOS**: Each individual and your Secretary of State e-mail address.

**MR. WORLEY**: By e-mail, I received it.

**MS. GALLEGOS**: That's it.

**SECRETARY HANDEL**: Okay. Thank you. All right. The next speaker Kathy Vaughn.

**MS. VAUGHN**: I defer my comments to Mr. Michael Opits.

**SECRETARY HANDEL**: Let the record reflect that Kathy Vaughn has deferred her two minutes to Michael Opits. The next speaker is Michael Opits.

**MR. OPITS**: My name is Michael Opits. My address is 1802 Winfair Court, Marietta, Georgia 30062. I am here to speak on a couple of issues this morning. One was the quality of the IG's investigation. As a former special agent with the Office of Special investigations In the United States Air Force, I find it somewhat surprising that an investigation would be conducted without the interview of all relevant parties, including the respondent Laura Gallegos. When you have an investigation that does not follow procedure, if there is an outlined procedure, and I would hope that there would be in a quality statement as to the correct procedures, it causes us all to be concerned about the accuracy of such an investigation and whether or not an investigation is being conducted honestly. So, I, during the course of my training, the Office of Special Investigation, that was essentially the same training that a special agent going through FBI academy would receive, and this is fundamental to any investigation. So, I do have concerns. I do have questions. And for the integrity of this office, those questions need to be answered before referring any case to the State's Investigative Agency or the Attorney General's Office. Additionally, I would like the comment on the current electronic voting machines that are in use in the State of Georgia. Georgia is the only state that continues to use these machines. Florida, after the hanging Chad debacle, went to these machines and then discontinued the use of the machines, because of the flawed problems that they have. The biggest is that a hard copy ballot cannot be generated so that the voter can review what they have done and there is no ability to conduct a recount with the hard-copy ballot. That is the fundamental concept or premises on accurate elections and of our representative republic. If you can't verify it, then you don't know. We have to have a verifiable system. And I would submit that this system needs to be replaced prior to the next year's election. We can go back to the Scantron terminals, the Bubble terminals. They were accurate and it provided a recount capability and they are less expensive than the current Diebold voting machines that have been in use. I have been studying this issue since 2001, since they were purchased, and I have advocated the replacement of those during that time. Each of you can do a Google search of Princeton University, which is one of the leading math

departments in this the world and the Diebold voting machines, and you can look at the video of how these machines can easily be defeated in just one way. There are lots of ways. You can put virus on a card and they give an example: Five votes for George Washington and zero for Benedict Arnold. And the machine results showed three votes for Benedict Arnold and two for George Washington. Put a virus on the card, insert it in the machine, the virus is transmitted to the machine. The next time you put a card in the machine, the virus is transferred to the card. There is no way of auditing this software to verify a lot of the flaws in this system. So, when you look at the cost, what is the cost of the verifiable honest election? I don't think you can put a price tag on it, but we can save money by going back to a simple technology that does nothing but add numbers.

**SECRETARY HANDEL**: Thank you.

**MR. OPITS**: Thank you, very much.

**SECRETARY HANDEL**: I think it would be -- okay, were you in the room when I made the announcement?

(INAUDIBLE RESPONSE)

**SECRETARY HANDEL**: Okay. Come on up. Folks, I make an announcement before we start the meeting at 10:00 A.M. I made the last call for public comment. And we have to get on with the business of our meeting. So, in the future it is public notice. Our meetings are at 10:00 o'clock. If people want to speak at public comment, you need to submit your cards by that time. Come on up, Mr. Beusing; two minutes.

**MR. BEUSING**: My name is Chris Beusing and I am from Clarkston, Georgia. We recently had a special runoff election for Mayor and I conducted an exit poll outside of the official precinct under my own auspices and a certain Samuel E. Tillman, who is a DeKalb Elections Board Member, harassed me at that exit poll. And he insisted that I had to go 150 feet away. And I knew, in fact, that the rule for exit polling was 25 feet away. I was actually 80 feet away. And I knew that he was bluffing me, and I did not leave. I told him that if he did not stop harassing me that I would call 911. He ended up calling the Clarkston Police and the Clarkston Police came out there and sided with me, because the police officer, even though Tillman tried to intimidate this police officer into getting me to move and leave, the police officer used his common sense and was not about to get involved in a civil situation. He saw that I was creating no disorder, so he let me continue to conduct my exit poll. And from this day, I would like to proceed to make an official complaint with the State about this harassment from the elections, DeKalb Elections Board Member, Samuel E. Tillman. Thank you.

**SECRETARY HANDEL**: Thank you, Mr. Beusing. If I might clarify for you; the State Code is 150 feet away from the polling place to do exit polling. So, I can't speak for any of the other issues involved here, but, in fact, it is 150 feet. Mr. Taylor what's the code cite for Mr. Beusing?

**MR. TAILOR**: It's Code Section 21-2-414.

**MR. BEUSING:** The Mayor of Clarkston --

**SECRETARY HANDEL:** I understand.

**MR. BEUSING:** -- Lee Swaney, proceeded to inquire about this the day before and he confirmed this because --

**SECRETARY HANDEL:** Mr. Beusing, we are the final arbiters of it and the State Code is 150 feet. So, just know that for going forward. So, anyone telling you anything different would have been incorrect.

**MR. BEUSING:** DeKalb County told me, personally. I'm sorry.

**SECRETARY HANDEL:** I understand that, but the law is 150 feet. And so the worker would have been correct in that. Now, how the worker handled the situation, that is a different issue and, certainly, that can be followed up on. Okay.

**MR. BEUSING:** Thank you.

**SECRETARY HANDEL:** Thank you, so much. Ms. Brumbaugh, I think it would, perhaps, be helpful, just for the record, regarding how the process works here, for everyone, because, I want to make it abundantly clear that when it comes to investigation that, in fact, all relevant parties to a case are indeed interviewed, either in person or by phone. And that happens with every single case, unless that individual is completely unavailable and unattainable. But that is in the rarest of circumstances. And the investigative report is made available to individuals as they come forward to have the case before the SEB. In addition to that individuals are also given due notice to come before the SEB if he or she is a party as a respondent in the case. And when it comes to your office, then what transpires?

**MS. BRUMBAUGH:** Thank you, Madam Chair. Good morning. My name is Ann Brumbaugh and I am an Assistant Attorney General. You all are here because you got a letter regarding this meeting, regarding a case in which you are either the complainant or the respondent. If you are the respondent, the Board will consider your case today, will consider whether there is probable cause to determine that you may have violated the election code. Probable cause does not mean guilt. It does not mean innocence. It just means, is there some evidence before them, the Board members, to suggest that, perhaps, you have violated the election code. You will be given an opportunity to speak. Everything you say will be taken down by the stenographer. The Board will then ask you questions. They will make a motion as to how to resolve your case. One of the ways they may resolve the case is by sending the case to my office, the Office of the Attorney General. At that point, you may contact me regarding resolution of the case. There will be three ways the case will ultimately be resolved. The first way is that I will read the case, look at the law and come to a recommendation, which I will bring to the Board, that, perhaps, the case should be dismissed. The second way is that you and I will agree that, yes, you did violate some of the code sections in the election code and, yes, these are appropriate sanctions. Sanctions can include a letter of reprimand, a cease and desist order, and a financial penalty of up to \$5,000 per violation. That is all in the code section that Mr. Favorito just spoke of. That's 21-2-33.1 Sub(a).

If we cannot agree on a solution to your case, then the case goes before the Office of State Administrative Hearings, which is a completely separate government agency with judges. And we will have a little trial. And it will be pretty much like what you see on TV, except there is no jury. So, it's you; your attorney, if you retain one; me; another court reporter; and our witnesses and evidence. If you want to bring members of the public to the hearing, the hearings are open. At that point, after the administrative law judge hears the evidence the administrative law judge issues what is called an initial recommendation. It is, again, not binding. In all three of these cases, whether you get an initial recommendation, you and I agree on a consent order, or I suggest, maybe this case doesn't quite have what we thought it had at the probable-cause hearing, we come back before the Board. So, nothing is binding until the Board agrees to it. So, that would be at a separate meeting. Some time in the future, you would, again, get notice. You could, again, appear before the Board. And at that time, like I said, the Board would vote to accept my recommendation, accept the consent order we had agreed to, or accept or reject the initial decision of the administrative law judge. If you go the route of the hearing with the administrative law judge, you get your final decision from this Board; you do have a right to appeal that to superior court. So, for those of you who are here for the first time, not really sure what the procedure is, that's how it works. You will come back before this Board, eventually, again, to resolve your case. Like I said, if it is a case involving a hearing, you do have appellate rights.

**MR. FAVORITO:** Another point of clarification, do you investigate the case further when the current charges go to your office?

**MS. BRUMBAUGH:** Every case is different. Every case that comes to me I do what it takes to present the best case to an administrative law judge. That, generally, includes interviewing witnesses again. It certainly includes procuring the documents I need, if they are not already in the file.

**SECRETARY HANDEL:** All right. Our next order of business is the minutes. Colleagues, have you had a chance to look at them? They are from the October 26th meeting.

**MR. WORLEY:** I would make a motion that we approve the minutes, as written.

**MR. WEBB:** I have a minor --

**SECRETARY HANDEL:** Sure. Go ahead.

**MR. WEBB:** On page 6, the second paragraph says the motion passed unanimously 5 to 0. But then the next paragraph says Mr. McIver joined us back. So I guess that should be 4 to 0.

**SECRETARY HANDEL:** Oh, I see, at the very top the first paragraph there. Oh, right there. Got it. Got it.

**MR. WEBB:** The second paragraph, at the top of the page.

**SECRETARY HANDEL:** Yep.



**MR. WORLEY**: I make another motion that we adopt the minutes with that amendment.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: Motion and a second; all in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: All right. Our first case is going to be Richmond County 2008 No. 31, from Tab 2, folks.

**MS. LAGRUA**: The first two cases involve Richmond County and I will be making one or two comments. Go ahead.

**SECRETARY HANDEL**: I just want to make sure that, in this instance, the respondents, because there were several for Richmond County, are Amber Jones, Shirley Thomas, those are the two.

**MS. LAGRUA**: The allegations here are that Amber Jones obtained a voter identification card with a false date of birth and attempted to obtain a second voter identification card with a false name. On February 21st of '08, Ms. Jones was issued a voter identification card with a birth date of 7/18/86. Ultimately, it was discovered that her real birth date was 7/18/88. On April 29th, she returned and attempted to get a voter identification card in the name of Charlene Boatwright. But when it was discovered that Charlene Boatwright was not registered at the address she was using, to try to get the voter identification card, that Amber Jones was, they went and pulled the identification, confirmed, in fact, after pulling DDS records and voter identification card records that Ms. Jones was actually the person who was trying to get the identification for Charlene Boatwright. I would note, for the Board, that I believe that '86 and '88 is the difference between being 19 and 21, as I recall, being able to purchase alcohol. The other interesting thing-- and this correlates to the next case -- I will remind the Board the next case, the address given by Ms. Jones, in this case, apparently, was the same address given by the respondent in the next case we will hear. That case is an abandoned address. So, that is accurate, as you have gone through these; that we have the same address and folks have found this address and are using the address. Originally, Shirley Thomas was cited as not verifying the information that Ms. Jones gave to Richmond County. Apparently, there is a court case that has come down that says the original voter registration card was sufficient information. So, we are not requesting that Ms. Thomas be bound over to the Attorney General's Office; however, we are asking that the case regarding Ms. Jones be bound over to the Attorney General's Office, and potentially forwarded to the District Attorney's Office, in this case.

**SECRETARY HANDEL**: Is there anyone here to speak on this case? Is Ms. Jones here?

(NO RESPONSE).

**SECRETARY HANDEL**: And Ms. Jones was noticed of the hearing?

**MS. LAGRUA**: Yes, ma'am.

**SECRETARY HANDEL**: All right. One other point; in each of these instances it does appear that it involved individuals trying to get IDs to say that they were 21. And we are doing some outreach through Augusta. It's clear this has to do with the colleges, etcetera, there. So, we will make an attempt to do some outreach with the colleges, as well, on this issue.

**MS. LAGRUA**: We have had the same problems in Clark County.

**SECRETARY HANDEL**: Questions, colleagues?

(NO RESPONSE)

**SECRETARY HANDEL**: All right. Is there is a motion?

**MR. WORLEY**: I would make a motion that we bind this case over to the Attorney General's Office.

**MR. WORLEY**: Second.

**SECRETARY HANDEL**: Motion and a second. Any other questions?

(NO RESPONSE)

**SECRETARY HANDEL**: All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: The next case is, again, Richmond County, 2008 No. 32, involving Meeka Roschel Gray.

**MS. LAGRUA**: Correct. And this one was brought to our attention by Lynn Bailey as I believe the last one was, as well. Again, she tried to obtain a voter-identification card by providing a false date of birth. She tried to obtain the VIC by saying her birth date was August of '86. Lynn Bailey could not find (unclear) registered to vote, requested our assistance at that time. We went through vital records, showing the birth date. We used that information, ran a GCIC with Richmond County Sheriff's Department and confirmed her birth date was August of 1990.

Again, the '86 birth date would have made her old enough to be 21. The same recommendation in this case.

**SECRETARY HANDEL**: Is Ms. Gray here? Anyone here to speak on this case? Ms. Gray.

(NO RESPONSE)

**SECRETARY HANDEL**: Let the record show that there is no one here, including Ms. Gray. Colleagues, any questions?

(NO RESPONSE)

**SECRETARY HANDEL**: Do we have a motion?

**MR. WEBB**: I move that we refer this case to the Attorney General's Office.

**MR. WORLEY**: Second.

**SECRETARY HANDEL**: Motion and a second. All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: 2008 No. 33, again, Richmond County. The respondent in this one is Johnny Matthew Henderson.

**MS. LAGRUA**: This one is a little different, members of the Board. Mr. Henderson came into the registration office on five different dates to obtain a voter identification card, changing his address each time. And on the last one he also affirmed that he was eligible to vote and not serving a felony sentence. Ms. Bailey started becoming suspicious after the number of voter identification cards that were being issued to this gentleman, did some research, found that he was a convicted felon. We verified this and found that he was sentenced February of '08 to five years. His probation is still active. He is a fugitive at this time. There is a warrant out for his arrest. His whereabouts are unknown. The obvious recommendation would be to refer to the Attorney General's Office and the District Attorney's Office, although that's a call for this, Board because we don't know where he is at this time.

**SECRETARY HANDEL**: Again, is anyone here to speak on behalf of this case? Mr. Henderson. Let the record show he is not here, because he is nowhere.

(AUDIENCE LAUGHING)

**SECRETARY HANDEL**: All right, colleagues, is there a motion?

**MR. WORLEY**: I make a motion that we refer this to the Attorney General and to the District Attorney.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Okay. Thank you. The next case is 2008 No. 64, involving Chatham County and a long list of respondents. Anyone who is here to speak on behalf of the Chatham County case, if, maybe, you could work your way forward, that would be helpful.

**MS. LAGRUA**: Your Honor -- excuse me. Madam Chair, members of the board -- old habits die hard. You may recall this case was on a previous calendar and there were some questions about alleged forgeries on a nomination petition for Dana Osborne, who wanted to run and ultimately did not run for office. The complainant as Russell Bridges, the elections supervisor. This case was referred back to the Office of Inspector General. We did a significant additional investigation on this case. What we found was 48 total forgeries on this petitions. The problem with the case is that at this point we are not sure who committed the forgeries; however, we have found other violations of the state election code. The allegations are that a number of the signatures were forged, that someone paid some of the circulators for each signature, and many of the circulators did not sign the petition in the presence of a notary. As you may recall, there is no violation for paying a circulator to obtain signatures. That did, in fact, occur; but there is no violation, in that regard. What we did find is that John McMasters, Edwin Morris, Ken Ross, Alexia Williams and Jeff Rayno are very probably in violation of 21-2-562 (A) 1, because they submitted petition that contained forged signatures. The problem is that we don't know, at this point, whether we can show that they knowingly accepted forged signatures. Most of those folks have refused to talk to us. However, Betty Powell violated 563 Section 4 by signing as a circulator, which she did not circulate the petition. And the following people violated 21-2-132(h)(3) by signing petition circulators without the presence of a notary public. And on the back of the petition, it is clearly stated, as you sign, that you are signing it in the presence of a notary. And that is Kerri Parker, Jason Smith, Richard Powell, Danny Powell, Kim Ross, Alexia Williams, David Osborne, Lynette Delsanto and April Hayes. Further, you have Joyce Humphreys, who was the notary who notarized the petitions without witnessing the signatures. Candidly, this Board, I do not believe, has jurisdiction over the notary issue in this case. That would be jurisdiction of the District Attorney's Office. I bring that to this Board's attention; however, because these petitions were brought to her by John McMasters for her to notarize, petitions that she did not witness the signatures on. Hazel Cullen failed to sign a petition that she circulated. I will tell you that we have received correspondence from an attorney for Hazel Cullen. She is not here, apparently is 80 years old. The allegation by the attorney is she did not know that she could not circulate the petition and give them to anyone else to turn in. My recommendation is that in these cases that all of the respondents be referred to the Attorney General's Office and also to the District Attorney's Office. I have been in touch with the District Attorney's Office. They have the initial report in this case and are reviewing it and are awaiting the direction of this Board. I had a conversation as late as yesterday afternoon, with Larry

Chisolm, the actual elected District Attorney for Chatham County. He knew we were going to be before the Board this morning and is awaiting some direction from this Board. There is one typographical error in this summary. I believe it is close to the end. There is a reference to page 60 of the petitions. And that is actually page 61. And the investigator --

**SECRETARY HANDEL**: If you will just find that for us and we will update that, for the record.

**MS. LAGRUA**: Yes, ma'am.

**SECRETARY HANDEL**: Let me first go through and see if there are any of the respondents here who want to speak. I will call the names and then I know, perhaps, the commissioners would like to speak, as well. David Osborne.

(NO RESPONSE)

**SECRETARY HANDEL**: Edwin Morris.

(NO RESPONSE)

**SECRETARY HANDEL**: John McMasters.

(NO RESPONSE)

**SECRETARY HANDEL**: Linda Delsanto.

(NO RESPONSE)

**SECRETARY HANDEL**: Jeremy Shinebart.

(NO RESPONSE)

**SECRETARY HANDEL**: Jeffrey Rayno. Okay. Jeffrey Rayno is here and I will give you a moment. Let me go through the list. Sandra Shirley?

(NO RESPONSE)

**SECRETARY HANDEL**: Kim Ross?

(NO RESPONSE).

**SECRETARY HANDEL**: Alexia Williams.

(NO RESPONSE).

**SECRETARY HANDEL**: Richard Jennings.

(NO RESPONSE)

**SECRETARY HANDEL**: April Hayes.

(NO RESPONSE)

**SECRETARY HANDEL**: Betty Powell.

(NO RESPONSE)

**SECRETARY HANDEL**: Richard Powell.

(NO RESPONSE)

**SECRETARY HANDEL**: Hazel Callum.

(NO RESPONSE)

**SECRETARY HANDEL**: Kerri Parker.

(NO RESPONSE)

**SECRETARY HANDEL**: Let the record show that we do have -- Jeffrey Rayno is with us. Mr. Rayno.

**MR. RAYNO**: Thank you, ma'am. For the record, my name is Jeffrey Rayno. I live at 3 Stone Gate Court in Pooler, Georgia 31322.

**SECRETARY HANDEL**: Okay. Before you start, I just want to let you know that everything and anything is on the record here. Should this case be referred to the Attorney General's Office, what is on the record can work for you or it can also work against you, so be mindful of that.

**MR. RAYNO**: I fully understand that.

**SECRETARY HANDEL**: Thank you.

**MR. RAYNO**: I have a prepared a statement. I'm just going to make a couple of conclusions after that. Good morning. I attended this meeting today to explain my legal participation in the campaign of M. David Osborne. Mr. Osborne was a former constituent when I was a Chatham County Commissioner. I worked with his neighborhood association and assisted him whenever necessary and participated in their annual fish fry. We also have businesses in the same plaza in Pooler, known as Morgan's Corner. I volunteered to help Mr. Osborne in his campaign for the first district seat of Chatham County Commission. At no time did Mr. Osborne offer to pay me for my efforts, nor did I ask him for money. My desire to see Ms. Stone removed from office by means of the voting booth was my only motivation. I went door-to-door in my old neighborhood, where I lived for close to 15 years. Many of the people I knew from my involvement in the neighborhood association, neighborhood watch, plan-use issues, constituent

concerns; they were parents of children that my son played with. When I knocked on the door and would say the following things: Hi. This is Jeff Rayno. I used to be your County Commissioner in 2004. May I speak with you? At that point they would open the door and I would continue. I'm stopping by today on behalf of David Osborne. He is running for the First District Seat of the Chatham County Commission, which is currently held by Helen Stone. Because he is running as an independent, he can't go down to the office and pay a hundred dollars plus and automatically be put on the ballot. So, he is forced to go door-to-door to collect a thousand signatures, simply to be put on the ballot. Personally, I think it is not fair. He should have the same qualifying guidelines as a Republican or Democrat. By signing for him today, you will give Mr. Osborne a chance to be on the ballot. It doesn't mean you have to vote for him. It doesn't mean you have to vote. It just gives him a chance to be on the ballot and give him a fair campaign against Helen Stone. We are looking for a fair playing field. Everyone I spoke with, except for two people, signed the petition. And the only reason they didn't sign the petition was because they claimed they didn't sign petitions, period. When you frame it like this, in a fair and balanced way, people want to sign up, even if they are going to vote for Helen. It doesn't matter to them. I asked everyone who I spoke with if they were registered. They responded, yes. I later found out it wasn't true. I have found in my years as a politician, when you go door-to-door the people will tell you stories. They will tell you they are registered, even though they're not. I did not have a voter's registration list to confirm the accuracy of the response. At the hearing for Mr. Osborne, held at the Board of Elections, it is my belief that the Board of Registration alleged two signatures on my collected petitions were forged, two, not one. This is not true; one name mentioned was Nicole James. Ms. James is a close family friend, a fellow church member of (name unclear) Church, and my son's personal babysitter for about 5-plus years. She signed the petition in the front yard when I picked up my son one day. The second name they alleged that was forged was Cecil Stanford. This gentleman is the father-in-law of Melissa Stanford, a former poll worker for (name unclear) Avenue Baptist. He also worked with Mr. Osborne at Johnson High School. They are close friends. To state that either of their names was forged shows the gross incompetence of the Board of Registration. This is the very Board that initially approved Mr. Osborne's petition to run without close scrutiny. This is also the same Board that allowed the district lines to be crisscrossed between Districts 1 and 6, prior to the election. I will state, under oath, that I did not forge any signatures. I did not violate any statute, Georgia 21-2-562. I took an oath as a county commissioner to uphold both the U.S. Constitution and the Georgia Constitution as a Deacon of the church of the Aisles Church; I am held accountable by God to tell the truth. And as God as my witness here today, I did not forge any signatures on any of those petitions. I have no personal, professional, or auxiliary relationship with Edwin Morris or Kimberly Ross. I wouldn't know them if they were in this room today. My only awareness of them is (coughing in audience) activities, as provided by the Attorney General's Office and a summary that was sent to my home, which, by the way, was sent to the wrong address. I thank you for your time to respond to this matter. I want you to know, when the first investigator called me on the phone, I don't respond to phone calls. I don't know who is calling me. I don't have caller ID. If they had sent me an official letter, I would have responded, but anybody can call me on the phone. It could have been a pizza delivery guy. I don't know. I told them to send me a letter. Nothing came. So, I did not respond. When I got the second letter, my neighbor gave it to me since it was delivered to 2 Stone Gate Court. That is why I'm here today. I respectfully ask that you pull me off this case and submit the rest of the information to the Attorney General. I believe there was an error that was in the petition but not

my by hand.

**SECRETARY HANDEL**: Can I ask a question? Did you just say that you do believe that there were errors on the petition, but not by you?

**MR. RAYNO**: I do, based on what I have heard. I believe the testimony of Helen Stone and David Gallantly. I served on the commission with David Gallantly who is the Chief of Police of Chatham County. I believe him when he says that. And I hope that he is still my personal friend.

**SECRETARY HANDEL**: The address on the record is the correct address.

**MR. RAYNO**: 3 Stone Gate Court not 2 Stone Gate Court.

**SECRETARY HANDEL**: Thank you. Any questions, colleagues?

**MR. WORLEY**: I had a question of Ms. LaGrua. When it says in the investigative report that there was a forgery on the petitions presented by Mr. Rayno, what is that based on?

**MS. LAGRUA**: Our investigators, actually, went, after hearing from Ms. Stone and Mr. Gallantly that they had spoken to some folks whose signatures appeared on the petition that said they did not sign the petition -- and we can go into the details a little further, if you want me to, with the investigator. But what we did was we identified the petitions that had addresses that looked -- I don't know if you would say questionable, where you had address after address right in a row where everybody was home and signed the petition. So what we did is we took the petition, the 1300 different signatures, we divided them up between a number of my investigators, and we randomly selected groups of neighborhoods to go back and check the petitions. We actually went back one afternoon for hours in a concentrated effort, door-to-door with the copies of the petitions, knocking on the door, saying Mr. Far, are you Mr. Far? Yes, I am. Is this your signature on this petition? Yes, it is. No it's not. So, we actually talked to every single person except, I believe, the two folks that are deceased, and we verified that. We talked to every person whose signature is an alleged forgery. Investigator McNeal; is that correct?

**INVESTIGATOR MCNEAL**: We didn't talk to every single person. We talked to as many as we could in the areas that were geographically grouped together.

**MS. LAGRUA**: And the additional forgeries that we found between the last meeting and this one were folks that we actually talked to and verified that their signatures were not on these petitions.

**MR. WORLEY**: What about the two people that Mr. Rayno mentioned?

**SECRETARY HANDEL**: Edwin Morris and Kimberly Ross.

**MR. WORLEY**: No.



**SECRETARY HANDEL**: Oh, the other two.

**MR. RAYNO**: Cecil Stanford and Nicole Chambers.

**INVESTIGATOR MCNEAL**: Without the exact pages in front of me, I wouldn't be able to recall exactly. We talked to so many different people. It is documented.

**MR. RAYNO**: Sir, we responded with --

**SECRETARY HANDEL**: I'm sorry. Would you wait a second and let him finish. I'm sorry. I couldn't hear your full response.

**INVESTIGATOR MCNEAL**: That's okay. Without the exact petitions in front of me documenting who was spoken to, I wouldn't know exactly, but it was all documented as to who was spoken to and their answers they gave to the questions and the reactions to the signature they were shown.

**MR. RAYNO**: As a respondent, it is difficult to respond to something when you don't know you have allegedly forged something and you've asked the office whose name was it and they wouldn't tell us. And I find that very troubling, because I wanted to come here today. You asked me to tell you what I know and to tell you the truth and respond to it. I can't do that because his office will not give me the information. These are the names that I heard at that one meeting at the Board of Elections, but I haven't heard anything since.

**MS. LAGRUA**: Madam Chair, if I could briefly, there are two things. No. 1, this is an ongoing investigation that is being reviewed by the District Attorney's Office. We have provided the same amount of information that we always provide to respondents to come before this Board. I will not deny that while Mr. Rayno has every right not to speak with us, we did ask to speak with him, and since the time that we asked to speak with him I have spoken to his attorney and explained all of this and explained that we may have been able to address some of these things had Mr. Rayno been willing to talk to us. And I'm not faulting Mr. Rayno for exercising his right not to talk to us, but it's a little bit difficult to show up at a meeting this morning and say, I could have given you information, but we contacted all of the respondents in this case and requested interviews. We also let everybody know and my investigators -- and there are a number of them here -- if your attorney wants to be present and contact us, we will go through your attorney and talk to the respondents. And we offered that on a number of occasions and Investigator McNeal, actually, followed up with a number of attorneys, when we knew who they were in this case, requesting interviews with the respondents and those attorneys. And I believe we have the name of Mr. Rayno's attorney. I don't believe that was provided to us at that time. But most of the attorneys declined to have their clients speak to us.

**SECRETARY HANDEL**: Can I ask you a question? You mentioned Edwin Morris and Kimberly Ross in your comments.

**MR. RAYNO**: Yes, because I read that in the information that was given to me from the

Attorney General.

**SECRETARY HANDEL**: Any other questions? Thank you. Thank you, very much. Anyone else? Commissioners, did you want to speak on the case.

**SECRETARY HANDEL**: She's coming up. I think I said Linda Delsanto. It's, actually, Lynette Delsanto. So let me call that out again. Is Lynette Delsanto here? I misspoke on that. Sorry.

**MS. STONE**: Good morning, my name is Helen Stone. I live at 9974 Whitfield Avenue, Savannah, Georgia 31406. I appreciate the opportunity, again, to address all of you all. And for your diligent efforts to make sure that this case is handled properly. I am still receiving phone calls of people whose names were forged, wanting to know the status of this. I think there is a great deal of hurt among some of these ladies and gentlemen who feel somewhat victimized. My concern here today, and the only thing that I have to add -- I think Ms. LaGrúa has done an outstanding job presenting all the information that she has -- and I don't have anything to add to that, except that Mr. Rayno's testimony, all of these people work together. They all use the same notary public. And so, I would really strongly urge this Board to really keep this evidence together and not to eliminate any of the partners that are bringing forth this information. I feel strongly that they acted collaboratively to try to get me out of office. And I would not like to see any of these people eliminated from this case until it can be proved that they had nothing to do with these forgeries. Mr. Rayno, being a former commissioner, he knew the district lines. So, I'm just urging all of you all to keep all of the information together until this case is completed and, again, I appreciate all the hard work that you all have put in up to this point. Thank you.

**SECRETARY HANDEL**: Mr. Gallantly.

**MR. GALLANTLY**: Madam Secretary, members of the Board, I'm Dave Gallantly. I have been serving 9 years as a Chatham County Commissioner. Prior to that I have 40 years of experience in law enforcement, 30 years of which it was the rank of Chief of Police, 20 years of which I was Chief of Police in Savannah. The only reason I point that out is I would like to compliment your office. I think that your personnel has done a very efficient and competent and thorough investigation. Both Commissioner Stone and myself deeply appreciate that. I do want to point out that I agree with Commissioner Stone. I think that this has been a travesty, in my opinion. This is the ultimate stripping someone of their identity. This is identity theft. Myself and Commissioner Stone and other commissioners have received requests as to what's going on, because, you know, a lot of time has passed. And they are very concerned about it. I think the last time I came here I told you that I personally talked to a widow whose deceased husband was on that list. I watched her. First, she cried. And then she became angry. And I want to tell you, she is still angry. And, I think, rightfully so. There is a lot of people -- I don't know who is right or who is wrong, because your office has been very professional and hasn't shared their detailed information with me, as much as I tried to get some. I want you to know that they are very professional. And they have done their job. I think when they talk about 44 forgeries, in my opinion, all you need is two or three of them to make a case, but I look at those petitions and my professional opinion is there is hundreds of forged signatures in there and everyone of them

constitutes a separate felony from the way I understand it. I just want you to know there is a lot of interest in this. For whatever it's worth, I can tell you there are a lot of constituents down in Savannah, both mine and Helen Stone. We want to see justice on this. There are a lot of people that want to see justice on this, especially, when dead people are signed up. I made this statement the last time I came here, before I was Chief of Police, here in Savannah, I was Chief of Police right in the Chicago area in Madison, Illinois, 21 miles from -- (audience member coughing) This type of thing occurs rampantly there, but it does not occur in Georgia, and it must not occur in Georgia. I have lived in Georgia for there 30 years. This is my home. I'm proud of this state. And I know that your office and the attorney general's office will look at this very closely. Justice needs to be done. Thank you.

**SECRETARY HANDEL**: Thank you, very much. Anyone else on this case?

(NO RESPONSE)

**SECRETARY HANDEL**: Colleagues, questions?

**MR. WORLEY**: I didn't really have a question. I sort of had a statement. Something that Ms. Stone said disturbed me and I don't want to you think these allegations are not serious. We are taking them very seriously. And the Secretary of State's Office, through the Inspector General Office has put in a lot of time and effort and resources into investigating this situation. But you said that the people who have been accused have to prove that they were not involved in these events. Actually, they don't have to prove anything. This office, the Secretary of State's Office, the Attorney General's Office, and the District Attorney's office have to wind up proving what happened and these people were involved here. And, I think, we should all be very clear about that. This is America and the accused person does not have to prove his innocence. So, I just want to make sure that everyone understands that. Secondly, I make a motion that we refer everything to the District Attorney's Office and the Attorney General's office, except for Mr. Rayno's case, because I would like to discuss that separately.

**SECRETARY HANDEL**: Take a motion separately on that one?

**MR. WORLEY**: Yes.

**SECRETARY HANDEL**: And I'll second. So the motion is to refer all with the exception of Mr. Rayno to the District Attorney as well as -- transmit it to the District Attorney, as well as over to the Attorney General's Office. Questions on that one?

(NO RESPONSE)

**SECRETARY HANDEL**: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: All right. So, that is that. Now, Mr. Rayno, you have some questions for him.

**MR. WORLEY**: Yeah. I just am a little troubled because the evidence that we have before us, we have a statement that the petitions that Mr. Rayno submitted had two forgeries. It says one here. You say the Board identified two people. I would really like to table this to the next meeting, until we can get a fuller report on these two people. And see if -- (inaudible).

**MS. LAGRUA**: I am obviously at the Board's direction. I'm happy to do that. I will point out that we found 48 forgeries. We did not go back to every name on the petition. So, any additional investigation we do could uncover additional violations is the only thing.

**MR. WORLEY**: I'm not suggesting additional investigation. I am saying I would like to -- we have had Mr. Rayno say two people have been mentioned. He described why they were not likely to have had their signatures forged. I would just like to know how that correspondence, the one or two names that we say were forged --

**MS. LAGRUA**: If it meets with the Board's approval, the investigator is here. If we can table this towards the end of the meeting, we may be able to have an answer to that before the end of the meeting where we can table it to the next meeting and I can report.

**MR. WORLEY**: I am happy to wait until the end of this meeting. I would like to know before. I think we need to have something more than just a statement in here, since we have had Mr. Rayno come and specifically say that those people didn't forge.

**SECRETARY HANDEL**: I am happy to get some additional info. I will say, for me, part of the issue here is that you had a group of people who appear to have been colluding to have this overarching, sort of scheme, if you will, to collect forged signatures. So, for this member of the SEB, it is not going to be compelling for me that even if it comes back that there were zero forged signatures on your particular petition, I am having a hard time separating out that this is a group of people who were not engaged in this together. It would be something that I would like to see the District Attorney -- because they will have far broader capabilities than our office does, including subpoena powers, etcetera, regardless of whether the additional shows; I think that there is enough here, given the overall effort that took place on all of this to warrant everyone being looked at further and if in the process of the DA's investigation or what the Attorney General goes through. And if they find that there was no participation whatsoever, knowledge, etcetera, from Mr. Rayno, fine; but I don't feel like I have enough evidence at this point to dismiss him from the case at this point, for this individual.

**MR. WEBB**: I concur. I think he seems to make a good case. But I don't think we have all the facts. I don't think that's our jurisdiction to do that. So, I think at this stage -- I wouldn't mind hearing more, but I would almost say, let's not table it.

**SECRETARY HANDEL**: Make a motion.

**MR. WEBB:** I make a motion that we include Mr. Rayno as part of the group that's being referred to the Attorney General and the District Attorney.

**SECRETARY HANDEL:** Second. All in favor.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY HANDEL:** Opposed.

**MR. WORLEY:** No.

**SECRETARY HANDEL:** Okay. Thank you. Our next case is 2008, No. 72 --

MS. LAGRUA: You missed Hancock.

**SECRETARY HANDEL:** How could I forget Hancock. 2008 No. 71, Hancock County, Respondent Barbara Rice.

**SECRETARY HANDEL:** The allegations were that Barbara Rice and others were paying for absentee ballots and Barbara Rice verbally abused Ronald Waddell. During the investigation, the complainant Mr. Waddell, actually, withdrew his complaint regarding Bovine. The witness that was named and interviewed could not give any information regarding Bovine. The complainant also amended his story regarding the verbal abuse, stating he got into a discussion with Ms. Rice when he was asked to move outside the 150-foot mark. There was an independent witness that, actually, said the complainant was the one that was abusing Ms. Rice, so we would move that this case be closed at this point.

**SECRETARY HANDEL:** Is there anyone here to speak on this case; Mr. Waddell; Ms. Rice; anyone? We have a recommendation to close. Motion?

**MR. WORLEY:** So moved.

**MR. WEBB:** Second.

**SECRETARY HANDEL:** Motion and a second. All in favor?

(NO RESPONSE)

**SECRETARY HANDEL:** Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL:** 2008 No. 72, Athens, Clark County.

**MS. LAGRUA:** This was interesting. Kirk Carter actually e-mailed a complaint to us, saying that there was a voter-registration drive in Athens and they were only allowing Obama supporters to get registration forms. We went to speak with the complainant, who denied making the complaint. We asked him if it was his personal e-mail address. He confirmed that

the e-mail address was his. We asked if this was his contact information. He affirmed that the contact information that we had was his, but denied ever sending us the complaint. Based on the allegations, we also interviewed the director of the student center where the drive was allegedly occurring and the lieutenant with the police department to see if they have ever receive any complaint. We could not find any evidence that this complaint was sustainable. So we recommend that it be closed.

**SECRETARY HANDEL**: Okay. Is there anyone here to speak on this case?

(NO RESPONSE)

**SECRETARY HANDEL**: Anyone here to speak? Is Kirk Carter here?

(NO RESPONSE)

**SECRETARY HANDEL**: All right. Recommendation to close?

**MR. WORLEY**: Motion to close.

**SECRETARY HANDEL**: Second. All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed.

**MR. WORLEY**: I'm going to abstain.

**SECRETARY HANDEL**: Okay. Next case, 2008 No. 75, Wilkes County.

**MR. HARVEY**: The complainant in this case was Judge J.C. Burton, Probate Judge. The respondents are Tashawn Turner, Tia Williams, Shawntu Cofer, Brian Brown, and the Wilkes County Board of Registrars. The original complaint was that there were six absentee ballots that had been sent out, that allegedly had been given to people that did not get turned in to the Registrar's Office. And there was also allegations of illegal assistance and possession of absentee ballots. You will notice that I provided an amended the summary of the violations in the State Election Board Case. Here, the original summary had some technical errors on it. So, this is a complete list of the summary of violations. As far as the six ballots that were allegedly lost in transit, four of them ended up not being returned to the Registrar's Office. Two of them did make it back to the Registrar's Office. The four that didn't make it back, one was given to one of our respondent's, Brian Brown. One voter never received an absentee ballot, or never returned an absentee ballot. One voter put it in the mail, and one voter never voted at all. Two of the ballots that did make it back were Lounel Walton and Stanley Barnes. As far as that goes, Brian Brown, who is the deputy with the Sheriff's Department, assisted voters and took possession of absentee ballots. He assisted two people, Walter and Kerri Mays, and Rose Andrews. He did not sign as assisting them, and he took possession of their ballots to return them. It is interesting that Rose Andrews ballot never made it back to the Absentee Ballot Clerk.

As I said, he did not sign as assisting Walter and Kerri Mays. As far as Louneil Walton, Louneil Walton submitted an absentee ballot application in which her signature was the symbol "X." That did not comport with what was on her voter-registration card, which was a full signature. The registrar had personal knowledge that Ms. Walton had had a stroke and thought that she was disabled, so they accepted her absentee ballot, mailed her an absentee ballot -- accepted her application, mailed her an absentee ballot. And she returned the absentee ballot, all of which were accepted with the, apparently, invalid signature. Tashawn Turner is the citizen who picked up Louneil Walton's ballot and returned it to the registrar. Tashawn Turner also assisted Hattie and Ruby Acre without signing that they were helping them to figure out their ballot. For clarification, Tashawn Turner and Shawn Acre, Shawn Acre is listed in the summary as the same person as Tashawn Turner. Geantu a/k/a Cu-cu Cofer was going around helping people vote, helping people register. He and Tia Williams got together and Mr. Cofer asked Tia Williams got together and Mr. Cofer asked Tia Williams to pick up the ballots of Karen Patrice Venil, which she did after they voted. In this case, it is recommended that all of these respondents on the amended summary of violations be bound over to the Attorney General's Office for appropriate sanctions and fines.

**SECRETARY HANDEL**: Is there anyone here to speak on this case? Do we have anyone from Wilkes County?

**SECRETARY HANDEL**: If someone is here, please come forward.

AUDIENCE MEMBER: I don't think there is going to be anybody to speak, but there are people here.

**SECRETARY HANDEL**: If I can just find out if we have the respondents in the room. Tashawn Turner?

(NO RESPONSE)

**SECRETARY HANDEL**: Tia Williams -- mcWilliams, sorry.

(NO RESPONSE)

**SECRETARY HANDEL**: Ms. Cofer.

(NO RESPONSE)

**SECRETARY HANDEL**: Brian Brown.

(NO RESPONSE)

**SECRETARY HANDEL**: And you are -- are you with the Board?

**MS. REESE**: I'm Gladys Reese.

**SPEAKER**: She is the chief registrar.

**SECRETARY HANDEL**: Yep. All right. Colleagues, any questions on this one?

**MR. WEBB**: I'm sorry. Mr. Harvey, what was your recommendation?

**MR. HARVEY**: That all the respondents be bound over to the Attorney General's Office for appropriate sanctions and fines.

**MR. WORLEY**: I would make a motion that we bind over the violations that are prescribed on the amended summary of violations that has been presented to us, to the Attorney General's Office.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: Motion and a second. Any other questions?

(NO RESPONSE)

**SECRETARY HANDEL**: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE).

**SECRETARY HANDEL**: All right. Our next case is 2008 No. 93, Lowndes County.

**MR. HARVEY**: The complainant in this case was Deb Cox, the Election Superintendent. The respondents were Evelyn and Otis Dupree, Evin Brinson, Tyrone Hill, and Juan Rodriguez. The allegation is that there were voter-registration cards submitted that apparently did not match old signatures that they have on file. She reported this to our office. We investigated each five of the cards. As far as Evelyn and Otis Dupree, their previous voter-registration cards had been completed 10 or 11 years prior. They were presented with the new cards. They confirmed that was, in fact, their signature by the investigator. They claim it's their signature, so there is no violation there. The same with Evin Brinson. Evin Brinson acknowledged that she did fill out her voter-registration card. Anthony Hill could not be located. It was believed that he had moved to Florida. His new voter-registration card was from the Department of Driver Services and was only printed with an electronic signature, which is sometimes more difficult to compare. Lastly, Mr. Rodriguez was interviewed and he did acknowledge that he completed his voter registration application after somebody came to his house and offered it to him. He is not a United States Citizen. He is not complete. He didn't answer the question as to whether or not he was a United States Citizen. But he did sign the card and send it in. His voter registration application was not accepted because he didn't have a social security number, driver's license number, and, in fact, is not a United States Citizen. The only violation appears to be that of Mr. Rodriguez and it is recommended that his case be forwarded to the Attorney General's Office



and possibly the District Attorney's office for false registration.

**SECRETARY HANDEL**: Is there anyone here to speak on this case? Anyone here? In particular, is Mr. Rodriguez here?

(NO RESPONSE)

**SECRETARY HANDEL**: Okay. Questions colleagues?

**MR. WORLEY**: Mr. Harvey, you said that he had signed the form and sent it in. Did he, actually, send it in or did someone send it in for him?

**MR. HARVEY**: He said that he sent it in.

**SECRETARY HANDEL**: Is there a motion?

**MR. WEBB**: Point of clarification, the Attorney General's recommendation to report it to the Attorney General, and as I understand it, possibly the DA. Could you expand on that, what the difference is? I am trying to ask the different kind of sanctions that might be applied for the District Attorney versus the Attorney General.

**MR. HARVEY**: The District Attorney would possibly deal with criminal prosecution.

**MR. WEBB**: The Attorney General would be civil charges.

**MR. HARVEY**: That's my understanding.

**MR. WEBB**: I make a motion that we refer this to the attorney general's office.

**SECRETARY HANDEL**: Second. Motion and a second. Any other questions?

(NO RESPONSE)

**SECRETARY HANDEL**: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY HANDEL**: Any opposed.

(NO RESPONSE).

**SECRETARY HANDEL**: Next case is 2008 No. 108, Floyd County.

**MR. HARVEY**: The Plaintiffs in this case: Andrew Seville and Ruth Sergeant. Ms. Sergeant's mother came home from voting and said that she had been told she had to vote a straight-party ticket in November. And when Ms. Sergeant went to vote, she questioned that. What she

determined was that she couldn't find anybody that matched her mother's description for having to vote a straight-line party ticket. She believed that her mother was just confused about that. She made additional allegations that the poll worker was not checking for proper identification and that poll workers were not wearing their ID badges. When Ms. Sergeant went to vote, she said that she presented her ID to the poll worker, although he didn't ask for it. She said that she saw other people coming up. He didn't ask for the ID from the people. The poll manager identified the poll worker and said this is one of the most conscientious poll workers who always checks ID. Ms. Sergeant did see him checking ID. She stayed at the precinct. Ms. Sergeant said that nobody had any ID badges on at the precinct, which was actually confirmed by one of our monitors who was there at about 1:00 o'clock and saw that there were no badges. At that point, the poll manager distributed badges and had people put them on. The poll manager said that there were other people in the poll area that were not poll workers, who might not have had badges on. The poll manager did not admit that the people were not wearing their badges. There ended up being no corroboration at all that anybody had said anything about having to vote a straight ticket in November. So, it is recommended that this case be resolved with a letter of instruction to the poll worker and the elections officials with a reminder for the need to wear identification badges at all times.

**SECRETARY HANDEL**: All right. Anyone here to speak on this case? Come on up.

**POLL MANAGER**: I didn't come to speak. I just came to, you know, to show my face and I do not take this lightly. We try real hard not to break any laws. That was not our intention, because we do stress the importance of wearing the badges. I just want you to know that we stressed it at that time. So, we don't take it lightly and I'm here to say --

**SECRETARY HANDEL**: I know you don't.

**POLL MANAGER**: -- I humble myself. If it did happen, which I'm not saying it did, we would still stress that in our training.

**SECRETARY HANDEL**: All right. Colleagues, maybe what could occur in this is perhaps a letter of instruction from our office to the elections director with a directive that a specific notice be given to all the poll workers about wearing badges and reiterating the importance of the photo ID requirement.

**MR. WORLEY**: I make that motion.

**SECRETARY HANDEL**: Second. All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: All right 2008 No. 124. It involved DeKalb County.

**MR. HARVEY:** In this case Mr. Robert Jerrad claimed that his ballot was not counted. Ms. Patricia Hicks claimed that she did not receive a ballot to vote in the runoff by absentee. Lynn Williamson was told she had already voted absentee, was not allowed to vote. Daniel Floyd had requested an absentee ballot, but never received one. The investigative findings were that Mr. Jerrad was, in fact, given credit for voting. He was allowed to vote in both general and the runoff election. In doing the investigation, he acknowledged that he had been encouraged to file a complaint with the Secretary of State's Office regarding his displeasure with photo ID requirements. And it really didn't have anything to do with his being allowed to vote. He was allowed to vote. There doesn't appear to be any violation. Ms. Woods, in the DeKalb County Election's Office, acknowledged that Ms. Patricia Hicks did not receive her runoff ballot and, essentially, said it was just human error. They overlooked it. Ms. Hicks has said that in previous elections she has not received runoff ballots also. DeKalb County simply acknowledges that that occurred. Ms. Lynn Williams' ballot request was inadvertently reported as voted in office instead of mailing her a ballot. When she showed up to vote, they told her she had already voted absentee. She was not allowed to vote a provisional ballot. Lastly, Mr. Floyd said that he faxed his ballot request from Rhode Island 5 days before the election. DeKalb County never responded. They have no record of ever having received his application. At one point he claimed he had a confirmation that he sent it, however, he was not able to provide that to our investigators. So, it is questionable whether or not Mr. Floyd's absentee ballot request made it to DeKalb County before the elections or not. It is recommended, in this case, that as far as Ms. Hicks and Ms. Williamson, their cases be forwarded to the Attorney General's Office for appropriate fines, sanctions or letters of instruction. Mr. Floyd's is sort of a he-said-she-said situation. He claims he sent it. He never got one. And DeKalb County claimed they never got it. DeKalb County did acknowledge Ms. Hicks they dropped the ball on. So, it's, hard to tell what happened with that one.

**SECRETARY HANDEL:** I was saying on this one that I think, probably, a letter of instruction will probably suffice, although I will say, what I am most troubled about in all of this is that a provisional ballot wasn't issued. And given just how many times -- I can see elections officials nodding their heads at me -- how many times it has been stated and restated and restated and restated, so that would be the only one, colleagues, that I feel most strongly about, because that is for that particular poll worker -- did this occur in the office when the individual came in or was that one of the precincts? Ms. Williamson? I was trying to get to, specifically, who didn't issue the provisional ballot.

**MR. HARVEY:** This was on November 4th, so it would have been at a precinct.

**SECRETARY HANDEL:** Okay.

**MR. WEBB:** Mr. Harvey does this seem to be a problem with DeKalb County being able to get their absentee ballots out, or is it just kind of an indiscriminate matter?

**MR. HARVEY:** It appears to be a pretty isolated incident. They normally do a pretty good job of getting them out, in my experience. They are also pretty straight-forward with admitting when they make a mistake.

**SECRETARY HANDEL**: Yes.

**MR. WEBB**: I make a motion that we provide a letter of instruction.

**SECRETARY HANDEL**: I will second that. If I can ask one thing, if we can, perhaps, as part of this motion, identify who was the poll manager in this particular precinct for Ms. Williams. And that individual also be contacted that, if they are going to continue to be poll managers, the importance of a provisional ballots, if you do want to accept that.

**MR. WEBB**: I accept that modification.

**SECRETARY HANDEL**: Motion and second. Is there anyone here that wants to speak on this one?

**MS. RASPBERRY**: Yes. My name is Brenda Raspberry with DeKalb County.

**SECRETARY HANDEL**: Come on up. Folks if for some reason -- stand up if you want to speak on a case. Come on up. We have three chairs in the front. You will be right in front of me and I won't miss you.

**MS. RASPBERRY**: Brenda Raspberry. I'm an attorney with the DeKalb County Law Department. I guess, instead of going into the details, we would agree with the letter of instruction. That is really what I wanted to say. We would agree with receiving the letter of instruction from the AG's Office. That would certainly be our preference in this matter.

**SECRETARY HANDEL**: All right. Thanks. We have a motion and a second. All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: All right. That one was approved. Sometimes when you get the sale you should let it go.

**MS. RASPBERRY**: I wanted to say we agreed with that.

**SECRETARY HANDEL**: I think the case involves Cook County. But now that Tex is still not here, who is here from Cook County on this one.

**SPEAKER**: Me.

**SECRETARY HANDEL**: I have to recuse on this case because of my long-time friendship with the Daughtry family, but then that leaves me without a quorum. Can we table this for a minute and then what I am going to do is try to get in touch with Mr. McIver and see if he going to be here, so that we can deal with this. And I am so sorry. We found out this morning that Mr. McIver had a conflict come up and an urgent client matter. I hate this, but I want to make sure we deal with it properly too.

**SPEAKER:** Yes, ma'am.

**SECRETARY HANDEL:** Okay. Good. Thank you. Rhonda, could you run and see if you can get in touch with Tex.

MS. BROWN: Yes, ma'am.

**SECRETARY HANDEL:** And get, potentially, an ETA or if he is still tied up. That way we will know what we need to do with this one. The next case then is 2009 No. 8 for Schley County. Before you start, if I could also acknowledge that we have a letter that was received from the County Board of Registrars to all of us. You have each been given a copy. It does have some relevant information. If I could get a motion to accept this into the record.

**MR. WORLEY:** I'll make the motion that we accept it into the record.

**MR. WEBB:** Second.

**SECRETARY HANDEL:** All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL:** Colleagues, if I can point out that the individuals who were on the board of registrars at the time of this complaint are not currently the members of the Board of Registrars for the county. It's all changed over. Okay, Chris, sorry.

**MR. HARVEY:** The allegation in this case is that the County Board of Registrars accepted unsigned absentee ballot applications. In this case, specifically, (unclear) voters. Also, that they did not maintain a master list of absentee ballots to apply for and then send out. The investigation found out that that was correct. The letter you have from the Board of Registrars acknowledges that that happened. They amended their ways. They said they didn't need to keep a register. They said they will start doing that. They did verify the signatures on the ballots when they came in, due to time constraints they claim they weren't able to do it.

**SECRETARY HANDEL:** Again, the individuals who failed to conduct the process properly are not currently serving.

**MS. LAGRUA:** That's my understanding.

**MR. HARVEY:** Correct.

**SECRETARY HANDEL:** West, do you know if the three new individuals have done training yet?

**MR. TAILOR:** I am not sure whether they were. I can confirm what training they have had.

**SECRETARY HANDEL**: I think the two individuals who have left, who are ill and one for business purposes, I will say I don't see any point of referring the three new folks. That weren't even there when it happened. So, it will be a question of referring the previous individuals who were on the Board and then perhaps a letter of directive around training for these new folks, as well as the staff person who, I think, is Coretta, who is on the staff there.

**MR. WORLEY**: Madam Secretary, to me, the allegations here are more serious --

**SECRETARY HANDEL**: They are very serious.

**MR. WORLEY**: -- than the ones we have been dealing with in the last few cases. I think it is very important that whoever is running the show now be made aware of our concern about the seriousness of this. I would make a motion that we refer this to the Attorney General's Office for the negotiation of some kind of consent order regarding (unclear).

**SECRETARY HANDEL**: I will second that if we can amend it to include the three previous individuals, as well.

**MR. WORLEY**: I would accept that.

**SECRETARY HANDEL**: Okay.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: All right. We have a motion and a second for the amended. All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: All right. I did ask if there was no one here. I knew they weren't going to be here because of the letter. All right. 2009 No. 14. This is Fayette County. And you will see it. There is a long list of different allegations and findings that go from A through J.

**MR. HARVEY**: Yes, ma'am. Most of these center on people that have registered at addresses where they don't believe to have lived there. In case A, Ashley Patterson provided an address for voter registration card. It was returned by the current resident. She said she didn't live there. She didn't show for the hearing. We were unable to identify and locate Ashley Patterson, but she clearly did not live at the address where she was registered. Crystal Holly, in case B, had the same issue. She filed a voter-registration application. She didn't have ID, and she didn't appear. She was deleted from the listed. And the resident at the house where she claimed to live sent a letter to the registrar saying she has never lived there. Cases C and D, Shawndra and Chad Underwood just so happened, when they came in to file their voter-registration application, the

clerk that received them had lived across the street from them and knew that they didn't live at that address any longer. They haven't lived there since April of 2007. And they filed their applications in 2008. They, too, were removed from the voters list after registering at a bad address. In case E, Dennis Dean requested an absentee ballot from an address in New York, using an address that he had not lived at since October of 2006. He is not registered to vote in New York. He is still registered to vote in Georgia. I take that back. He was deleted at the hearing when he didn't appear. We could not identify or locate him to get the statement from him either. It is believed he is still living in New York. Case Letter F, Michael Reid attempted to vote twice. On September 22nd he voted in office and then he came back on October 27th and attempted to vote again. He was told, you have already voted, you don't need to vote again. He was interviewed. He claimed to have forgotten that he voted. He denied any knowledge or any type of influence or anybody telling him to vote. He just simply said he didn't realize he had already voted. Letter G, Ryan Splitlog, the ballot was questioned by the registrar who suspected that possibly the signature didn't match. It was filled out by Mr. Splitlog's father. Mr. Splitlog is a college student. Mr. Splitlog was subsequently found and interviewed. He did confirm that he had signed his own (unclear). Case H, Chris Asbury requested ballots in both Fayette and Chatham County. So, I take that back. He voted by absentee in Fayette County. He is a college student in Chatham County. After moving to Chatham County, he registered to vote. Chatham County notified Fayette County. They transferred his registration to Fayette and they deleted his absentee ballot that he had sent to Fayette. He claimed that he forgot he had voted in Fayette County, as well as voting in Chatham County. Letter I, Marcus Stephens requested an absentee ballot from Fayette, to be sent to Virginia. He voted that ballot and after voting then registered in Virginia. Virginia notified Fayette County. And it was determined that he never voted in Virginia. So, after voting in Georgia he changed his registration to his college address. Lastly, Nicholas Garrett requested an absentee ballot to vote in Fayette County. He was registered to vote in Clayton County. The story with him is he was preparing to move to Clayton County. His wife had, apparently, done him the favor of filling out a voter-registration application, which he claims to have signed, just sort of not really realizing it. So, when he went in to vote he did not realize that his voter-registration application had been changed to an address where he was planning on moving to. It has subsequently been corrected. It is recommended in these cases that they be forwarded to the Attorney General's Office for appropriate sanctions and fines, with the exception of Ryan Splitlog, who appears to have had his signature -- Chris Asbury is questionable. He did vote in Fayette and then registered and voted in Chatham County, hence, Fayette was canceled out. Marcus Stephens does not appear to have violated, because he voted and then changed his registration to another state. And Nicholas Garrett, the last person we mentioned, he did change his registration prematurely. And it is questionable whether or not he should be bound over.

**SECRETARY HANDEL:** So you are recommending A, B, C, D, E, F, and H.

**MR. HARVEY:** It's questionable on H.

**SECRETARY HANDEL:** Okay.

**MR. HARVEY:** He did vote in Fayette by absentee and then went to Chatham. Actually his Chatham County Vote -- Chatham and Fayette got together before the election and they canceled

his Fayette County Vote.

**SECRETARY HANDEL**: Right, but my question would be, did he or didn't he vote twice?

**MR. HARVEY**: One vote was counted. He did vote twice.

**SECRETARY HANDEL**: I am not asking what was counted. I'm asking did he or didn't he vote twice.

**MR. HARVEY**: Yes, ma'am.

**MR. WORLEY**: In case H, Mr. Asbury, do we know whether he knew his Fayette County vote had been canceled at the time he voted?

**MR. HARVEY**: He claimed that he forgot that he had voted in Fayette County.

**MR. WORLEY**: No. That wasn't my question. Did he know that this issue of this new registration had come up and, therefore, that his Fayette County Vote had been canceled?

**SECRETARY HANDEL**: Did anybody notify him?

**MR. WORLEY**: You assumed that he didn't, effectively he wouldn't have voted, so he went ahead and voted in Chatham.

**MR. HARVEY**: I don't believe there was anything done proactively towards that. He didn't let anybody know that he had already voted in Fayette County.

**MR. WORLEY**: Did anyone let him know that his Fayette County Vote had been canceled?

**MS. LAGRUA**: It does not appear so, Mr. Worely. He stated he signed the oath in Fayette. He said he forgot he voted in Fayette. And when he went to Chatham County to attend school, he registered and voted in Chatham. He specifically said, it was a mistake. It was not his intention to vote twice. So, it does not appear that he was notified that he has previously voted or that either vote was counted or not counted.

**SECRETARY HANDEL**: Let me just ask. Do I have anyone here to speak on behalf of this matter? Ashley Patterson? Crystal Holly? Shawndra Underwood, Chad Underwood, Dennis Dean, Michael Reid, Ryan Splitlog, Chris Asbury, Marcus Stephens, Nicholas Garrett? Okay.

(NO RESPONSE)

**SECRETARY HANDEL**: All right. None of them are here. All right. Is there a motion, folks?

**MR. WORLEY**: It seems to me that that -- I'm not sure about H and J and (unclear.)



**MR. HARVEY**: Did you say I.?

**MR. WORLEY**: Yes, I. I would also like to say, generally, I would like to compliment the Fayette County Election Office.

**SECRETARY HANDEL**: Y'all stand up. We have a new board member that might not know everybody's faces.

**MR. SAWYER**: We brought the whole office.

**SECRETARY HANDEL**: Very good. Y'all do a great job. We appreciate it. Do you have a motion, David?

**MR. WORLEY**: Yes, I make a motion that we refer all of the complaints that are identified in the report letters A through J, except for case letters G and I to the Attorney General's Office.

**SECRETARY HANDEL**: Okay. We have a motion.

**MR. WEBB**: I'm catching up.

**SECRETARY HANDEL**: I will go ahead and second while you take a look.

**MR. WEBB**: Everybody but Splitlog and Sputem.

**SECRETARY HANDEL**: Correct.

**MR. SAWYER**: May I make one comment. Asbury, his ballot was returned back to the office, but we were in the process of trying to get his registration transferred to Chatham. We did not count his vote in Fayette County in the general election.

**SECRETARY HANDEL**: Do we have a motion and a second?

**MR. WEBB**: On Asbury, if we could refer this, including him, then the Attorney General could make a determination whether or not to do further investigation.

**SECRETARY HANDEL**: Absolutely, she can come back to us and say there is nothing there and then she can come back.

**MR. WEBB**: Great.

**SECRETARY HANDEL**: All in Favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: Okay. The next case is -- oh, for Cook County, we did reach Mr. McIver. And he is still unable to be here. And I don't expect him here. I am so sorry. These things happen. And it's rare that we have so many unexpectedly not to be able to come to a meeting. So we will need to take it up at our meeting.

**SPEAKER**: Madam Secretary, there are no charges against Judge Daughtry. I think you closed the file on that in the last meeting. Is that correct?

**MS. LAGRUA**: The allegations came back from the Daughtrys at the meeting against the Cook County Elections Board.

**SECRETARY HANDEL**: There were additional allegations that were made that were requested that we look into and we did. So, now that is before us, but we can't take a vote to close that, because I have a conflict. And we don't have a quorum if I'm not at the table.

**MR. WEBB**: Your point is Mr. Daughtry is not involved in this and maybe the Secretary doesn't have to recuse herself.

**SECRETARY HANDEL**: I, actually, do. They made the allegation.

**MR. WORLEY**: I guess Judge Daughtry's mother is the complainant in the case.

**SECRETARY HANDEL**: Right. I need to recuse. I realize you might not agree with that, but I've made my decision and I feel like I need to recuse. I really am sorry for that. It is the rarest of times that we have someone not be able to come to a meeting at the last minute. So, I'm sorry for that.

**SECRETARY HANDEL**: All right. Do I need a motion to continue that one, Shawn?

**MS. LAGRUA**: I believe so, Madam Chair.

**MR. WEBB**: Motion to table and continue the case.

**SECRETARY HANDEL**: I don't think we can even do that. We have the leave it. We will have you come back. All right. The next case is 2009 No. 33, Athens Clarke County.

**MR. HARVEY**: This case is very similar to the Richmond County Cases. The respondent is Elijah Chapman. He received voter-identification cards under two different names. On August 31st, 2009, he received the voter-identification card in the name of Shane Dillan Chapman, which happens to be his brother's name. And then on September 24th, '09, he received a voter-identification card in the name of Elijah Eugene Chapman. Again, the goal was to get that age 21 on a piece of ID he was identified. He was currently wanted. He was interviewed by the investigators. He acknowledged doing it. He said he was trying to appear to be 21. And he was arrested by Athens Police on unrelated charges. It is recommended that this case be forwarded to

the Attorney General's Office and considered for criminal referral to the District Attorney's Office.

**SECRETARY HANDEL**: Is anyone here to speak on this case? Is Mr. Chapman here? Probably not, but let the record show that he is not. Anyone else?

(NO RESPONSE)

**SECRETARY HANDEL**: All right. We have a recommendation to refer to the Attorney General's Office and transmit it to the DA for their pending cases they have. Motion?

**MR. WEBB**: I make that motion to refer this to the Attorney General's Office as well as the District Attorney.

**MR. WORLEY**: I second that.

**SECRETARY HANDEL**: I have a motion and a second. All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY HANDEL**: Any oppose?

(NO RESPONSE)

**SECRETARY HANDEL**: As with the case in Augusta, we will do some proactive outreach, as well, in Athens around the particular issue through some of the student associations.

**MR. WEBB**: Should we do that at other colleges, as well.

**SECRETARY HANDEL**: We do outreach, generally. So we will make sure we roll that into a lot of our efforts. All right. Our next case is 2009 No. 36, City of Washington, Wilkes County.

**MS. LAGRUA**: The complainant in this case was Nathaniel Cullars, a City Councilman and the respondent was Debbie Washington, one of the poll workers. The allegation was that Mr. Cullars was upset because he was not allowed to assist Ms. Fanning at the voting cite. Ms. Fanning is not illiterate or disabled. She does suffer from arthritis and low blood sugar, but she was interviewed. And the poll worker at the time was able to determine that she was able to read and write. She went to school long enough that she understands her money. She has no voting. There was nothing improper on the poll worker's part by not allowing Mr. Cullars to assist Ms. Fanning in the voting booth, so it is recommended that this case be closed.

**SECRETARY HANDEL**: Do you want to speak on that? It is recommended that it be closed. Come on up. Tell us your name.

**MR. CULLARS**: My name is Nathaniel Cullars, Sr. I live at 312 Old (unclear) Shoals Road, Washington, Georgia. They sent my mail to (194 Dennis Circle), out in the County. The

recommendation is to close this and you're not going to investigate and find out why --

**SECRETARY HANDEL**: If I can stop you, the case was investigated, just so you know that.

**MR. CULLARS**: My only concern is I don't think the case has been investigated properly, because Ms. Fanning, being an elder senior, was not able to use the computer. She came in the office. I brought her up there to have the voter registration officer to let me assist her in voting. I don't think the voter register is authorized to know whether she can read or write properly. At the bottom of the voting things it has, if somebody needed assistance that I should sign it. I asked the lady three times to sign the paper, so I can assist her with voting. She denied it. She was upsetting the elderly lady. So, at that time we didn't even go to the advanced voting. I had to take her to the regular polls on November 4th, to vote. We are constantly having problems with the Registrars Office. I've asked numerous times who hires the registrar. Do y'all know who hires that person? I asked the County Commissioner. They said they don't hire them. I am trying to find out how they get hired. Why do we have the mother, the daughter, and the son-in-law running the Voters Registrar's Office?

**SECRETARY HANDEL**: Whose mother, daughter, and son-in-law?

**MR. CULLARS**: Sitting right over there, mother, daughter and son-in-law.

**SECRETARY HANDEL**: Who?

**MR. CULLARS**: Of the voter registrar. They are all in the same office.

**SECRETARY HANDEL**: That is not what I'm asking. You are saying, are they related to anybody other than themselves, in the office?

**MR. CULLARS**: Related to themselves.

**SECRETARY HANDEL**: I thought you were saying they were related to someone else.

**MR. CULLARS**: Related to themselves all in the office. I don't think it's right for all of them in that office to be related to each other. I also have a problem with them, folks having valid ID, coming to the polls and they want to know the social security number. I didn't think you had to show your social security number when you have a valid ID. On the election before -- this is my third time coming up -- I live in District 1; they are letting folks in Direct 2 vote in my election. This is constantly going on.

**SECRETARY HANDEL**: Did you file a complaint on that?

**MR. CULLARS**: At that time I didn't, but this is continuously going on in this county. It's got to stop. I mean, the Voter Registrars Office, the chief officer was rude, told me to get out. They were disrespectful to the old lady. I asked her the questions, since she was the chief executive officer, why I can't sign it. She said ask her daughter. I said we pay you; you need to be answering my question. So, I think it's time for a change in Wilkes County for the the voter

registration office.

**SECRETARY HANDEL**: I have a couple of questions. Were you on that ballot?

**MR. CULLARS**: No, I was not. When I'm on the ballot for reelection I have a problem with them.

**SECRETARY HANDEL**: I was asking, specifically, in terms of assisting. You know, obviously, you couldn't.

**MR. CULLARS**: No. I was just assisting an elderly lady in voting.

**SECRETARY HANDEL**: Is Ms. Fanning here?

**MR. CULLARS**: No, she is not. She is an elderly senior citizen. I think someone from your office contacted her. I think she said she told them that. She asked them numerous times to let me assist her. I don't think the lady should be able to say if you are able to sign this certificate, you can stick your name up there and touch the ballot. That's disrespectful.

**SECRETARY HANDEL**: Actually, that's not what she indicated to our investigators in the report. I believe in Washington County, are y'all the Chief Registrars appointed by the superior court?

**WILKES COUNTY REPRESENTATIVES**: Wilkes County.

**SECRETARY HANDEL**: So, in Wilkes County the superior court would appoint the Chief Registrar. And it would be the county's rules and procedures to determine whether or not people can be related or not related within an office. I will suggest, though, to all of you that that's not probably a prudent --

**MR. CULLARS**: Right.

**SECRETARY HANDEL**: Hold on. Sometimes if someone is supporting something that you said, you might want to let a girl finish.

**MR. CULLARS**: I apologize.

**SECRETARY HANDEL**: It is probably not a prudent process, folks, I mean from a general operational standpoint. Colleagues, I don't know if I, without Ms. Fanning being here -- let me see if y'all have any questions. Sorry. Did anyone over there want to speak?

**MS. ANDERSON**: I don't really think there is anything. I could.

**SECRETARY HANDEL**: If you want to speak, I need you to come up here.

**MS. ANDERSON**: I will speak.

**SECRETARY HANDEL**: Unless colleagues have questions now.

**MR. WORLEY**: Just a question about requesting voters' social security numbers, when did that happen?

**MR. CULLARS**: This election. We took a number of people to the poll. They had ID, but they asked them for social security numbers. And they couldn't vote.

**MR. WORLEY**: Was it a driver's license ID or some other kind of ID?

**MR. CULLARS**: It was valid ID, driver's license. It was valid.

**MR. WORLEY**: You know, I would suggest that if you wanted that looked into, that you could file a complaint about that.

**MR. CULLARS**: Along with the other complaints?

**SECRETARY HANDEL**: Well, you go back too many years and I don't think we can get there on that. But I would encourage you that if there are issues at an election, that complaints be filed promptly so it can be looked into promptly.

**MR. CULLARS**: Okay.

**SECRETARY HANDEL**: Thank you. If you want to speak right there, you will be close enough to the mic. That way she will be able to hear you better. Perfect. Thank you, and if you will give us your name.

**MS. ANDERSON**: My name is Debby Anderson. I am Deputy Registrar at Wilkes County. My address is 559 North Alexander Avenue, Washington, Georgia. A couple of things I would like to mention. Mr. Cullars seems to forget that the Thursday following the election he went to the Commissioner's meeting and asked the very same question, at which time the commissioners explained to him that he needed to go to the superior court, that they did not have anything to do with the Board and everything. He was informed at that time that superior court handles everything. As far as the social security stuff, I don't know anything about that. If that was at the polls, we do not handle that. That would come through someone else. Also, I would like to give you a copy of a letter that our current Probate Judge provided, that Ms. Fanning did go to the polls and she was offered a provisional ballot the day she was in the office, until we could get further clarification. Mr. Cullars insisted that he needed to help her. And he was the only one making the statement, at which time, she voted. No one did sign for her at the polls. The poll officials, poll manager and poll workers have all stated that she did not receive assistance at the polls. She did vote. If I can address one of the things, as far as the people in the office, we are a small county. We have one person that works. That's the Chief Registrar. Due to all the new computer technology, I have been assisting for years with the paper ballots. I work as a volunteer. I am not paid. I was, actually, put on to work by the Board, Wilkes County Board of Registrars, to learn the computer systems and be able to come in case something happened to the only person in this office during an election. My husband is on the Board. The Board is put

together by submission from the grand jury. The Judge does pick the names. He is a Board member. But during elections, we have Board members work. Sometimes we need more there and on days he is not there as a Board member being paid, he is there as a volunteer to help out.

**SECRETARY HANDEL**: If the record would show, I will need a motion, we have a letter submitted -- let me just take this in. -- a letter submitted by Wilkes County Probate Court Judge, Thomas Charping.

**MR. WORLEY**: I make a motion to accept the letter into the record.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: Any questions? Mr. Cullars, anything else?

**MR. CULLARS**: Like I said, this is one of the problems. I personally took Ms. Fanning to the polls to vote. Where she got that from, I don't know. I took her on Election Day. The letter you got from Mr. Charping who has just been newly elected. He wasn't in the office when Ms. Fanning was there and he didn't know what to do.

**MR. WEBB**: Who was the investigator on this?

**MS. LAGRUA**: Bob Conway.

**MR. WEBB**: We have a letter stating Ms. Fanning did vote on the 4th without assistance. And I guess Mr. Cullars is stating that he brought her to the polls on the 4th to vote.

**MS. LAGRUA**: Apparently, she came in to early vote, was when this happened, during early voting, October 19th, when Mr. Cullars, apparently, brought her in to vote. At that time there was discussion and there were calls from a probate judge in our office about the proper roles of assistance. Before any of that got sorted out, Ms. Fanning got frustrated, apparently, she must have come back at a later time and voted without assistance. The complaint that was brought to us was, specifically, that the Registrar or that an absentee ballot where some folks in the office were improper when they did not allow Mr. Cullars to assist. And everything they knew at the time points to the fact that they did not act improperly. She came in. She signed up. They knew her. She had voted before. And even she did not indicate that she had a disability that would prevent her from being able to vote. While they were sorting it out, they actually offered her an absentee ballot. I'm sorry. They offered her a provisional ballot so there would not be any question. She got frustrated and left and, apparently, must have come back on Election Day and

voted.

**MR. WEBB**: Okay. So, what's important to me is that she did vote. And her vote counted. Otherwise, I can't see --

**MR. CULLARS**: That's inaccurate what she just stated. The investigator didn't come in and talk to them on the telephone. She talked to them after they called her. And we left there together, because I had to take her to the early voting and, other senior citizens, I took her to the polling place to vote. I had to assist her with signing the paper. (Not using mic, unclear).

**MS. LAGRUA**: I don't believe I indicated that our investigator had spoken to her in person.

**SECRETARY HANDEL**: Mr. Cullars, please wait. If you have to speak, I need to ask you to wait to be recognized. I understand that you are, clearly, very upset about this matter, but it is not helping with you jumping in like that. It is not helping. Okay. I will most certainly come to you if you have something else to add. Thank you.

**MS. LAGRUA**: We interviewed all the parties and there was no indication that the folks at the Registrars Office acted inappropriately, which is the basis of our recommendation to close the case.

**MR. WEBB**: Can I see that letter?

**SECRETARY HANDEL**: Yeah. So, Ms. Fanning did vote on Election Day.

MS. LAGRUA: According to their records, yes.

**SECRETARY HANDEL**: If I can ask a question. Hold on everybody? So, Mr. Cullars, you are saying that on Election Day you assisted her.

**MR. CULLARS**: I went to the senior citizen's building. Ms. Fanning is part of the senior citizens.

**SECRETARY HANDEL**: I asked a specific question. Ms. Fanning voted on Election Day.

**MR. CULLARS**: Ms. Fanning voted on Election Day at the polling place.

**SECRETARY HANDEL**: With or without your assistance?

**MR. CULLARS**: With my assistance. At the bottom of the statement you have to sign whether you are assisting someone to vote.

**SECRETARY HANDEL**: Okay. All right. You want to add something?

**MS. ANDERSON**: I believe Mr. Cullars, I believe, stated that he did sign to assist her. Here I had already faxed a copy. This is the voting certificate at the pole.



**SECRETARY HANDEL**: Let the record reflect that I am accepting a voter certificate. Let's see. It is a voter's certificate for Wilkes County Emma Bell Fanning.

**MR. WORLEY**: I make a motion that we accept this into the record.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES).

**MR. CULLARS**: May I see that?

**MR. WEBB**: Just a second.

**SECRETARY HANDEL**: Let the record reflect that, as Chair, I am redacting the elector's date of birth. What else do you want me to take out? That's it, just the date of birth, okay. And I'm going to go ahead and initial that I have done that, just so that folks that ask see that. All right.

**MS. ANDERSON**: Madam Chair, do I still have the floor?

**SECRETARY HANDEL**: Yes.

**MS. ANDERSON**: I did want to mention that, if you will notice, before you pass it off, it is initialed by a poll worker that they asked for assistance. I believe Mr. Cullars keeps indicating she is disabled. The mark started out as unable to read, could not read is what is checked. The poll worker did not sign underneath the signature. That is the reason Judge Charping contacted the poll workers and the letter was obtained. We do have other electors' certificates where it was signed in full, signatures on the back who were assisted with the polls. The M.D., Marie Trinker, was the poll worker and Booker Jackson was the poll manager. I believe Mr. Cullars stated that he did sign, and --

**SECRETARY HANDEL**: This would indicate that she did receive assistance. No, I said if it is not signed. They both stated that she did not receive assistance. Had she received assistance, they would have signed. One of the poll workers, full signature. There is a certainly a question if she checked that she couldn't read.

**MR. WORLEY**: Mr. Cullars signed something indicating that he did assist on Election Day. What document would that have been?

**MS. ANDERSON**: The bottom half of that is on the back of the certificate. It should be a copy of that also on file.

**SECRETARY HANDEL**: I, actually, have kind of a question. Mr. West this for you. This is front and back, correct?

**MR. WEST:** Yes.

**SECRETARY HANDEL:** So, then this -- and I am not suggesting that it doesn't go with this. I am suggesting that we don't have the back of this. And that's what we really need, frankly, is to be able to see the original.

**MS. ANDERSON:** And it is at the courthouse.

**MS. LAGRUA:** I should let the members know, Madam Chair, that this case was completed in 48 hours. So the issue of voting on Election Day was never raised to us. We never received any of this.

**SECRETARY HANDEL:** That's fine. I think we probably ought to take a look at the original one.

**MR. WEBB:** I agree. The issue to me, here, is that she did get to vote, which is paramount, but at the end of the day the situation of getting into a fight at the poll shouldn't occur. And whether someone -- whether the poll workers are trying to follow what they are directed to do or whether someone is trying to take an elderly person, we weren't there. We don't know what happened. But at the end of the day, people have got to allow the person to vote. And work with the person to vote. And the person shouldn't be influence any at all. The person should be straight-forward and say whether or not they need assistance. It seems to me that there was some discrepancy in that going on. And now we have got a record that indicates that the person didn't need assistance, but you are claiming that you did assist her. Anyway, I think I agree with Secretary Handel. We would like to see the original, have the investigator look at the original and in the meantime we can table this; would that be correct?

**SECRETARY HANDEL:** Is that your motion?

**MR. WEBB:** Yes. I make a motion that we table this until further investigation.

**SECRETARY HANDEL:** All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL:** All right. Our next case is 2009 No. 37, City of Comer. I believe they requested a continuance.

**MS. LAGRUA:** That's correct.

**SECRETARY HANDEL:** All right. We'll hold that one over. 2009 No. 38, City of Gillsville. They too requested a continuance.

**MS. LAGRUA:** That's correct.

**SECRETARY HANDEL:** All right. Typically we let everyone automatically have a first continuance. The next case, again, is Washington County 2009 No. 39.

**MS. LAGRUA:** Yes, ma'am, the complainant was Ann Dickinson, in our office, had received some information that the City of Tennille Election Superintendent complained she was not able to place an order for her electors list and that she could not validate signatures and determine eligibility and she couldn't get in touch with anybody in the County Registrars Office. As to the first allegation, that was not substantiated. Apparently, she requested the list in early October. It was provided to her on October 27th, but within the appropriate time of receiving it. So, there wasn't a problem. However, the bigger problem here was the Washington County Registrars Office was not open on a regular basis. No one was there. The phones were forwarded to another county office, in particular. And while that, apparently, is a practice, we will substantiate during the week of October 12th, there was no one staffing the Registrar's Office, and that is during early voting. So, there was no one in the office. So, on that allegation it is recommended that the case be forwarded to the Attorney General's Office for appropriate sanctions and fines, specifically including mandating training in this regard.

**SECRETARY HANDEL:** Anyone here to speak on this.

**MR. WOMMACK:** I'm Robert Wommack. I'm a lawyer in Sandersville. I Represent Washington County. I represent the City of Tennille; therefore, I guess I represent Patty Buggerment, who is the young lady we are talking about.

**SECRETARY HANDEL:** Would you do me a favor and spell your last name for me.

**MR. WOMMACK:** W-o-m-m-a-c-k.

**SECRETARY HANDEL:** Great. Thank you.

**MR. WOMMACK:** And Mr. Tom Brett, our Registrar, is with us. I am not here to fight or to argue. I am here to settle. Several key players in our election system were out of pocket, due to illness. I will go into the details of the illness if you want it. One of them was stroke, one of them was cancer. It was a city election for City of Tennille that sort of slipped up on everybody. Mr. Brett has received the designated training. He has not been there four years, so he was not expecting the election. I don't think anybody was. He had a long standing vacation planned. The concept of across the hall in another office was about as far as from me to you, Madam Secretary of State. And it was personnel problems, due the illness. One of the full-time county employees who works with the probate judge, who used to run all our elections, also is a trained registrar and is now our Deputy Registrar. She got pulled out, due to a probate judge's illness, for a while. We got it all straightened out. Everybody was given a provisional ballot. There were only three that voted. I don't think we had but about 20 people early vote. It may have been a few more. It was a dispute, for a while, that I wasn't involved in, as to whether the city of Tennille hired extra people so we can have three people in City Hall or whether the early voting would take place in the courthouse, which is 3 miles away, but the people of Tennille didn't want to come (unclear) to sign for a vote. You know how little towns are. Everybody voted. Everybody has been trained. We had some problems. I acknowledge that. Those problems have

been resolved. We would be real happy to get a letter of instruction. I missed this lady, through no fault of her own, on the phone a few times, but I have talked to the gentleman over there several times. All along we have wanted to resolve this matter.

**SECRETARY HANDEL**: Anyone else hear to speak on this one? Anyone else? Okay, colleagues?

**MR. WORLEY**: Personally, I think we need more than a letter of instruction, here. This is something that the Attorney General's Office can work out.

**MR. WOMMACK**: We will be glad to work with you, ma'am.

MS. BRUMBAUGH: I'll give you my card.

**MR. WORLEY**: I make a motion to refer this to the Attorney General's Office.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: The next case is City of De Soto. We have just been given a letter that came to us just this week. And, colleagues, who is here from the City of De Soto on this matter? Is there anyone here on this? Anyone here for case 2009 No. 41, Sumpter County, City of De Soto? That makes it somewhat less problematic. Out of an abundance of caution in looking at the letter from the attorney representing the city; it happens to be the law firm of Roy Barnes, which even though, I think it appears that it's his son --

**MR. WORLEY**: No, it's not.

**SECRETARY HANDEL**: Okay. Great. Super. I was very concerned. Again, out of an abundance of caution I wanted to be fair.

**SECRETARY HANDEL**: We still don't have anyone here for this case. All right. City of De Soto. Go Shawn.

**MS. LAGRUA**: The allegation was that they failed to hold a general municipal election. The findings were that they failed to hold a general municipal election. In fact, it looks like, Madam Secretary, that the letter that was sent actually concedes everything. Lays out what their history has been and also has a contract attached to the correspondence indicating that they have entered into a contractual agreement to have their elections run. So, I stand by my recommendation to

refer this to the Attorney General's Office. And it looks like something that could be easily resolved with a consent order with Ms. Brumbaugh.

**SECRETARY HANDEL**: All right. Again, is anyone here on this one?

(NO RESPONSE)

**SECRETARY HANDEL**: All right. Colleagues, is there a motion?

**MR. WEBB**: I move that we refer this to the Attorney General's Office.

**SECRETARY HANDEL**: Second.

**MR. WORLEY**: I would like to state that, no questions, but again this is a pretty serious matter when you forget to have an election. We had one case before us last year where this happened. And I would just suggest that the Attorney General's Office, as I know they will, will treat this matter very seriously.

**SECRETARY HANDEL**: We have a motion and a second. All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: Mr. Tailor, is it possible that, I know you have done some outreach for GMA; this is probably the 4th such case in the last six weeks, really, where we said okay, the Secretary of State's Office is, indeed, going to do investigations around municipal elections. It was kind of a gray area previously. But this is really serious. There is no telling if we were to go back and do an audit, how many city elections were just, flat, not held. That is extraordinarily unacceptable. And maybe there is a way for GMA -- we could offer some additional training. There could be something put in place when they could do their municipal training for Mayors and City Council Members. I am just very frustrated with this.

**MR. WEBB**: Yes, ma'am. I agree. So that you know, we have addressed this actual specific issue in our municipal certification training in a session this past year. GMA will be conducting additional training during a GMA conference in February. In February we will address this issue then, as well. And we will continue to remind all municipal officials about the need to hold elections.

**SECRETARY HANDEL**: I would like to see us go one step further and ask GMA to include this as part of their broader training for either Mayors or City Managers, because they do certification requirements for City Council Members, Mayors, etcetera and this should be part of their session, and understand that they have a responsibility. The next case is 2009 No. 49, City of Arcade. I think they wanted a continuance, as well.

**MS. LAGRUA**: That's correct.

**SECRETARY HANDEL**: All right. And, lastly, is -- no, second to last -- Fulton County. It's a memo case, No. 815.

**MS. LAGRUA**: That's a Typo. It should be '09, and there were a couple of cases we handled immediately (when we received the allegation), which is why it's here. This is an allegation by the Boarder's Campaign that postal workers were instructed not to deliver Lou supporters mayoral campaign material. We did investigate. And what we found out was that there is a difference between bulk and first-class mail requirements in terms of when it has to be delivered. The postal service in this area had some personnel issues. They were down a couple of people, so they were told to get the first-class mail delivered immediately. None of the mail was delivered late. 60 percent of the mail was actually delivered within the 1-day first class mail turn-around time and 40 percent in the 2 days, as provided by law. So, it is recommended that this case be closed.

**SECRETARY HANDEL**: Anyone here to speak on this?

(NO RESPONSE)

**SECRETARY HANDEL**: All right, colleagues?

**MR. WEBB**: Motion to close.

**MR. WORLEY**: I have a question before you do that. Do we have any jurisdiction over whether campaign mail goes out or not? I see there is a reference in the report to -- no indication that was part of any of the mailer's delay.

**MS. LAGRUA**: I think, if anybody interferes with the absentee ballot, intentionally -- I don't know whether we have jurisdiction over the postal service, but because of the contentious nature of that election, and the allegation that came in, we went ahead and followed up. Had there been something that we found that was a problem, that would have been someone else's jurisdiction, we would have referred it to the U.S. Postal Service or someone, but we try, unless it is clearly something we can't do anything, we try to, at least, follow up, initially, and see what we have got.

**MR. WORLEY**: Thank you.

**SECRETARY HANDEL**: Motion and a second to close. All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: Okay. Finally, we have another memo case, 2009 No. 5, involving Cobb County, Katrina Davis.

**MS. LAGRUA**: Apparently, there is an allegation that Katrina Davis was serving a felony sentence, registered to vote. Voted in 3 different elections. In fact, she did have a felony conviction, but her sentence concluded in 1999. There were no active sentences. So, when we showed all that to Ms. Kiss, she indicated that he understood and acknowledged that she was eligible to vote. I think Ms. Kiss was just being proactive and letting us know there was a potential problem. We followed up. There was not one. Her vote was counted. I recommend that we close the case.

**MR. WORLEY**: I make a motion that we close the case.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: Any questions? Anyone here on this matter? All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**MS. LAGRUA**: If I could, on behalf of the Office of Inspector General, I would like to wish the members of the Board a very, very Merry Christmas.

**MS. BRUMBAUGH**: Motion to enter executive session?

**SECRETARY HANDEL**: Motion.

**SECRETARY HANDEL**: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed.

(NO RESPONSE)

**SECRETARY HANDEL**: All right. If anyone who wants to stay as we close out the meeting can, but if I can ask everyone to leave this room while we go into executive session. And then when we come back out, we will open the doors and let everyone come back in.

(EXECUTIVE SESSION)

**SECRETARY HANDEL**: All right. We are concluding executive session. If I can get a

motion to come out -- to close executive session and come back into the main meeting.

**MR. WORLEY**: I make a motion that we close our executive session.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: Okay. A motion and a second. All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: All right. If the record can reflect that we did have executive session involving a litigation matter. And there is one action item coming from the meeting. That action item is per the direction of counsel, the Secretary of State, as Chairman of the State Election Board will send a communication to Ms. Laura Gallegos following up on some of her comments from today's meeting and the previous meeting. If I can get a motion on that.

**MR. WORLEY**: I make that motion.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: Motion and a second. All in favor?  
(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: Is there any other business? All right. Motion to adjourn.

**MR. WORLEY**: Motion to adjourn.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: All right. Meeting is adjourned.

(MEETING ADJOURNED AT 1:20 P.M.)



THE OFFICE OF THE SECRETARY OF STATE  
STATE OF GEORGIA

IN THE MATTER OF:  
STATE ELECTION BOARD MEETING  
PUBLIC MEETING

THE OFFICE OF THE SECRETARY OF STATE  
SLOPPY FLOYD BUILDING  
2 MARTIN LUTHER KING, JR. DRIVE SE  
12th FLOOR, EAST TOWER, ROOM 1252  
ATLANTA, GEORGIA 30334

THURSDAY, DECEMBER 10, 2009  
10:00 A.M.

PRESIDING OFFICER: KAREN C. HANDEL  
SECRETARY OF STATE

**SECRETARY HANDEL:** Good morning everyone. I'm Secretary of State Karen Handel. I will call our meeting to order this morning and request, if I, can for everyone to stand for invocation followed by the pledge of allegiance and then I will do role call.

(INVOCATION)

(PLEDGE OF ALLEGIANCE)

**SECRETARY HANDEL:** Kent.

**MR. WEBB:** Present.

**SECRETARY HANDEL:** Davis.

**MR. WORLEY:** Here.

**SECRETARY HANDEL:** Karen is here and Tex is also here.

**MR. McIVER:** Present.

**SECRETARY HANDEL:** We do have a quorum and Randy Evans is not with us this morning. He had a last-minute conflict that prevented him from coming. The first order of business is going to be, as we do at all of our State Elections Board meetings, a general public-comment period. So, I'm going to take those public comment statements first and then we will close that and open up for the formal hearing on the rules. And there is a different set of public-comment rules for that. So, our first individual in the general public-comment period, I would ask everyone to please keep your comments to 2 minutes. David Chastain. And if you want to come on up and use the microphone at the head there, that would be great. I'm going to call everybody in order, so we can go ahead. After David will be Garland Favorito, Sally Fitzgerald and then Michael Opits.

**MR. CHASTAIN:** This is different. Hi y'all. I'm David Chastain from Acworth, Georgia. I'm giving you a formal letter today. I have got a signed original. I will give to the Secretary, if you wish. And I will summarize what I have written. Back in January I came before the State Election Board bringing to your attention the SPLOST 2005 referendum, up in Cobb County. I pointed out that there were 295 blank electronic ballots and I left. And I didn't hear anything from anybody, anywhere, any way, any why, until someone called me and said, did you ever file a complaint with the State Election Board. I said, no, I haven't. Maybe somebody else in Cobb did. So, we find that I was summarized in January 21st minutes. It says that I shared my concerns and I talked about the blank ballots. And then in October I'm on the agenda. But it doesn't say David. It says Cobb County SPLOST SEB Case 2009-four zeros and one eight. Well, that doesn't have my name on it. So even though I saw an agenda, I thought, well, somebody in Cobb, an activist, is doing something. And then what to my wondering eye should appear; the summary of the State Election Board Meeting of October 26th, 2009. And here is what it says. SEB Case No. 2009-four balls and one eight, (2009-00008) Cobb County 2005

SPLOST, Chris Harvey, Deputy Inspector General presented this case, which involved comments made by David Chastain at the January 21st, 2009, State Election Board meeting. Mr. Chastain voiced concerns regarding the Cobb County SPLOST election, held September 23rd, 2005, and stated there were many discrepancies in reporting votes and there were 285 blank ballots. Mr. Harvey recommended the cases close. There were no public speakers -- because they didn't know to be here -- and Randy Evans made a motion to close the case. Kent Webb seconded. The motion passed unanimously, 5 to 0. Now, since I was never informed, it makes me question what kind of inspection was this. And is there no process, no protocol for how we conduct an inspection when it is conducted by the office of the inspector general? And since my time is up, I'll simply say I've given you nine questions, but I'm also asking that you provide an independent forensic investigation of the SPLOST referendum in Cobb for 2005 and 2003. And, to get your attention, I've shown you that in 2003 there were 279 blank ballots in that SPLOST referendum. And I think the people of Georgia would like to know why. Thank you. Who should I give the formal letter to?

**SECRETARY HANDEL**: Was this what was just passed out to us? Okay. We've got it.

**MR. CHASTAIN**: Okay. It's got my signature on it.

**SECRETARY HANDEL**: Thank you. And I'll entertain a motion to accept this into the minutes.

**MR. McIVER**: I move to admit.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: All right. Thank you. The next speaker is Garland Favorito.

MR. FAVORITO: Thank you. In January I also submitted a complaint letter, in person, directed to Director Tailor. Director Tailor has confirmed with me twice that he forwarded this on to the IG's office. Chris Brown of the IG's office confirmed that he had received it in February and during the next 10 months I repeatedly requested the status of that case from him, never got a status. I have some correspondence in a letter here to document some of these exchanges. But each time Chris Brown confirmed that the IG's office had it, but he could not provide the status. Finally, in October I wrote another formal letter, as you may remember, to the Board, requesting the status of my complaint, which, I think, was very serious since it involved hundred of millions of dollars of voting machines that were acquired and questionable, according to the law. I received a letter from the Inspector General's last week, saying that they can now not locate my

complaint. I'm attaching my response for your review. I do not consider the inspector's letter to be credible. I would like to, also, mention that I was down at the recount yesterday. I'm sorry to use that expression. No ballots were recounted yesterday. The e-voting simply reprinted previous unverifiable results that were never verified by the voter in the first place. No vote recording errors can be detected in that type of procedure. And the absentee ballots were not recounted. They were rescanned so that if there was an error in the tabulation scanner, in the original count, that error would have been, also, prevalent in the recount. Therefore, I do not consider any recount that was conducted yesterday -- I was there for the full time -- to be legitimate. I think the Board would be wise to look at their recount procedures in depth. Thank you, very much. I also want to inform the Board that I have compiled -- I have read the minutes for one of the Legas case. I understand that she has submitted an e-mail to you folks to have her case reopened. And I do have evidence to present to you in that case, in the event that it is reopened.

**SECRETARY HANDEL**: Okay. Thank you. The next speaker is Allen/Ellen Fitzgerald.

**MS. FITZGERALD**: Madam Chair, I've had an off-line conversation with Mr. Taylor on my concern. And he is aware of it and is going to move forward.

**SECRETARY HANDEL**: Okay. Thank you. The next speaker is Michael Opits.

**MR. OPITS**: The electronic voting machines --

**SECRETARY HANDEL**: If I can ask your name and address, for the record, please.

**MR. OPITS**: Certainly.

**SECRETARY HANDEL**: Thank you.

**MR. OPITS**: My name is Michael Opits. My address is 1802 Winfare Court, Marietta, Georgia 30062.

**SECRETARY HANDEL**: Thank you.

**MR. OPITS**: The existing e-voting machines are flawed. And that's according to Princeton University's math department. That's a Tier 1 university. Georgia is the only state that continues using these machines that do not produce a hard copy verifiable ballot, so, therefore, recounts are impossible. Simply by pressing the total button is not a valid recount process. It is just like pressing the total button on an electronic calculator. So, I would request that the electronic voting machines, which, by the way, have been acquired by Florida, after the hanging chads in Florida discovered that they, too, were unsatisfactory. I would request that these voting machines be replaced with scan-tron terminals, which is what we used prior to this electronic technology change. They were accurate. They were cost effective, and not subject and also provided a hard copy for recounts. Thank you, very much.

**SECRETARY HANDEL**: Thank you. With that, I'm going to close the public comment and

accept a motion to close the SEB meeting and then open for public hearing on the rules.

**MR. McIVER**: So moved.

**PANEL MEMBER**: Second.

**SECRETARY HANDEL**: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: All right. Now, we enter into the public-comment period on the rules and I would like to take each of the rules separately and entertain public comment on that. It appears that we have our first rule as 183-1-6.06 Verification of United States Citizenship of Applicant for Voter Registration. Ms. Ashling, you are here to speak on that rule.

**MS. ASHLING**: Yes.

**SECRETARY HANDEL**: Okay. Please come forward. Because we have different rules for this, it's 5 minutes each. After Ms. Ashling, Ms. Butler, your comments are on this Citizenship Rule?

**MS. BUTLER**: Yes.

**SECRETARY HANDEL**: Okay. You'll be next.

**MS. BUTLER**: Okay.

**MS. ASHLING**: Hi. My name is Cam T. Ashling. I'm here to represent OCA, commonly known as the Organization of Chinese-Americans, a leading national advocacy organization, protecting the civil rights of all Asian-Americans in the United States. We are headquartered in Washington, DC with 81 chapters in college affiliates, representing over 10,000 members. OCA Georgia and OCA National strongly objects to verifications of U.S. Citizenship of applicants of voter registration. OCA collectively supports full voting participation by all eligible American citizens and oppose this bill's effort to create new, unnecessary barriers that effectively block minority voting participation. There is, virtually, no evidence that non-citizens are even trying to vote illegally. People already have to take a legal oath of citizenship that protects the integrity of the system. Asian-Americans, like other ethnic groups, have a disproportionate rate of name changes, who have a current legal name that does not match the birth names. Many do not have certificates at all. Passports are very expensive, as you all know. This bill suppresses an already low voter registration group and undermines the spirit of the American people, where the government wants all citizens to participate in the process. This bill will create an unconstitutional poll tax on low-income citizens, where the documentation of papers can cost from \$10 for birth certificates to \$210 for replacement of naturalization papers. Birth certificates, as you know, are the easiest documents to forge, and are seldomly checked. Who is going to check them? Women who have changes through marriage are also vastly affected by this bill or regulation. The burden imposed by this anti-voter bill is substantially greater than the

justification for it. Is Georgia seriously going to require current registered voters to re-prove citizenship every time they move from county to county? As you all know, Georgia has 159 counties. This is extraordinarily cumbersome to the majority of the population. What benefit is there to shrinking the voting pool, but not to concentrate political powers to a few groups? What is the true intent of this regulation? It is greatly astounding that representatives of this great State of Georgia see fit to suppress and intimidate voters from exercising their constitutional right by creating multiple hurdles that aim to shrink and control the current voting pool, especially suppressing the minority vote. OCA Georgia and OCA National strongly objects to these regulations and will continue to speak against this anti-voter, anti-woman and anti-immigrant regulation. Thank you.

**SECRETARY HANDEL:** Thank you, very much. The next speaker is Helen Butler.

**MS. BUTLER:** Good morning. I'm Helen Butler, Executive Director of the Coalition for the People's Agenda. I believe we have already submitted our letter, but I wanted to read it into the record today.

**SECRETARY HANDEL:** If I may. Is that going to be your public comment because you only have 5 minutes and we are going to accept it into the record when we are finished with public comments?

**MS. BUTLER:** Yes, I will, but I still want to read it into the record, for those who may not have access to it. The Georgia Coalition for People's Agenda is submitting this comment letter as a public comment on the proposed SEB Rule 183-1-6-.06, to urge the State Election Board to reject this rule because it creates an unconstitutional burden on the right to vote on thousands of Georgia Citizens and violates the National Voter registration Act. The People's Agenda is convened by the Rev. Dr. Joseph E. Lowery, and is a coalition of more than 2 dozen historic and newer civil rights, environmental rights, economic justice, peace and social justice organizations, including the NAACP, SCLC, GABEO Woman, etcetera. We have a long tradition of voter registration, education, immobilization, and holding our elected officials accountable. At the onset we would like to register our deep objection to the underlying legislation SB-86 that precipitated the creation of SEB Rule 183-1-6.06. Georgia's existing voter registration procedures already provides for adequate protection against the stated fear of non-citizen voting. In particular, the affidavit of the long-approved, voter registration form requires voter registration applicants to swear that they are citizens under penalty of felony conviction. This requirement is consistent with the NVRA's mail-in order of voter registration and, thus, should not be supplemented with additional proof of citizenship documentation requirement. The Secretary of State's office has failed to provide any evidence of a need to impose a tremendous additional burden on voter registration applicants, despite their access to millions of voter registration records from which to identify a problem. Thus, we feel that the State nor the SEB can legally justify this new requirement. The U.S. Attorney General has already objected to the State of Georgia's illegal implementation of a so-called voter verification program for registration data that was interposed on May 2009 in Morales versus Handel. SBE Rule 183-1-6-.06 is, basically, the same requirement, reliance on the inaccurate Georgia Department of Driver Service's database and other forms of proof that required money, time, effort to obtain who have no substantive change to the blatantly unconstitutional aspects of the previous voter

registration program. In particular, the proof-of-citizenship requirement will have the same disproportionate effect on minority African-American, Hispanic-American, Asian-American and new-citizen voters. And it will effectively become a poll tax for those who are flagged by the inaccurate DDS System and who do not have the alternative required documentation readily available; thus, they would need to spend their time and money to obtain a birth certificate, passport, etcetera. We want to also express our deep disappointment that the State of Georgia seems to be retreating from the hard-fought progress to ensure voting rights for all of its citizens; in particular, the proof of citizenship requirement harkens back to the time when elected officials arbitrarily imposed additional requirements for voter registration that seemed targeted to suppress the vote of those with a history of disenfranchisement and who were the least likely to have the time, resources, etcetera, to jump through more hoops to exercise their right to vote. We have had many civil rights activists who really died for the right to vote. And we really think this is an imposition on that right to vote. The proof of citizenship requirement and its predecessors, the verification program, is discriminatory against minority voters and new-citizen voters and will result in target voter suppression among those communities. As we learned the painful lesson and infamous purging of the so-called felon voters in Florida in the 2000 election, such so-called verification programs generate numerous false positives, thus imposing extra burdensome requirements on some voters for no reason other than predictable administrative error. In the case of Georgia, the so-called voter verification process not only proved to be inaccurate, but also disproportionately flagged minority, again, African-American, Hispanic-American and Asian American voters. We can expect the same results from using the same inaccurate DDS database for the proof of citizenship requirement. In summary, we request that the State Election Board reject this rule because it implements an unconstitutional burden on the right to vote of thousands of Georgia citizens and violates the National Voter Registration Act. Thank you.

**SECRETARY HANDEL:** The next speaker is Jerry Gonzales.

**MR. GONZALES:** Morning. My name is Jerry Gonzales. I am Executive Director of the Georgia Association of Latino Elected Officials, also known as GALEO. Our address is P.O. Box 29506 Atlanta, Georgia 30359. Good morning, Chairman Handel, Vice-Chair McIver and members of the State Election Board. I am here to speak against the rule being proposed, as well. Rule No. 183-1-6-.06. Fundamentally, this will lead to discrimination against minority communities, as has been proven by the illegally implemented procedure by the Secretary of State Karen Handel in the last election. Fundamentally, if we want to protect the integrity of the voting process, we need to protect the integrity of access, as well. What this proposed rule will do is diminish access to minority communities that desperately do want to exercise their right to vote and further suppress voting. And, yes, I do believe this would be a poll tax for new citizens that's we want to engage in the democratic process that we have. Specifically, I want to talk about some of the specific concerns that we have with this. The proposed rule contradicts federal law, the National Voter Registration Act, by not allowing the applicants to register to vote using the federal mail-in application. Also, the proposed rule sets out non-existent citizenship documents. There is no state driver's license or identification card that indicates on its face that the applicant is a U.S. Citizen. The proposed rule also references citizenship documents under federal law, specifically, the Immigration and Control Act (sic.) IRCA. IRCA does not provide a listing of acceptable documents and procedures for determining U.S.

Citizenship. The proposed rule excludes potentially valid citizenship documentation. The proposed rule requires that some citizenship documents be, at least, 5 years old. This requirement is unworkable for an applicant who has to obtain the document for purposes, specifically, for voter registration. Many citizens have not had to prove their citizenship in the past and may need to obtain new documents in order to register to vote. In this situation, the citizenship document is going to be less than 5 years old. There are several problems affecting naturalized citizens. The proposed rule singles out naturalized citizens by requiring them to provide their certificate of naturalization to the Board of Registrars in person. The proposed rules do not make any accommodations for newly naturalized citizens that may not enter into the federal state system for several weeks. The proposed rules, also, do not make any accommodations for naturalized citizen that obtained a driver's license prior to naturalization and, therefore, will be tagged in the DDS database as non-citizens. The proposed rules also incorrectly limit certificates of naturalization to those issued by U.S. Citizenship and Immigration Services or USCIS. Certificates of naturalization were issued by Immigration of Naturalization Services, formerly known as INS and federal courts prior to the creation of USCIS. Furthermore, this rule -- these rules also provide too much discretion. The proposed rule, allowing the Board of Registrars to determine whether the citizenship documents presented are satisfactory by validating the totality of the evidence is insufficient guidance and will lead to charges of discrimination and foul play. There are several counties out there that are actively working toward suppressing minority voting. We have experienced that in the last several elections. We are working to rectify that, but the bottom line is, there is a lot of discretion given to some of these county board registrars. The bottom line is we believe this proposed rule should be rejected and I don't believe that the State has proven that it can be implemented in a non-discriminatory manner; therefore, we would deeply express our opposition to implementing this proposed rule. And we would ask for the State Board to reject this rule, the proposed rule. Thank you.

**MR. McIVER**: Señor Gonzales, con su permision, un momento. (in spanish) Mr. Gonzales.

**MR. GONZALES**: I didn't understand you. Excuse me?

**MR. McIVER**: May I ask you a question?

**MR. GONZALES**: Yes, sir.

**MR. McIVER**: I'm curious. I expected you to say that you, like the others who have commented earlier, are asserting that there is no evidence whatsoever of non-citizens attempting to vote in Georgia. Is that your position or the position of your organization?

**MR. GONZALES**: Based on what I have read and based on what I know, there has not been an active attempt for non-citizens voting, yes

**MR. McIVER**: That's the position of your organization.

**MR. GONZALES**: Yes, sir. That is what I believe.



**MR. McIVER:** Okay. Thank you. No other questions.

**SECRETARY HANDEL:** Anyone else?

(NO RESPONSE)

**SECRETARY HANDEL:** All right. Our next speaker is Jon Park. Thank you.

**MR. PARK:** Good morning. My name is Jon Park. And I represent the Center for Pan Asian Community Services. We are the largess Asian community service provider in the southeast I am also here to oppose 183-1-6-.06. Most of the points that have been covered by the people that have been up here before, I am not going to rehash that issue, but at the point of is there a problem of voter fraud? There has been several voter studies, both nationally and statewide. For instance, the Brennan Center conducted a 12-state study, in which they found no meaningful evidence, for statistics of voter fraud. That doesn't mean there was no actual voter fraud at all, but we are talking about meaningful. In addition, in 2008 the Texas Attorney General, Gregg Abbot, conducted a 2-year study, spending \$1.4 million investigating whether there was widespread voter fraud in the state of Texas, which has the largest immigrant population in the United States. He found, in that period, only 8 cases of actual voter fraud. So, there is no widespread actual voter fraud going on in the United States. Is there some voter fraud? There probably is, but the impact that this regulation would have to prevent those isolated cases would not be worthwhile. For instance, the groups that would be impacted by this regulation, up to 18 percent of citizen over 65 will be impacted by this type of regulation. 12 percent of citizens earning less than \$25,000 per year will be impacted. Up to 48 percent of women of voting age will be impacted by not having ready access to citizenship documents reflecting their current legal name due to marriage or divorce. So in weighing the pros and cons, this type of regulation would greatly burden the ability for eligible voters. And we believe that the letter issued by the Department of Justice regarding SB-86 reflects that these types of regulations is both unworkable and burdensome and how do we pay for these regulations in this era where there is deficits in local and state budgets? We feel that it is not worthwhile to implement this regulation in the light that there is no widespread problem at all. Thank you, very much.

**MR. McIVER:** One moment, Sir. May I ask the position of your organization with respect to whether or not you think there have been any individuals attempting to vote for no, who are non-citizens in Georgia.

**MR. PARK:** We are not disputing the fact that there may be isolated instances of voter fraud. We are talking about if you weigh the actual amount of voter fraud that has been proven versus the impact that this regulation would have on eligible voters that are flagged by this type of regulation, then it would not be worthwhile. We are not conceding that there is no actual voter fraud at all. We are saying the number of cases that can be proven versus the number of eligible voters that would be affected, the pros and cons who not justify it.

**MR. McIVER:** Thank you.

**SECRETARY HANDEL:** Anyone else?

(NO RESPONSE)

**SECRETARY HANDEL**: The next speaker is Nina Perelez.

**MS. PERELEZ**: Good morning, Chairwoman Handel, Vice Chairperson McIver, and members of the State Election Board. My name is Nina Perelez and I'm with Southwest Regional counsel of MALDEF, The Mexican American Legal Defense and Education Fund. I am pleased to testify today on proposed Rule 183 --

**SECRETARY HANDEL**: Can you pull your microphone over a little bit?

**MS. PERELEZ**: You can't hear me? I will give you my courtroom voice. I'm here to testify on proposed rule 183-1-6-.06, which is intended to implement section 21-2-216 (G) of the Georgia Code, otherwise known as SB-86. This testimony outlines a number of issues raised by the proposed rule and offers some suggestions for improving the rule. This testimony should not be understood to be an endorsement of any portion of either SB-86 or the proposed rule, even if these recommendations are adopted by the Board. I'm going to, briefly, cover the points in the comment letter that has already been provided to the Board. And I hope, Chairwoman Handel, that you do have that, and it will be part of the record.

**SECRETARY HANDEL**: It will.

**MS. PERELEZ**: Thank you. The propose rule contains a number of problems that flow from SB-86 itself. For example, the proposed rule does not make clear that the Boards of Registrars are still required by the National Voter Registration Act to accept and process properly completed mail voter registration forms. And we suggest that the rule make clear that, regardless of any contradictory language in SB-86 that Boards of Registrars are still required to accept and process NDRA mail applications. Section 2(a)(2) of the proposed rule is inoperable because there is no state driver's license or identification card that indicates on its face, quote, that the applicant has provided satisfactory evidence of U.S. Citizenship, unquote. You are probably, also, aware that Section 2E of the proposed rule is inoperable because there are no, quote, documents or methods of approved that are established pursuant to Federal Immigration Reform and Control Act of 1986, unquote. The proposed rule also incorporates differential treatment of U.S. Citizens who rely on naturalization certificates to prove their eligibility to vote, because, although other U.S. Citizens are permitted to mail in copies of their U.S. Birth Certificates or U.S. Passports those who rely on naturalization certificates must travel to Board of Registrars to, quote, provide, unquote, their citizenship documents in person. The rule should be changed to make clear that a legible photocopy of the naturalization certificate is satisfactory proof of citizenship. The proposed rule makes no accommodation for the fact that some U.S. Citizens are improperly reported as non-citizen in the DDS database. There has already been quite a bit of discussion on that this morning. So, I won't elaborate, other than to say that the proposed rule should be modified to delete the requirement that the Secretary of State verify U.S. Citizenship of voter registration applicants by reference to the DDS database. Section 2(d)(1) of the proposed rule wrongly limits the definition of the United States Certificate of Naturalization by limiting it to those, quote, issued by the United States Citizenship and Immigration Services,

unquote. As you know, that agency was created in 2003, when the INS was absorbed into the Department of Homeland Security. Prior to 2003, and there are many people whose naturalization certificates were issued prior to 2003, the certificates were issued either by the INS or by the federal courts. Because the naturalization certificates show a range of issuing agencies, the rule should be amended to delete the language limiting satisfactory certificates to those issued by CIS. The problems in SB-86, that flow over into the rule, make it all the more important that the rule provide a fair and open opportunity for voter registration, thus section 2(g)(2)3 should be repaired, because right now, it provides insufficient guidance to the Boards of Registrars by asking them to make eligibility determinations, based on a long list of documents, and then instructing them to consider the totality of the evidence presented. We suggest, instead, that in order to provide appropriate guidance to Boards of Registrars, the proposed rule should be amended to state that that enumerated documents should be presumed authentic, unless there is evidence of fraud. Finally, Section 2(g)(2)4 allows the consideration of a number of documents in order to determine citizenship if the documents have been created at least 5 years before the application. As Mr. Gonzales explained, somebody who may never have had to prove their citizenship before, for example, somebody who is older, but who has never traveled abroad and who didn't need to prove citizenship to get a driver's license might find themselves suddenly needing to produce, for example, an affidavit demonstrating that they were born at home or born with a midwife. Somebody who goes out gets that paperwork together, for the purpose of voter registration, may be presenting exactly a document that is less than 5 years old. So, we would suggest that that 5-year requirement be lifted. Thank you for the opportunity to testify today. I remain available to the Board for any questions regarding my testimony.

**SECRETARY HANDEL:** All right --

**MR. McIVER:** Señora Perelez, un momento, por favor.

**MS. PERELEZ:** Excuse me. I don't understand.

**MR. McIVER:** What is the position of your organization as to whether or not there is evidence of non-citizens attempting to vote in Georgia elections?

**MS. PERELEZ:** I am not aware of any incident in which a non-citizen has attempted to cast a ballot, knowing that they are ineligible to vote in Georgia. Thank you.

**SECRETARY HANDEL:** All right. Our next speaker, last speaker Susan Somach.

**MS. SOMACH:** Hi. My name is Susan Somach. I reside at 941 Blue Ridge Avenue NE, Atlanta, Georgia 30306. I stand here in opposition as well, and in solidarity with other speakers in opposition to the SEB Rule. 183-1-6-.06. By most definitions I would not be considered a minority. And by the, I would say a little bit of the approach I'm hearing here, this approach toward non-citizens and the assumption that people this name that sound foreign are non-citizens, I think is a fundamental problem with this whole approach. I find it personally an affront to our Democracy. I'm lucky that I moved to the State of Georgia 12 years ago, because if I moved here today, I don't know how I would meet the standard very easily without expending money. I was born in the state of Pennsylvania. I do not have a birth certificate

readily available to me. It would cost me time, money, and effort -- and I am rather busy -- if I had moved here to try to prove my citizenship to be able to vote. If I moved here close to an election or the closing date of a voter registration, I would be equally negatively affected by this. I look at the burden and I look at these questions about whether people are trying to vote who are ineligible to vote, I find it utterly unbelievable that there would be a movement to try to take over any election with non-citizen voting, given the fact that people struggle day-in and day-out and work with refugees and immigrants to come to this country and to get citizenship and while they are in the process, while they are not a U.S. Citizen, the penalty for voting, casting one single vote, that only, in the most rarest of cases, makes an difference in an election, and only a local election, at that. That by casting one vote they can lose all of their rights to everything they've worked and struggled for to come to this country. I think that we need to just step back for a second and think about this potential solution, chasing a non-existent problem, and it's a solution that hurts all of us in the State of Georgia, not just people who can't make it through the hoops, but the people who do, because it diminishes our democracy in this state to try and limit who gets to vote in this state. I think we need to have an open system. We need to be as open as possible. If you swear on penalty of a felony, that should be adequate that you are a citizen. If I came here, I know plenty of people who would not be as determined as I would be to vote. And I would say, you know what, I don't have the time to write to the State of Pennsylvania to get my birth certificate. I don't have time. I have a passport, so, actually, I probably would be able to; but I know people who don't. A huge percentage of Americans and a huge percentage of Georgians do not travel internationally and have the documents readily available. Just because our state legislature was, in my view, erroneous in passing what, I believe, to be an obviously unconstitutional requirement does not mean that the State Election Board has to follow in their footsteps and put their names to an unconstitutional practice. So, I would urge the Board to think very carefully, and until there is a readily easy way to handle this issue, I don't think they can, in conscience, pass this rule or any rule like it, because there is no system to easily check citizenship. And swear on an oath is what we do for most things in this country, with the penalty of a felony. And this should be good enough to vote. Thank you, very much.

**SECRETARY HANDEL:** Can you hold on a second. I want to make sure no one has any more questions.

**MR. McIVER:** No questions.

**SECRETARY HANDEL:** No questions. Okay. With that I'm going to close the public comments. I do have three --

**MS. GALLEGOS:** I came from Valdosta, Georgia. I came in late.

**SECRETARY HANDEL:** Okay, Come on up. I need you to fill out a public-comment card. Are you here to speak on the rules, or something else?

**MS. GALLEGOS:** No, ma'am to speak about --

**SECRETARY HANDEL:** We are not doing cases today. I'm so terribly sorry.

**MS. GALLEGOS:** I submitted a request to see if my case could be reopened.

**SECRETARY HANDEL:** Okay. If we can stop, I can deal with that later, but we need to continue with this. And we will come over to that. In the future I would really suggest that, since you are coming a long way, making a phone call to us about it would have been helpful.

**MS. GALLEGOS:** We even faxed information. So --

**SECRETARY HANDEL:** All right. Continuing, I have got three documents that were submitted as written public comment, one from the Coalition for People's Agenda, the second from the Mexican-American Legal Defense and Educational Fund and a third from the Lawyers' Committee for Civil Rights. Colleagues, each of you has a copy of the document. I will entertain a motion to accept them into the record formally.

PANEL MEMBER: Motion.

PANEL MEMBER: Second.

**SECRETARY HANDEL:** Any questions or comments?

(NO RESPONSE)

**SECRETARY HANDEL:** We have a motion and a second. All in favor, say aye.  
(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY HANDEL:** All right. Thank you. Now I will open the floor to each of you if you have questions you would like to ask of Wes Tailor, concerning the rules or comments that you need to make. Once we conclude that we can entertain a motion around the rules, if that's going to be the desire of the body.

**MR. WORLEY:** I had a number of questions for Mr. Tailor. Looking at the letter sent by MALDEF and the points raised by Mr. Gonzalez and Ms. Perelez, I just want to go through these one at time, because these appear to be some very valid concerns of events that have been raised on their face. (DISCUSSION ABOUT VOLUME OFF THE RECORD) all right. I think there are a number of very valid concerns that have been raised in this letter. And I wanted to check some of the specifics of the questions that were raised.

**MR. TAILOR:** Yes, sir.

**MR. WORLEY:** They first raised the issue that the rule lacks a statement that the registrars must accept and used the federal voter registration form required by the NVRA. Why don't we say that in this rule?

**MR. WEBB:** Because it is already provided for by statute. So, it would be redundant for the SEB to say that. It's actually provided for in O.C.G.A. 21-2-219 Subsection A.

**MR. WORLEY:** You are confident that the local registrar is (inaudible).

**MR. TAILOR:** Yes, sir. We get those in all the time.

**MR. WORLEY:** What is going to happen if someone sends in the federal voter registration form without proof of citizenship?

**MR. TAILOR:** It really depends on what they have on the mail-in voter registration form. If they use the national board and they put their driver's license number on that, which is required by the mail-in form, if they have already shown proof of citizenship to Georgia Department of Driver Services, then they would be done. That would be it.

**MR. WORLEY:** And are they required to show proof of citizenship to DDS?

**MR. TAILOR:** They are required to show either proof of citizenship or proof that they are not a citizen, but here legally.

**MR. WORLEY:** All right. What about their concern that Section 2(a)(2) of the proposed rule is inoperable (inaudible) as no driver's license or identification card indicates on its face the applicant has provided satisfactory evidence of citizenship? I'm assuming here that the references is to other states.

**MR. TAILOR:** Yes, sir, and, in fact, that's part of the statute. So, the rule really incorporates the language in the statute.

**MR. WORLEY:** But the statute is incorrect.

**MR. TAILOR:** Just because it does say that, if another state provides for proof of citizenship on the face of the driver's license that that can be accepted, just because there isn't one now, we can consider that as a place holder.

**MR. WORLEY:** Okay. What about their concern, MALDEF'S concern that Section 2-E of the proposed rule is inoperable -- (reading documents, inaudible to reporter)

**MR. TAILOR:** I would have the same response. Again, that's straight from the statute. Again, I believe that works as a placeholder, as well.

**MR. WORLEY:** The Georgia statute describes documents or methods of proof established pursuant to the ICTISCA (sic.) that don't exist.

**MR. TAILOR:** That's my understanding. Yes, sir.

**MR. WORLEY:** And you think that the Board should continue that mistake?

**MR. TAILOR:** Again, I don't consider that a mistake. If the federal government or if Congress and the President passed documents under that Act and provide for documents under that Act then they would automatically be incorporated into this statute.

**MR. WORLEY:** But right now there are none.

**MR. TAILOR**: Not that I'm aware of, no, sir.

**MR. WORLEY**: All right. The next point, and this, I think, is a very valid point, and one that I am particularly very concerned about. It says the proposed rule incorporates from the statute the unfair treatment of U.S. Citizens who rely on naturalization (reading - inaudible) other U.S. Citizens are permitted to mail in copies of their birth certificates or passports for those who rely on (inaudible) are not. Can you explain that?

**MR. TAILOR**: Again, that is provided for by the statute. It is almost straight from the statute. Two things about that, however, one is on the documents themselves it does say, on naturalization certificates, it does say you are not allowed to copy those documents without authorization. I don't know if that entered into the Legislature's mind when they passed the statute as-is; however, keep in mind that if somebody is naturalized and they have their naturalization certification they will be, going forward, just able to put their naturalization number or their alien registration number on the application and that can be verified through Save, and it's done. So, they don't actually have to -- individuals, typically, shouldn't even have to provide a naturalization certificate, but they can if they want to.

**MR. WORLEY**: But they are going to have to appear in person to do that.

**MR. TAILOR**: Whether they would have to appear in person or provide the original and have it sent back, I don't know.

**MR. WORLEY**: All right. What about this issue of whether the Save System, where there is some lag of several weeks because that system is inaccurate. (inaudible)  
(SPEAKER WAS ASKED TO SPEAK LOUDER.)

**MR. WORLEY**: All right. I will try to speak up. And maybe next time we can have a better sound system or have the stenographer sit closer to us. My question was what about the issue of the lag in the Save System having accurate information.

**MR. TAILOR**: I guess I'm not sure what the -- I understand the question about there being at the Save and being a Department of Homeland Security, but we are already utilizing the programs that are available. And if there is lag, then the individual can certainly provide some other method of proof of citizenship. There's a lot of different methods of proof of citizenship, as you know.

**MR. WORLEY**: Could you speak to the concern that was raised in the letter about the proposed rule not making any accommodation for the fact that some U.S. Citizens are improperly reported as non-citizens.

**MR. TAILOR**: Yes, sir. Actually, that is not provided for in this rule; however, the Secretary of State has posted, and I won't speak for the Secretary of State, but will likely adopt a rule which will allow us, when somebody appears as a non-citizen in the Department of Driver Services' database, the Secretary of State's Office will then match that information with the

Department of Homeland Security Save System to see if those individuals have been recently naturalized. So, in that manner, we can actually accommodate this issue that's been raised.

**MR. WORLEY**: Okay. There was also a concern raised that section 2(d)(1) of the proposed rule, wrongly limits the definition of the United States naturalization, that those issued by the United States Citizenship and Immigration Services, is that another mistake in the statute that is reflected in the rule?

**MR. TAILOR**: I don't -- I'm sorry. I'm looking for the naturalization. No, sir. The actual reference to the United States Citizenship and Immigration Services is only contained in the rule, not the statute; however, two comments about that. In, as they say, the applicant need only provide the alien registration number, rather than the certificate itself. So, that shouldn't be an issue; however, I believe the State Election Board can interpret its own rule to include any entity that provided alien or produced naturalization documents prior to or after USCIS.

**MR. WORLEY**: I can understand that. (audience member coughing) We might be able to interpret it that way. My real concern is what local voter registrars, or the way in which local registrars are going to interpret that rule. Again, if they look at this rule and they see, issued by the U.S. Citizenship Immigration Services, when, in fact, there are other naturalization certificates that don't fall, that are perfectly legitimate, but don't fall within that phrase, then I think they are -- they may have a problem with that. So, it's not to get to us until really two late for the person who wants to vote or the person who wants to register. What about this five-year issue? And we have discussed this at previous Board meetings. I understand you got that from other federal regulations relating to Medicare or Medicaid.

**MR. TAILOR**: Medicare, yes, sir.

**MR. WORLEY**: But it seems to me, a very valid concern that a number of people have raised, that you need to go out and prove your citizenship now, because you want to register to vote and we have this new law and new rule requiring it. Essentially, anybody who goes out and gets these documents between now and the next five-years isn't going to be able to use them or isn't going to be able to vote for 5 years. That really doesn't make a lot of sense.

**MR. TAILOR**: Well, I think that's a misinterpretation of the rule. The rule actually provides that the document, I believe, provides that the document be created. So, really what you are talking about here, like a health-insurance record or states-census record, that the record itself was created or medical records created more than 5 years ago to give it some indicia of proof that the person has been here and has been a legal or United States Citizen, because in the medical record, five years ago somebody indicated that this person is a United States Citizen (unclear) and so it gives it some indicia of reliability. It is not that the person would go and get the medical record at the time of registration, that kind of thing. They might get a copy of the medical record that was created. That's why that's there. And, again, the federal government provides for that. And it's system is to provide for the same indicia of reliability.

**MR. WORLEY**: I appreciate that. But it really does mean that there is going to be a Catch 22 here and that people are not going to be able to prove that -- I mean if they have documents that



don't exist and they need to get an affidavit from someone that they were actually born in the United States, then they are going to be stuck for 5 years, under the rule as it's termed or crafted.

**MR. TAILOR**: I'm sorry. I don't understand what you just asked.

**MR. WORLEY**: It really wasn't a question.

**MR. TAILOR**: Oh.

**MR. WORLEY**: That's fine.

**MR. WORLEY**: Well, again, I think -- and this is not a question. I think there is a number of issues that legitimately have been raised by public commenters, and I think that we ought to try to either amend some of these rules today to fix some of these problems or we should table this rule until we can do another revision that responds to some of these concerns.

**SECRETARY HANDEL**: Any other questions?

**MR. WEBB**: I do. Mr. Taylor, you did a very good job of explaining everything for the points that Mr. Worely raised. I just want to question about the point that was raised about Section 2(d)(1), that there is other naturalization records issues other than by the CIS. So, if I understand it correctly, if somebody showed up with an INS form and they have already had their citizenship proven prior to the Homeland Security taking over, saying, I think I am not registered to vote; on it's face it could be rejected by the local Board, but they could request a hearing under Section G-2?

**MR. TAILOR**: They could, yes, sir. But I should make it clear that the State Election Board, again, could make it clear that that provision does apply to any naturalization documents or certificates of naturalization issued by the federal government in its forms. And that certainly can be disseminated and obviously the registrars can know about that well in advance of this implementation of this rule.

**MR. WEBB**: Is there any concern that this rule simply does not state that, as you are now taking something outside what the rules says? I mean that's extraneous; am I right?

**MR. TAILOR**: I do understand your point, yes, sir. But, again, the State Election Board has the opportunity to interpret its own rules and statutes. So, you can take the proactive step without necessarily amending the rule at this point or you can amend the rule or you can interpret it and provide a proactive interpretation of the rules.

**MR. WEBB**: Excuse me for my ignorance. I'm new to the Board. Is that common thing that the Board does, is issue those interpretations or guidance?

**MR. TAILOR**: There, actually, have been a number of interpretations by the State Election Board at various meetings, yes, sir.

**MR. WEBB:** On its face, just because it says CIS, doesn't mean that we can't notify everyone, through the procedures that have been established previously, that other forms are available as long as they are issued by the federal government.

**Error! Reference source not found.:** That is correct, yes, sir.

**MR. McIVER:** Mr. Tailor, I would like to clarify how Ms. Susan Somach got a driver's license for the State of Georgia. Setting aside the fact that she has got a passport as we've heard in her public comment; if she moved here from the State of Pennsylvania and did not have her birth certificate with her, how would she have obtained a Georgia Driver's License, which I simply presume she has, since she has been here for some number of years?

**MR. TAILOR:** Right. The Department of Driver Services implemented its requirements for proof of citizenship and proof of non-citizenship in 2005. And that's the data that we have at this point, going forward. I don't know if Ms. Somach got driver's license prior to 2005 or whether she provided some other proof of United States citizenship after that.

**MR. McIVER:** Would her Pennsylvania Driver's License -- I know she is very young in appearance, would her Pennsylvania Driver's License have been proof enough prior to 2005 to satisfy DDS and therefore they would have issued her a driver's license?

**MR. TAILOR:** It may have, yes, sir.

**MR. McIVER:** I moved here in 1972 and I think that's how I got mine. I surrendered my Texas license and I was given a Georgia License. That was my presumption. It was proof of my citizenship at the time.

**SECRETARY HANDEL:** Mr. Tailor, if I might. In developing the rules, did you and the Elections Division go out and look at other best practices in, at least, one other state that has a similar statute, citizenship statute in place?

**MR. TAILOR:** Yes, ma'am, we did. We looked at Arizona, which had a similar statute in place, and the rules and regulations that it had passed.

**SECRETARY HANDEL:** Very good. And just to be clear on the two areas where, within the statute, there were requirements that were put in place that might not necessarily exist today, is it your understanding that that was in an attempt to be anticipatory of potential future actions to avoid having to go back into the legislature update the statute?

**MR. TAILOR:** Yes, ma'am, that is my understanding.

**SECRETARY HANDEL:** So, it is anticipatory. All right. And then on section 2(d)(1) around to both David's question and Kent's question. We do, quite frequently, issue guidance out of the Secretary of State's Office to your division routinely to local elections officials if there are questions or specific processes that need to be detailed down further?

**MR. TAILOR:** Absolutely.

**SECRETARY HANDEL:** And then, lastly, on provisional ballots, which has been an area of specific concern for me to ensure that if there are any questions at the voting place, that we always have that provisional ballot as a safeguard for the process. I note that one of the last concerns raised had to do with, because this rule does not detail out provisional ballots, could you explain to us how, if you went through all of this, how the provisional ballots would come into play for that individual.

**MR. TAILOR:** Yes, ma'am. The way that this statute and rule would be implemented, the ideas that it would be similar to IDR voters currently, or voters who do not provide an ID with their voter-registration application under Hobo (phonetic) what happens at that point is those individuals are identified as not having provided the correct form of identification.

**SECRETARY HANDEL:** I guess what I meant is, is it, specifically set forth in statute that a provisional ballot is provided for or within other rules that we already have in place?

**MR. TAILOR:** It is contemplated in this rule and even talked about under 2(g)(2) and 2(g)(2)(i), provisional ballots.

**SECRETARY HANDEL:** Okay, great. So, we do provide for the provisional ballot backup within this system, as well.

**MR. TAILOR:** Yes.

**SECRETARY HANDEL:** That's what I wanted to make sure of, that it was all consistent. All right, colleagues, any other questions?

**MR. WORLEY:** I wanted to follow up. (inaudible) When you look at best practices of other states, you look at Arizona, Arizona is the only state that has a provision like this, correct?

**MR. TAILOR:** To my understanding, yes, sir.

**MR. WORLEY:** And then, getting back to the MALDEF letter, they raised an issue that Section 2(g)(2) on the next to last page.

**MR. TAILOR:** Yes, sir.

**MR. WORLEY:** Page 3, section 2(g)(2), in the middle, provides that the Board of Registrars shall determine whether the evidence provided by -- (reading, low inaudible) Was that a phrase derived from the Arizona statute or regulations or where did that come from?

**MR. TAILOR:** Actually, no, sir. Arizona doesn't -- this rule provides for a fail-safe mechanism for individuals who don't have any of the other forms of ID, which is a hearing, that takes place with the Board of Registrars. Arizona statute doesn't provide that fail-safe mechanism, but what was included, and the reason why that totality-of-the-evidence standard was included is that the Board of Registrars are able to look at all of the evidence and all of the circumstances that

someone brings to them in their consideration of whether somebody has provided satisfactory evidence of citizenship.

**MR. WEBB**: This is a follow-up to try to give a larger discretion to give someone, a broader right -- obviously, with the purpose of getting the person registered to vote, to give everyone every opportunity to share or show their evidence of citizenship, even though it may not otherwise be specified in the statute.

**MR. TAILOR**: Yes, sir.

**SECRETARY HANDEL**: All right. Are we ready to entertain a motion?

**MR. WORLEY**: I would like to make a motion to amend Section 2(D)(1) of the rule, which now says an applicant may provide the Board of Registrars with the applicant's United States certificate of naturalization issued by the United State Citizenship and Immigration Service. I would like to add the phrase, or other official naturalization document issued by the United States Government.

**SECRETARY HANDEL**: Can I ask, just for clarity, how is that different from what we have there?

**MR. WORLEY**: Because the issue was that not all certificates of naturalization are now issued by the United States Citizenship Immigration Services. In fact, they were issued by INS or they have been issued by federal courts. And so this responds to one of the concerns that was raised in the letter.

**SECRETARY HANDEL**: Mr, Tailor are documents from INS or federal court not otherwise provided for in the rule or the statute?

**MR. TAILOR**: Again, if that is the interpretation of the State Election Board, it would be, yes.

**SECRETARY HANDEL**: So, through our offices, what we have done previously, we can detail out what they would be versus putting everyone of them in here in order to provide greater responsibility; is that true?

**MR. TAILOR**: Yes, ma'am.

**SECRETARY HANDEL**: All right. Okay. There was a motion. Got a second?

(NO RESPONSE)

**SECRETARY HANDEL**: There is no second.

**MR. WORLEY**: I would like to make another motion. I would like to table this rule so that the Board and staff would have an adequate opportunity to consider the issues that were raised in the public comments and correct some of the problems that have been pointed out. I think we should

table this, so that we can perfect rule. And I make a motion to do that.

**SECRETARY HANDEL**: There is a motion. Is there a second? There is no second.

(NO RESPONSE).

**MR. McIVER**: I move we adopt the rule.

**SECRETARY HANDEL**: Motion to adopt; is there a second?

**MR. WEBB**: Second.

**SECRETARY HANDEL**: Motion and a second; comments, questions, colleagues?

**MR. WORLEY**: I have, sort of, two sets of comments. One, I think the rule is not well drafted and that may be because the statute is not well drafted, but I don't think that we should continue with the errors that are in the statute. We have a separate and independent responsibility to ensure that our rules make sense. And as has been pointed out by the public comments, in particular, in the MALDEF letter, there are a number of provisions in the statute that are reflected in the rule that just don't make sense, that are inoperable, as the language of the letter says. So I think that it's a bad rule. I also think, just as a general matter of policy, that we are, again, going down a road that the State went down to great expense, and I think wrongly as a matter of policy. I am not talking about the rules of rulings of the Court on the matter, but as a matter of policy we are placing a great burden on voters and that burden is not justified by the limited attempts that we have seen to have non-citizens vote. And the way they come before this Board it must be involved citizens attempting to -- (unclear) so, I just think it is a burden on new citizens. And I think it has been shown and I think it has clearly been shown by the Morales case that the systems that we have in place in the State at this time are just not effective in identifying non-citizens. Basically, half the people in the Morales case, who were identified as non-citizens turned out to be citizens that weren't identified. The procedures that have been in place, as the Justice Department indicated, are discriminatory. And I think that the rule has a tremendous potential to be discriminatory. So, I am going vote against it.

**SECRETARY HANDEL**: Any other comments?

(NO RESPONSE).

**SECRETARY HANDEL**: If not, then we are ready to take a vote. All in favor, please say aye. (WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

**MR. WORLEY**: Opposed. No. Let's be real clear.

**SECRETARY HANDEL**: All righty, folks. Our next agenda item is 183-1-11.02 Appearance of Candidate's Name on the Ballot. And in keeping with my previous practice on this particular

matter, I am going to recuse on all deliberations and comments on it and turn the meeting over to Vice Chair McIver.

**MR. McIVER**: Karen have you left me the comment cards?

**SECRETARY HANDEL**: Those are all the that we had.

**MR. McIVER**: Rhonda, would you provided this gentleman a comment card, please. Let the record reflect that the Chair is leaving the room. We will now proceed with my chairing the meeting now that Chair Karen Handel has recused herself. I will open the meeting for public comments. I will identify those who have asked to speak, by way of offering public comments. Similarly, those who do wish to speak that have indicated an interest, you will be limited to 5 minutes. I will do my best with watch without a speed hand here to see that we keep to 5 minutes. While the gentleman is completing the comment card, this section of the meeting does involve the proposed rule 183-1-11-.02, entitled, Appearance of Candidate's Name on Ballots, so that there will be no confusion. Mr. James Quarterman, we will hear from at this point. Mr. Quarterman, I know that you have spoken before at these meetings, but permit me to remind you, we would like your full name, your address, the organizations, if so, that you represent and you are limited to 5 minutes.

**MR. QUARTERMAN**: My name is James Quarterman. I reside at 8880 Dordnot Circle, Winston Georgia 30187. I am the Chair for the Douglas County Democratic Party. I'm here today because a year and two months ago I filed a complaint with this Board regarding the same issue, the appearance of candidates' names on the ballot. We had a primary election and a general election. And in the primary election, they listed the candidates name as one way and then in the middle of the general election they started the early voting part and then they changed the candidate's name. In changing that candidate's name they changed the database. They contacted your Senator up at Kennesaw State and, actually, made a whole new database containing candidate name change of a middle initial. Well, when they made that name change and changed the database, they threw out, basically, all the database of the folks who had been counted on the previous database that recorded votes for the early voting part. This just happens to be the election that President Obama was in, when more votes were cast in early voting then any time in our nation's history. Upon the votes being tallied that night, come to find out, the Gem server, which we, as tax papers have paid somewhere close to a hundred million dollars, so that Georgia can have an electronic voting system, where all votes are supposed to be counted, by this hundred million dollar electronic voting system, only counted 30,000 of 55,000 votes counted. I presented that information to you. You have it in the record. As a matter of fact you ruled not to even send this issue over to the attorney general to have it looked into, but 25,408 people's votes were not counted. In your own report, your investigator stated that later they went and counted these votes and they made a spreadsheet. And when they made a spreadsheet they gave the spreadsheet to one of the election officials to take home with them. Anybody with a computer can change a spreadsheet and change the voting. There is no security in that. The purpose of this system was to provide security to the public that casts their votes in secrecy and their voters would be counted by accuracy of a hundred million dollar machine or system. So, if you are going to allow flexibility in changing people's names and changing ballots halfway during the election, then there ain't no rule and the rules that you have you are not enforcing,

because four months ago you ruled somewhat in our favor that you would look to impose sanctions against Douglas County and four months after you took 9 months to investigate it, you have taken no action, none whatsoever have you cited Douglas County for anything. And they have held elections since then where they have changed names again on the ballot halfway through. So what you are doing is giving these people a free ride to elect whoever they want by manipulating the ballot and changing names and changing databases. So either you get a system that can read multiple databases and correct itself as it goes along -- and I am a technology professional -- and I know that technology exists that does that, but it depends upon whether you want to pay for it or not. So why I'm here today is to tell you that you have a system. You don't enforce the system. And when you don't enforce the system you allow people to elect who they want to elect, not by the vote of the people, but by their decision who they give votes to. There is no way that this Board should allow 25,000 people's vote to be counted from a spreadsheet when you have a hundred-million-dollar system in place and then don't act to impose any kind of fine or sanction or nothing against these people doing that for over a year and a half. So, they just got a free ride. I will just go do what I want to do. They ain't going to do nothing to me. I just got out of jail, spent 6 days in jail for this same reason, because the Board failed to implement it's policies and procedures to force these people that if you break the law, you will be punished. So now we have got election officials out there now threatening voters, if you don't vote for this we will raise your taxes. We send you documents; you don't do anything about it. Than they want to hold you in contempt of court. The public has no option if you don't protect us. That is what we pay you for, to protect us and our interest and make sure that our votes when we vote them are accounted and are placed and counted for the person to whom we vote, not somebody making up a spread-sheet in a back room and then go to implement these votes and you not do nothing about it. I hold you accountable for that. I am not going to spend my money trying to sue you, because it's not worth it. You should do the job to which we pay you to do. And when you fine these people -- it takes you 8 months to investigate something then the attorney general has got it for another 4 months, and nobody has been fined, nobody has been sanctioned. Nobody has done nothing. We, the people, have just been robbed. And you are the one robbing us. Thank you.

**MR. McIVER:** Thank you. Let the record reflect that there are no others seeking to engage in public comment on 183-1-11-02. We have, as best I can tell, one written public comment from, that is from a Christy L Boyston, election supervisor of Barrow County in Winder, Georgia. I will entertain a motion that we admit this document into the record.

**MR. WORLEY:** So moved.

**MR. WEBB:** Second.

**MR. McIVER:** Moved and seconded. Any discussion?

(NO RESPONSE).

**MR. McIVER:** All right. Those in favor of the motion, please indicate by saying aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**MR. McIVER**: Opposed?

(NO RESPONSE).

**MR. McIVER**: All right. The document is admitted. Is there a motion either to amend modify or adopt the rule.

**MR. WEBB**: Any discussion?

**MR. McIVER**: Well, my style is to try to get a motion on the table and then we will move from there. If you prefer the other -- it seems to me we need to have something to discuss. Would you like to make a comment or ask questions

**MR. WEBB**: I would. I want to discuss it. If you want to make the motion that will be fine

**MR. WORLEY**: I will make the motion that we adopt the rule, so we can have discussion.

**MR. McIVER**: Is there a second on the motion?

**MR. McIVER**: I'll second. All right. Discussion about the motion?

**MR. WEBB**: I just had some questions on Section 1, where it says given or first name, is that trying to say in case a person only has one name? My father only has one name. That would be his given name.

**MR. TAILOR**: Right. I believe certain cultures and traditions call their first name their given or first name. So, we tried to be inclusive with that.

**MR. WEBB**: Regardless, Section 1 also requires that no matter what your name is, if you have four names you have your surname, your first name has to be on the ballot whether or not you go by it or use it or not.

**MR. TAILOR**: In some form, yes, sir.

**MR. WEBB**: Thank you, because you can use the initial. In my case, I go my middle name. So I'm required to put either my first name or an initial and 3 names.

**MR. TAILOR**: Correct, like your name plate.

**MR. WEBB**: Right. I would want try to leave open the possibility that if somebody went by their middle name, did not want to use their first name, did not want to use the initial of their first name, they could use just that name instead. And I'm also in favor of allowing a person, as in a Chipper Jones or Sonny Perdue to be able to use their name by which they are mostly known. My preview of this rule is that that is prohibited. I just want to give a little bit more flexibility. I like a lot of things about the rule, the fact that it limits 25 characters. It has to be some standards



on junior and so forth. And it does require the nickname to be in quotations, but that, in essence, I would prefer that the person not be required to use their first name or in some form unless they did want to. So, in that case I am against the rule as it is presently drafted.

**MR. McIVER**: Other comments.

(NO RESPONSE)

**MR. McIVER**: Hearing none, I will call for a vote. Those in favor of the rule as proposed and seconded, please indicate by saying aye.

**MR. McIVER**: Aye. Those opposed?  
(WHEREUPON THERE WAS A CHORUS OF NAYS)

**MR. McIVER**: Motion fails.

**MR. WEBB**: I would like to make a motion that we amend the rule, make another draft and post it for consideration.

**MR. McIVER**: Does that motion include the exact specific language you would propose?

**MR. TAILOR**: Well, I could work on it, but I think the easiest part is down in Section 4, where it says the candidate's name shall always appear in the following form. Where it says first or given name or initial, I would insert a comma and say if desired by the candidate, similar to how it's drafted for the middle name. On Section 1, I think it should state a candidate's name shall include a family surname and a given or first name, middle name, or nickname, comma, or an abbreviated version of such given first name or middle name or appropriate initials.

**MR. McIVER**: Any other language that you would proposed?

**MR. WEBB**: I think that would take care of it.

**MR. McIVER**: Would anyone like the motion to amend to be seconded? Do I have a second for the motion to amend?

**MR. WORLEY**: I will second.

**MR. McIVER**: Moved and seconded. Any other discussion? All right. I will call the motion to amend rule 183-1-11-.02 to a vote. Those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**MR. McIVER**: Opposed.

**MR. McIVER**: Aye. All right. Motion passes 2 to 1.

**MR. TAILOR**: So the amendment as passed is the candidate's names shall include a family surname and a given or first name, middle name, or nickname, if desired by a candidate or an abbreviated version of such given or first names or appropriate initials.

**MR. McIVER**: I believe our court reporter has it accurately.

**MR. TAILOR**: I can do that.

**MR. WEBB**: Will it be posted?

**MR. McIVER**: I assume you must revisit the process.

**MR. TAILOR**: It has to be reposted and noticed for comments.

**MR. McIVER**: We reinitiate the process.

**MR. TAILOR**: Correct.

**MR. McIVER**: Let's begin that process with an original circulation of the amended motion as proposed by Mr. Webb and by member Webb to the members of the Board and all other relevant parties. Of course, there will be a public posting.

**MR. TAILOR**: Yes, sir.

**MR. McIVER**: Any other business with respect to proposed rule 183-1-11-.02? All right. I'll call this part of the meeting to a close. We'll ask the Chair to return to her seat. Let the record reflect that Chair Handel has returned to the room and is now chairing the meeting.

**SECRETARY HANDEL**: Thank you, very much. All right our next rule for consideration is 183-1-14.08 regarding additional sites at additional registrars offices or places of registration for absentee ballots. Is there anyone here to present a public comment on this rule?

(NO RESPONSE).

**SECRETARY HANDEL**: All right that there being none, I will bring that public comment to a close, as well, and open up for questions from colleagues.

**MR. McIVER**: Are there any written comments that, perhaps, I don't have?

**SECRETARY HANDEL**: Did you get any additional comments?

**MR. TAILOR**: No, sir, no comments.

**SECRETARY HANDEL**: Why don't you do, since it's kind of in a bit of legalees, laymen's terms of exactly what this is, for the record.

**MR. TAILOR**: Yes, ma'am. This is the rule that was considered at the last meeting, but since I posted it incorrectly, it had to be reposted. It takes the definition of government building from the disability section of the O.C.G.A. and applies it to the elections code, so that elections officials may have a wider opportunity to utilize government buildings in early voting.

**SECRETARY HANDEL**: That would be great, so it gives them more options for early voting. Great. Any comments on this one, colleagues?

(NO RESPONSE).

**SECRETARY HANDEL**: All right. With that I will entertain a motion.

**MR. McIVER**: Move to adopt.

**MR. WEBB**: Second.

**SECRETARY HANDEL**: Motion and second. Any other questions or comments?

(NO RESPONSE).

**SECRETARY HANDEL**: All in favor, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Any opposed?

(NO RESPONSE)

**SECRETARY HANDEL**: All right. Do we have any other business from anyone? Ann, I think this is a case that might be in your area, if you want to let us know and let her know. Is it not scheduled for a hearing in January?

**MS. BRUMBAUGH**: It is scheduled for a hearing in January.

**SECRETARY HANDEL**: Tell us the name of the case. Come on up. And we will explain to you what the process is.

**MS. GALLEGOS**: Come forward?

**SECRETARY HANDEL**: Yes.

**MS. BRUMBAUGH**: This is the case of the State Election Board versus Laura Gallegos. It is presently pending before the Office of State Administrative Hearings. It is set for a hearing on January 14th and 15th, in Valdosta. You should have received notice of that reset hearing date. It was previously scheduled to be heard December 4th and on your motion the Judge in this case

continued the hearing in order for you to obtain legal counsel.

**MS. GALLEGOS**: Yes, ma'am. My name is Laura Gallegos.

**SECRETARY HANDEL**: I'm sorry Ms. Gallegos. That's all that we can do in this forum.

**MS. GALLEGOS**: I requested and asked if I could please have the case reopened.

**SECRETARY HANDEL**: I understand, but please understand that we have to operate under legal requirements. And this case has not been noticed out. I cannot legally have any more on. We hear you. We will put it in the record that you have asked for it to be reopened. You have counsel, I believe. And we will have -- Ann will contact you and you will need to go through that process.

**MS. GALLEGOS**: I have been charged.

**SECRETARY HANDEL**: Ma'am. I cannot. Again, I am going to have to stop you. Legally, I cannot have more testimony on this in this forum. It is not to your benefit to do that either. So, please, if you have legal counsel or if you would like to talk with the Attorney General's Office, I am most certain that she will be willing to do that, okay?

**MR. FAVORITO**: Madam Chair, can I have a point of order, please?

**SECRETARY HANDEL**: May I ask what your relationship or role is?

**MR. FAVORITO**: As I mentioned in my public comments gone through, and I have some evidence that I would like to submit to the Board before they charge this lady and have her incur thousands of dollars of legal expenses.

**SECRETARY HANDEL**: If I can, again, Mr. Favorito, you know as well as I do, I cannot. This is already in the Attorney General's Office. The State Elections Board has already acted and referred this to the Attorney General's Office. If there is additional evidence, it will go

through that process through the Attorney General's Office. And they are now aware of it. And I am certain that it will proceed.

**MR. FAVORITO:** Can I have one more point of order, please. As I understand from the DVD, and I have looked at in the last meeting, I believe that one of the members, I think it was Mr. Evans, expected a recommendation back from the Attorney General's Office. And I don't know if the Board is aware, but she has already been charged and they have already tried to have her tried and convicted the last week. And my understanding is the Board was expecting a recommendation back from the Attorney General's Office. Could you please explain what the procedure is to me? Maybe I just don't understand it.

**SECRETARY HANDEL:** I guess, Ann, I need some counseling. I am extraordinarily concerned to go further down the road on a case that is pending.

**MS. BRUMBAUGH:** If you want to discuss this with me after the meeting I will be more than happy to talk to Ms. Gallegos. You are not a party to this case. You are not her attorney. It is not appropriate for me to be discussing this case with you.

**MR. FAVORITO:** Don't want to.

**SECRETARY HANDEL:** Mr. Favorito.

**MS. GALLEGOS:** I was told that I would be given an opportunity to speak on my behalf. Now I'm having to hire an attorney.

**MS. BRUMBAUGH:** Ms. Gallegos, you and I need to speak about this case after this hearing. The Chair is correct. Once the case was bound over, I believe it was the June meeting, the case comes to me, and it is my responsibility to resolve this case. You and I can talk after the meeting, but it is not appropriate at this point, now that it is pending before the Office of State Administrative Hearings, for us to bring this case up again. Okay. So, I will be happy to speak with you right outside those doors as soon as the Chair adjourns this meeting.

**MR. FAVORITO:** I still have the same point of order.

**SECRETARY HANDEL:** Mr. Favorito, we have taken that in. And I appreciate it.

**MS. GALLEGOS:** My thing is about a recommendation.

**SECRETARY HANDEL:** Ms. Gallegos, you are out of order. Please, if you continue, everything that you are saying affects your case. It is my strongest counsel that you take the advice of the Attorney General's Office and go and meet with her off line. We cannot legally engage in a further conversation. Colleagues, is there any other business? I will entertain a

motion to adjourn.

**MR. McIVER**: I so move.

**SECRETARY HANDEL**: All in favor?

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY HANDEL**: Thank you. (MEETING ADJOURNED AT 11:35 A.M.)

STATE ELECTION BOARD MEETING

TRANSCRIPT OF MEETING

October 26, 2009

10:00 a.m.

Sloppy Floyd Building

2 MLK Jr. Drive, SE

5th Floor, West Tower, Room 512

Atlanta, Georgia

CHAIRPERSON HANDEL: Good morning, folks. I will go ahead and call our State Elections Board Meeting to order and start first with our role call: Randy Evans, David Worley, Tex McIver, Kent Webb. Before we get started, if I can introduce our newest State Elections Board member -- as all of you know, our previous member, unfortunately, had to resign for some personal reasons and so we are pleased, though, to welcome Kent.

MR. WEBB: Thank you, and I look forward to working and serving the State.

CHAIRPERSON HANDEL: We're glad to have you. We appreciate your time.

MR. EVANS: I wanted to say, because we are not going to have an actual meeting before Jeff leaves us. I think we will be remiss and I know the Secretary shares and I know Tex does, having served with him, that Jeff Israel is one of the best State Election Board members that you could possibly have serve in that capacity. He had an even handedness to him, comments and fairness. He didn't get caught up in the hype. He didn't get caught up in the moment. In this midst of heavy pressure when we were addressing photo ID and elections, he systematically remained cool and he was here and he voted and he voted how his heart led him and I think the State was much better off for it. And I would like, if we could, to let our minutes reflect that we adopted a Motion noting his outstanding and longstanding service and the many wonderful things he did in the capacity as election board and thanking him for the things he did for the voters in the state of Georgia.

CHAIRPERSON HANDEL: Second. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: If I can have everyone stand.

MR. MCIVER: (Prayer)

(Pledge of Allegiance)

CHAIRPERSON HANDEL: Before we get started, if I could ask -- we do have one case involving Franklin County, Mr. Medlin, that I would like to move up to our first case because they have another matter that they need to be in court for, if that meets the Board's pleasure. I move to recommend the agenda.

MR. EVANS: I so move.

MR. WORLEY: Second.

MR. EVANS: I move to amend the agenda.

CHAIRPERSON HANDEL: The Motion is second. All in favor?

(Whereupon, there was a chorus of ayes.)



CHAIRPERSON HANDEL: The first order of business is public comment. I have three public comment cards. The first speaker will be Mr. James Quarterman and if I can go ahead and ask for Garland Favoriteo and Garth Rectal to go ahead and come up so you can be ready to speak, that would be great; two minutes.

MR. QUARTERMAN: Good morning, Members of the Board. My name is James Quarterman. I'm here to follow-up on State Election Board Case 2008-00136. I came before you in August. In August, you charged Douglas County with a crime, 21-2-596, for failure of public officials for officers to perform their duties. You charged these people with a crime, and you sent it to the attorney general to have them fined and sanctioned. Yet, you left these people in office to continue to hold elections. Since that time, they have held two elections. The cases that we came by that you charged them with in this complaint which is on your letterhead by the inspector general for not lodging accuracy testing machines and not following election codes. These people have committed two since incidents of that. Mr. Tailor is very familiar with that. Last week, we had to get him to call Douglas County and speak to Ms. Fulton about not publishing notices of multiple ballots and not notifying the democratic parties, which I chair now, of the date, time, and election code. It's senseless to charge people with a crime and then continue to let them stay in office and continue to do the same thing. I didn't ask you to charge them. You charged them on your own. Since then, I have talked to the attorney general. Everybody keeps saying, Well, we're waiting to see what the supreme court is going to say. The supreme court has an election contest that deals with one thing – timing. Did we file our election contest appeal on time? That had nothing to do with you finding that these people did not lodge the accuracy testing machine. That had nothing to do with you finding these people found 67 absentee ballots in a desk drawer after the election was over with; never counted these votes. That had nothing to do with you stating in this document that the election was never certified by Ann Hicks, secretary of state. You can't sit here and keep passing the buck off when we've got soldiers over their dying every day to protect our nation and our liberty and to protect our freedom and the right to vote and have those votes counted and say, We're going to wait and see what the supreme court says. I'm standing here today to tell you that the supreme court has nothing to do with the election fraud committed in Douglas County. You have ruled. You have sent five out of seven charges to the attorney general. It has been two months. I am therefore here to notify you today, as of Friday, we intend to take you to federal court for failure of you to do your job.

CHAIRPERSON HANDEL: Thank you.

MR. EVANS: Madam Chair, for the record, the duties that are enumerated to us are outlined in 21-2-31 and do not include the ability to remove anyone from office or the ability to overturn an election. Those are rights and obligations that are invested in the supreme court. So, if there is ever a question about anyone being unhappy with an outcome, the appropriate way to handle that is with an action in the superior court following the procedures that are pretty specific for that process. Unfortunately, while we may determine that there may be reasons to believe that a

violation occurred, even when we conclude that, we do not have available to us the remedy of either removing someone from office, removing an existing election official or over turning an election contest. I just wanted our minutes to reflect that. So, in the event this is a matter that makes its way to litigation, I expect the attorney general to avail themselves of Rule 11 of the Federal Rules of Civil Procedure, and this having been noted in this record.

CHAIRPERSON HANDEL: Thank you. The next speaker is Garland Favoriteo.

MR. FAVORITEO: Thank you, Madam Chair. I have a letter here for each of the Board members. In January of this year, I requested that the case be opened and I have not heard back from the attorney general's office as to whether or not this case has been offered or rejected. I have made repeated contacts. I understand that case is over there.

MR. EVANS: Motion accepted.

CHAIRPERSON HANDEL: Second.

MR. FAVORITEO: that particular case had to do with whether or not -- among other things, whether or not the former secretary had purchased these machines in violation of law. We were surprised to find that the attorney general's office was on the side of the lawbreakers rather than the people. Likewise, as Mr. Quarterman pointed out, the attorney general has failed to act on these particular violations. As I understand the case, the violations are that logic and accuracy testing – the superintendent created a second unauthorized ballot for the general election machine which they do not advertise and they allowed manipulation of those results manually. They entered them on a spreadsheet and into the gym server and finally neglected to serve the elections. Now, the attorney general's office has not done anything about that. Everybody is still in place down there to continue that. So it seems to me that the attorney general's office is on the wrong side of the law repeatedly from my own person standpoint.

CHAIRPERSON HANDEL: Thank you. I have a motion and second to accept the letter from Mr. Favoriteo. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Mr. Favoriteo, I'm certain that the inspector general will have a report for the State Elections Board; next speaker.

GUNTHER RUCKL: Good morning. My name is Gunther Ruckl, I live on 1391 Midland Drive in Decatur. I have lived in Georgia now 15 years. There are two things that are most important to me which is the integrity of Georgia elections and the inference of money in politics speaking to the lobbyist, money that goes into the State agency. It is very depressing to read the newspapers these days and neither has been accomplished. Just pleading to God to assure the integrity of the election is one thing; but, either he is powerless or we out run God's intention with regards to elections. The Georgia Supreme Court's position is really disappointing because

whenever I try to understand the election system, I cannot see that our system is fail proof. It is not geared towards hoping for individuals and the money to collect the results in many different ways. If anyone of you is able to explain to me why you think the system is fail proof and offers full integrity, I will greatly appreciate that. So we will continue to fight it and I hope at some point Georgia will have a hard copy ballot to be used for our audits. Thank you.

CHAIRPERSON HANDEL: All right. With that, we will have minutes from August 12th. Any edits or comments to the minutes?

MR. EVANS: I move that we adopt the minutes.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: Moved and second. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any opposed?

(No response.)

CHAIRPERSON HANDEL: We have minutes from August 27.

MR. EVANS: I move we adopt it.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: Moved and second. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Our first case is going to be for the change in the agenda, Case No. 2009, No. 28, Franklin County, Mr. Ludwig Medlin. Everyone involved in this, come on and move forward.

MS. LAGRUA: Thank you, Madam Chair.

CHAIRPERSON HANDEL: If I might, it's Tab 24.

MS. LAGRUA: Thank you, Madam Chair. This case actually involves the 2004 general primary in Franklin County. But we did not receive this case until 2009, the complaint. This used to be a registrar and came on a combined board and the new election superintendent, when going through the records, found the problem which is why it is delayed in this reporting.

Apparently, Ludwig Lipowczan – I don't even know if I'm pronouncing that right. The allegation is that he registered and voted ineligibly because he was not a U.S. citizen. In fact, what happened back in 2004, Mr. Lipowczan went to probate court to change his last name to his wife's name of Medlin. While he was there and having this discussion, according to him, the probate court judge, who was running for office at the time, came out and told him he should vote for probate judge. Mr., now Medlin, told the probate judge, according to Mr. Medlin, he couldn't vote because he was not a U.S. citizen. According to Mr. Medlin, the probate judge said, You can vote in local elections but not national elections. At which point, Mr. Lipowczan was allowed to change his name to Medlin. He goes to the registrar's office and registers to vote. Actually, on his voter's registration card, he checks that he is not a U.S. citizen and is allowed to vote and apparently only voted that one time for that one individual that he knows. We did interview Judge Fowler. He does not remember the situation but says he would never have said anything like that. So our recommendation is that we refer this case to the attorney general's office for appropriate actions. Obviously, the former registrar, Martha Wilkinson, is the respondent for allowing registration after Mr. Ludwig checked that he was a U.S. citizen.

MR. WORLEY: You mean that he was not a U.S. citizen.

MS. LAGRUA: I'm sorry, that he was not a U.S. citizen.

CHAIRPERSON HANDEL: Good morning; if you could give us your name and address.

MR. GINN: My name is Frank Ginn. I'm the County Manager. I have our County attorney, Mr. Bubba Samuels here to make some remarks. One of the things I do have, our former registrar, Martha Wilkinson, here in the audience. I also have our current elections superintendent. We have changed drastically through local legislation the way that we handle elections and registration in Franklin County. We have one of our board members, Lynn East, here as well as one of our commissioners, Angela Whitby. I think that this is a case where, you know, quite honestly there were some errors that were made. I think Mr. Medlin now understands the mistake that he has made. The changes that we have made in the way we handle elections it could be hopefully dismissed by the State Election Board. If there is any criminal activity, I think it would be on Mr. Medlin's case.

CHAIRPERSON HANDEL: Okay.

MR. SAMUELS: Madam Chair, good morning. I'm Bubba Samuels. It is my honor to represent Franklin County as their county attorney. Mr. Ginn just basically set forth the points that I want to make, really three things. It's a self-reported situation, I want to say, potential violations set forth in Mr. Harvey's report but not a violation on behalf of the Franklin County respondents. I am in a tight situation as the county attorney. We sit as the complainant and respondent here. So my comments speak to Franklin County and Franklin County's position in the case. The facts in Mr. Harvey's report do not support a finding of any violation of state law with regards to the Franklin County respondents. At worst, I would characterize it as perhaps

our internal registration protocols weren't met or there was some sort of breakdown in those protocols perhaps that arguably led to Mr. Medlin being allowed to register and ultimately vote in the 2004 primary. In Mr. Harvey's summary of investigation report, the only potential violation set forth in that report by a Franklin County official is the last item under potential violations where he says, The facts in this case indicate that Martha Wilkinson, the Franklin County registrar, has in violation of O.C.G.A. 21-2-220 (b) and that she accepted two voter registration applications for Mr. Medlin and registered him to vote even though he indicated he was not a U.S. citizen. When you look at 21-2-220 (b), I would suggest that there is no violation of that statute. The statute says that the official in charge of registration shall require the person offering registration that he indicate whether or not he is a citizen and that the person offering registration shall not be required to offer registration to an individual who answer in the negative. That's the extent of what the statute that Mr. Harvey cites. So, logically, she was not required to offer registration. But, most importantly, as Mr. Ginn stated, to the extent there wasn't this breakdown in our registration protocols, that oversight has been corrected since 2004 with local registration Franklin County combining elections and registrations local board there are many eyes looking at something that only a few eyes were looking at before. That entire process has been designed to make sure that this type of breakdown doesn't recur. We self-reported the existence of a non citizen elector. There is no violation of the law by a Franklin County respondent. Ultimately, we will prevent this type of thing from recurring. We would ask that the case not be referred, and that this matter end here. Thank you.

CHAIRPERSON HANDEL: Is there anyone else on this item? Would you like to speak, Mr. Medlin? We are doing your case right now.

MR. GINN: I never met Mr. Medlin. I'm Frank Ginn, County manager.

CHAIRPERSON HANDEL: Do you have anything that you would like to say to the Board?

MR. MEDLIN: I would say what the deputy wrote down -- reported is absolutely correct word by word when he -- besides this, I don't know what else to say; if you have questions.

CHAIRPERSON HANDEL: All right. Colleagues, any questions?

MR. EVANS: I had a couple of things for Ms. LaGrua.

MS. LAGRUA: Yes, sir.

MR. EVANS: One is I did not see where Franklin was a respondent.

MS. LAGRUA: The reason for that, Mr. Evans, is that Sandy Phillips -- this is a new combined board. They were not in existence at the time of the violation which is why Martha Wilkinson, the former registrar, was named as respondent, not Franklin County. Just as an addition, 226 (a) may be the more appropriate violation than 220 (b). It is a little bit difficult to say that that registrar should have let someone who is not a U.S. citizen register.

MR. SAMUELS: I think we all understand what took place. I think that clearly there has been some miscommunications.

MR. EVANS: Just for the record to make sure that the minutes are accurate -- because I think there was a reference in some of the comments that Franklin was both complainant and respondent and Franklin is not, in fact, a respondent. I agree. It shouldn't be; just so the record will be clear on that point. The second point is there is a list that Judge Eddy Fowler is a respondent, but I do not see a recommendation of either binding over or dismissal as to Fowler.

MS. LAGRUA: I'm not sure that there would be a specific violation on Mr. Fowler. Though, obviously, if, in fact, the Judge gave the information to Mr. Medlin, it would have been inaccurate. He should have known that. Part of the problem here is, even if you find a violation, you have a he said, she said or a he said, he said, I should say, between Mr. Medlin and the Judge. The Judge denies the allegations ever took place. I don't believe there is sufficient evidence to charge the Judge at this time.

MR. MEDLIN: If I could have a second, it is my wife, number one. She was present. Number two, I mentioned on this very day three times to four people that I am not a citizen. Mr. Fowler said, This is not important. As a citizen, you could vote during the federal elections. As a residency, you can vote on the local election. This is what I did and my wife did.

MR. EVANS: Based on what we have before us, I think Judge Fowler has to be a respondent because we have enough information to believe that there may have been a violation. And I will say the reason this is so particularly important is because this is schematic. We dealt with this in Atkinson County and we have dealt with it in other counties, that, somehow, it is okay to vote in local elections if you are not a citizen. We have to act very aggressively because that rumor continues to creep around the state and create misinformation or erroneous information. I think that the appropriate way is a respondent, and we should address that. And the final point I think we picked up on is I, too, believe 21-2-226 is a more appropriate remedy on a statutory basis than 21-2-220 (b). I would suggest to Mr. Taylor, when you create your bucket of things to clean up in our housekeeping bill, 21-2-220(b) would be a prime candidate.

MR. MCIVER: Madam Chair, I think the record should reflect that Judge Fowler is a respondent. The fact that he hadn't been dealt with, to Mr. Evans' point, as a result of being a requirement for notification, have the record be clear on this.

MR. EVANS: I would move that all three be bound over for further investigation and prosecution by the attorney general's office.

CHAIRPERSON HANDEL: Second. Motion and second. Any other questions or comments? Mr. Worley?

MR. WORLEY: I would agree with Mr. Evans that the probate judge needs to be added or needs to be bound over since he is already a respondent. I would just say that his alleged violation is much more egregious of the violations here. Surely, a probate judge should know better. The fact that he was running for re-election and gave this advice is, I think, very bad conduct if it would prove to be true. I would support binding it over.

MR. MEDLIN: He let both of us out of court and showed us across the hall to the second door on the left. There, I met two ladies. One of them I knew. They both knew I was German.

CHAIRPERSON HANDEL: We have a Motion and a second to refer all respondents to the attorney general's office. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Thank you so much. Our next case is No. 2008-16, the City of Clayton.

MS. LAGRUA: This is Rabun County.

CHAIRPERSON HANDEL: We went back to Tab 3, folks.

MS. LAGRUA: This is City of Clayton, Rabun County, November 2007 Municipal Election. The complainant was Sylvia Henry, City Manager. The respondent is Pat Bussiere, City Clerk and Elections Superintendent. The allegations were that the absentee ballots submitted were not counted. The investigation found that the absentee ballots were counted but not marked on the electoral votes that were sent to the County. In doing our investigation regarding the allegation that was sent to us, we found a number of other violations during that investigation as well. We found that Jennifer Jennings' ballot was not marked as eligibility date received, date and time voted, and was not signed by the clerk. We also discovered the box containing used and unused ballot stubs became unsealed prior to the 24 months required to be kept under seal by law. What we found was we couldn't figure out how it became unsealed because it was kept in a closet in a common area of the building where everyone had access. It's recommended this case be forwarded to the attorney general's office for appropriate sanctions.

CHAIRPERSON HANDEL: You're here to speak on the case?

MS. BUSSIERE: Yes.

CHAIRPERSON HANDEL: Okay; come forward.

MS. BUSSIERE: I'm Pat Bussiere. On Kathryn Granberg, apparently, it was a clerical error why her absentee ballot wasn't marked. She had actually voted in the election. The paperwork for the election went to the State. We had had 48 other people vote. All of theirs were marked. Apparently, Kathryn Granberg's was not. When we went looking to find out why her ballot -- why she thought that her ballot wasn't counted, they already had my ballot box from 2007 election open on the city manager's desk. I have no idea who opened that box. On Jennifer Jennings, until the night we counted the ballot after the election, we found out there were 49 absentee ballots not the 48 that my list showed there should have been. That's when we found out that Jennifer Jennings voted. To date, I have no idea who voted her. The young lady who helped me, Catherine Allen, and I were the two who were doing it. We both left on that Friday at 4:00 together. This young lady's ballot was voted after we left. I have got the papers here to show that, on the top of the absentee ballot stub where we have to put in their names, the handwriting is Ms. Jennings. Somebody gave her the whole ballot including the top part that we keep. I have no idea who did this. I have my suspicions, but we did not do it. So, when I found out that she had voted and she was a registered voter and totally capable to vote, I refused to sign her absentee ballot request because I never saw her nor did I ever see her driver's license nor do I know exactly when this young lady voted. The only thing I do know was it was after 4:00 on the last day of the early voting.

MR. EVANS: I move we accept into the minutes the documents.

CHAIRPERSON HANDEL: Motion is second to accept the documents. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

MS. BUSSIERE: I also have a copy of the absentee ballot, the numbered list of voters. Her name is not on there at all.

CHAIRPERSON HANDEL: Can we have these?

MS. BUSSIERE: Yes. They are copies. I took the copies myself. The box was sealed for the votes like they are supposed to be. Apparently, some of them wasn't in the box; sorry.

MR. EVANS: Madam Chair, would this be something we would need the assistance of the sheriff's department to investigate since we have an unauthorized breaking into a secured box? It seems to me that the matter before us is greatly expanded beyond the simple failure to comply with our procedural rules and extends to, in fact, everything from potential burglary to breaking into a locked box. I'm a little hesitant to dispose of the case until we know the answers to the



questions that the witness has posted. We're open to our inspector general to give us guidance about how we get into it. The mere existence of these questions that she has no idea who opened the ballot box, no idea who voted the ballot, knows that the ballots were voted after the deadline are so serious that they would call into question, you know, all of the processes.

CHAIRPERSON HANDEL: I think clearly we should refer it back to you, Shawn, for you to coordinate with local law enforcement.

MS. LAGRUA: I think it would be more beneficial to the Board to refer it back to us initially, let us do a little bit more investigation, and then work with the local sheriff, if necessary.

MR. EVANS: I completely agree. Not to indicate how to do your job, I would recommend that you take this transcript, with this particular testimony, to the sheriff and to the local District Attorney. I suspect that alone would be sufficient than for them to give you the resources necessary to get the cooperation you are looking for.

MS. LAGRUA: I agree.

MR. EVANS: I think we can table. We can table or we can defer. If we table, we'll have to have a Motion to take it off. If we defer it, it can come back up. I move to defer.

MS. LAGRUA: The latter would be easier.

MR. EVANS: I move to defer.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: We've got a Motion and a second. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Our next case is 2008, No. 45, Fulton County, Bill Byrne. I am going to, on this case, ask vice chair, Tex McIver, to take over since Mr. Byrne is a personal friend. I will be recusing myself.

MR. MCIVER: Let the record reflect the Chair recused herself. General LaGrua?

MS. LAGRUA: Thank you, Mr. McIver. This is challenging the candidacy. This was actually reported by the Polk County Board of Elections and Registration. The allegations were that Bill Byrnes was not a legal resident in Fulton County District 2 for six years as listed on the affidavit. What we found here was there was a challenge hearing conducted in superior court. Essentially, what the transcript provided and what we found were that Mr. Burns claimed to have moved his business and residence to Polk County in 2002. February 5, 2008, he voted in Cobb. He testified at the hearing on the challenge to candidacy that that was not his address. He had testified he registered to vote in Polk County in 2008. But, prior to 2008, he was registered in Cobb County. When he was interviewed, he began campaigning for Cobb County commissioner in 2007 even though he said he lived in Polk County. He testified that the address listed on the campaign contribution form was an alternative or second home address. So we have a notice of candidacy that he lived in Polk County for six years when, in fact, he was voting in Cobb into 2008. So it's our recommendation that the case be forwarded to the attorney general's office.

MR. EVANS: Before we hear from him, was there a challenge to his residency?

MS. LAGRUA: Yes.

MR. EVANS: How was that determine?

MS. LAGRUA: Not to be eligible.

MR. EVANS: One thing we talked about before making sure every residency challenge doesn't turn into a felony count. The far more efficient way of handling things is if you don't think that's where somebody lives, challenge the residency.

MR. MCIVER: Anything else?

MS. LAGRUA: No, sir.

MR. MCIVER: Anyone else to be heard on behalf of Mr. Bryne?

MR. BYRNE: Good morning. Thank you for the opportunity to be heard. If I may, the data supplied by your staff is totally and completely accurate. I don't challenge any of this at all. What I do want to do is give you some history and an explanation. In 1992, I was elected chairman of the board of commissioners in Cobb County and resided at 886 Lake Hollow Boulevard in Marietta. I served in that capacity for 10 years and resided in the summer of June of 2002 to complete a campaign for the republican nomination for governing. With that failed campaign in August of 2002, I reenergized and started over my business and moved it to Polk County. It was a home I purchased in June of 1998. At that time, I also still lived officially, legally with my wife in Cobb County at 886 Lake Hollow Boulevard. From 2002, until today, my activities businesswise have been run out of my home at 2746 Morgan Valley Road in Polk County. I also have obligations in Cobb County. My wife is still at 886 Lake Hollow Boulevard. My business is still in Polk County. I commute back and forth spending two or three days in

each place every week since 2002. My wife works for a superior court judge in Cobb County. Upon her retirement, she will move out to Morgan Valley Road with me. I maintain -- and your staff is absolutely right. I maintain my registration to vote in Cobb County but considered myself to have moved to Polk but on a part time basis. I remain very active in our county supporting very good people to help them get elected or reelected. To this date, I still do that. In 2008, February, I transferred my voter registration from Cobb County to Polk County with the intent of running for district commission seat. In the course of the application and the review of the elections office with regards to residency, there is a requirement to be a Polk County resident for a minimum of one year to run for a public office. They challenged that residency. It did not go to superior court, but it did go to the board of elections. They gave me an opportunity to present my case. The Board determined that my residency requirement was not met. They made the right decision based on the facts, and I did not run for office in Polk County in 2008. On this basis, I certainly did not challenge that decision because it was the right decision. The issue of my application was the question asked, How long have you lived in Polk? The issue of six years came up because that was my interpretation of having lived there part-time and Cobb County part-time. To this day, I still think the board of election in Polk did the right thing, and they did it for the right reason. I am here before you this morning to give you an interpretation of the facts. If you have any questions at all, I will be more than happy to answer it.

MR. MCIVER: Procedural point full name and address. B y r n e, 2746 Morgan Valley Road, 30153.

MR. MCIVER: Thank you. Any questions by the Board?

(No response.)

MR. MCIVER: Anybody else want to speak on this matter?

MR. WORLEY: If I may.

MR. MCIVER: Moving too fast here?

MR. WORLEY: It's all right. Mr. Byrne, I want to be clear in the report. You indicated the investigation was clear.

MR. BYRNE: I haven't read the investigative report. I am saying your staff was correct in their presentation this morning.

MR. WORLEY: Is it your position -- I guess I'm unclear here. You argued to the Polk County election officials that you were a resident of Polk County?

MR. BYRNE: That is correct.

MR. WORLEY: They determined you were not a resident of Polk County?

MR. BYRNE: That is correct.

MR. WORLEY: Today, you're relying on their determination that you were not a resident of Polk County to defend against the allegation that you shouldn't have voted in Cobb County?

MR. BYRNE: Could you ask that question again?

MR. WORLEY: Well, you are being charged with improperly voting in Cobb County when you were a resident of Polk County?

MR. BYRNE: That fact is wrong. I was registered to vote in Cobb County every time I voted in Cobb county. My interpretation of residency was a wrong one. My interpretation of residency was, if you live in an area, you are a resident there. The interpretation, as I understand it now, with regards to voting, is that you live where you are registered to vote. If I was registered to vote in Cobb County, I could not run for office in Polk County without meeting the minimum requirements of being there for one year, which I did not meet.

MR. WORLEY: Can you explain why you didn't meet the minimum requirement of being there for a year and you lived there since 2002?

MR. BYRNE: When I decided to run for office, it was not until January of 2008. I realized I had to transfer my voters registration from Cobb to Pope, which I did in February. By itself, I did not meet the minimum requirements to run for offices as a candidate. Therefore, I was disqualified and rightfully so. But the mere fact that someone is making the allegations that I was either not registered to go in Cobb County nor did I have residence there is wrong.

MR. WORLEY: I understood the allegation is you voted 15 elections in Cobb County after the date you certified you no longer resided in Cobb County.

MR. BYRNE: In 2002, I will acknowledge the number and assume that was correct. Every time there was an election in Cobb, I voted in it either to support someone or to get rid of someone.

MR. WORLEY: But, when you did that, at the same time you did that, you testified that you lived in Polk County. I have a residence in both places, one in Marietta and one in Polk County. I spent an equal amount of time in both. The definition is, as I now believe it, that your legal residence is where you are registered to vote. Any other residence is a secondary one or a certiorari one or whatever the case may be.

MR. WORLEY: If I can ask the inspector general, is that her understanding of the law?

MS. LAGRUA: Mr. Worley, respectfully, I thought it was the other way. you registered to vote where you are a legal resident, which is the opposite.

MR. WORLEY: That's what I thought, too.

MS. LAGRUA: And I should let you know that Mr. Byrne also filed a registration with the campaign committee for use by a candidate in Cobb in August of 2008.

MR. BYRNE: That's correct.

MR. WORLEY: But that was after you moved to Polk County. I thought you registered to vote in Polk County.

MR. BYRNE: May I look at that for just a moment?

MS. LAGRUA: I'm sorry. The election year was 2008. He filed in 2006 in Cobb. I apologize. I saw the year of the election.

MR. WORLEY: I don't have any further questions.

MR. BYRNE: That's a big difference. They create misunderstandings which is why I'm here today. If I had not challenged that, I would be heading off to jail.

MR. MCIVER: Any other questions by members of the Board?

MR. WEBB: He testified that he became a full-time resident of Polk County on or about August of 2002.

MS. LAGRUA: Correct. It is our understanding that, on the candidacy, you have to put your full-time residency to qualify.

MR. BYRNE: I did say that, if I may explain that. Again, whether it is understood or legal is another issue. When I moved my business out there in August of 2002, I was there every single day, trying to start by business back up. My wife and I spent weekends there. So I was there all week long. During the course of the week in the evenings, two or three times a week, I would go back to Marietta, splitting the week so that my wife and I spend time together. The perception for me is goodness sake, I'm out here in Polk County 90 percent of my time. So that's my residence. On the application, it says residence. How long have you lived here? In 2008, when I filled that out to register, that was six years. I had not been a registered voter. Therefore, I felt I met all of the qualifications to run for office. I transferred my registration to vote in February 2008. And, technically, I did not meet the requirement of one year to run for office, which was the right determination.

MR. MCIVER: Mr. Webb, any other questions?

MR. WEBB: No.

MR. MCIVER: Thank you, Mr. Byrne. We may have other people that want to participate or comment. If you will, give us your full name to address.

MR. MCCALL: Brad McCall, 38 Summerwind; County attorney, Polk County. We don't really have a dog in this fight. I conducted the hearing. You are now confronted with the same great reasons we got regarding residence and domicile. A transcript was provided that is ready and available for you to read. It is good to hear Mr. Byrne acknowledge that he believe our board of elections made the right decision. I am here to answer questions, if you have any questions.

MR. MCIVER: Questions by the board?

(No response.)

MR. MCCALL: Thank you.

MR. MCIVER: Thank you, Mr. McCall. Anyone else here to speak on this matter?

(No response.)

MR. MCIVER: Hearing none, I will entertain a Motion.

MR. EVANS: Mr. Chair, I read 21-2-571 as containing the requirement is there being knowledge. I think the mere evidence that we have before us is what makes it clear that this was a bit of a moving target. It makes the requirement impossible to establish. As a result, I will move to close the file.

MR. MCIVER: A second for this motion?

MR. WORLEY: Second.

MR. MCIVER: Motion and second further discussion?

MR. WORLEY: Well, I think that the standard we use in these cases is whether there is probable cause. When we have a dispute of the evidence, we generally bind it over. In this case, we have a dispute of the evidence from Mr. Byrne himself. In one hearing, he testifies one way. Today, he testifies a different way. I think this is it certainly may be a misunderstanding and I don't think that we want to scrutinize the affidavits that candidates fill out when they become candidates. I think it is clear Mr. Byrne thinks Polk County decided correctly that helps him today to get out of this when his testimony at that hearing according to investigative reports was completely different. I think it would be a serious indication of our responsibilities not to forward this on to the attorney general's office for at least the investigation efforts in every other case where we have a dispute about the facts. So I would oppose Mr. Evans' Motion.

MR. MCIVER: Other comments by members of the Board?

(No response.)

MR. MCIVER: I will call a vote. Those in favor of Mr. Evans' Motion to close?

(Whereupon, there was a chorus of ayes.)

MR. MCIVER: Oppose?

MR. WORLEY: No.

MR. MCIVER: Motion passes three to one. Before I turn the chair back over to Madam Chair, I see Mr. Byrne, you are a veteran. I thank you for your service to America.

MR. BYRNE: Thank you, very much.

CHAIRPERSON HANDEL: The next case is 2008 48, Daniel Alvin Recall Petition Application.

MS. LAGRUA: Thank you, Your Honor – thank you, Madam Chair. Essentially, what happened, on April 15th of last year, Daniel Alvin submitted an application for Daniel Taylor naming Governor Purdue as the name and office that sought to be recalled. The specific statutory grounds for recall marked on the application are “Governor Sonny Purdue” has violated his oath of office and other similar things. The application listed Daniel Alvin as the official chairperson and the circulator of most of the pages of the petition. Mr. Taylor reviewed the application and it appeared to him that the signatures all bore a very striking resemblance to each other and forwarded it to my office for review. There were a number of things that made the petition look as if there were forgeries. In fact, we went out to investigate. We did not find valid signatures. We interviewed a number of folks that said they were interviewed, looked at their signatures, had never seen a petition, didn't know Daniel Alvin. In particular, Deputy Inspector Chris Harvey interviewed the Mayor's assistant. He said it was clearly not his signature. He never would have signed anything like that. Mr. Alvin's interview is claiming someone else helped him. He couldn't tell us who it was and ended the interview by requesting an attorney. I am recommending in this case since there are clear forgeries on the petition this be referred to District Attorney's office for criminal prosecution.

CHAIRPERSON HANDEL: Questions or comments?

(No response.)

CHAIRPERSON HANDEL: Anyone else here on this case?

(No response.)

CHAIRPERSON HANDEL: All right. Questions on it?

(No response.)

CHAIRPERSON HANDEL: Motion?

MR. MCIVER: Move to bind identity over to the District Attorney.

MR. EVANS: To give clarification, I think we have available as options one possession to refer it to District Attorney for prosecution or second to refer it to the attorney general's office pursuant to violations of the rules or we could do both. So I think that if I would ask if my colleague Mr. McIver clarify that and the reason I raise that is the issue we talked about some moments ago in our meetings, which is the distinction between the two and the risks that are attended to a Motion to refer to prosecution

MR. MCIVER: Thank you for your input. I am inclined to accept the representation of General LaGrua. Board members may comment. The Motion will stand. If that is the only evidence, we will proceed.

MR. EVANS: The evidence you are proposing is just a referral to District Attorney.

MR. MCIVER: Yes.

MR. EVANS: And not a simultaneously concurrent prosecution by Inspector General LaGrua per the attorney general's office?

MR. MCIVER: Unless persuaded otherwise, I hear your comment. I am inclined to favor the recommendation of General LaGrua. That is my Motion. You can treat it any way you think would be appropriate.

CHAIRPERSON HANDEL: If I can ask the question, based on what happens with the District Attorney, do we still maintain the ability and option to pursue sanctions?

MS. LAGRUA: We do. My only concern is something that may be raised later in the day is because of the direct criminal nature of this, I didn't want any proceedings in the AG's office to keep us from being able -- and I am not saying in regards to Mr. Evans that it would. It was so serious it appeared it would be a criminal case.

MR. MCIVER: For example, were the DA go before a grand jury it would come back to us.

MS. LAGRUA: That's correct.

MR. EVANS: I don't think that's right. If we want that to happen, our Motion has to be to both refer it to the District Attorney and to bind it over with the instruction that the AG will hold in abeyance the AG's investigation until such time as a criminal matter is resolved. However, if we file a Motion to refer only that operates as the closure of our part. I think we in fact have gotten that advice before. That is why I raise the issues. It is a procedural nuance that's of particular importance. We have talked about it in the context of the Chattooga County matter where we ended up opening a matter and then holding it until such time as the criminal matter was resolved. Then we subsequently took action on Chattooga County matter because we held it over.



MS. LAGRUA: That would solve my concern as well.

MR. MCIVER: We can certainly ask the law department for an opinion. I am inclined to move forward. I will amend my Motion subject to a second that we add the secondary provision as provided or discussed by Mr. Evans so that there would be no risk of losing this case for any reason.

CHAIRPERSON HANDEL: I accept that. So just for clarity then, it's a Motion to refer to District Attorney for criminal prosecution and a simultaneous referral to the attorney general to hold in abeyance until the District Attorney adds that case. Motion and a second. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: The next case is 2008-51, Chattooga County.

MS. LAGRUA: This involves the 2008 runoff election. The complainants are Betty Grady and Tom Everett. The respondents are Aleta Kellen and Pam Albert. The allegations were that the incumbent sheriff's wife, Aleta Kellett, works in the courthouse area. While working in her office which was 150 feet of the polling location, she campaigned for her husband; that Pam Albert, an employee of the Chattooga Sheriff's Office, was filling out absentee ballots. Absentee ballots were leaving the registration office. In relation to the allegations regarding Aleta Kellett, she works in adjacent to the early and advanced voting precinct. She denied campaigning for her husband while at work and, in fact, there were no witness that could substantiate that allegation; just that she spoke to people when they were in the area. At the time the allegations that came that an employee of the sheriff's office was filling out absentee ballots. At the time of this allegation and at the time of the interview, Chattooga County had not received their absentee ballots at that point. There was no basis. It is recommended at this time that this case be closed.

CHAIRPERSON HANDEL: Anyone else here to speak on this case? Anyone else for No. 51, Chattooga County.

(No response.)

MR. EVANS: Move to close.

MR. MCIVER: Second.

CHAIRPERSON HANDEL: Motion and a second. Any questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: The next case is 2008, No. 63.

MS. LAGRUA: This involved the February 2008 election and runoffs which there were three which was the basis for a number of the allegations. What happened, this election resulted in three runoffs. First, no one received a majority of the votes. The second was ordered by the superior court judge because the winner prevailed by one vote and the elector was denied the opportunity to vote a provisional ballot. The third runoff was because nine ineligible voters were allowed to vote in the second runoff. The allegations were that ineligible voters were allowed to vote; that voters did not have no privacy. The sample ballots were not placed correctly for voters. Essentially, what happened were there were ineligible voters. There were three people – Johnnie Ridgeway, Donnie Rouse, and Tiffany Rouse, all respondents in this case, lived outside the city; in fact, they were allowed to vote. In the runoffs, at least nine voters who had not voted in the original election were allowed to vote in runoffs which resulted in the next runoff. The machines, however, were set up properly. No privacy issue was substantiated. One voter was not given the opportunity to vote provisional ballot, and that was in the runoff that resulted in the winning of the election by one vote. So I'm recommending that this case be bound over to the attorney general for sanctions, fines, and obviously any order or any association or finding or sanction should include training in this case.

CHAIRPERSON HANDEL: Are you here to speak on this matter?

UNKNOWN SPEAKER: No, ma'am.

CHAIRPERSON HANDEL: Anyone here to speak on this matter, the City of McIntyre, Wilkinson County?

(No response.)

CHAIRPERSON HANDEL: Colleagues?

MR. EVANS: Move to bind it over.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: Motion and second. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: 2008, No. 65, City of Greenville, Meriwether County.

MS. LAGRUA: Yes, ma'am. This involves the 2008 Primary Election. The complainant in this case is Rodney Garrett. He has had one other complaint regarding the City of Greenville prior to this. The respondent would be Patty Threadgill, Supervisor of Elections, City of Greenville. The allegations were that there were people listed on the list of registered voters who did not live in the Greenville. The complainant in this case lost the election for the city council post and alleged that there were some people on the list that did not live in the county. The list was checked. We received a list and forwarded it on. All the electors were entitled to be on the list. In fact, Mr. Garrett's challenge was heard in superior court based on the same allegations, and that challenge was denied. It is recommended that this case be closed. I did hear from Ted Meeker, the attorney for City of Greenville in Meriwether County. He had not been in touch with the City until they got this complaint and was asking if, in fact, the recommendations of the inspector general were not followed if he could get granted a one-time continuance to appear before this court. So it is recommended that we close this case. We found no violations.

MR. MCIVER: Move to close. Are there any other people here?

CHAIRPERSON HANDEL: Any other people here to speak on this case?

MR. GARRETT: Yes.

CHAIRPERSON HANDEL: Do you want to speak on this case? Come on forward.

MR. GARRETT: My name is Rodney Garrett. I live on 1227 Terrell Street. In regards to even the closing of the case, I have gone through everything and every possible ounce of evidence that I could come up with. While the court case is going on, there were several of them in there that we did have. We had all the evidence in which the judge asked us to postpone it for another day in order to get other things certified, which we did. I went back the next day and certified. They still would not accept it. Some of them were from the board of education of Troup County. We are from Meriwether County. In Troup County, in order to go to school and have your children there, you have to sign an affidavit that you are a resident of Troup County, showing your address and everything in Troup County. Two of the people that vote and their children in school in Troup County, not only then but before, had signed affidavits from them with addresses in Troup County where they lived and buying a home in Troup County and these affidavits had to be signed for their children to go to school in Troup County. But yet they

claimed Greenville, Georgia as their residence to vote. It can't be. How can you have two residences. We had two last week. Those two took themselves off the voter registration in Greenville. Not only that, there was another one. This lady lived in government subsidized housing in Fulton County over 20 years, still lives there under government subsidized housing in Fulton County but came around a year ago and registered to vote in Greenville, Georgia because she owns a house in Greenville, but yet she resides in Fulton County and has government subsidized housing in Fulton County. Not only that, now, she tried to apply for Homestead Exemption in Meriwether County. The tax assessor's office did a hands-on and went to the house and knocked on the door and asked if she was there. No, she wasn't. They asked if she lived there -- no. She comes there every now and then. From the board of assessors, she was denied and here it is. And now this is on 10/19/2009.

MR. EVANS: Mr. Garrett, do you have documents you want us to consider?

MR. GARRETT: Yes, sir.

MR. EVANS: Once you finish referring to them, the Chair will then entertain a Motion to accept them in.

MR. GARRETT: All right. These are the documents here on Ms. Bulamae Caldwell. This is where the owner applied for Homestead Exemption in 2009 and approved by BOA. It was later discovered that she lived in Fulton County subsidized housing. Now, that's a question I have always tried to bring up. If you live in another county, in subsidized housing, if you claim your residence in another county where you own a house, I mean, it's just something that this is kind of -- I don't understand it. I am being as honest as I can with you. You own a home here but you get federal subsidized housing over here. You spend time in federal subsidized housing since late '50s, early '60s but you want to register to vote because some of your family is running for office.

CHAIRPERSON HANDEL: Do you have documents on Troup County education?

MR. GARRETT: No, ma'am. I can get them sent to you.

CHAIRPERSON HANDEL: I'm sure Ms. LaGruta will call or back up with you.

MR. GARRETT: The old ones are updated, every single thing, every page is stamped by the Board of Education for Troup County.

CHAIRPERSON HANDEL: Okay. Let's get a Motion to accept the documents you provided to us thus far. Motion and second. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Anything else.

MR. GARRETT: As far as this part, that is about it because this is one I can't really prove, you know. But everyone in town knows. Sometimes it's hard to prove it.

CHAIRPERSON HANDEL: Okay.

MR. EVANS: It will be helpful if you have a list of names that you give Ms. LaGrua that way we can narrow it down. I will move that we defer action until such time, Ms. LaGrua, you have had time to consider and verify the information Mr. Garrett gives you.

MR. GARRETT: I'm sure she has got them. I have sent them several times to her and everybody else. I can do it all over again.

MS. LAGRUA: We did get that list of names and information he is talking about. Regarding the school board, that was not provided to us at all.

MR. GARRETT: I will get them to you.

MR. EVANS: Now, we will hopefully get it ourselves. Our staff is very talented and thorough and only as good as the information you get. If you don't get Ms. LaGrua the information, it doesn't exist in our world.

MR. GARRETT: It'll be there. Can I ask a question while I'm up there?

CHAIRPERSON HANDEL: So far, you are on the side of having us take a look at it again. So, when you've made the sale, you should let it be. We have got a Motion. I think I heard a second for the defer back to Mr. LaGrua. Did it come from you, Tex?

MR. MCIVER: Yes.

CHAIRPERSON HANDEL: Motion second. Anyone else here to speak on this particular matter?

MR. ELLIOTT: Tyrone Elliot on behalf of election board. We concur with her recommendation.

CHAIRPERSON HANDEL: Motion second to defer back to the attorney general. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

MR. WORLEY: I'm recusing myself.

CHAIRPERSON HANDEL: Let the record show that Mr. Worley recused himself on this particular matter. The next case is 2008, Number 74, Meriwether County.

MS. LAGRUA: This involves a 2008 general runoff election. The complainant is Shirley Hines, Meriwether NAACP; Charlie Charlie Glanton, candidate for Meriwether County Commissioner. The respondents are Meriwether County Board of Elections; Steve Whitlock who is the sheriff. Larry Whitlock was a candidate for Meriwether County Commissioner running against Charlie Glanton. The allegations were that Steve Whitlock, the sheriff, intimidated voters at a public forum. The sheriff intimidated Michael Bussy by disparaging another candidate while in uniform. Steve Whitlock instructed the poll worker that the sign was not a violation of the law. Early voters were turned away because there were no ballots available; that absentee ballots were not timely sent; that Earl Ellis was improperly removed from the voter's list; that Jimmy Marshall was improperly denied the right to vote; that two people were not allowed to vote in the proper district; Larry Whitlock, the candidate, entered the Odessadale precinct improperly; that the board limited the number of absentee ballot applications provided to African American campaign workers; and that children were wearing campaign buttons inside the precinct. The first allegation involving the sheriff involved two separate situations. The first was a public forum where apparently the sheriff, in uniform and in his public vehicle, arrived with his brother who was a candidate running for commission office. During the forum, he made a comment to the folks at the forum that you should be careful who you associate with. The second allegation is the sheriff went to Mr. Bussy's home and Mr. Bussy was on the campaign committee for Mr. Glanton, the candidate running against the sheriff's brother. For 30 minutes, he tried to talk him out of voting for Mr. Glanton. The sheriff was in uniform. Mr. Bussy said he was somewhat intimidating. Regarding the sheriff, the sign at the location was properly outside the 150 foot mark. The poll worker moved it farther away than that after the sheriff told the poll worker that he had been told to move his sign at the previous election at the same location farther out. In terms of the ballots, they were received the second day of advanced voting. They were mailed on the day they were received. The ballot that was in question was, in fact, counted and given credit for voting. Mr. Ellis was erroneously deleted because another Ellis in another county was a convicted felon. That was sorted out. He was allowed to vote provisionally. Mr. Godfrey was removed from being a convicted felon but completed his sentence by the time the election came around and was given a provisional ballot. In terms of the precinct changes, there was a 911 change in address on the precinct slip changed. The provisional ballots were issued and the votes for the appropriate election were, in fact, counted. Larry Whitlock did enter a precinct where his name was on the ballot which was not his voting precinct. He was assisting an elderly voter. He was in violation technically there and there was no evidence that applications requested were not handled appropriately. In terms of the case involving Larry whit lock entering the precinct, it is our recommendation that he be given a letter of instruction surrounding that situation. In terms of the situation with the convicted felons and their additional removal from the list, it's recommended that Patty Threadgill be issued a letter of instruction regarding the timely removal of convicted felons from the voter's list. As to the sheriff, we are back in the area where, to some degree, it is the Board's, I think, interpretation of the law and where the line is. As it relates to the public forum where the sheriff said be careful who you vote

for, I don't think there is an intimidation. It's a public forum for any reference to any specific candidate. You can make a lot of jolts and assumptions, but I don't think there is specific evidence to prove intimidation. Going to Mr. Bussy's house, I think, is a much closer call on an intimidation. Acting sheriff, in uniform in the evening in his marked vehicle, he goes to an elector's home that supports the campaign committee for another -- for the candidate opposing his brother and spends a good bit of time trying to talk him out of voting for the person whose campaign committee he's on. We tried to follow-up with Mr. Bussy after the original conversation to find out if these conversations were sort of in the norm for him, had the sheriff been out to visit him in other elections, was this an isolated incident. I was unable to locate Mr. Bussy to follow up on that. After a number of attempts, I am open to any questions on this one.

CHAIRPERSON HANDEL: Let's hear from other folks. Are all of you here to speak on the case? Find out who is who so we can go.

MS. HINES: My name is Shirley Grier Hines. I live 9415 Forest Road. I am the President of Meriwether County NAACP. To the Honorable Karen Handel and the State Election Board, thank you for addressing our concerns regarding the allegation of the voting election's irregularity counting in Meriwether County during the county election in 2008. Due to the time constraint, I will not go over all the allegations that have just been stated. One of our main concerns is the voters intimidation and the allegations of removal of convicted felons from the roster. Regarding Mr. Bussy, I was able to contact Mr. Bussy a couple of days ago and I talked with him regarding this incident. He stated that someone had told him that the sheriff was interested in meeting him and wanted to talk to him. Apparently, the sheriff had talked to the mayor of the City of Greenville asking questions about Mr. Bussy. He then told him where Mr. Bussy lived. If he needed to talk him, it would be best if he talked to him directly. As stated, the sheriff did go to Mr. Bussy's home and expressed his concern regarding him being the campaign manager for Mr. Glanton and asked if he knew the history of Mr. Glanton several years back with the school board. He felt that that was inappropriate for the sheriff to share that information with him especially at a time when he came in his uniform during regular business hours for him to share that information. Right after that event, I think approximately -- I think he said two or three weeks later, Mr. Bussy got -- in fact, there was an outstanding warrant for him for allegedly taking some items from a grocery store, an event that supposedly happened in 2005. Because of this, he was brought to court regarding the incident. He felt like that was brought out because of the position he played as the campaign manager for Mr. Glanton. Regarding the going to the convicted felon, one thing I want to get more clarity on, Mr. Nelson Godfrey voted in July on the primary. No problem when he went to the poll to vote. But, when the runoff, he went to vote. he was told then that they could not cast a vote because he was a convicted felon, only less than three weeks apart. We are wanting to know when did that change -- where did they get the list to change the names of those that were convicted felons. Secondly, with Mr. Ellis, Mr. Ellis said that he was told that he was a convicted felon. He never had had a felony. He did a

provisional ballot but on the roster that I have, I don't show his name. So, if he did do a provisional ballot, I still don't show that he was counted.

As far as the candidate, Mr. Whitlock, going in and out of the poll, received several calls from citizens with their concern of what was the policy. We brought this out because citizens brought it to our attention. There were a lot of other citizens when shared different information with the NAACP. But, unfortunately, we weren't able to get a lot of them to put it in writing because they felt like, if they did that, they would be retaliated on. So a lot of people didn't come forward that may have wanted to come forward because they felt like, once something was put in writing and it was made admissible, they may have the issue that Mr. Bussy and Mr. Nelson had had. We feel that these are some serious charges and that Meriwether County NAACP ask the possible criminal violation be forwarded and sent to the attorney general's office. Thank you.

MR. HINES: Madam Chair and the Board, my name is Freddie Hines, District 1 Commissioner, the husband of Shirley Grier Hines. But this is two separate things as for as the commission. I would like to say that I'm not here to represent the entire commission but District 1 regarding this particular case. I am a retired state employee. I'm retired from the Department of Public Safety after 32 years. I moved back to my hometown Meriwether County. I ran for office in District 1 and won the election. I served as advice chair for the first year. During this particular time, going on three years, we received numerous complaints from citizens and voters about intimidation, and the right to vote. There's one reason I'm here, even though I'm listed as the respondent, I should be listed as someone filing a complaint. I wish the investigator had talked to me. I have issues I could share with them and some documentation in reference to this particular case. I was never interviewed by any of your investigators. I hope they will come back and interview me regarding this particular case. There are various issues in Meriwether County. I would like to address the last gentleman that was here. I attended that hearing in Greenville that was just held because I received complaints and there will be more complaints regarding that incident where people are being hounded and predominantly minorities subjected to people visiting their homes, going and asking did this particular person live there. If they say they don't know, they go back and contact the registrar's office and have them removed. Most of the people are the people that are related to a particular candidate. I know one particular person, which came into the voters -- the hearing on last week. He had to remove himself from dialysis. He had the bandages. He came in to prove he lives at this address; going to government homes which is predominantly minority and asking the manager is this particular person listed on the contract.

CHAIRPERSON HANDEL: You keep saying "they."

MR. HINES: Mr. Garrett is one of them and it was another lady that was with him. We are going to forward a complaint about that.



CHAIRPERSON HANDEL: If you could help us and concentrate on this one that is before us so we can kind of keep up with what is before us, that would be great.

MR. HINES: Regarding this particular case, I would like to address probably why they couldn't contact Mr. Bussy. Right after this incident happened -- and I have letters to prove that Mr. Bussy contacted me and said he was being harassed by the sheriff and were bringing charges against him and Mr. Bussy was put in jail. He was held in jail for a long period of time. That is probably why they couldn't contact him. And also, Mr. Roster Marble. I have letters from Mr. Marble where he was allegedly harassed by the sheriff, and he is now serving prison time. They arrested him and said he violated probation. They kept him in jail for a long period of time. That information is being compiled now and will be forwarded to the justice department, because we believe it's a civil rights violation. I attended the jail., was contacted by one particular person, asked to speak with Mr. Marble because they said they would not allow him to shave. He had ingrown hairs. I contacted the sheriff and asked if I could talk with Mr. Marble. I will have information about that I will share with the justice department concerning civil rights violations. These are some serious issues.

CHAIRPERSON HANDEL: You referenced some letters you received from Mr. Bussy. Did you submit those to the inspector general's office?

MR. HINES: They never contacted me.

CHAIRPERSON HANDEL: You had information you knew about the case. It would be incumbent on you to provide info as well. I'm sure the attorney general would be interested in receiving it. I suggest that you do that.

MR. HINES: Thank you.

MR. EVANS: Madam Chair, the Chair has made clear since she became Secretary of the State that, if anyone had information, don't wait on someone to call; not just you but anyone that have something that you think matters. I know I can speak for my colleague, Mr. Worley. We seem to get our fair share of material which we forward on right immediately. But, if you get material, always send it in. Don't wait on somebody to call you. We are interested in investigating anything we think that is a violation.

MR. HINES: I will wrap this up, finish this. All three violations are potential violations. The people he contacted, two have been put in prison and the third has an allegation brought by the sheriff about simple battery and other cases that's pending. But all the other people that filed complaints at the voting irregularities of being subjected to that, we think unnecessary scrutiny and one reason in Meriwether county and in the City of Greenville. These are some serious violations. We ask the Board not to dismiss this case and ask you to refer it to the attorney general's office because these are serious allegations and serious issues that need to be addressed

in this particular county. This has gone on for a long period of time. There is also, I think in this complaint by the President of the NAACP, possible criminal allegations where certain items were purchased. I won't go into that. I am hoping you will refer this to the attorney general's office for them to take a look at it. Any questions?

CHAIRPERSON HANDEL: Can we hear from the two of you now? Thank you.

MR. ELLIOTT: My name is Tyrone Elliott. I live at 688 Mountainridge, Manchester, Georgia. I'm the county attorney for Meriwether County on behalf of Sheriff Whitlock and Board of Election, Commissioner Larry Whitlock. I would briefly like to identify the three areas that Ms. LaGrua referred to in regards to her recommendations for the allegations made against Ms. Patty Threadgill about failing to remove electors. We concur with that inadvertent matter. She did receive a notice of convicted felons. It didn't get removed within the 60-day period of time. In fact, they were removed and what prompted these other issues and the fact that Mr. Godfrey pointed out, he had served his time and should be reinstated. His vote was counted as a provisional ballot, but it counted in the long run. He was not denied his right to vote. Mr. Ellis was a mistaken identity. He was allowed to vote. No harm done once you recovered this. I think it was an inadvertent matter failing to get this removed in the 60-day period of time; never done this before. We recommend a letter of instruction would be appropriate in this case. With regards to Larry Whitlock, he went to the Odessadale precinct to assist a disabled voter. When he got there, no one was there to help the voter get inside the building. He the take the voter into the building and let the voter vote and waited on him outside. That was a technical violation again and he certainly acknowledges that. I think a letter of instruction to him would be appropriate as well. We concur with those two matter. That's leaves really the allegation that's been talked about the most which has to do with intimidation by the sheriff. The charge was the intimidation towards Mr. Bussy. Mr. and Ms. Hines made allegations by other people to actually respond to all of those since most of those respectively had to do with matters that are not before this Board. It's really impossible for us to respond to speculative allegations about what we are going to take to the justice department. We have to deal with what actually happened here. I have Sheriff Whitlock with me. I think the best thing to do is let him give his testimony as to what happened in relation to Mr. Bussy himself. I would point out to you that the Code section intimidation of electors 21 2 567 refer to that. What Ms. LaGrua, I think, asked be looked into was what constituted intimidation, act of intimidation. I point out this, first of all, that this Code section itself refers to acts in any other manner to intimidate and goes on to define that. You have a definition as to what constitutes intimidation, subsection B, acts in any other manner to intimidate means to undertake or pursue knowing and willful course of conduct which causes emotional distress as by placing another person in reasonable fear of such person's safety or safety of another person which serves no legitimate purposes. So the test here is whether or not Sheriff Whitlock acted in any manner that would cause Mr. Bussy to be in stress for mere of his safety or safety of another person. I think, when you hear the actual facts from the sheriff about what the context was of how he came to have a conversation with Mr. Bussy, you will

understand there was no violation of this Code section. There was no intimidation, and that matter should be closed as well. As far as the other matters of intimidation, we don't have any fact that we can identify that we can respond to. There are facts we can respond to. This is the one fact we have that Sheriff Whitlock give the response he has about that set of facts.

SHERIFF WHITLOCK: Thank you and I appreciate you letting me speak. I am Sheriff Whitlock, Meriwether County, 833 Pinewood Road, Hoganville. It's a Hoganville address. My address is inside Meriwether County. The statement was just made -- I just didn't happen to be to at Mr. Bussy's house that day. We had a call to go to that residence that day. I have a cad sheet to show why we were sent to Mr. Bussy's residence.

CHAIRPERSON HANDEL: Let me stop you there. Is that a copy we can have?

SHERIFF WHITLOCK: Sure. I will give you a copy.

CHAIRPERSON HANDEL: All right. Can I get a Motion to accept?

MR. WORLEY: So move.

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Oh, you need that back?

SHERIFF WHITLOCK: No really. What happened was we had a call of a demented person causing a problem in front of Mr. Bussy's house. I was the one officer on duty. And the subject was there he was pitching a big fit. I got a call. I knew who the subject was. I went there. I didn't know Mr. Bussy was going to be there. It was no means for me to go there and speak to Mr. Bussy at all.

MR. MCIVER: When you say "subject," who was that?

SHERIFF WHITLOCK: Ronnie Varner. He has kind of a mental problem. We have to take him to Columbus very often on 1013 papers. That day he was in the street at an abandoned house across -- he was coming outside taking feces and throwing it at people. So we got a call. The Greenville PD and one of our deputies got there and got in an altercation with Mr. Varner. I worked with him 27 years. I have known him most of his life. I felt like I could talk Mr. Varner into getting in the car. He got really violent. We had to subdue him and kind of rough handle him just a little bit. So, when I pulled up, they had him in control. Putting him back -- at that time, they put him in this patrol car, the back of the patrol car. I looked around. There was a large group of people standing in Mr. Bussy's yard which was Mr. Bussy's grandmother's yard. I have known her years and years. I had many times talked with her. So what I did, like I usually to, I walked over to the crowd and explained what -- they were drinking beer on the front porch, having a good time. I was joking with them. At that time, I walked up and sat down talking. I

didn't know that Mr. Bussy stepped to the left. I seen his two cousins, so I started talking to them. So a few minutes later, Mr. Bussy said -- I looked over and recognized him. He asked me point blank, Why don't you like Charlie Glanton. I told him about the moral ethics that he did in the past. I didn't agree with. At no time did I ask him to change his mind or vote for anybody, threaten him, or intimidate him. We talked for about 35 to 45 minutes. I think, if I threatened him or intimidated him, he would have asked me to leave or, you know, done something. He kept sitting there drinking his beer. We sat there and talked. When it was all over, he left. I stood up walked off. That was it. The warrant they were talking about him going to jail, I think it was a shoplifting case. He was picked up afterwards. The case was a city case. It wasn't a county case. I will say several months later, we did happen to do a search warrant at that resident. He was arrested with drugs. Another person they talked about being intimidated was Mr. Marble. We arrested him February last year, him and his wife for trafficking cocaine. His wife went to prison. They gave him ten years probation. Six months later, we locked up Mr. Marble a second time for possession with intent. We went to the house. We made a search warrant. We found about 20 rocks of crack cocaine. I am not intimidating anybody. I am here doing my job. If they feel like I've intimidated them, I apologize to them. I have known most of these people all my life. I don't see anywhere where I have threatened or intimidated anybody. It's just like the campaign sign, I went -- I was up for the last race. The year before that, I put my sign right at the front. I had a man come tell me. You have to be 150 feet from the poll. I didn't know myself. The sign was right at the road, the same as other signs. I moved my sign. All I did was walked up to the -- I got in trouble. Four years ago, they told me I needed to move my sign. You can leave it here. There is no problem. She said, No. I will move it down 50 more feet. I said, Ma'am, that is up to you. I am telling you what they told me four years ago. My sign had to be 150 feet. You know what assumption mean; 150 feet from the driveway. I moved my sign 150 feet down. I never ordered anybody to do anything. Like I said, I'm just doing my job. If that was intimidation, voicing your opinion, I'm sorry. And I don't think -- like I said, I didn't ask him to do anything. I didn't threaten him in no way. I was having a conversation.

CHAIRPERSON HANDEL: Questions or comments?

MR. MCIVER: I have one. What county is this?

SHERIFF WHITLOCK: Greenville, Georgia, sir.

MR. MCIVER: Greenville.

CHAIRPERSON HANDEL: Do we have a Motion?

MR. EVANS: Madam Chair, so on the removal of felon names from the ballot, I think everybody can get a good sense of why it is we are so vigilant on that. I if there is delay thing like this happens no activities get called into question as to why wasn't it done. It may be mere oversight, and so in this regard, I think that a letter of instruction on that point is appropriate. I

can't remember her name, the first person that spoke. Madam Chair, I asked what is the time been ongoing on it? I refer you to 21 2 231 which emphasize the 10th of every month it goes to the second of state price. The list goes up to the individual county to remove the name. Apparently, that didn't get done in time before you voted; but, apparently, in time for the second vote. Specified 21 2 231 (a) which is the clerk of the superior court of each county shall before the 10th day of each transmit to the second of state in a format described by the Secretary of State, a committee list of all persons including addresses, ages, and other identifications as prescribed by the Secretary of State convicted of a felony involving moral turpitude during the preceding calendar months in that county. So with your compliance I move for a letter of instruction.

CHAIRPERSON HANDEL: Would you also accept a public reprimand keep up with how we have done in the past?

MR. EVANS: I was torn on that because I didn't hear anything that would suggest a systemic issue, which is normally our threshold for that.

CHAIRPERSON HANDEL: I will second that position.

MR. WORLEY: Are we going to go over these one by one?

CHAIRPERSON HANDEL: Motion and second. Any questions or comments on that?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Larry Whitlock and then Sheriff Whitlock.

MR. EVANS: Larry Whitlock, this is a strict liability issue of physically entering a polling place as a person just -- everybody hear the way we treat that. It's like a traffic offense which is because we don't want to get into questioning anyone's motive about why they are there. The truth is, if you go threw a stop sign or traffic light that's red, that's it. You violated it. And we apply that so that people don't physically go into the polling places and campaign directly or indirectly. You have to be very careful in that regard. And so with that I would move for a letter of instruction as to Mr. Whitlock as well.

MR. WORLEY: I would second that.

CHAIRPERSON HANDEL: Motion and a second. Any other questions on this one?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

MR. EVANS: As to the sheriff, I will be candid with you. I don't hear it. However, under 40 2 USC 1983 there are remedies available to deal with -- lawful that means if a government official wearing their uniform, flashing their badge, using their office to intimidate a voter, the appropriate remedy is to register a complaint with the department of justice or U.S. attorney's office and they will then investigate to take a look at that. For our purposes, I think the measure is 21 2 567 and historically we applied that with a physical threat of force so that you are in eminent fear of your own personal safety and with that threshold which is different with the threshold of the justice department. I move to close the case because I don't hear evidence after hearing everyone for the threshold that we typically apply for the 21 2 567. I would make clear that we do not in any way preclude a filing under 42 U.S. C 93 if anyone believe that the use of the color of law which is the position or status. We don't take any position one way or the other on that; that would be for the justice department to address. That would be my Motion to close the case based on those comments.

MR. WORLEY: I second.

CHAIRPERSON HANDEL: Any other questions or comments? Mr. Worley?

MR. WORLEY: As far as the intimidation goes, Mr. Evans is correct about the standards that we have used in the past. And I want to make it clear that I'm not basing my decision on this motion today on anything other than this investigative report and the testimony that we have had from Sheriff Whitlock. To the extent that there are other complaints, charges, information, that Mr. Hines has that he would like to bring to the board, I urge him to do that. And we will look at those and investigate those. But I can't base a decision on this charge on that information yet because we really haven't gotten that information. I urge him to get that information and if it's there and bring it to our attention but as far as specific charge today the record before us Mr. Bussy reported he felt somewhat intimidated but he was not threatened by the sheriff in any manner. That is what we have from Mr. Bussy and we have from the sheriff his description of what occurred, which doesn't sound as if under the circumstances with other people being around that it meeting the standard of intimidation that we have. So I would have to vote in favor of Mr. Evans' Motion to close that charge but I am not ruling on any other charges that might be brought before this Board.

CHAIRPERSON HANDEL: Let me reiterate, any complaints that come into the inspector general's office from either side if there is anything additional provide that proactively to us. We have a Motion and second. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON: I thank you everyone. All right, the next case, 2008 Number 77, McDuffie County.

MR. HARVEY: Members of the Board, this election was – On September 16, 2008, David Gerlach, the complainant in this case, went to vote. When he arrived, he was told that someone else voted in his place on August 28. He said that he had not. I did some investigation and found out the signature on the voter application from August 28 voter registration, original voter registration, was not correct. They also saw that this name, David, was misspelled on the absentee ballot. The elections clerk, Ms. Hill, said that she investigated the information. She didn't specifically remember who it was but she said she marked it. She checked her driver's license. She always did that and alerted Mr. Gerlach. He notified the sheriff's department did an investigation and didn't find any other evidence of identity fraud. At this point Mr. Gerlach was not offered provisional ballot and did not vote. It appears somebody did vote in his place there is nothing to subject who that person is or how that happened there is the possibility based on the events that unless somebody had an always investigate and presented a driver's license this would have been caught. It is recommended that this case be essentially closed, unless new information were to come forward to allow us to identify a suspect. .

CHAIRPERSON HANDEL: Anyone else here to speak on this case?

MS. WHEELER: Yes. Phyllis Wheeler, Elections Director from McDuffie County. Ms. Hill, who is only working during early voting period is in the hospital with congestive heart failure. Otherwise, she would have been here. She wanted to be here. I just want to say that in my investigation, I still don't know how this happened. It has never happened before. Has not happened since. I did put into place what I think is an added measure. To make sure it does not happen again that is to require the voters to add their driver's license numbers to their applications when they come to do their early voting. I don't know of anything else that I can do or even if I can do that. If there are suggestions as to what I possibly can do to ensure that this does not happen, I would like to hear that.

CHAIRPERSON HANDEL: Questions?

MR. EVANS: I'm like you I'm troubled by it only because it has to do less with the facts of your specific case more to do with that this is the third we have this year for which we could not find an explanation. And with as many elections that we had and will happen next year how close undoubtedly some of those local and state elections may be five or six votes. When I read this in preparation for today, what is it we can do. Are there interim verifications or checks we can do so we can at least narrow down when it happens. Can you determine when the ballot –

MS. WHEELER: I believe it was August 28th during the early voting period that this person actually voted.

MR. EVANS: And then narrowing any information that afternoon or morning.

MS. WHEELER: I'm sure once we look at the old similar ones you enter it in it has the time you actually did it.

MR. EVANS: So once we narrow in and know the day and the time and the people and the reason, I'm suggesting this to you is because it's so important. One of the things we have to ask ourselves is it worth the resources to find out how it happened if this were the first and only time I would say we have to weigh how much time and resource versus but in the context of the eve of the 2010 elections I think it is best we can to constantly narrow down to see if we can come up with an explanation. As I understand it there are really a couple of possibilities one using a false ID. If that is true we have to take steps to deal with false ID and figure out if there are options and they are candidly limited. If it is operator error and names aren't entered properly, maybe the wrong name got checked that is a different kind of problem. But if we can figure that part out, we will move incrementally closer so one of the things that would be helpful is if you could work with the inspector general to say we are going to spend time seeing if we can zero in on when and how it happened.

MS. WHEELER: Also I would like to make the comment about provisional ballots. Mr. Gerlach's registration was never in question; ID never in question eligibility. There is not an option that says if a voter appears and it seems that he has already been voted issue him a paper ballot until we determine if first ballot is correct or not. So there was no option for offering a provisional ballot.

MR. EVANS: I think Mr. Taylor drafted some rules that dealt with what happens if we have a subsequent voter appear who has otherwise cast a ballot. I don't think if we acted on those rules but I remember going over it.

MR. TAILOR: I am not sure we have addressed that particular situation. If not, we can always address it if it has not been addressed.



CHAIRPERSON HANDEL: Any more questions?

(No response.)

CHAIRPERSON HANDEL: A recommendation for letter of instruction on this one. Is there a Motion?

MR. MCIVER: So move.

CHAIRPERSON HANDEL: Is there a second?

MR. WORLEY: What is the letter of instruction going to say?

MR. MCIVER: I assume it will be drafted by the attorney general.

CHAIRPERSON HANDEL: Standard SOP of all the election officials was that No. 1 the provisional ballot should have been issued and it could have been looked at and determine and prior to it getting to this point this can have happened prior versus not issuing provisional ballot. That is too the only thing that has that provisional ballot we talked about that a lot when in doubt the provisional ballot call the appropriate. An or northbound for in this case it would have been the inspector general's office we could have looked if the real Mr. Gerlach would have had an opportunity the vote we would have known not real was a fraud and that would move forward before now.

MR. EVANS: I share Mr. Worley's concern, because I think Mr. Taylor is correct that we really haven't addressed if you show up and it says that you have already voted and you want a new provisional ballot. Are elections supposed to give a provisional ballot where their records indicate that the voter has already cast a vote. I don't know that we have addressed that.

MR. TAILOR: No, sir. It's a different situation.

MR. EVANS: I agree. So, not having addressed it. I'm not sure how we would then instruct on it which is really what causes the heart burn on this case because there is not really an easy remedy.

MR. MCIVER: Isn't this covered in training, Mr. Taylor?

MR. TAILOR: I will have to back up and look, Mr. McIver. Off the stop of my head I am not aware that we discussed this particular situation offer as has been pointed out I'm not sure. it's discussed in statute or rule.

MR. IVER: How about the issue if in doubt of a ballot?

MR. TAILOR: That is what we tack at the last two year but if in doubt this specific situation is what I was referring to.

MR. EVANS: I'm just worried that we end up punishing election officials whose records reflect that a vote has been cast for them to help another ballot to cast county telling them this is the rule. We may go on prospective having not told them that before that we should make this the test case for first punishment. That's why I'm just reluctant.

MR. IVER: Well ever since coming on this board by that being provisional ballot that is what I fully expect to have been done here there was confusion you have the voter in front of you. I would not have turned him away. That is just my secondary knowledge of what goes on.

CHAIRPERSON HANDEL: This is also similar to if a person has come in and inadvertently the expressed poll worker has hit the wrong name so the name above or below and marked them as having voted. It is the same circumstances. It would show that this individual had already voted but in fact the guidance has always been given when in doubt at least on my time when in doubt issue a provisional ballot. That's for me the bigger issue. That has been stressed ad nauseam. The elections officials are all nodding their heads. It is important not to turn a voter away unless there is any confusion or doubt. There were various situations where they say he did the expressed poll says they did vote this is the first one to my knowledge that we didn't issue a provisional ballot. I am reiterating, when in doubt, issue a provisional ballot.

MS. WHEELER: To that, I have to say that when I was called by the poll manager, first I did was to make sure that the express poll had not been wrong so I already knew that this person, supposedly had already voted. And rather than issue another ballot so that two votes were connected with this person in the same election, he was not offered a provisional ballot when I already knew he was not miss marked and it was not a case where there was a, Jr. or Sr. or someone with the same name. He was the only person with that name registered in my county.

CHAIRPERSON HANDEL: Motion and second.

MR. WEBB: Can we restate the Motion?

CHAIRPERSON HANDEL: Letter of instruction. I think the added part of Mr. Evans point is well taken to see if there can be additional provisions as well.

MR. WEBB: I need some clarification on the letter of instruction. Are we dealing with just the provisional ballot remedy or check the driver's license, not properly checked?

CHAIRPERSON HANDEL: My understanding it would be both. You were the original motion maker.

MR. IVER: Again, I am accepting the recommendation of the inspector general motion covered directly.

CHAIRPERSON HANDEL: We have a motion and second. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: We'll do a letter of instruction and from there, Mr. Taylor, you follow-up as well. Our next case is Cobb County, 2008 82. We have a second Cobb County case. Well, I guess we can't really take them together. They are different.

MR. HARVEY: In Cobb County, 2008 82, the complainant is in Cobb County Board of Registration, Yolanda Brownlee Williams. The allegation it appears that the same woman was registered twice two different social security numbers investigative finding department of driver services provided documentation of photographs showing these were in fact two different women. At one point, when Ms. Williams, as registered, there was another Yolanda Williams initialed DeKalb County; Evette Williams' social security number inadvertently written Brownlee as application. It resulted in one Ms. Williams' record being changed to reflect another Ms. Williams. The information was deleted because it was part of a duplicate record. Ultimately, the entering of the new voter registration number record in the statewide voter registration record system for Ms. Brownlee all the information has been correct and nobody missed an opportunity the vote because of this mistake. It appears that the Cobb County Board of Elections 21 2 226 (a) they did not properly process the voters registration part. It's recommended the letter of instruction be issue.

CHAIRPERSON HANDEL: Anyone to speak on this? Anyone here to speak? Did I see somebody? Does anyone want to speak?

UNKNOWN SPEAKER: No, I'm sorry.

CHAIRPERSON HANDEL: All right. I have a recommendation for a letter of instruction. Colleagues, questions?

(No response.)

MR. MCIVER: So move.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: Motion and second. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Mr. Worley left the room for a moment. With that, it is 12:15. We will break for lunch. Let me just give a notice for this afternoon. We, from our previous meeting, had several rules that had been posted for the acquired time for public comment that will now come back before the State Elections Board. In keeping with the requirement for adopting or amending rules, we need to have a separate hearing on that. That means that, anyone who is here to speak on one of the rules that have been posted and you would like to speak on one of the rules, if you can fill out a separate comment card so we will have that. Later this afternoon, we will convene the rules part of the meeting separately from our general meeting to deal with the sets of rules that have been posted. Let's call it back at – I do not believe we have anything for executive session?

UNKNOWN SPEAKER: We have one hearing.

CHAIRPERSON HANDEL: Okay. Then I need a Motion for executive session.

MR. EVANS: So move.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: We will call it that we will be back by 1:00 and come back then. Thank y'all.

(Lunch break.)

CHAIRPERSON HANDEL: We will begin with no action taken. If I can get a Motion to come out of executive session.

MR. EVANS: So move.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Mr. McIver had something he had to take care of. He will be joining us in about 15 minutes. I believe we left off under Tab 12, Case No. 2008-112, Clayton County.

MR. HARVEY: The complainant in this case is Jennifer Patterson. The respondent is Annie Bright, Elections Director. This case, interesting, is almost the exact case we were talking about with McDuffie County in reverse. The complainant saw a report on the news on October 28 about a woman in Clayton County being allowed to vote and was not on the voters list. The complainant sent an e-mail to us. We opened an investigation and found out a voter, Jennifer Patterson – in fact, when she showed up to vote, she was not on the voter's list. She was allowed to vote on the provisional ballot. She then makes contact with people in one of the national campaigns. They got in touch with the County. They did research and found out that this woman had registered back early in the year with the department of driver's services. Somehow, that registration had never been forwarded to Clayton County. She was allowed to register based on a previous registration. She voted regular ballot and the case was resolved. There was no fraud or deception. It's recommended the case be closed.

CHAIRPERSON HANDEL: Anyone here to speak on the matter?

(No response.)

UNKNOWN SPEAKER: I'm here. I don't have anything to say.

CHAIRPERSON HANDEL: It's recommended to close the case. Is there a Motion?

MR. WORLEY: Motion to close the case.

MR. EVANS: Second.

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Next case 2008-113, Gwinnett County.

MR. HARVEY: This case involves a case of in person voter registration fraud. The victim in this case, lived in an address in Gwinnett County and got a voter precinct card for James A. Robb at his address. The elector that lived at his address had no idea who James A. Robb was. He notified the republican party, and they notified us. We did an investigation. We were unable to identify any James A. Robb. The voter registration card was not complete with information. It apparently was done in an open voter drive in Gwinnett County. The challenge was issued for Mr. Robb. He did not appear, so he was removed from the voters list. Again our investigator checked criminal histories and national databases. We were unable to find a James A. Robb by the information provided on the voter's registration card. It is recommended that the case be closed.

CHAIRPERSON HANDEL: Anyone here to speak on this matter?

(No response.)

CHAIRPERSON HANDEL: I have a recommendation to close the case.

MR. EVANS: So move.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: Motion and second. Any questions?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: 2008-121, Douglas County.

MR. HARVEY: This case was a complaint that two voters were not mailed absentee ballots. They requested absentee ballots by mail. It was sent to another address within the county. The request was rejected by Laurie Fulton, Elections Superintendent, and the people never showed up to contest it. We attempted to contact them by telephone in person and by mail. We went to the address and left business cards -- left business cards and letters. They never responded back to us. Nothing else to investigate. The apparently lost interest in their complainant. It's recommended that this case be closed as well.

MR. EVANS: I would note for the record -- I think this list is the complainant, my lovely bride, Linda, who, in fact, is the transmitter of the information and not the complainant. I think there was a letter sent to Ms. LaGrúa to be put in the record on that point. I want to make that clear.

MS. LAGRUA: Madam Chair, we list the complainant in every case, whoever provides us with the information. I drafted correspondence to Ms. Evans to explain that, and that's the reason. If you look at the report, it indicates that she referred a complaint to us; just as Mr. Taylor receives information and forwards it to us. He's listed as the complainant even though he's the director who provided the information and our report should reflect those facts

MR. EVANS: The only reason I raised it is to the extent that there is any legal significance that attaches to the designation, it becomes important. I know how courts treat that. I know how legislative bodies and other administrative bodies treat that. The complainant is the person who seeks redress as opposed to the transmitter. So, for example, the 911 operator is never listed as a

complainant in any proceeding. And, basically, that's what you have here. You have someone whose job is -- who doesn't even answer the phone, who literally, when the information is selected, put it in a bundle, and it's sent on to the election office. We want to encourage that. We absolutely want to encourage anyone who has any information that should be looked into by our staff to do so. We don't want to dampen or impair or discouraged that. I am very concerned for -- I'm not concerned for Linda because she runs our household and is more than adapt at holding her own. But I will say that I'm concerned that for other operations there is a fear that simply by transmitting the information the same way a caller to a 911 operator would transmit information, you then become a party to a proceeding that you didn't intend to become a party to.

MS. LAGRUA: I'm happy to take directions, Madam Chair, from the Board Members in terms of how we will handle that. I just think there needs to be some reference as to how we get the information and where it comes from. So, when people ask, there is a record.

CHAIRPERSON HANDEL: This has been, when complaints are filed, the individual who files complaints, whether they view themselves as an interested party or not, that is the individual who filed the complaint. It's been our practice for some time, since long before my time. So, if we're going to change that, we need to take a look at how we would handle that.

MR. EVANS: With all due respect to our Chair, having been the longest serving member of the board, the truth is that's not how we did it. That's not how we did it when Secretary Kathy Cox was our Chair. At that time, I was the head of the republican hotline. I was the head. I reported the information. One of the questions that came up with Mr. Worley's predecessor, Bobby Kahn was my colleague. He was the democratic designee. We had a candid, open discussion. At that time, the Secretary said, For getting the reports of information, we so want to encourage people to report. We don't want to display that. At that time, the decision was made that reporters of information, as oppose to the complainants, would not be listed. Now, out of an abundance of caution, I then stepped down from being the republican head of the hotline and Mr. Bobby Kahn, who was my colleague, remained until his service on the board ended. I do want the record clear that that's not the way it has always been handled. And, candidly, in response to this whole issue, Linda Evans has resigned from the hotline. Exactly what you were worried about happening happened, which is, people say, I don't want to get involved in it. I am happy to give information, but I am not going to call the 911 operator if my name then becomes the complainant in an action and people stop reporting. And we exactly want the opposite. We want people for with who ever it is because we are not interested in who the complainant is. We are interested in facts so with that said I think on a negotiation basis as least as to this particular complainant, you solved the problem because she is just resigning but for the ongoing basis I think it is bad practice for people who are mere transmitters of information to be listed as a party in an action which they themselves have an interest, no personal knowledge. No, they are not with a campaign for or against anybody to be listed that way.

CHAIRPERSON HANDEL: We have a recommendation for the case to be closed. Any other questions on this one?

(No response.)

CHAIRPERSON HANDEL: Do we have a Motion?

MR. FREEMAN: I need to speak on this.

CHAIRPERSON HANDEL: I didn't realize you were here for this one. Sorry, come on up.

MR. POOLE: My name is David Poole. I'm with the law firm of Freeman, Mattheson, and Gary, 100 Galleria Parkway, Suite 1600, Atlanta, Georgia 30339. I want to say we agree with the recommendation for dismissal. But we add the in addition the complainant apparently the words wore lost interest or not responding to the investigators inquiry. We recognize that the board elections for supervisor acted appropriately in this case. The request on the absentee ballot application was to mail the absentee ballot different county than the voter is registered to vote at. O.C.G.A. 21 2 381 subsection (d) expressly states absentee ballots may not mailed to in a county address. That is appropriately why they respond.

CHAIRPERSON HANDEL: Okay. Did you want to speak on this too?

MR. QUARTERMAN: Oh, yes, I do. Again, my name is James Quarterman. I reside at 4066 Hickory Hollow Drive, Douglasville, Georgia. I think the first thing you've got to remember is already have a case you sent to the attorney general involving absentee ballot filed 67 in the desk drawer after the election and did not count though absentee ballots in that election. Now you have got another case coming up about absentee ballots, so you can't just dismiss one and say did you do this. You have proven the people violated the law in reference no absentee ballots. Now, a person has the right to request an absentee ballot. If I am going to be out of the country, I may want you to send it to my brother's house to make sure I get my mail. When it comes to the absentee ballot, what matter is when you cast that ballot, your identification, your address -- and the things that are required -- I think it's 361 or 61 -- tells you the requirements the absentee ballot not nothing you mail it to my brother's house so I get my mail. It tells you when you cast the ballot the address and everything must be proper at the time you cast the ballot. It says nothing about where you mail the ballot to. Now you can't just keep allowing these people to continue to violate the law and give what they want to give. Really, being honest with you, why the people are not following threw is because they see you ain't going to do nothing about the complaints you already ruled on that. It has a big affect in the county. We filed a complaint November of last year through October of the following year and no action has been taken. You ruled this they might have violated the law we are going the send it over here let the attorney general to the people you have done nothing. So we have got the wait a year and two years after the election that these people have committed the acts.



CHAIRPERSON HANDEL: Mr. Quarterman, can you focus on the case before us?

MR. QUARTERMAN: I'm focusing on it right now because I'm telling you why these people aren't responding because you are not doing something. Why do I want to put myself through public scrutiny and embarrassment and other people judging me in a different way when you have already proven that you've done something wrong and you ain't done nothing about it. So you ain't going to do nothing about mine either so why should I waste my time. That's how the people feel. That is how we feel. We come to you for help. When we come to you for help and you don't give us help, what is the need in keep coming to you. I want to say that, you can close it if you'd like.

CHAIRPERSON HANDEL: Mr. Quarterman, hang on for a second. You have a question?

MR. WORLEY: Do you know Deidra and Tom Willis the complainants here?

MR. QUARTERMAN: I don't know them personally.

MR. WORLEY: So you don't know why they didn't follow-up on their complaint?

MR. QUARTERMAN: Being the chairman of the democratic party, how it came to me they feel -- it ain't Deidra and Tom Willis. I think you had seven complaints filed with regard to this election.

MR. WORLEY: The one we are talking about today, Deidra and Tom Willis.

MR. QUARTERMAN: I'm not going to get into hearsay. I don't know them personally. The reason to me it came is because they ain't going nothing about yours and all these others. We ain't got time to be running downtown taking a day off from work and all this stuff and they ain't going to do nothing.

MR. EVANS: If I could be helpful to you here, so we send it to the attorney general's office. We don't staff the attorney general's office. It will go as fast or as slow as the attorney general wants. We don't have a ability to compel them to go faster so while I hear your frustration about the fact that we took action, we did our part and our part timely but there has been no action from the attorney general and so your remedy is to make an appointment and visit with the attorney general and share with him what you share with us.

MR. QUARTERMAN: If I may ask Ms. Brumbaugh -- ask her how many times have I called her. She tells me, We don't represent you. We will get to you when we get to you. I have so many other cases. When I clear these out, then I can get to your case. I'd hate to go to the hospital and the doctor tells me he's got many patients to cure. Once he goes and cure them, he will come back and see what is wrong with me.

MR. EVANS: So my point is welcome to our world.

MR. QUARTERMAN: No, sir. That's why I'm in politics. It is all our world. We're here for what's right for the people, not what's right for me and you or me and you right for everyone of the people our constituents. The people that put us here, they're the ones that want us to protect them. They're the ones that send me down here to argue – I have nothing personal against any of you. But they send me here to speak for them. When you're elected, you speak for them. That is why we are here.

MR. EVANS: So they should send you to speak to the attorney general.

MR. QUARTERMAN: Ms. Brumbaugh has the case.

MS. BRUMBAUGH: I can give you an update. Your case is one of the next three that I will be handling. So you should be getting some movement on this case before the next SEB meeting. You have my phone number. You can call me at any time.

MR. QUARTERMAN: I don't want to discuss the case. Can I ask a favor? Don't give us hefty fines. We don't need taxes raised. The big fines put the burden on the people that did do it not the ones that didn't do it. We need the people that did it to be punished. As much as the people that did things, we the taxpayers don't need to pay no five or \$10M fine. Now, Fulton County, you fined them \$4M for leaving absentee ballots out on the table. How much are you going to fine somebody for not counting 1 absentee ballots period. Don't punish the people not the taxpayers that go to work everyday. So sentenced them a big ten or \$15M fine. We don't want no big fine. We want the people that's done the action to be held accountable for the action. That's what the voter or taxpayers want. We don't want our taxes raised to pay millions of dollars in fines for things we didn't do.

CHAIRPERSON HANDEL: We will make a decision about what is going to happen with the cases. Less the record be distorted, to my knowledge that was not the ruling of the fine for Fulton County. Mr. Worley, I think you have some clarity on the statute. Thank you, very much.

MR. WORLEY: I wanted the record to reflect what the statute is, 21 2 381 (d). Actually 381 (a) 1 (d), it says, except in case of physically disabled electors presiding in the county or municipality, no absentee ballot shall be mailed to the address other than the permanent mailing address of the elector as recorded on the elector's voter registration record or a temporary out of county or out of municipality address. The law requires that the election official send the absentee ballot only to their in county address in this case, as applied in this case. So the Douglas County election officials didn't have any choice but to do what they did according to the statute in my reading.

CHAIRPERSON HANDEL: All right. Thank you. Colleagues, do we have a Motion and a second to close the case?

MR. EVANS: So move.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: Motion and second to close the case. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: 2008 125, Cobb County.

MR. HARVEY: This is three separate cases with absentee ballots from Elissa Greenberg. She's a student at Georgia Southern University absentee ballot request to Cobb County election office. They have a record of receiving it and having mailed out absentee ballot on October 6. It was logged in the sub system. Ms. Greenberg said she never received her ballot, and she was not allowed to vote in the election. The second case, Mr. Jonathan Harris, his wife reported that she personally delivered his absentee ballot application to the election office on October 28. She handed the application to a woman and was told the absentee ballot would be mailed to her husband. He never received a ballot. He subsequently passed away between the election and the current time. So we were not able to provide additional backup. The Cobb County elections record doesn't have any record of receiving a ballot from Mr. Jonathan Harris or his wife, Tracey Harris. The third case is Lauren Arnone. She was a student in Ohio. She requested an absentee ballot to be sent from Georgia to be sent to her school address in Ohio. She subsequently, when she was living in Ohio, registered to vote in Ohio. She requested early voting in Ohio. Her ballot was mailed to her in Ohio. She received it. She did not vote it. There was a television story where a reporter was talking to her about her ballot. She still had the ballot in the envelope. She did not vote the ballot after she registered to vote in Ohio. So, therefore, there doesn't appear to be a violation in that area. It is conceivable that the Cobb County Board of Elections may be in violation of 21 2-384 (2) in that they did not mail Mr. Harris' application. Although, I don't believe that Cobb County would do that. On the other two cases, it appears that the Cobb County Registrar followed the proper procedure as to the absentee ballots. The fact that Ms. Greenberg said that it didn't arrive at her address, it's hard to explain.

CHAIRPERSON HANDEL: Anyone here to speak on this one?

(No response.)

CHAIRPERSON HANDEL: Questions?

MR. WORLEY: Mr. Harvey, just a follow-up question. I had a hard time reading the report. Who was the complainant in Ms. Arnone's case?

MR. HARVEY: I think it was the story on the news about her -- I think it was opened by us because we saw the story on the news after receiving the Georgia absentee ballot.

MR. EVANS: So should you then be the complainant?

MR. HARVEY: Yes. I apologize for that.

MR. EVANS: As long as it is changed in the ballot to reflect that.

MR. HARVEY: So noted.

CHAIRPERSON HANDEL: Any other questions?

(No response.)

MR. EVANS: I move to close.

CHAIRPERSON HANDEL: There's a Motion to close. Is there a second?

MR. WORLEY: Second.

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: The next case is 2008 130, Gwinnett County.

MR. HARVEY: The complainant is Anna Greer. The respondent is Lynn Ledford and Lori Ann Massara, Poll Manager for Gwinnett County. On November 4, 2008, Ms. Greer, who was about 75 years old, recently had surgery appeared to vote at 7:00. She said she was told she had to wait until 9:00 to vote. The handicapped voting didn't begin until 9:00. She said she was told that by two young white women. She wasn't able to provide any further description of the females. Ms. Ledford and Ms. Greer investigated it. They said they had no record of anybody working for them at the polling place would have given that information. They were actually in the polling place. They didn't see anybody do anything like. There is no substantiation other than Ms. Greer's word that she was told that. She did not return to vote later in the day. There is not an identifiable respondent who could be cited in this case. It is recommended that this case be closed.

MR. EVANS: So moved.

CHAIRPERSON HANDEL: Is there anyone here to speak on this?

(No response.)

CHAIRPERSON HANDEL: Motion and second. Any questions?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there were a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: The next case is 2009, No. 1, Carroll County.

MR. HARVEY: The complainant in this case is Ms. Tracy Watson. She said, when she went to vote, she was told that she was registered in Richmond County and had to go to Richmond to vote. She did not vote. Ms. Watson stated she has never been registered to vote in Richmond County. She was properly deleted in 2002 – I'm sorry, in 2007, after not voting in subsequent elections. She re-registered on election day. The people in the election office had no record of her coming in complaining. She was denied the right to vote. She doesn't have any specific person she spoke to talking about being denied to vote. She was not offered a provisional ballot. She did register to vote on election day. It is recommended that a letter of instruction be issued. It also revealed that, in the course of the investigation, when they deleted her from the records, they destroyed her original voter registrations for 21 months, three months shy of the deletion authorized date. So Carroll County appears to be in violation of 21 2-236 (a) failing to maintain voter registration card. On that, we recommend a letter of instruction on proper voter registration.

CHAIRPERSON HANDEL: Anyone here to speak on this case? Is Ms. Watson here in particular?

(No response.)

MS. DALEY: I'd like to speak.

CHAIRPERSON HANDEL: Okay. Come on up.

MS. DALEY: Just briefly. I'm Cynthia Daley. I'm the county attorney for Carroll County. With me is Patti Brown who is with our elections office. Brief correction of the facts, actually, the voter registration card was, we believe destroyed on January 30th, 2009 when which who be two months before not 3 months very small issue but we believe that that did occur. And we would, except any letter of instruction that the Board wishes to issue; unless you have any further questions.

MR. EVANS: So has it been fixed?

MS. DALEY: We have not found other ones you that is the only one we have been able to found that is what I believe it got into that box inadvertently early.

MR. EVANS: Well, my worry is this: There are two possibilities. One is that you have a system problem, which is that the system does not itself capture and protect for full time period and so some things get removed. The second is that it is an isolated incident which is equally dangerous isolated incident this is not a system problem that means that this particular item was selected for a reason and removed, and that is equally dangerous too. Knowing how this happened to this one becomes very important because we don't know the answer all kind of improper mo activities get imputed none of which typically applied but non the less kind of loom in the background for us. So if you had some ideas about how could it be that this one ended up, that would be very helpful.

MS. DALEY: I will let Ms. Brown respond to you.

MS. BROWN: Mr. Evans, I really can't tell you. That is our assumption that it got into the wrong box. We don't actually know that this one record was destroyed, but we don't have it. And we just presume that it got into the January 31 instruction, which we are aware and we follow on the word.

MR. EVANS: That is not the purpose of my inquiry. So you have audited to determine if there are any others?

MS. BROWN: We have not, but we will be happy to do that.

MR. EVANS: Madam Chair, I would think – just to see if there are any systemic issues. If there's a systemic issue, it could be greatly corrected. If it is one of those things for which we have no explanation, the audit will be confirmed that there's not some other problem. So I would recommend a letter instruction with an audit, a self-audit. I don't think we need to -- your track record is sufficiently good that I am not overly concerned about that. If you agree to accept a letter of instruction with an audit to determine if there have been others that have been prematurely – now, if you found something, I would suspect that you would report that to us. I would so move.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: Motion and second. Any other questions?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there were a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: 2009, Number 3 also Carroll County, NAACP.

MS. LAGRUA: Yes, ma'am. This involved the 2008 general election. The complainant, Terry Agne, Chairman of Carroll County Republican Party. The respondent is Carroll County NAACP -- Norman Sims, Branch President, Bob Jackson, Director, Narva Farris, Assistant Director and Chris Miller. The allegation is that the NAACP visited numerous polling locations and intimidated voters. During our investigation, what we found was that several voters had called Patty Brown and expressed that they felt intimidated and frightened by the presence of the NAACP. What had happened was there were three members of the NAACP in jackets with lettering and hats on identifying who they were. They were going into polling locations speaking to poll managers asking a number of questions. That was the basis for a number of the phone calls that came in. There were at least one or two voters in Villa Rica North that said they were intimidated. One voter had to console an elderly voter who said she scared. In two instances, the NAACP convinced the manager of the polling place to make the police officer who was in line to move to the front telling the poll manager that it wasn't permissible to have a police officer or a police car at the polling location. There was another instance at Villa Rica South where the police were in the parking lot checking on things and the NAACP told the poll manager that it was illegal for them to be there, and they had to leave. The poll manager at the polling place was interviewed to see why he had acquiesced to the direction of the NAACP versus the election superintendent or the polling manager. The response essentially was they didn't want to create a scene during the polling process that was going on. The NAACP denied our request for copies of literature with the questions that they were directed to ask the poll managers provided by the national office and would give no further information or cooperation to our office without receiving copies of our investigation which as this Board knows we don't provide until investigation is complete. That is a standard practice across all of our investigations. That information is not public until this Board move forward -- it's heard by this Board. Our recommendation at this point is a letter of instruction to be issued to the Carroll County Board of election regarding both to moving the police officer to the head of the line and any rules that may help direct the poll managers as to the organized groups that are in the polling location. This is another situation where I believe Mr. Evans indicated earlier in our meetings that usually it's a level of physical intimidation; that we use the intimidation of voters. So I think that's a Board decision on where we deal with this action on the part of the NAACP or any organized group in our elections. I know we've dealt with different groups over the past number of years in terms of their presence at the polling locations in an organized fashion. It's been fairly consistent by this Board.

MS. DALEY: We are available for questions, if you have any.

MR. EVANS: Madam Chair, were there any photographs or anything or description that we don't have that we don't have that would reflect what we're talking about here? I know that you can't photograph a voting place itself.

MS. BROWN: No, sir; no photographs have been turned in to me. The polling manager is here.

MR. EVANS: If we could hear from her, that would be great.

MS. BROWN: Jackie Chambers.

MR. EVANS: What would be helpful if you could just describe what you saw and what happened so that we will have a clear record.

MS. CHAMBERS: Jackie Chambers. I live at 1234 Reavesvilles Road in Bowdon. The day of the election is very busy. I had a full polling place of voters. The NAACP, four of them, I believe they all had on vests and badges. They showed them to me. They were very polite. They asked me how many had voted. Never went past my first table never got behind the polling line with the machines or anything like -- they asked me a few questions like how many had voted, just in general, things, they had like a little list they checked it off as they went down it. When they finished talked with me they said he might want to check how many you have had to vote so they want ad phone number. Well at the time the center where I have my polling place is close that day so we don't use their phone I had to give them my cell phone number, which I did. And they went out of my building and I assumed they had had left the premises. About 20 minutes later my cell phone range and a man asked me about a car in the parking lot. He said there was patrol car out here. He said I'm sure it is probably a policeman that lives in my city limits I have two or three that vote in my precinct. They came on in the building. He told me his words were it's not permissible for a patrol car to be on the premises. So when he got in there he said do you know whose car it is our chief of police Mark broke I went over to mark and told them what they told me. He said I don't see any problem with my car back there I'm in line to vote. I'm registered here to vote. I'm going to do what I need to do. I hated to go ahead of other people so I can move my car but he did because I asked him to. He voted, went out to his car, and left, and I documented the thing. I called Patti after that also. I documented the whole incident. Any questions?

MS. BROWN: The day before the election I had called all the police chiefs in the county and asked them to go by and just patrol the parking lot to go through occasionally, and see if there were any problems. So they actually were doing that.

MR. WORLEY: Is that something that you do every year, every election?

MS. BROWN: Yes. It's been reported there were like 18 or 19 questions. I just know different things have been before me.



MR. WORLEY: I have a question for Ms. LaGrua. You say that there may be a violation of 21 2 566. Looking at the statute I am having little trouble figuring out which provision might have been violated by the person informing the poll manager that it wasn't for a marked patrol vehicle to be in the parking lot.

MS. LAGRUA: There may be a violation of 556, something along the lines of NAACP interfering.

MR. WORLEY: Right. That's what I'm talking about. It says informing the poll manager that it was not permissible for the MARTA police car to be in the parking lot. Requesting that she move even when a police officer was in line to vote. How does that meet one of these enumerations?

MS. LAGRUA: That may have been inartfully put, Mr. Worley. I was anything proper interferes taking all that time while voting is in progress. I don't think that there is a, I don't think it's true that the police officer can't be there, but that with not be the interference.

MR. WORLEY: I think you are correct about there is not a problem with the police officer being there. Even going in asking questions, could you just point out which provision of 21 2 566 might have been violated.

MS. LAGRUA: Potentially interrupting or interfering with poll officer's duty while they are working. I'm not saying it's there.

MR. WORLEY: That is what we have to figure out is whether it's there. Because that's what we do. For instance section 1 legally prevents or tempt holding any primary or election under this chapter. I mean is that what you think it might be, or some other provision?

MS. LAGRUA: I think it also may improperly interfere with the execution of his or her duties.

MR. WORLEY: Section 2 says uses or threatens violence.

MS. LAGRUA: Or interrupts.

MR. WORLEY: Okay.

MS. LAGRUA: I don't think there is a threat of violence. There has not been any indication of that at all.

MR. WORLEY: All right. I wanted to be clear about what provision you were talking about.

MS. LAGRUA: Again, this is a situation whereas I discussed sort of with the sheriff this morning, it is one of those areas of law that I'm bringing you what I think potentially is applicable if you think it is. I am not necessarily indicating that

MR. WORLEY: It is. Okay.

MS. BROWN: Does the Board have further questions from us?

MR. EVANS: I was curious on one part that there are many allegations here of alleged potential intimidation and I just didn't know if you had any additional information as to these many other incidences from Bowdon. Did he tell any precinct Villa Rica North of –

MS. BROWN: I reported all known phone calls that came into my office.

MR. EVANS: Ms. LaGrua, have we talked to people identifiable to you?

MS. LAGRUA: Unfortunately, most came in the form of phone calls reported to us that were not identifiable. There was one voter at Villa Rica South. I am trying to find that out now.

MS. BROWN: There was one that left her phone number with me. It was the one who was very concerned about the elderly lady being frightened trembling all over.

MS. LAGRUA: Stephanie Herring. The men were approaching voters cars outside. She said she personally was not afraid but had to console an elderly voter stated the men were there around 45 minutes. She could not identify specifically when it was who she assisted outside the polling location. Unfortunately, what happened with this we got to allegation after the fact so we did not get them in time to and see. One of our monitors in field got a report when she was monitoring and she responded polling place from the polling manager by the time we responded any voters that had been there or members of the NAACP had subsequently left.

MR. EVANS: But have you spoken with the polling manager at each of these precincts? Did you talk to a polling manager at the precinct at Villa Rica North and Villa Rica South?

MS. BROWN: We never had any voter come to me that was intimidated. I know most of my voters because it is a small town. I didn't have anything going on. Ms. Herring talked with him also about what was happening when he came out of the obligation to his car. Other than that I had no problem at all with anything.

MR. EVAN: So I'm confused by one last comment. It is the position of the Carroll County NAACP that they will not provide any further statements or information prior to receiving a copy of the complaint made against them. So did we give them a copy of the complaint made against them?

MS. LAGRUA: We did when we sent out the summary of the investigation.

MR. EVANS: Have we received a response?

MS. LAGRUA: We have not.

MR. EVANS: Have we asked for one?

MS. LAGRUA: We have not. There was no written complaint to provide at that time.

CHAIRPERSON HANDEL: They were notified of today?

MS. LAGRUA: Yes, ma'am.

MR. EVANS: It seems to me a strange catch-22. We will not tell you anything until you tell us what we have done wrong and we are staying. We can't tell what you you have done wrong because we don't have your information. And our job really is to kind of get to the bottom of it. I will be honest with you. If we were talking about an isolated incident involving a single poll for which no one came forward, if I review it in one terms but when we have --1, 2, 3, 4 -- four precincts, we have a pretty consistent systematic opportunity for the respondent to give us an explanation and the answer is no we are not going to tell you anything it leads me in a different direction, because we didn't do anything. It would be easy enough to say here is our literature. And I know that on other times that we have had this situation as far as when it related to political parties. Both political parties we required people to come in and say, either, take the Fifth Amendment or come in and say this is what we told our people to do. So I don't want to be trigger happy here. On the other hand I don't think we can just look the other way when somebody decides not to give us information to so we can make decisions.

MS. LAGRUA: Apparently the request that prompted the response was a copy of the NAACP poll matters on election day and the NAACP's policy. Regarding polling places we were trying figure out the basis where they got that idea that the police officers were not allowed to be in the polling location or area. That is the point of we ask for Chris Miller who was one of the person's identified as being at the polling locations we were told they did not have a contact were him and we asked to speak to someone else in the office and were told that he was not available and then after speaking to the same person we asked to speak to Bob Jackson, Norman Sims NAACP. They would not provide any other further statement without receiving a copy of the complaint.

MR. EVANS: Well, their ability to end our inquiry rests in their own hands. We don't have the information we ask for it. We have required people all day long to tell us what happened. And it seems to me a little worry some that in allegations this serious no one would appear to explain and much more importantly the answer would be we are not going to give you any.

MR. WORLEY: Well, I take a different view of that than Mr. Evans, apparently, because it says the allegations is serious. There is really nothing that is alleged this report and nothing that the poll manager has told us that was of concern to her that appears to violate the lawful I apparently the NAACP went out and asked how to election was going. There is not any evidence here of anyone who has really come forward and said that they were intimidate that we can tell. There is not any indication of anything they did that is really that out of the ordinary other than possibly millions informing the poll manager that a police car shouldn't be in the parking lot. There is really not anything here other than perhaps for the first time in a long time the NAACP going out and conducting activities on election day and then checking the vote. The fact that they didn't want to give unless and until they had gotten a written complaint isn't all that different than what

happens all the time with people not wanting to respond to a complaint until they have actually seen it.

MR. EVANS: If it were that innocent it would be pretty easy to show up and say that.

MR. WORLEY: I don't think you can assume that because someone isn't here to respond, that there is some nefarious motive here. They may say there is nothing here if you get the summary of the investigation which I understand we have now presented to them. There is not anything here that might, I could certainly see them drawing the conclusion that we don't have 20 show up because we are not really being accused of anything.

MR. EVANS: I don't know. This would bother me if it were levied against me. They were complaining about being there and some felt intimidated. We have one voter Stephanie Herring reported she was voting at the time. She said the men were approaching the cars outside. She said she was personally not afraid but had to console an elderly woman who was very frightened.

MR. WORLEY: But when you get to the summary of the case, the potential violation, that's not listed there as being a violation or a potential violation.

MR. EVANS: No. What's listed there is so they talked to the NAACP and here was the answer. Now, remember, you're the NAACP and people come to you say, People felt intimidated. One woman was so shaken that she literally shaking for two hours. There was a pattern of this intimidation at four different precincts which precipitated by all accounts numerous calls. What do you say?

MR. WORLEY: There is no evidence here of intimidation, talked about a pattern of intimidation. When you get to the end, if that was a potential violation, why isn't it listed in the potential violation. All I am saying is I can certainly understand why someone would look at the potential violations and decide it might not merit.

MR. EVANS: I think there should be a 21 2-567, an intimidation of electors.

MR. WORLEY: Based on what?

MR. EVANS: Because –

MR. WORLEY: Based on a woman who said she had to console an elderly woman who was very frightened. There is no indication of the basis for that. What was done to intimidate people? People were exercising their right to go out and see how the elections were going at the polls.

MR. EVANS: Listen, I think that if it were that simple it is easy enough to see that's what happened. When people are afforded the opportunity to say that is what happened we are not going to tell you anything. We're not going to give you our literature. We're not going to provide you with information. It merits looking into. I can tell you that if it were your mother

who felt this way, I think you would react a little different. If she called you and said there are folks approaching us in the cars in the lots and we're nervous and afraid, I would tend to think you would want us -- we as a Board to look into it a little further, especially when those who have done this have said, We're not going to tell you anything. We are not going to answer charges. We're not going to show up. We're not going to give you our literature. We're going to do nothing; too bad, too sad. But that's not the way it works. I think we should send them a complaint. They can have a chance to respond to it and decide if they want to give us information. If it is all innocent enough, it's pretty easy to show up and say, It's innocent enough. And I would suggest 21 2 567.

MR. WORLEY: And again, looking at that section of the statute, it requires an answer. It subjects someone to a hundred thousand dollar fine. The conduct we have been told about. We've got a poll manager here who says nothing really happened.

MS. BROWN: That's not what she said.

MR. WORLEY: Let me ask you this. Did you feel intimidated?

MS. CHAMBERS: Yes, I did. But I know my voters. I wasn't concerned about myself. I was concerned about my voters. I feel like it's my responsibility to get them through a timely process. They'll come back to vote every election. That's the reason I did it. I felt like, when they left the building, I assumed they had left the premises until they came back and called me on my cell phone. I didn't know they were hanging around in the parking lot. We check the parking lot every hour. That's something that Patti has told us to always do, to check for campaigners, bumper stickers, signs. If we have them, they came between that little window where we had already checked the parking lot.

MR. WORLEY: Ms. Chambers?

MS. CHAMBERS: Yes.

MR. WORLEY: Can you tell me what it was they did that made you feel intimidated?

MS. CHAMBERS: Making me ask the chief of our police to move his car. And he did not want to move his car.

MR. WORLEY: Okay.

MS. CHAMBERS: So I felt intimidated. Him, being a personal friend of mine, it was something I needed to do. I needed them off the premises.

MR. WORLEY: Okay. Then did you feel that, by them doing that, they were willfully preventing or attempting to prevent you from holding the election?

MS. CHAMBER: No. I wasn't going to let them do that. I kept my polls running as smooth as I could.

MR. WORLEY: I know you wouldn't allow that to happen. My question was: Did you feel like that was what they were trying to do that they were attempting or preventing you from holding an election?

MS. CHAMBERS: Not from holding the election, no.

MR. WORLEY: They certainly weren't using or threatening violence to you based on that?

MS. CHAMBERS: No.

MR. WORLEY: Were they trying to block the door?

MS. CHAMBERS: No. I heard they were posted on his car. When he out to get in it, they were standing around his car waiting on him to come move it.

MR. WORLEY: The chief of police, do you think he felt intimidated?

MS. CHAMBERS: He was upset. He called Patti.

MR. WORLEY: Do you think he would say he was intimidate?

MS. CHAMBERS: I don't think Mark would be intimidated.

MR. WORLEY: Okay. That's all the questions that's I have.

CHAIRPERSON HANDEL: I have one question for you.

MS. CHAMBERS: Sure.

CHAIRPERSON HANDEL: First of all, how long were the individuals in the precinct or around the precinct?

MS. CHAMBERS: Well, they came in and spoke to me. They were probably in there a maximum of ten minutes for the questions.

CHAIRPERSON HANDEL: How many questions?

MS. CHAMBERS: I would say at least 15 or 18 questions. I can't remember. It's been since November.

CHAIRPERSON HANDEL: Why was it that -- I think again you guys usually have a pretty good track record. Why was it that you acquiesced to an outside organization telling you how to run the election?

MS. CHAMBERS: I felt at the time it was the right decision. It's a polling place. There were people lined up out the door. I didn't want to disrupt anything. By the same, they came back in. Everyone could hear us and see us talking. Mark was a little loud. I asked him to go to the front of the line. I felt like at the time it was the most proper thing to do.

CHAIRPERSON HANDEL: From having to deal with all actual counties with lots of different questions or circumstances that arise, any organization coming in and pulling a poll manager aside to answer a sheet of questions that the group won't provide to us but equally as important, putting a poll manager in the position of having to take an action and I'm going to -- if you felt this way, say so. Did you feel like you needed to take that action to keep order and keep things running smoothly in your area?

MS. CHAMBERS: Yes.

CHAIRPERSON HANDEL: We had an outside organization that came in and injected themselves into the elections process improperly and that's my issue with this. Any organization -- and we have through the Presidential election with any number of groups. We had personal meetings with various groups to say, Look, if there is something you think is improper going on, please do not come in in any way and disrupt the flow of things going on in the precinct. Call our office or the county elections. So that's where my angst is on all of this.

MR. WORLEY: Can I ask one follow-up question? These four people that have been named, they are all residents of Carroll County?

MS. CHAMBERS: That I don't know. I know three of them are. I am not sure about Chris, but I know the others personally.

MR. WORLEY: So not exactly outside advocates?

CHAIRPERSON HANDEL: I wasn't implying that phrase at all. I just meant an organization because they came as an organization. Mr. Evans?

MR. EVANS: I share your concerns, but I will say my concern is much more procedural. Which is I candidly can't remember in the history of my service on the board is single incident where an organization refused to provide cooperation in an investigation to clear it up. And I think there has to be some kind of signal that says cooperate with us. Help us get to the bottom of this. We will get the answer right. But if your answer is obstruction and no and no information, then, we can't get to the bottom of it as expeditiously. That may require us to take extraordinary steps to get the information necessary to clear it up. I will be candid if it turned out in their materials material said intimidate and obstruct that would be a fact now did I expect that no. I think these folks all of these organizations are much more sophisticated than that. But the information in the instructions and guidelines would be relative to the inquiry we need. I am disappointed that that information wasn't readily forthcoming.

MR. WEBB: I'd like to ask a question. As the newest member to the Board, I apologize. I may not be as knowledgeable as everyone else. But I heard Mr. Worley say that it's the organization's right to go in and inspect. Did I hear that correctly? Help me understand the capacity. Does every political body have that right?

MR. WORLEY: No, I am not saying they have a right. I just don't see anything in the Code that would prevent them from doing that.

MR. WEBB: So there is nothing in the Code that provides their capacity to do that?

MR. WORLEY: I want to be clear. The Code prevents the kind of things the Code restricts. You can't go in and willfully disrupt that. But other than that, you certainly can possibly go in and see how the votes are going.

MR. WEBB: I had one last question. Mr. Purcie couldn't be here?

MS. BROWN: He is one of my co-managers. I am not sure he was asked to be here. I don't know that.

MR. WORLEY: I just want to clarify. Who asked Ms. Chambers to be here.

MS. CHAMBERS: She said it wasn't mandatory, but I wanted to be here any way.

MR. EVANS: Madam Chair, I move that we send a notice of potential violations which I think the attorney general's office has drafted for us before. So we have a level of specificity referencing 21 2 566 and 21-2-567 noting the concerns concerning intimidation and affording an opportunity of notice and an opportunity to be heard to provide to information that is necessary to complete that. And that that be set down for whatever the inspector general believes is appropriate.

MR. MCIVER: I wanted to amend this Motion. Would you consider 569 as one?

MR. EVANS: Yes, I would accept that amendment.

MR. MCIVER: Then I second.

CHAIRPERSON HANDEL: Motion and second. Mr. Worley, did you have a question?

MR. WORLEY: I want to clarify exactly what Mr. Evans wants us to do and how it's different than binding the case over.

MR. EVANS: If you recall in Chattooga and other cases we have taken the extra ordinary step when we thought it might become an issue for legal maneuvering and legal fencing. We issued a notice. The notice is a notice of potential violation which then specifies the factual background and allegations and affords an opportunity to be heard. Substantively, is it different than what we did today? -- no. Procedurally, is it different? -- yes. Procedurally, it triggers a legal



obligation to respond. The respondents can ignore it, certain Fifth Amendment, cooperate, provide information or appear and be heard. All we want to do is move us out of the world of ambiguity and into the world of procedural certainty. And that's the purpose of the Motion.

CHAIRPERSON HANDEL: Any other questions?

(No response.)

CHAIRPERSON HANDEL: Motion and second. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

MR. WORLEY: No.

CHAIRPERSON HANDEL: All right. The next case is 2009, Number 6. I am, as Chair, going to turn this over to vice chair, Mr. McIver, as Chase Daughtrey is a close personal friend.

VICE CHAIR MCIVER: Let the record reflect, Ms. Handel recused herself.

MS. LAGRUA: Thank you, Mr. McIver. This involves the 2008 General Election. The complainant is Faye Hughes. The respondent is Chase Daughtrey, who was a candidate for probate judge at the time. He now is the probate judge. The allegations were that he was campaigning inside the 150 foot mark. Our investigative findings were essentially the photographs of Mr. Daughtrey's truck with his campaign sign clearly establishes in being within the 150 foot mark. He does not deny the truck being there. He essentially said he was trying to get lists of voters for other folks on the campaign from the registrar's office. The registrar however had receipts from where that same information that he claimed he had been trying to get had been given to his campaign folks. So it's the one technical violation of campaigning of being inside the 150 foot mark. It's recommended that we refer this out to (unclear).

VICE CHAIR MCIVER: Anything else? You have two pieces to the possible violation.

MS. LAGRUA: I'm sorry.

VICE CHAIR MCIVER: 414 (F).

MS. LAGRUA: Yes, sir. I believe that involved the same situation, polling (unclear).

VICE CHAIR MCIVER: Anybody here to be heard?

MR. HAMILTON: Yes.

VICE CHAIR MCIVER: Please give us your name and your address.

MR. HAMILTON: My name is Paul Hamilton. I'm with the law firm of Hamilton and Perry. Our mailing address is P.O. Box 605, Nashville, Georgia 31639. I am here with Judge Chase Daughtrey from Troup County, Georgia. I'll give Judge Daughtrey the opportunity to explain this to the Board as to what happened. I am here in a capacity as attorney and friend. We have been friends for some time. I would like to put this in the context that this was a highly contested election. The complainant in this case is a personal friend who worked with Judge Daughtrey, chief opponent in this election. That doesn't completely absolve the technical violation but I want to have you that at some context. The allegation that Judge Daughtrey was illegally campaigning was investigated by the investigator who came down and spoke with him. There was also an allegation that he spoke with a Mr. Bruce Durden. We have an affidavit. I would like to submit that. I have copies. It was alleged that Judge Daughtrey was talking with Mr. Durden. I think the affidavit from Mr. Durden, as well as the investigator's results show that there was no talk after -- he was actually asking him to bring Brunswick stew. There was no discussion about the election. In fact, Mr. Durden was already a supporter of Mr. Daughtrey and had already committed his vote. There was no discussion. I think the investigation shows that.

VICE CHAIR MCIVER: Mr. Hamilton, will there be other documents that you would like to submit?

MR. HAMILTON: Yes. I can submit them all at one time, I suppose. Judge Daughtrey, again, also had his campaign sign on his vehicle. He acknowledges that he was in error in doing that. I do have for you a sketch of this. This is a county administrative building. Judge Daughtrey was going there to pick up list of voter registrations of folks who had already voted, I believe. He can expand on that when he speaks. But I also have a drawing that shows that County administrative building. It shows creating a pass to a public highway in front of it by within 150 feet. So I submit that to you as well as also acknowledge that he in fact did have a sign on his truck. As to the possible violations campaign or having a sign within 150 feet we readily admit that apologize for that and can assure this board that that will not happen again. As to entering the polling place, he did enter this county building. Highway did not enter the room where actual voting was taking place. He entered into that building to pick up something that was refused when he sent a family member up there to pick it up they refused to give it to his family member his mother in fact. So Chase went up there himself to pick up those items and with that I would like to provide this to you. These are the affidavits. You will also notice that Mr. Durden makes a comment at the bottom of his affidavit that don't enforce those rules about signs on vehicles within 150 feet in Cook County. That was told by Faye Hughes. In fact, he is the complainant here. This is the man for you to look at. With that, I will be happy to answer any questions.

VICE CHAIR MCIVER: I'll entertain a Motion to accept the documents.

MR. EVANS: So move.

MR. WORLEY: Second.

VICE CHAIR MCIVER: All right. We have a Motion and second to accept the documents. Discussion?

(No response.)

VICE CHAIR MCIVER: If not, those in favor of the motion indicate by saying aye.

(Whereupon, there was a chorus of ayes.)

VICE CHAIR MCIVER: Oppose?

(No response.)

VICE CHAIR MCIVER: Motion passes.

MR. HAMILTON: With that, I would like Judge Daughtrey to –

VICE CHAIR MCIVER: Does anybody have questions of Mr. Hamilton before the Judge takes over?

(No response.)

VICE CHAIR MCIVER: Judge?

JUDGE DAUGHTREY: Mr. Chairman and Members of the Board, thank you for giving me the opportunity to address you. Paul is right. I made a mistake by pulling in that parking lot with a magnet on my tailgate. I would have never knowingly pulled into that parking lot with such a magnet on there. I was so adamant in terms of following the rules in regard the county administration building being an early voting precinct. In regards to the list, I think there are some questions about the receipts. Just to kind of give you background, we would request the folks that had voted early on a two-days basis to pick up stuff. If memory serves me correctly, that particular morning, Wednesday or Thursday, we were trying to get copies of the list of these days. They kept being denied. I made a point to go in person and find out what 12 problem if memory serves me correct I got at copy of this list. My mother used to – I give her money. She write checks for those lists from time to time. In terms of entering the polling precinct I never at any time went where polling was taking place. If you know a little about the building it is one of the count clerks in that building zoning, building permits or see the County clerk. They are all in that building. My argument, I didn't have any option but to go there too get this list. There was no other place for this list to be derived from or pick up from. Having said that again I'm sorry I made a mistake with regard to leaving the magnet on my truck and I do regret it.

MR. HAMILTON: Judge Daughtrey acknowledges a letter of instruction. The only thing I agree with the inspect for general about I think a letter of instruction would be appropriate. I think that fits the allegations that have come before the Board. I will ask any question that you have at this time.

VICE CHAIR MCIVER: Mr. Hamilton does that apply the both of the violation that may have occurred occur according to attorney in this case the attorney general's report.

MR. HAMILTON: As far as us requesting a letter of instruction?

VICE CHAIR MCIVER: Yes.

MR. HAMILTON: Yes.

VICE CHAIR MCIVER: In the presence of his attorney when he interviewed was that you?

MR. HAMILTON: Yes, that's correct.

VICE CHAIR MCIVER: Questions from the Board?

MR. EVANS: I will note this phrase here rose don't worry about it because we don't enforce those rules down here would suggest to me that we needed an additional respondent.

VICE CHAIR MCIVER: That's the only reason I hesitated I intend to deal with that as well.

MR. EVANS: I will wait then.

VICE CHAIR MCIVER: Any other questions by the Board of Mr. Hamilton?

(No response.)

VICE CHAIR MCIVER: Anyone else?

MS. HUGHES: I'm Faye Hughes. I'd like to set the record straight as everyone referred to earlier. I am not the complainant I reported to information I the not take the pictures as was stated in the summary from the inspector general. We did discuss that. There were some voters that came in and when they came in they asked us why, now Judge Daughtrey was the parking lot. I did not take the pictures. I did not leave the polling place. I do not recall making statements we do not enforce that. A as you can see from information given to the inspector general we have pictures of several different people this the parking lot and we did have asked people to turn shirts inside out take into consideration one lady said this rule doesn't apply in Florida in we said you are not in Florida anymore. So should the board.

MR. EVANS: Unless you get the right SEC officiating clerk.

MS. HUGHES: We agree. Mr. Daughtrey probably -- I am not the complainant in the case. I will admit that I am friends of his opponent. I have worked with her over 19 years I am also the county CFE. She is the county clerk I cannot help that fact. If there is a problem with that, I

would say that we probably need the change our board of elections and how that is set up our Board in Cook county, I mean. So if you have any questions I will be glad to answer any for you

MR. EVANS: So who would you think is the complainant?

MS. HUGHES: We had had people that came in and asked the question why Mr. Daughtrey was in the parking lot.

MR. EVANS: Did you take their names?

MS. HUGHES: No, I did not.

MR. EVANS: I am not I almost think that we should have a third category which is reported and if there is a complainant have a complainant and if have you a respondent. We will save that for another day. Is it what you are indicating to us on the record is that if fact did you enforce the rules against 150 yard limit?

MS. HUGHES: Yes, sir; and, I believe that.

VICE CHAIR MCIVER: 150 feet.

MR. EVANS: I'm sorry?

MS. HUGHES: Yes. We tell them you can't be in our parking lot with that. We even had to have this clerk go outside the building and remove her sign from her vehicle before all of this started. We had to take the signs off. It got very heated. So we do enforce that.

MR. EVANS: How big was the magnet on the truck?

MS. LAGRUA: Regular car size magnet you see during elections.

JUDGE DAUGHTREY: It was on my tailgate.

MS. LAGRUA: Correct.

MR. EVANS: How do you address a situation where a candidate get a copy of who voted during the advance or early voting?

MS. HUGHES: After the request is made the next morning I go in the office before from the day before. If you look at the receipts, you can see that the no one picked up to the copy of the voters listed.

MR. EVANS: I am actually asking a slightly different question. What complications does it have early voting in the same place to list is maintained and candidate if wants to physically pick up the list by definitions they will enter the area of the polling place the get the list so we can't

say you don't get the list, on the other hand, you can't go in this polling place, so we have created a legal impossibility. So I'm wondering how we solve that.

MS. HUGHES: Is this a question for me?

MR. EVANS: Yes. How do you think we best would handle it?

MS. HUGHES: We would not keep a person from coming to the office or ask them not to come in and generate the list there is an alcove in the front with a closed door. We give that list to the representation there at the front door that is as far as any candidate would come. As far as I know that is adds for as Mr. Daughtrey of the claim.

MR. EVANS: So the actual physical going in, in your mind, wouldn't be -- as a Board here, Mr. McIver, we have to figure out how to resolve that. Every candidate should figure out who is going to get the list.

VICE CHAIR MCIVER: Is there a difference between the office of the polling? In my case, you can easily go to the office without going anywhere near at the polling process.

MS. HUGHES: And that's true. The way our office is set up. you see from the drug that Mr. Hamilton represented to you there is a central entrance into the office and the whole end of the building for zoning and all that is closed off from voter registration and early voting take place. The only place is common is hallway directly in and halls off to each end. One end is election. One end is all other business. The front area is closed off to any of those hallways that would allow someone to come in and pick up the list. They would have to come into the building though because we don't have a drive thru ramp.

VICE CHAIR MCIVER: Is there a restriction on who picks up the list?

MS. HUGHES: No. I don't care as long as they pay for it.

VICE CHAIR MCIVER: To summarize I also hear you sayings in Cook County if not all of Georgia these rules are enforced.

MS. HUGHES: Yes sir.

VICE CHAIR MCIVER: Offhand, did Judge Daughtrey have anything offensive on his truck like a bulldog or anything?

JUDGE DAUGHTREY: I took that off, Mr. Chair.

VICE CHAIR MCIVER: We might cite him for bad judgment. Anymore questions of Ms. Hughes?

(No response.)

VICE CHAIR MCIVER: Does anyone else wish to be heard on this matter?

(No response.)

VICE CHAIR MCIVER: All right. Does anybody have a Motion they'd like to propose at this point?

MR. WORLEY: I would like to make a motion. I would make a motion that we dismiss this charge on a couple of basis. First of all -- and do you have that photograph. I'm sorry to make you take it out again.

MS. LAGRUA: It's okay.

MR. WORLEY: I'm of the opinion and this is an issue that the Board has touched on before but not really decided. But I'm of the opinion that having a sign on your car parked in the parking lot of a voting precinct is not campaigning within 150 feet. You can see from the sign it is about the time of two bumper stickers. I am not sure if you had a big sign in the back of your truck that that it would fit under the statutory provision. Otherwise we are going to have to be citing everybody who votes on election day and doesn't take their bumper sticker off their car. I just think that it just doesn't fit under the intent of the rule. And as for as going into the polling place I think Mr. Evans is right there is a catch-22 there is no indication you went in the polling are notwithstanding your willing to take a letter, I don't see any violation of the law so I would move to close the case.

MR. EVANS: I will second if I can have a moment of discussion on it.

VICE CHAIR MCIVER: Motion and second. Any board members like to be heard?

MR. EVANS: First, I agree first I clearly agree on the retrieval after the list. One candidate's list pays for it and it was physically impossible to get the list without doing so that unique factual situation it would be improbable to impose a penalty for doing that which they need to do in order to get the list. And I would tend to think that we probably need the create a more definitive clarification on that bill just so that everybody doesn't get caught in the box of judgment calls because if I were an election official I would sit out there today and think to themselves every I'm I screw up I get a reprimand when they screw up the case closed what I need once you tell me what the rules are make you are tell me so I can hide behind the rules I think we should give them that. On the manager net, I disagree with my colleague that any sign, regardless of size doesn't constitute election nearing campaigning within 150 feet mark I agree that a bumper sticker shall not have to be removed by every voter that the is unworkable and unfeasible. The question becoming where between the two is the right line our job is to draw that line. You know, to me, this is probably the outer limit. I would be interested inspector general if you could get the exact dimensions if we can put this in a rule and say that's it. You are campaigning within 150 feet.

MS. LAGRUA: May I make an inquiry?

MR. EVANS: Sure.

MS. LAGRUA: If the board is looking at that can we look at how many magnets, how often can they retrieve can you put ten magnets and go in everyday.

MR. EVANS: I was coming to that, which is to me, this square footage is the mathematical limit of 50, 1 inch squares this is a fairly reasonable line we get to draw. As far as retrieving the list if you want to pay the county 50 times, the county will be very happy because they get 50 times I am not shower I would limit that but that is something we should take up. I think that serves as a very affective tool for us in 2009 to give guidance for 2010 about where the boundary is going to be. I don't think we can regulate every bumper sticker that goes in on every car. Every losing candidate will complain about every voter who has a bumper sticker. That would be unworkable. On the other hand I don't think a 3 foot by 5 foot marker on the side of the truck, that is what way recommend. That is the reason I support to motion because I think that this case fits within the bound recognize that I would like to see in a rule. And so I would accordingly join in a Motion.

VICE CHAIR MCIVER: Any other discussion?

MR. WORLEY: Just a further point, I want to state for the record the statutory provision we're talking about is 21-2-214 (a). No person shall solicit votes or nor that distribute any campaign literature newspaper booklet pamphlet card sign or any other written printed matter of any kind of exit poll of voters of any primary election day. I think if the legislature wanted to ban signs on cars they could have. Soliciting votes to me, as I think it has been interpreted before means actually asking somebody for a vote. And distributing campaign literature signs doesn't cover what we are talking about here. So I don't think having a sign on your vehicle of any kind is a violation.

MR. EVANS: I agree. We don't let people wear T-shirts in this poll. That is not a sin or literature handed out it is a solicitation for a vote. I have long supported in a strict liability kind of way you can't let people wear candidate T shirt we make them turn them inside out don't we. So I think this is like in all of the law, you have to draw lines and the line is never exactly like but it's the best thing is to have guidance so it is very clear.

VICE CHAIR MCIVER: Any other discussion?

(No response.)

VICE CHAIR MCIVER: I oppose this Motion for three reasons. One, we train our election owe officials would who have one of TV call balls or strikes you solicit or not half ball and half strike. To say we are going to start drawing a line we will give you better change next time in this instance for reasons I cited plus they have agreed to a letter of instruction which is probative



to me. Mr. Tailor tells me that there is an AG opinion letter. 82 30 which includes bumper stickers within this session of the code with the guide answer of the law department I have taken freely almost literally. For that reason I think that this is the wrong motion. I, on the other hand I would vote if this motion doesn't pass I would entertain a motion that we issue a letter of instruction in this matter. Any other discussions?

MR. WORLEY: I had a question for Mr. McIver. Does that mean that you took your bumper sticker off when you voted last November?

VICE CHAIR MCIVER: My Obama sticker -- no, I didn't. I lost a couple of windows because of the sticker.

MR. TAILOR: Anybody else bothered by the fact that the request Ms. Hughes say anybody can get a list but yet his mother was refused a list?

MR. EVANS: It bothered me but currently we are addressing his conduct. We then need to address that issue. Which is to whether or not there are two component that's relate to the operation of the office. One is there a procedure of enforcing or not enforcing. And second is there a procedure of arbitrarily denying access the list. Maybe I miss that.

VICE CHAIR MCIVER: That is the reason I asked her to indicate of she indicated her record reflect nobody requested the list.

MR. EVANS: Mr. Worley's Motion solely directed to the issues of Judge Daughtrey.

VICE CHAIR MCIVER: That's the Motion. Any other discussion?

(No response.)

VICE CHAIR MCIVER: All right. We voted on the Motion and it has been seconded. All in favor of the Motion indicate by saying aye.

(Whereupon, there was a chorus of ayes.)

VICE CHAIR MCIVER: Any oppose? Aye. The Motion passes. Does anyone want to make a secondary Motion at this time with respect to the issue of the list?

MR. EVANS: Unless Ms. Hughes is willing the waive save herself a trip I think we would have to reissue a letter with her as the respondent. I figure the county attorney may want to participate, but if notice was waived then yes I think we would then talk about the two and a half row issues. One issue was why was Judge Daughtrey's mother denied; and then second whether or not the rule was routinely followed.

VICE CHAIR MCIVER: Both of those would be subject to investigation; that is correct. I ask the inspector general to report back to us.

MS. LAGRUA: I believe Ms. Hughes provided receipt for providing of every list if we need to go forward I am happy to do that.

MR. EVANS: I think the narrow issue is whether Judge Daughtry's mother was not given a list.

VICE CHAIR MCIVER: Which could be a question of fact.

MS. HUGHES: To my knowledge she as not denied a list. She was denied a receipt. Every day they requested the list we presented the list to them. I am not aware that Ms. Daughtrey came into our office and was denied a list.

MR. EVANS: I think you have to be in front of the podium.

MR. HAMILTON: I wanted you to note for the record that Judge Daughtry's mother is here. She can stand up and come up here and answer any questions you have about being denied that list.

VICE CHAIR MCIVER: We need to go down another avenue, and I want to do that pursuant to a Motion.

MR. EVANS: I move on two issues. One is whether or not the rules concerned the 150 feet was enforced. The second is whether or not the list was denied.

VICE CHAIR MCIVER: Second for the motion?

MR. TAILOR: Second.

VICE CHAIR MCIVER: We have a Motion with a second. Any discussion of the Motion by the Board?

(No response.)

VICE CHAIR MCIVER: I will call the vote. Those in favor of the Motion indicate by saying aye.

(Whereupon, there was a chorus of ayes.)

VICE CHAIR MCIVER: Any oppose? Aye. The Motion carries. All right. We'll hear from you Mr. Hamilton.

MR. HAMILTON: When this matter first come up, I was told his whole purpose in going to the county administration board was to pick up a list and his mother had gone up to pick up that list and it was refused to her. I think she can better articulate her going up there and requesting that list if the Board will hear from her now. Ms. Daughtrey.

VICE CHAIR MCIVER: If you would, give us your name and address, please.

MS. DAUGHTREY: Tanya Daughtrey, 1955 (address given). I started getting the list in July. My first list I got was incorrect. All the voters that voted were not there I went become a second time. Very few times I went that it wasn't a problem. It wasn't ready. I will call you when it gets ready. 25 mile it's not like I'm next door. It is always an excuse my brothers would go I would go. Come back tomorrow. It was always something.

VICE CHAIR MCIVER: Do you recall the dates of those?

MS. DAUGHTREY: I was getting them about every week and then every few days. I was calling and getting them. It was not easy.

VICE CHAIR MCIVER: Questions of Ms. Daughtrey?

MR. HAMILTON: On October 30, was that the day Judge Daughtrey had to go pick it up himself because you were refused?

MS. DAUGHTREY: I went one morning to get it. It was not ready. So I called his daddy which is here in the audience. I was very upset because you're going back and forth, trying to get a list. His daddy said do not go back down there. Chase will go get it. I did not go back down there; just cool it and we will get the list. I did not go back.

VICE CHAIR MCIVER: Any other questions of Ms. Daughtrey?

MR. HAMILTON: May I expand on that question about what date it was. There is some question. I have two dates. One is October 29th and one is October 30th that this allegedly occurred. I believe the Inspector General's report stated the October 30th date. I also have in my notes when we first met with Christopher Stephenson, the agent, the investigator. I have October 29th written down. I don't know if that was in response to a date that he might have given us or whatnot. I believe it was one of those two days when this particular list that kind of evolved into what we are talking about now.

VICE CHAIR MCIVER: Questions, Mr. Hamilton?

MR. HAMILTON: No.

VICE CHAIR MCIVER: Thank you, very much. We Appreciate it. Ms. Hughes?

MS. HUGHES: Yes.

VICE CHAIR MCIVER: We will begin with a couple of questions from Ms. Hughes and we will return back to the Board. Will you describe to us the procedures by which you maintain the process to administer the process of that list that's credited and obtained by individuals who are entitled to it.

MS. HUGHES: The way a list is created is at the end of the day, after everyone has voted, during the night, a list is processed through the Go System for document direct. We have to order the list of people who voted through the Secretary of State's office through the Go System. We print it out the next morning. It takes about 15 minutes for the list to, actually, be created. Once it's created you can print it off. Every afternoon, before I left, I would request the list to be created. And the next morning, before voters came in, sometimes and, as I said earlier, I'm the CFO. That is not something I jump into right away, in the morning. I have other things I have to do. Other people at the office were voting, so in this case I wouldn't have created the list that early in the morning, but, usually, it's created early in the morning, printed off. I type up the letter to say this is the request, this number of pages. I give it to the receptionist at the front desk. It is ready there, waiting, when someone comes in to get it. I don't know why Ms. Daughtrey feels like she has been mistreated. I apologize for that. I have never denied a list. If I haven't had time to create it, I haven't had time to create it. It's not that I denied giving her the list.

VICE CHAIR MCIVER: Is there a process whereby you record who requested the list, when you gave it to them, the money that has been received, so on and so forth?

MS. HUGHES: Yes, sir.

VICE CHAIR MCIVER: There is a record of that.

MS. HUGHES: Yes.

VICE CHAIR MCIVER: General LaGrua, that is part of the file?

MS. LAGRUA: Yes.

VICE CHAIR MCIVER: Do you recall offhand, without referring to the record, whether or not he was ever denied a list?

MS. HUGHES: To my knowledge she was never denied a list.

VICE CHAIR MCIVER: Was anybody denied the list?

MS. HUGHES: No. We had several candidates that requested a list and we never denied anyone the list. The receipts Ms. LaGrua has will show receipts from other candidates.

VICE CHAIR MCIVER: Any questions of Ms. Hughes? Thank you, Ms. Hughes. Judges Daugherty, anything you would like to say before we close this and return it back to the Inspector General?

JUDGE DAUGHERTY: No, sir. Thank y'all.

VICE CHAIR MCIVER: Any other action on this matter?

MR. EVANS: Well, it seems to me we just have a flat out fact dispute.

VICE CHAIR MCIVER: Well, I still think it's in the purview of the inspector general to look into that and bring us a report. If that is the case, it is certainly not the first we have had. Ms. LaGrua, you have all that you need.

MS. LAGRUA: I do.

VICE CHAIR MCIVER: Okay. That will conclude our work on this particular matter. Let the record reflect that that Karen Handel has returned and will take over chairing the meeting.

CHAIRPERSON HANDEL: 2009, No. 12 Clayton County, Henry County.

MS. LAGRUA: Madam Chair, this the 2008 general elections complaint. It was Annie Bright, the elections director. The respondent was a Waymon Varner. The allegations were that Waymon Varner voted twice, once in Henry, once in Clayton. Essentially, this was a father son situation, a senior and a junior. The father had moved to Clayton County, but was not taken off of Henry County's list. The father was given credit in Henry in error for the son. That's all been remedied. No voter was denied. It is recommended that this case be closed.

CHAIRPERSON HANDEL: All right. Motion? I'm sorry. Is anybody else here on this case?

BOARD MEMBER: So moved.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: Motion and a second. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any opposed?

(No response.)

CHAIRPERSON HANDEL: Case No. 2009, No. 16, Crisp County

MS. LAGRUA: This is, actually, the 2004 General Primary. Brenda Turner, the county election supervisor sent this in; the respondent, Ginger Nickerson, regarding the county elections supervisor. The allegation was that a voter using similar names may be registered in Crisp in Daugherty County in to elections in 2004. This is sort of confusing, but essentially we have three different women with very similar names. Kathleen Kelly McConnell, Kathleen McConnell Rumsey and Kathleen Darosa Rumsey. One in Crisp, one in Daugherty, one in

DeKalb. Daugherty County did not properly process the voter registration application and transferred to the wrong voter registration record is what happened. It has been that nobody voted twice in different elections. The three different women were properly in their counties and one of the registered application got transferred on the wrong voter registration record. I recommend that a letter of instruction be sent to Daugherty County to be more particular in making sure when they deal with registration records they make sure that and we have had this come up, as we did in the last case with the father son situation, where had very similar names.

CHAIRPERSON HANDEL: Questions? Anyone else here to speak on this particular case? Come on up.

MS. NICKERSON: Good afternoon. I am Ginger Nickerson, the supervisor of elections in Daugherty County. I am the respondent in the case. We realize that this was an error on our part. We do apologize for that, knowing that this individual was registered in Crisp County, originally, but when he moved to Gordon County, she had her last name changed and we did not take that order from Crisp County. We, actually, took the voter from DeKalb County, who had the same first and last name, but not the middle name. This error occurred during the DPS process. At that time, any application that we received from DMV, once we input the DPS number, it would allow to you take a voter, whether that voter was right voter or not. What we have done is implemented some procedures in our office that will help us to correct any errors in the fought that we may have. We will utilize the daily transaction report the DRSE 145. We will monitor our transactions on a daily basis. We also do utilize the duplicate voters' match on date of birth, first name, race, gender and last four digits of social. That report number being SSVZR 898 R 1. Also there has been a new enhancement to our system that when we do input our DPS application it does recognize that voter, whether it is the last four digits of the social or the complete social. So now you have less room for error with a DPS application.

CHAIRPERSON HANDEL: Any other questions? Anyone else on this matter?

MR. EVANS: I move for a letter of instruction.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: All in favor, please say, aye.

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Okay. Thank you. Case No. 2009 18 Cobb County.

MR. HARVEY: Madam Chair, the complainant in this case, is the Office of the Inspector General. In the January meeting there was an allegation that there were 285 blank ballots passed

during a 2005 SPLOST election in Cobb County. It was investigated. It was determined that there all the ballots were accounted for. 285 ballots did not have votes for this election. Everything matched up. There is no indication of any type of It is recommended that this case be closed.

CHAIRPERSON HANDEL: Anyone here to speak on this matter?

BOARD MEMBER: So moved.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: Motion and a second to close. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor, please say aye.

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: All right. 2009 25 Paulding County.

MR. HARVEY: In this case there was a divorce situation, a husband and wife divorcing. The wife was living in the home. The husband had a new girlfriend who registered to vote at the wife's address, the husband's forwarding address. The precinct card came to the home. The soon to be ex wife got it. She was the complainant in this case. It was determined that the respondent, Heather Nicole Mylem was planning on moving in that address once the house became hers in the divorce settlement, although she had not, in fact, lived there yet. So, she, apparently, did complete her voter registration at an address where she did not yet reside. It is recommended that this case be forwarded to the AG's office for the appropriate fines and sanctions.

CHAIRPERSON HANDEL: Anyone here to spoke on the matter?

MR. EVANS: So moved.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: Motion and a second to refer to the attorney general. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: No. 24, we have already dealt with. That takes us to 2009, No. 30, Fulton County.

MR. HARVEY: This case is Ann Hicks of the Secretary of State's Office, the complainant. The respondent is Mr. Josh Lewis, IV, who filed a candidacy notice of affidavit in the Secretary of State's Office for State Rep No. 58. On his candidacy affidavit application he said he had been a resident of the district for 3 years. His voter registration was in a different address, in district 57. The investigation determined that he had been registered at the address at district 57 for his whole life. That was his parent's address. He had voted in that district the last several elections and he just changed his registration address to reflect his actual residential address the day that he filed his notice of candidacy and affidavit. For approximately 2 and a half years he had been voting in District 57, when he had admittedly been living in district 58. It is recommended that this case be forwarded to the AG's Office for appropriate fines and sanctions.

CHAIRPERSON HANDEL: Is anyone here to speak on this case?

BOARD MEMBER: So moved.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: Motion and a second. All in favor? I'm sorry, Mr. Worley.

MR. WORLEY: I'm just wondering how this sticks with our past precedent in the Burn case that we established today, where somebody could live in a place for 6 years and then not violate the law by having lived in one place and voted in another for six years. I direct the attention of my fellow Board members to that issue.

MR. EVANS: I think the reason is because we had Mr. Burn here to tell us his state of knowledge. And here we don't have a respondent.

MR. HARVEY: In the course of the investigation the respondent said it was more convenient to use his parents' address.

BOARD MEMBER: Did he indicate where he had actually lived?

MR. HARVEY: He said he had actually lived in District 58, which is where he filed his candidacy in affidavit; however, he had been voting in District 57. He had not lived there for several years.



CHAIRPERSON HANDEL: For record, let's make sure. Is Mr. Lewis here? The record shows Mr. Lewis not here. All right. We have a motion and a second to refer to the Attorney General's Office. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor, please say aye.

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

MR. WORLEY: No.

CHAIRPERSON HANDEL: If the record will show that Mr. McIver as left the room. I will reflect when he comes back. That went 3 to 2 with Mr. Worley voting no. The next case is city of Douglas, Coffee County, 2007 No. 36.

MS. BRUMBAUGH: This is the case of, as the chairwoman stated, City of Douglas 2007 36. For the benefit of the new member on the Board, this is fourth respondent. There were four respondents Two of the respondents were either on the ballot for his manager and then two people were voters. We are resolved the first three cases and this case was left outstanding. In this case, Mr. Avett made a series of moves and did not update his voter registration ID and then was voting in the wrong district.

CHAIRPERSON HANDEL: I'm sorry. Were you doing Mr. Avett?

MS. BRUMBAUGH: Yes. I'm sorry. I'm doing City of Jackson.

CHAIRPERSON HANDEL: That's okay. We can stay with that one. Let me recall the case, though. We are going to be doing for City of Jackson 2007 No. 40, and that's under tab 27.

MS. BRUMBAUGH: I apologize. This came before the Board at the last meeting. Mr. Avett had agreed to, I believe, a \$600 fine. The Board considered that and felt it was inadequate given the seriousness and repetition of Mr. Avetts violation of the election code. Mr. Avett has since signed a consent order for a \$3,000 fine in the range with what the Board recommended at its lasts meeting. Mr. Avett has been informed that this could be referred for criminal prosecution, just as all the other correspondence were. That is, actually, paragraph 2 of the hold.

MR. EVANS: Move to accept.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: A motion and a second to accept the consent order. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Do we need to do a motion to refer this one. If you recall, the other three individuals we referred to the County District Attorney for criminal prosecution. So moved. Is there a second?

MR. MCIVER: I will second it so we can discuss it. I must just not remember this particular situation. Referring to the facts, his name is here. The others were all referred?

MS. BRUMBAUGH: Yes, the others were Mr. Ramey, the actual candidate for City Counsel Person; Deborah Brown, who was his manager, and a woman named Evelyn Price, who committed similar violations to Mr. Avett.

MR. MCIVER: What is the recommendation of the law department with respect to forwarding it to the DA? It would be referred as the other three had been done.

MS. BRUMBAUGH: Yes. The other three were referred. It has been discussed with Mr. Avett. (inaudible) Certainly the law department has no objection to it being referred.

MR. MCIVER: Is that the recommendation, that it be referred?

MS. BRUMBAUGH: The law department wasn't asked that the last time. Given the history of this case, then yes, it would be the recommendation of the law department, given the fact that the prior three were referred to the District Attorney's office. We certainly don't care to treat Mr. Avett differently than the other three. As I stated before, this is part of the negotiation in the consent order.

CHAIRPERSON HANDEL: Is there a motion and a second? And if I can expect the Inspector General, that was your recommendation on the case prior to, I think for all 4, if I remember.

MS. LAGRUA: I believe that was correct, and I will check on the status of those, as well.

CHAIRPERSON HANDEL: Any other questions?

(No response.)

CHAIRPERSON HANDEL: All in favor, please say aye.

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: All right. The next case will be City of Douglas, Coffee County, 2007 No. 36.

MS. BRUMBAUGH: In this case the supervisor, a woman named Kim Evans, was essentially derelict in her duties, especially when it came to absentee ballot applications and absentee ballots. She failed to notify electors when their applications or their actual ballots were rejected. She failed to keep accurate records. And she failed update the statewide voter registration system. Additionally, there were a couple of instance where a couple of voters were turned away at the polls. The information showing their status was incorrect. The Coffee County Board of Elections has been extremely cooperative in this case. They did a very thorough investigation on their own. They ended up removing Ms. Evans from her position as elections superintendent. During the course of this investigation they have provided a supplemental response, in which they outlined a number of corrected actions they expect to take. The course of the investigation generated a list of electors whose ballots might have been or, in fact, were mishandled. There were about 22 electors that I felt I could go into court and prove that, yes, this person's ballot was mishandled. So on the basis of those 22 names, the City of Douglas agreed to a \$2200 fine in addition to a letter of reprimand and a cease and desist the order. I recommend that you accept the consent order.

MR. EVANS: I may have missed it. Where was the reprimand?

MS. BRUMBAUGH: The reprimand, I thought we had a reprimand in here. There is a cease and desist. She is terminated. I apologize. I thought we had a provision in here about a reprimand.

MR. EVANS: We could add that, other than that, I'm fine with it.

MS. BRUMBAUGH: I would have to get them to re sign it. I don't think it would be a problem for them to re sign it. That was certainly part of the negotiations, so

MR. WORLEY: And that was part of your minutes, so I don't think they will be surprised by that.

MS. BRUMBAUGH: Right. Thank you for pointing that out.

MR. WORLEY: Can we do a motion to allow the Secretary to sign a consent order?

MR. EVANS: I think we can.

MR. MCIVER: I just have a procedural point. How is it that this is referred to as a consent order?

MS. BRUMBAUGH: I think that there have been different forms that have been presented to this Board. This was the form that was used in the Avett cases. And that was the one I started with. If you look further down, when we get to the City of Tiger, I had reconsidered that issue and titled it as a consent order. Certainly, the language of the order is the language you would want to see in a consent order.

MR. MCIVER: With the addition of a reprimand?

MS. BRUMBAUGH: With the additional reprimand.

MR. MCIVER: I just think it is better to have the title of the document to reflect everything that's going on in the document.

MS. BRUMBAUGH: I don't disagree. If you look at this document, this assigned August 18th. And by the time I was considering the Tiger case I remembered that and had changed my formatting.

MR. MCIVER: I would add the consent order.

MS. BRUMBAUGH: Okay.

CHAIRPERSON HANDEL: Do we have a motion on this one?

MR. EVANS: I move that we authorize the execution of the consent order with the addition of the reprimand to the language.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: A motion and second. Are there any other questions or comments?

MR. MCIVER: You are authorizing the chair, right?

MR. EVANS: Yes.

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Is there anyone here that wants to say anything on this case?

(No response.)

CHAIRPERSON HANDEL: Now, we have City of Jackson, Newton County, Board of Education of 2008, No. 29.

MS. BRUMBAUGH: This is a case involving a man named Horace Gresham, who was a candidate for the Board of Education, down in Newton County. Horace Gresham pled guilty a felony back in 1988 and his probationary period did not run until 2000. Therefore, when he signed a notice of candidacy in 2008, saying it had been at least 10 years since he had been off probationary status for any felonies, it was a lie. This was discovered and the inspector general investigated it. You all considered it at your, I believe, your May meeting. You voted to bind it over to the Attorney General's Office, as well as to the Newton County's District Attorney's office. The Newton County District Attorney did prosecute Mr. Gresham for false swearing. That is 16 10 71. And in July, Mr. Gresham pled guilty to false swearing. He pled guilty to receive a 5 year probationary sentence. He has been order to pay a thousand dollar fine and he has agreed that he will not run again for office while he is on probation. In considering how to handle this case, given that we had a felony conviction, I had to look into the issue surrounding double jeopardy. And what I found is, in this case I do want to emphasize that I don't expect this to happen on every case where we have a dual criminal election code violation. But In this case, the way the statutes are written, I believe that if we were to proceed on 21 2 565, which is false statement in connection with notice of candidacy, we would raise double jeopardy issues, because the way the two statutes, 565 and 16 10 71 are written, they are very consistent in their elements. Both require knowing behavior and both speak about documents that, you know, have some legal significance, 565 simply a more specific version of 10 16 71. And under the well settled double jeopardy law, when you have two felonies with identical elements, you cannot proceed on both felonies. You have to pick one. Since the District Attorney went forward on 16 10 71, obtained a felony conviction, I recommend that we accept that conviction and close the case.

MR. EVANS: I don't agree. If you go back and look, we have address that 21 2 565 includes within it both a civil and a criminal component. I would agree with you that the criminal conviction under title 16, basically 16 10 71 would preclude the District Attorney from simultaneously pursuing a criminal conviction on 21 2 565. However, our jurisdiction extends to the civil part, the penalty part. That is why we are so very careful not to call it a sanction. It is actually a penalty. I think the cases in Georgia are pretty clear, that an administrative body can impose civil penalties in addition to the criminal penalty, which has been barred as far as the District Attorney from pursuing multiple criminal convictions for the same offense. With all that said, the question is whether or not we want to do that. However, I want to make sure for the minutes that we can do it. We have the ability to pursue, under our powers, under 21 2 32, we have that ability. We can, in fact, enjoin him from ever running again, which would be injunctive relief. And an injunctive relief is never barred by a double jeopardy criminal conviction. With that said the will of the Board may be different, but I don't accept I am a little concerned that we would have in the minutes or in our materials that that is exactly the opposite

of the position we took in the Chattooga County matter, where we can close, but notwithstanding the Judge's criminal conviction. We, nonetheless, could proceed on his willingness to forego or step down from the bench. We can nonetheless proceed under the civil part 21 2 565.

MS. BRUMBAUGH: I have considered Chattooga County. I have done a lot of research on this. I certainly don't bring constitutional concerns to the Board lightly. And I wouldn't make this recommendation if I didn't feel it was the lawful thing to do in this case. There are times when administrative sanctions can be considered criminal. We are, in this case, although there are civil sanctions 565 is still a felony and because it is still a felony you have to look at it as whether this will be a second prosecution after conviction, which is one of the three tests for whether you have a double jeopardy violation. Because it is a felony and because it has the same elements it is my legal conclusion that, in this case, we should not go forward. Chattooga County is different on a number of levels. First of all, in Chattooga County there is no conviction. We have a hung jury, which ends up in a nolle pros. And, secondly, in Chattooga County we have about 15 different statutes to work with. That is why I wanted to make you understand this is a very narrow case. That is a case in which there were two statutes that's y'all considered they happened to be similar in terms of their elements. We have got a felony conviction on one of them. Because we don't have additional elements, we don't have anything else to work. In Chattooga County we have multiple non felony statutes. And I haven't seen the indictment yet, but it is possible we have felony statutes that weren't included in the indictment. So we have a lot more to work with in Chattooga County. And we do not have the same criminal procedure behind it. So this is a very specific case. This doesn't mean this other cases where we bind the District Attorney's office will raise the same issues. And, but, I do think that Mr. Evans' point is a very good one in terms of what this Board wants to do. You do have to consider your posture when you go before a Judge. And putting aside the constitutional issues here, you have a 72 year old man who is recently widowed, is in very poor health and has pled guilty. And the first question a Judge would ask me is, why does your Board want to do this? Hasn't he taken care of the issue? I think Mr. Evans' point is very good. It is something to consider whether you agree with my analysis or not. I would, for that reason as well, recommend that, just in terms of the posturing ourselves before a Judge, creating an impression of after Judge who may not have seen us before, that we wait and fight other battles in OSAH and in the superior courts.

MR. MCIVER: My concern is if that if I accept your analysis, then we should be more resonance to refer matters to the District Attorney's off because we would run the risk of invoking the double jeopardy part, whereas we have, generally, been pretty aggressive, consistent with the Chair's, which I completely agree with, which is violators should be punished swiftly and to the fullest extent possible. If I accept what you are saying, which is that a referral to the District Attorney's Office increases the chances that we are using the same predicate conduct for both a criminal and a civil, procedure a civil penalty, then we could run the risk of

double jeopardy, I'm a little worried. And I will use this illustration. Is it your suggestion, for example that we could not reprimand Mr. Gresham?

MS. BRUMBAUGH: To me, you said three things. Let me start with the first line, which is the chilling affect, as I'm going to call it. You said, if we accept your recommendation that would have a chilling affect on our desire, or confidence in sending cases to District Attorney's Office. My answer to that would be, that would be an unfortunate response. As we just discussed in a case the morning I can't remember which one it was, but there was a discussion about the very issue. And one of the things that was raised was what if the District Attorney no bills it. What if the District Attorney gets a bill on it, but then the case falls apart before jeopardy attaches. What if the District Attorney looks at that and says, you know what, don't give me that because I do rapes and murders, and never even tries to Bill it. So we have all these unknowns when we send it to the District Attorney's Office. I think it's important and I think it's a good exercise of your jurisdiction to do exactly what you did today, which is to send it to both places, so that if the District Attorney's Office falls down on its job, the attorney general can still go forward with the administrative sanctions. Secondly –

MR. EVANS: So does that mean that this these are mutually exclusive options then, which is if they bill it and if they then get a conviction we then stop, because that is different than what we have done before. And that's why I use the illustration of Mr. Gresham, could we vote to reprimand him?

MS. BRUMBAUGH: No. Because what I'm trying to say is in this case you have two felony statutes with identical elements. Most of the time, as in Chattooga County, we are going to have 15 non felony statutes to work with, plus we are going to have additional felony statutes that perhaps the District Attorney didn't use. So, no. This is a highly specific case.

MR. EVANS: I think that is just where you and I agree. I think we can do both. We just disagree on it. It is not a big it is a big deal because the implications are so great. I think we just read the law differently. I think we can have both a regulatory ability and a criminal ability to sanction and punish conduct. To be candid, under a Madison versus Marberry type of analysis, I would probably vote to do something like a cease and desist or a public reprimand, knowing full well that that's probably not going to get challenged. On the flip side, it will serve as a precedent for future cases to say we (audience member coughing and board member was inaudible) .

MR. MCIVER: There is a third alternative, and that is we can move to table it. And then father time might take care of the problem. That way, we didn't ever yield. We have an obligation, in my judgment, Mr. Evans, to go forward. We are here. We are all under oath to perform our duties. And this is a case before us. And it requires our action.

MR. EVANS: I would move, in light of the fact that he has paid a fine already, I would move to reprimand. And that way, I get both options. I preserve our jurisdiction. He can always appeal our reprimand. I think we would be on pretty safe road.

MS. BRUMBAUGH: So you are talking about a letter of reprimand or you're talking about going forward and requesting a Judge to issue a reprimand consistent with your powers to impose penalty.

MR. EVANS: No, just a reprimand, like we always do. I move that we reprimand. There will be a second. We vote. And we reprimand him and the subject's been reprimanded. And that way, we can procedurally preserve our jurisdiction.

MR. MCIVER: Is that a Motion?

MR. EVANS: Yeah; so move.

MR. MCIVER: Second.

CHAIRPERSON HANDEL: We need a motion, also to do we need a motion on the document. There is motion and a second to send a letter or reprimand. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Do you need any action?

MS. BRUMBAUGH: I think if we are issuing a letter of reprimand and closing the case thereon, then I think that's the fine.

CHAIRPERSON HANDEL: All right. Next case is Seminole County 2008 No. 56.

MS. BRUMBAUGH: We get to leave constitutional law and get into something a little more black and white. Judge Earnest allowed a woman, Norma McCloud, to serve as poll sister in law of coroner 21 2 92 (a). Judge Earnest has office taken full responsibility for this case of he resigned after he realized what he had had done. He signed a consent order for cease and desist. And a reprimand that is in your binder. So my recommendation would be that you accept the consent order for Judge Earnest. Norma McCloud has been added as a respondent. Judge Earnest took full responsibility for this. In fact Ms. McCloud no one interviewed her. Judge



earnest consistently stated this would fall on him. I recommend you dismiss the case against Ms. McCloud.

MR. EVANS: I move to accept the consent order.

CHAIRPERSON HANDEL: I have a motion. Is there a second?

MR. MCIVER: What is the motion?

MR. EVANS: Accept the consent order.

MR. MCIVER: I'll second.

CHAIRPERSON HANDEL: Motion and a second to accept the consent order. Questions or comments on it?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Do we need a Motion also on Norma McCloud separately?

MS. BRUMBAUGH: Thank you. That would be prudent.

CHAIRPERSON HANDEL: Okay. Any thoughts regarding Ms. McCloud the poll worker. Is she a respondent?

MR. MCIVER: I'll move to close.

CHAIRPERSON HANDEL: Is there a second?

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: Motion and second. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: City of tiger, you may recall from earlier this summer, City of Tiger last its election superintendent failed to issue the required notices for municipal election in

2007. Mayor Ramey appeared before you all. He was very contrite. He took responsibility at the time. Mayor Ramey agreed to a \$500 fine and a cease and desist and a reprimand for this total lapses of the election code, taken they have themselves an election superintendent.

MR. EVANS: Can I look at the number my notes. I had 15,800 but it's easy enough that I made a mistake. My recollection of this was the one where we had a complete did nothing issue and they just kind of went on. Am I remembering the right one?

CHAIRPERSON HANDEL: Yes. Is Ramey here?

MS. BRUMBAUGH: They were in contact with me. This is a very small town only 316 people no full time employees of the County which is one of the reasons why they didn't have an elections supervisor so it was sort of in light of the fact that it was such a small town he had taken full responsibility for the situation and he had corrected the situation both by holding the special election to make up for the failure of the 2007 election and then to get the election supervisor make sure she were on track with these things; \$500 fine. Certainly, if this had been Decatur, we would not have been talking about a \$500 fine.

MR. MCIVER: Also the mayor was particularly contrite, I thought. It's too bad he forgot. I thought the responses were genuine. Rabun County doing election work for free and then he left and then the new person said I'm not doing this. And it just kind of fell apart.

MS. MCIVER: Move to accept the order.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: Questions or comments?

(No response.)

CHAIRPERSON HANDEL: Any oppose?

CHAIRPERSON HANDEL: Next case, Jack Justice, Primus Industry, 2008 83.

MS. BRUMBAUGH: This was the case in Albany. Primus is a workshop which attempts to offer services and for people with mental and cognitive disabilities in the 2008 election. Some of its employees took some of their consumers the mentally impaired people that avail himself of industry services. Some of the supervisors took some of the consumers to the polls. There is an issue of fact as to whether there was requested permission from the consumers guardians or family members there is also an issue of fact as to how much assistance the supervisors provided. The consumers themselves gave conflicting and inexistent accounts and so therefore in terms of evaluating whether the supervised had [SREULT]ed 568 interfering with an elect for it payment highly unlikely that a Judge we would be able to prove our case given fact that the consumers had changed their stories so freely. This was a case that just didn't make feel good on a gut level so another statute that that was considered was 409 (b) 1 a statute which prohibits an employer

for assisting the elect for with voting. They earned a little bit of money. I investigated that to see if we could make a case on them and what I concluded was the amount of money and the employer employee relation sip was so min must that it wouldn't rise to the level that that had considered of basically what the people were doing if they felt like they might spend an hour or two every week putting together something for which they were paid one coat hanger, one penny per coat hanger. Jack Justice never earned more than \$5.70 in a two-week pay period. He was under no obligation to work. If he didn't fill like he wanted to work there was no ramification for that. Given this min must pay schedule and this lack of responsibility, there just wasn't to employer employee relationship that I believe the statute was trying to protect. Additionally, the premise industry did take this seriously when it was discovered. They put the two supervisors who are respondents in this case on an extended leave of absence. They have sense mate it very clear 20 their employees that they cannot do that kind of action and in fact they make their employees sign something now that this employees understand it is inappropriate to influence or have conversations with consumers to persuade their choice of passing a vote. So based on tin consistent statements and this negligent eligible, I'm not sure you can call it employment situation, it is my recommendation that the Board close this case you without, I just don't think we have the evidence to prove a violation of the Code

CHAIRPERSON HANDEL: Did you want to comment on this case?

HOWARD STELLAR: I'm (unclear), 1742 Albany Georgia. I represent Primus Industries. That is a provision of the Albany Community Service Board which is a creation of legislature serving mental health consumers in 8 different counties. You are only here in case any of the Board has a question about prime must industries. Do to represent the person who with took

MR. MCIVER: Were they registered to vote?

HOWARD STELLAR: Yes.

MR. MCIVER: So those requirements had all been met as best we know?

HOWARD STELLAR: Yes, They were registered voters.

MR. MCIVER: This case is about assistance in voting as opposed to whether or not though are qualified voters.

HOWARD STELLAR: What they are involved in is trying to make them as normal as possible, these consumers lives -- keeping a schedule, getting to this job once a month on time, as part of normal citizen voting.

MR. MCIVER: The assistance part is registered vote timely.

HOWARD STELLAR: That's true then it becomes a question of how are they going to get to the polling place. This started because the sister of somebody pitched a have it because no

permission was gotten to take him to vote. She wanted to do it the safeguard is to not take anybody to vote and I won't have to be up here.

CHAIRPERSON HANDEL: Any other questions?

(No response.)

CHAIRPERSON HANDEL: Have you adjusted your training with your folks or is your answer to that that you are not every going to take anyone to vote.

HOWARD STELLAR: We are not going to take anyone to vote. Primus Industries made it clear to employees that anything politically related is not just to stay away from it. It's over.

MR. MCIVER: I move to dismiss.

UNKNOWN SPEAKER: Second.

CHAIRPERSON HANDEL: Motion and second. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: The next case is Bill Chappell, 2008. Number 103.

MS. BRUMBAUGH: Mr. Chappell was the chairperson of the Carroll County Board of commissioners, 2004 elections on the ballot. Mr. Chappell entered the polling area during early voting. Mr. Chapel has signed a consent order. The consent order provides for cease and desist and a reprimand. It does not provide for a fine. There is concern as to whether the evidence no dispute he was in the polling station during early voting, but what the evidence would prove to a Judge, there was some concern that it might not rise to a level that a Judge would consider actual campaigning. Apparently he was helping some elderly person there was no evidenced of actual campaigning. This is the consent order for your consideration.

CHAIRPERSON HANDEL: Would you like to speak?

MR. CHAPPELL: I'm here if anybody has any questions.

CHAIRPERSON HANDEL: Why don't you come up and give your name and address so we can have it for the record that you are here.

MR. CHAPPELL: Bill Chappell, 500, Chapel Road, Carrollton, Georgia. I was in the voting area. I did assist a retired doctor that was in a walker. I was down there. I did not mean to be down there campaigning. I had gone with the intent to see how early voting was going. We have a problem in Carroll County where our early voting is right beneath my office a floor down. Our election also is there too. I knew we couldn't do it this year. We need to relocate that early voting as part of it so that the elections offices are available. I apologize to this Board. I apologize to the elections voting in Carroll County for being down there. I was asked to leave. I left. I did not go back.

CHAIRPERSON HANDEL: Mr. Evans?

MR. EVANS: 21 2 414 (f) strict liability doesn't matter why you are there. Before you intended to do anything, you just can't go there. So, that's the reason why that we bound it over and the reason why we insisted on a reprimand and we typically include a cease and desist which I think is in here as well and the only question is whether or not there is a fine. It is not a fine it is a civil penalty. In the context of repetitiveness and whether or not there is a indication of something other than physical presence. Based on the records we have before us I am fine with the order as presented to us but I wanted you to know that it's like running a traffic light or stop sign. It doesn't matter if you run the stop light, you violated the traffic laws. This is basically a traffic law for elections. You can't go there. So move to accept.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: I'm going to have to vote no on that because there is no civil penalty for the reasons that -- the conclusions of law clearly states that Mr. Chappell was in the voting area greeting electors. As form I knew fell well that I didn't go and stand in the area where voters are where my name is on the ballot. So I will be voting no. Any other questions or comments?

(No response.)

CHAIRPERSON HANDEL: Any oppose?

MR. WORLEY: No.

CHAIRPERSON HANDEL: No. Thank you, sir.

MS. BRUMBAUGH: That's the conclusion of our cases. If y'all have questions about cases in our office, I will do my best to answer.

CHAIRPERSON HANDEL: I do want to say I know that one gentleman earlier was commenting on the slow case coming out. I note that we had a lot of them here today from our May meeting and I do want to say that that swiftness we I know there is a lot pending. You are working very, very hard to push through.

MR. MCIVER: (unclear) Previous administration, working on cases in the same calendar year that they occurred so my comments not only to Ms. LaGrua. We are actually in 2009. That is my first experience of what happens.

MR. WORLEY: If I could add my comments to the attorney general's office also.

CHAIRPERSON HANDEL: The next item on the agenda is to take up rules that have been posted previously for the public comment period. For that we need to have a separate meeting for that. And I would ask that we have a motion to adjourn so that I can then call that meeting to order -- call for that hearing. Thank you.

MR. EVANS: Second.

CHAIRPERSON HANDEL: I have a Motion and second. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: I will ask again. Anyone who is here who wants to speak as part of this rule and rule amendment? I have two comment cards. Are there any others?

MR. EVANS: I have the ethics rules but I don't have the other rules.

CHAIRPERSON HANDEL: Mr. Tailor, do you want to take each rule separately or can I do public comments in general upfront?

MR. TAILOR: Yes, ma'am.

CHAIRPERSON HANDEL: All right. Let me announce all the rules first so we know what we are doing. We've got Rule 183-1-6-.01 which is acceptance of voter registration application. Any comment on that particular rule?

MR. EVANS: So the comment section for that is closed?

CHAIRPERSON HANDEL: Correct. The next rule is Rule 183 1-6-.02, rules for voters registration by private entities; opening public comment on that. Is there anyone here to comment? If you would, state your name and address for us.

MR. HEARD: Good afternoon, Secretary Handel and Members of the Board. My name is Bradley Heard. I'm a senior attorney with Advancement Project International, a non-profit civil rights organization in Washington, DC. My office address there is 1220 'L' Street, Northwest, 3850, Washington D. C. 20005. I'm also a Georgia attorney who currently misses Atlanta. I just moved away two years ago. I'm here not only on behalf of the national project but also for the

national coalition partners, Georgia Coalition for (unclear). I wanted to make briefly oral remarks on the proposed rule.

CHAIRPERSON HANDEL: You have five minutes.

MR. HEARD: Yes, ma'am. I'll try to rush through this. We submitted detailed comments on the 16th. So I will try to make these comments brief. As many of you on the Board know, this proposed rule has been around for quite some time, dates back to 2005 arising shortly after the Charles Wesley Foundation Education versus Cox case which was a case I felt a basic right private voter registration groups conduct registration jobs in this case. Following the Wesley case, the Board passed regulation over the objection of several possible voter registration groups prohibiting the photocopy of the voter registration applications and imposing the requirement that private voter registration application could accept applications that were sealed. That led to additional federal litigation in the Acorn versus Cox case. Federal district court enjoined those particular regulations. Finally they violated the groups. So, within the context of those two cases that those proposed rules have to be considered, much of the rule comes from a collaborative process between the private groups and state local election a forum was held back in 2006 on a reverse of the rules. But anyway the proposed rule contains 3 basic restrictions that cannot be supported by the groups that I'm here representing today. The first two are slight tweaks of the copying sealing restrictions. They now have proposed allow the groups to copy or accept unsealed applications with written permission from each voter. The third restriction which I think is a carryover from the deputy registrar rule prohibits private registration activity in places where alcohol is sold and consumed on the same premises. With respect to the third restriction, I think that is directly contradicted by the Wesley Foundation which specifically prohibit seeking to -- restrict or seeking to restrict the times, locations and circumstances. So I submit to the Board that that specific provision is invalid on its face.

MR. EVANS: So which provision are you specifically referring to?

MR. HEARD: That is 7 (h). The specific provisions are (f), (g), and (h) in paragraph 7 and 9 (d) to the extent it requires a written consent from the voter. Those are the specific provisions.

MR. EVANS: And your comment and the issue you are raising is that you believe that 7(f), 7(g), 7(h) violate the order that's issued in Wesley?

MR. HEARD: 7(h) in particular.

MR. EVANS: What about (f) and (g)?

MR. HEARD: (f) and (f), we contend is not specifically addressed, Acorn versus Datson junctions for the same reason, enjoined the current copy and sealing regulations. We suggest the tweaked version has similar first amendment concerns. We have addressed the legal arguments in the written comments. I wanted to be here to answer questions.

MR. EVANS: So (f) and (g) would be an extension of Acorn versus Cox, (h) and (g). What would 9 (b) be?

MR. HEARD: (b) is the sealing.

MR. EVANS: That is –

MR. HEARD: Only to the extent that that section requires a written consent of the voter, I believe 9 (b) says it begins with the expressed written consent of the only can't, so that's the provision.

MR. EVANS: So your position would be that an allegation arguer for the extension modification or modification of existing law would preclude 9 (B) and 9 (F) and (G) in the Wesley consent decree precluded 7 (H).

MR. HEARD: 7 (H) and extension of argument Cox (unclear).

MR. EVANS: Would you agree that tuned existing authority without the extension of modification of existing law would not preclude 7 (E) or (F)?

MR. HEARD: Sir?

MR. EVANS: Would you agree the current authority under Acorn versus Cox without extension or modification would not preclude (E) or (F)?

MR. HEARD: 7 (E) is on the conducts voter registration where parties know illegal activities are being conducted. We didn't have a comment there.

MR. EVANS: Sorry, (F) and (G)?

MR. HEARD: 7 (F) and (G) are the provisions that are being adjusted by this proposed rule. There was an injunction on the existing rule up until January of this year when the case when the injunction was listed in this the case.

MR. EVANS: So how would you appreciate the confidentiality or confidential information that would be in the application.

MR. HEARD: Well, we would stay that first step is the current proposed rule has a requirement that private voter registration groups has to advice the voter initially that they have the option of mailing in the application themselves or having the benefit of what is contained in the proposed rule we support that. Advising the person the election Board can also put that at the same time on the application if it is offered. I don't think our clients would have any objection to that. That would already flag the issue for those voters for whom that confidentiality provision is important but our larger point is that what it does and if you go to buy tickets. A non profit group regularly do thing for public service. And they also maintain contact with the person and there is no



particular requirement to obtain specific consent on each person where that happens. And that the Board will be acting inconsistent with first amendment to the extent they are seeking to block to time prior to registration information. Took begin with. So in other words, the interaction of voter registration organize nicest voter is a privilege and one entered into consent by both parties by the voter and the voter registration organizer to that extent. It is a precommunication association protected by the first amendment.

MR. EVANS: When I buy theater tickets, I don't give my social security number.

MR. HEARD: Credit number.

MR. EVANS: You don't draw a distinction to seek social security number and credit card numbers.

MR. HEARD: Social security number is not requested on the application.

MR. EVANS: So your remedy for that the fact that kind of information you give when you register to vote. Put a claim error notice that says if you want to maintain confidentiality don't register here. Send in your registration.

MR. HEARD: Private voter registration is already under the rule required the advice of the voter. Send in the application or you can take it in yourself.

MR. EVANS: But can you include in that if you opt to let the person register the voter you lose costly.

MR. HEARD: we contend the voter certainly with that notice they would be particularly aware of the risk and the case law suggest in situations where the voter or individual has within his or her however, the option of saying no I don't want to talk to you stop bothering me or whatever they want to say that is sufficient self protection. And you don't need the government to come in and further regulate the association. So until 2008 I believe that the only things that were concluded on the confidentiality provision in the statute were the social security number registration which weren't on the application to begin with. I think a recent amendment. Date of birth and driver's license numbers, but that's the type of information first of all that is only subject to confidentiality once it reaches the government but the type of information people share with other people in everyday interactions – birthdays, grocery stores, driver's license numbers; it is nothing, you know.

MR. EVANS: Do you believe that we should make available all of the information that someone supplies on their voter registration application.

MR. HEARD: I believe that voter registration applications are generally subject to disclosure pursuant to state and federal law. In Virginia requires a full social security number. It would be

prudent to redact that full social security number before the State discloses that for public records requests.

MR. EVANS: Except for the social security number do you believe that we should make available generally to the public all the information that is on a voter registration list.

MR. HEARD: I think that the State election Board can establish reasonable production if they have that desire but we are talking about an instance a rule where a private person has already willingly given that private information it is like you took that tax form you me that H and R block has your social security number, address, etcetera you are willing to law them access to it. The tax payer is consenting to that intersection. You expect that HR block could sell your information to HR company Political groups.

MR. HEARD: I wouldn't suspect that.

MR. EVANS: So do you think –

MR. HEARD: On the very conduct.

MR. EVANS: Do you think groups registering voters should sell the information off voter registration to third parties?

MR. HEARD: The proposed rule doesn't address that particular concern.

MR. EVANS: I think 7 (F) does.

MR. HEARD: You certainly. The existing law you certainly can't use that information for commercial purposes.

MR. EVANS: What about political purposes.

MR. HEARD: For purposes NAACP collects a voter registration application. NAACP may want to use that information. Not only with may want to invite the voter to a candidate forum m may want to call the voter as it gets closer to an election and say you want to make sure you get out and vote. You they may have other sort of programs you want to.

MR. EVANS: What about raise money?

MR. HEARD: May want them to join NAACP.

MR. EVANS: Register take the confidential information from the registration without knowledge of the person registering to sell that to otherwise use that to raise money or to do any other application purpose.

MR. HEARD: I am not making a comment on the sale of the information. What I'm saying is that charitable organizations use contact information to make charitable solicitations to make invitation.

MR. EVANS: People registering to vote. I understand if you are signing up people to carry to Zoo Atlanta but one that signs up to vote and convert that to a financial purpose.

MR. HEARD: For amendment purposes.

MR. EVANS: That's okay.

MR. HEARD: The interaction is the same. The voter is handing with full knowledge a third party registration group, a completed form.

MR. EVANS: So in your view that's a waiver basically?

MR. HEARD: Not a waiver. It's a specific consent.

CHAIRPERSON HANDEL: Mr. McIver and then Mr. Worley.

MR. MCIVER: I'll yield to Mr. Worley.

MR. WORLEY: The information that a voter registration provides to his third party that is then made available to that third party is that information any different than the information that that third party could get after the voter registration from the voter registrar as a result of the public records request.

MR. HEARD: The group can get the name and address information I think under the proposed rule the driver's license number would be. Under the amended statute date of birth, and driver's license would not be subject.

MR. EVANS: That's correct.

MR. HEARD: Under the amended statute so I don't think we get those two pieces of information. The other pieces of information part of our argument that there is few things that confidential on the voter registration form to begin with. The driver's license number not confidential.

MR. MCIVER: Welcome back to Georgia. You are no doubt aware our thinking about the amendment of the rule has to be to some of that is with various organizations some my represent. I will ask you this: Does the advancement project affiliated with the NAACP affiliated in any way with Acorn?

MR. HEARD: The project was a co-counsel in the Acorn versus Cox case as you may or may not remember.

MR. MCIVER: Recent groups of Acorn, are you affiliated?

MR. HEARD: Do we have any formal affiliations? I don't think we have active litigation with them. I'm not certain. Acorn versus Cox case is no longer pending. I don't believe they are a party in our other litigation, but I'm not sure. If one lawyer covers that particular state. I cannot be for certain but we have represented acorn in the past litigation.

MR. MCIVER: Given the fact that the election is in 2010 may be somewhat contentious may we expect that there will be mass voter registration drives in Georgia on behalf of you or any of your affiliated registration.

MR. HEARD: I suspect that as in any federal election year voter registration will be even numbered year voter registration tends to be high private registration and that's frankly a good thing in that it encourages people who are eligible to vote to get out and register to vote. We see that as a valuable public service. I think the rule that the Board is considering will help to establish accountable and trust between the election officials and the private voter registration groups; so in large part it is a good rule that these three particular provision that I'm talking about. Now I think a little too far in that regard in that they block entirely legitimate activity between private groups. So that would be my position.

MR. MCIVER: You appreciate part of our problem is registration has occurred in business facilities very late in the evening where a lot of adult beverages were served worse thing may have gone on but mass registrations then they come to –

CHAIRPERSON HANDEL: In this case Fulton County for example, Fulton County promptly sends by mail huge percentages never responded to giving us great suspicion about the integrity of the registration process of that part of our concern here part of your attempt fix that throw this rule. I hope you see that as a noble and valiant effort.

MR. HEARD: Certainly, integrity in elections and registration process is important. I think all of the organizations are that I represent and projects it's important. I don't think prohibiting a voter registration group from doing a drive at a Braves game or turner field. I think that is not the way to do what you are suggesting is of automatic because alcohol is sold and consumed on the same premises does not mean ill list sit or improper action is going on I can say from personal experience I am part of a fraternity we have done system of our most successful drives at malls in Buckhead Village because young people are flocking they are there. It is a good place to set up a registration table and interact with people who otherwise may not avail themselves of the opportunity to register and the goals of the private registration groups are to get people who are eligible to get on the roles merely because alcohol is con sold and consumed on the same premises is we don't think is a valid way and not permissible to prohibit activity. I understand that is the rule for deputy registrar that is entirely within the board's discretion but for a private group who choose that's venue, I don't think it speaks so that.

MR. MCIVER: The advancement project would not be restricted by entering a facility a great deal of adult activity and adult activity sold 1:00 A.M. or 2:00 A.M.

MR. HEARD: Well, I will say this. The people who are registering to vote are adults.

MR. MCIVER: And I –

MR. HEARD: We hope that they are both adults and city accepts. That is eligible criteria. It is entirely appropriate for someone who may be having as I say a beer at the Georgia dome and may come out into the lobby and want to register to vote they should have that opportunity to do so. I can tell that your fraternity has had late nights in Buckhead Village because people tend to flock to the bars around midnight we may start at 10:30 in the evening that is his experience of a lot of you groups. The point of having private groups who participate in the registration process is to find creative ways to register eligible voters and merely because alcohol is in the vicinity is not a reason a vote ever doesn't know that he or she is eligible to vote, a problem in the past. I don't believe there would be a problem in the future.

MR. MCIVER: This could go on and on I will stop her. I appreciate the candor of your remarks.

MR. TAILOR: I would like to move to the photocopy issue. I am trying to understand the reason why you have the photo cape as opposed to being there have you the information collect that you need. Without certain information like social security but have you a signature.

MR. HEARD: On the application.

MR. TAILOR: From a fraud standpoint not this you would do it. But someone has the vital information that could end up unfortunately in other people's hands. I'm trying to understand why the photocopying why you have to have it you can have people opt in we would like to contact you is that okay they opt you have their information. What's behind needing to photocopy. We went into this in some detail in the litigation part of it. But what happens on the ground. The voter registration drive you typically want to maximize your ability for voters so you have three volunteers from the people's agenda out doing registration. You hand out voter registration applications you want to collect them. You don't want to recopy to information on to a separate list. That close up the registration it is valuable to have a copy of the voter registration form itself. In case the problems with the registration is low. You send 30 applications [SPWAO\*] in to the Cobb County registrar. You wait about 3 weeks and you make sure those applications have been processed; if you don't have particular information of the voter such as the (unclear), spinning wrong with the application. Have you a copy of TV application that you can refer to. If a voter calls you back is he hey I registered I never got on the roll. You can look at the application and say we where not sure it looks like you filled out the application. If everything checks out we can assist you that is the reason why a copy of the application is important itself. Now what the current rule does do is it says that the group does have to the

proposed rule does do is it says the group that to the help keep that information confidential. The group cannot just Willie Nillie pass around copies of voter registration. We can say that is probably a good thing, copying registration application to begin with. Receiving anything except a sealed application it doesn't do the group doesn't allow the group -- to prevent the group of having contact with people. The intersection between the group prohibits --

MR. TAILOR: If I go fill out a application for the local county will they let me photocopy it.

MR. HEARD: I assume they would. I don't know the answer to that? I assume they would. That is sort of debated in the litigation whether the current rule law allow that the State as asserts that the voter can copy it but standing at voter registration drive the voter is not going to have a copier machine there. So they can't do it themselves they are entrusting whatever of group they leave the application with the responsibility of sending it in. So you want that group to (A) be able to help to voter fill out the application completely and after they send it in be able to follow up.

MR. TAILOR: How long do you retain the records if you make photocopies of about a two-year period or 6 month period one election period for 5 years.

MR. HEARD: Well, I think it depends on the group. We made written comment that 90 days seemed too short. Maybe 1 year would be a better time on the retention. What is in the proposed rule is whenever the group decides to state requires businesses, confidential information, instruction of the information. So we would say if any time limit is advisable. We suggest a year is a better time limit than 90 days, because we did want to get the application process earlier than 90 days. We definitely want of may be instances where you need 90 days.

CHAIRPERSON HANDEL: Anyone else? All right

MR. EVANS: For our minutes we need to address 7 (F) (G) and (H) modification of existing law and then we need to your to address 9 (B). I will do that. I wanted to speak to the Board briefly since I haven't met everybody that bore my name.

MR. RITTER: I am the supervisor of the elections education governmental service section at the attorney general's office. I was involved in the Wesley Inc. case versus Cox at the end of this case. I was involved in Acorn litigation. so I have firsthand knowledge of this case is what occurred. I think we should start I disagree with the occasion that has been given to those. First as Mr. Evans has pointed out regarding 7 (H) I think it's necessary there. There is a consent order in that case. It was negotiated between counsel as a means of resolving the case. In fact it was an outside counsel brought in by the secretary of state office that order specifically provides and I quote paragraph 5 it shall not be considered a violation of this consent decree for the State of Georgia to establish reasonable and non discriminatory regulation that's govern the conduct of private individuals then engage in voter registration activity within Georgia so language as such recollections do not authorizes or permit any election official to reject or refuse to process any

application solely on the basis of how such application as he delivered I have delivered or packaged other than registrar or deputy registrar that is what the order provides. To my mind that order mainly contemplate or permits the Board as it mugs the regulate voter registration activity of reasonable non discriminatory, 7 (H) to be proposed to be would fall within that. So I don't think that this in my opinion run afoul of the consent order in the Charles H. Wesley's case, paragraph 7 which says that court finds and declares Georgia comprehensive 183 1 .03.

Amended a certain date cannot be construed in a manner that restricts or seeks to restrict times location private entities may engage in voter registration former rules what it governed whether that applies. The proposed rigs is to part 7 (H) new paragraph 7 (H) which would be sub part '02 is not within the rule that is mentioned in paragraph 7; and not only that the paragraph .03. The former .53 as the attorney general's office pointed out. In both of those case is pleading after pleading, govern registrars and deputy registrars. It was not governing private voter individual registration drives. Continued to had a hard time getting didn't govern private individuals deposition if registrars in their registration activities that is why this paragraph 7 says it shall restrict times locations circumstances where in private entities may because it didn't apply to them and that was a position we took throughout that case. You can see from waive quoted paragraph 5 does permit reasonable non discriminatory recollections regarding to conduct of private individuals it permits that in this. If Mr. Heard's statements about this were correct then paragraph 5 and would be of the obviously in ton conflict with each other the facts of that case involve bundling of voter registration application. Sense or non sense of registrars, deputy registrars nothing to do with what the new proposed 7 (H) and the new 7 (H) relates to the registration by private individuals in places where alcoholic beverages are sold, before moving on from that new proposed rule. And I should as an aside whether you adopt that or not is a matter of policy. The Georgia attorney general's office does the have a position on that. Certainly, we would not seek the limit voter registration activity, but that the new proposed rule which is an expressed reflection of the rules that are already in place regarding registrars and deputy registrars and Mr. Heard correctly notes applying does not allow them to conduct their activity in places where alcoholic beverages are sold.

It does not define what the boundary of that place is. There has always been a question about how far is a place if you are outside of a bar rather than inside a bar at the police where alcoholic beverages are sold. I can tell that you I think reasonable argument can be made under specific facts plenty presented to this Board to clarify should bit necessary. Seems to be unlikely should it come up where for instance one is at the Georgia dome m not for instance at the concession stand where alcoholic beverages are being sold for instances in the lobby that might not be the is not where the alcoholic beverages are being served the regulation might not apply in that circumstance. Frankly, I am not sure it would come before the board I think it would come I don't know that that consequence affect what has been suggested to this Board.

MR. EVANS: Can I ask one question? So if we don't have that bright line test. Wouldn't we then have to impose on those registering a judgment call of whether the person registering is

impaired or not. One thing you can do is if you are registering to vote. I decide whether they are drunk or not. Another solution is to see we don't want to put that responsibility on people registering to vote. You can't register in places that serve alcoholic beverages.

MR. HEARD: I agree with that. I don't think it –

MR. RITTER: I agree with that. There an issue about police is any word you use is going to have some reasonable interpretation. I do not think that as proposed that it calls on too much for the potential private have inside to decide whether they are in an appropriate mace or not. Again I think they would effectively be very clear from the case. Hope apply be very clear. I will have to leave it to the Board to decide how to draw those lines. I think Mr. Heard and I can respectfully agree about that. I let me move on the other proposed rules about copying and sealed packages not sealed packages. Let my take the sealed packages one first so we are crystal clear. I it has long been our position that the former policy an old policy found invalid in the Wesley foundation case not accepting registration not policy of the board. We are not talking about the registrations. We are talking about sealed registrations or not sealed. People can send them in huge boxes if they want we are talk argue about applications selling and copying information I don't propose this is in your view. I will tell you as someone who litigated in the acorn case it was not only or contention but we believe it was very well supported that individual in State of Georgia who want to register to vote have strong personal interest in privacy interest in entirely social security number can be voluntarily given as well as driver's license that can be addresses, names. By doing that discover personal information about as well as engaging in identity theft and so first things we are concerned about. I have to make sure the record today is clear about happened in the Acorn case. I don't think it has been correctly stated. Let's get it correct in my opinion. The Acorn case involved a suit say Acorn Group as well as other groups claiming they had a right the make copies and to send non-sealed sets of registration documents back to the preliminary injunction was entered in this case, as that case is filed immediately before the close of registration in the State of Georgia. And the State wanted to commit that we did engage in discovery in that indicates. Once of the things that acorn contended in that case was that it was more reliable than the secretary of state's office in maintaining the security of this information and that acorn was a very reliable organization to have this type of private information. We frankly felt we had a lot of evidence to show that wasn't correct. We sought discovery from acorn in fact of the complaints filed against acorn which we believe would have been in the dozens if not hundreds of misconduct by acorn. We wanted to hear from Acorn as to what he was. Acorn refused to provide that information and claimed it was reliable we sought recovery from -- ultimately the district court ordered them to provide us this information. They refused it went to the 11th circuit court of appeals. Tell 11th circuit court of appeals refuse to court on the position. Bringing it back down the court then after the production if chance to continue they allowed the case to be voluntarily dismissed. There is in injunction in place against the State of Georgia, F and G. Those rules reflect the current state of the law those rules reflect where we are stowed. Again whether to make those more stressed it is up to the Board to



put those in the straight to apply to individuals make it clear as I might add by Mr. Heard I further thank you that's great but that is a policy decision that is your decision; but it is not a foul of acorn no acorn order in police today so we have litigation we would fight it and that would be our position.

MR. WORLEY: Thank you, very much just a follow up question. Take acorn out of the picture assume that this next lawsuit that is filed over (F) and (G) is by some entirely reputable group. What makes you think that they wouldn't buy the argument that they initially bought in the acorn case. I think that the primary issue we saw in the acorn case we were ready to move and wanted discovery to be completed. We stated we thought we were going to win that case. Frankly, they stated in a subsequent order that it thought it had the record in but we never got to that point because it was voluntarily dismissed. I what makes me think that it would error is because I think this rule today is a clear better statement of the way we would expect the law to be than it was in the acorn case but I think we were in the right then. I think that the Board would be acting consist at any timely with the Verdict versus Takushy [sic] case.

CHAIRPERSON HANDEL: All right. Do we have any other individuals who want to comment on this case?

MR. HEARD: Can I make a rebuttal?

CHAIRPERSON HANDEL: You have had more than 5 minutes. You have two minutes.

MR. HEARD: My friend Mr. Ritter and I have agreed on those issues for yours it is not likely we will agree on everything today the board should carefully review Wesley foundation or the decision. It does refer to the .03 rule that concerns the voter registration. The private entities were not allowed to conduct voter registration that was the only rule related to voter registration, .03 as amended the issue versus Cox case. It very much applied the private registration groups specifically by its terms. I think for all of the residence that Mr. Ritter mentioned a recollection on the place of registration, what is the place the lobby the same police as the regular turner field. It is an unworkable rule. The point is private entities should be allowed that private entities should be allowed to register eligible voter. Eligible voters have an obligate to make sure they have qualified to register to vote. After two beers I still know I am over 18 and a citizen and I know that I'm eligible to vote. That is not a standard that is a red herring to impose the voter knows or should know whether he is qualified and if he is qualified for penalties for that.

CHAIRPERSON HANDEL: Your two minutes are up.

MR. EVANS: If there is anything critical that you haven't touch on. I do want the record to be clear.

MR. HEARD: Sure. I think that the Wesley foundation specifically does think about recollection of the place. I never Acorn versus Cox as in place I suggested the national that led to its

injunction in the first place. That is an issue that should suggest to the Board not to include (F) and (G).

CHAIRPERSON HANDEL: Anything else?

(No response)

CHAIRPERSON: I will close to public comment. Open public comment 183 1 6.03 registration, deputy registrars. Anyone to speak on this rule?

(No response.)

CHAIRPERSON HANDEL: All right. I will close that public comment. Open public comment on Rule 183 1 10 .01, qualifications of candidates for office non-period credit union or other financial institution and certified error and returned checks. Anyone here to speak on this?

(No response.)

CHAIRPERSON HANDEL: All right; close public comment on that. Open public comment 183 1 12 .02, DRE voting equipment. Anyone to speak on this?

(No response.)

CHAIRPERSON HANDEL: All right; close public comment on that. Rule open public hearing on rule 183 1 14 06, spoiled absentee ballots. Anyone here to speak on that?

(No response.)

CHAIRPERSON HANDEL: All right; close that for public comment. Open public comment on 183 14 07, spoiled ballot definition. Anyone here to speak on that?

(No response.)

CHAIRPERSON HANDEL: There being none, I will close public comment there. Open public comment on Rule 183-1 14-08, regarding additional sites of additional registrars offices or placement for registration absentee ballots. Anyone here to speak on this?

(No response.)

CHAIRPERSON HANDEL: There being none, I will close that public comment. Is there anyone here on 183 1 14 09, voted absentee ballots? Anyone here to speak on this?

(No response.)

CHAIRPERSON HANDEL: There being none, I will close that public comment. Lastly, I will open public comment for Rule 183 1 14 10, absentee ballots for military overseas citizens. Anyone to speak on that?

MR. TAILOR: Can I ask a question?

CHAIRPERSON HANDEL: Yes.

MR. TAILOR: The three-day period, I was curious what that was.

BOARD MEMBER: (Unclear)

CHAIRPERSON HANDEL: Anyone here to speak on that? Any questions?

(No response.)

CHAIRPERSON HANDEL: Colleagues, I think there were four written comments that came in. I will entertain a Motion to accept these into the record.

MR. EVANS: So moved.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: I will close all of our public hearing on the various rules, et cetera. We've been at this for a long time, since lunch. I want everyone to take a five-minute break to go to the restroom – five minutes. Then we will be right back.

(A recess was taken.)

CHAIRPERSON HANDEL: All right. I am going to call us back to order. Mr. Tailor, do we need individual Motions on these or take them all in one?

MR. TAILOR: individually.

CHAIRPERSON HANDEL: I will entertain a Motion on 183 1 6 01.

MR. EVANS: So moved.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: Questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: I will entertain a Motion on 183 1 06 02.

MR. EVANS: So move.

CHAIRPERSON HANDEL: Any questions or comments?

MR. EVANS: I will have a couple of comments.

CHAIRPERSON HANDEL: Go ahead.

MR. EVANS: Obviously when we consider these rules we have to take into account all of the facts and circumstances associated with a rule we have the balance all the various interest in the context of that we have to exercise our discretion and judgment there is an right or wrong answer we can take into account balance the factors and constitutional legal way. This rule reflects a balance of the interest in order to preserve the integrity of the elections against the interest of other groups. Those interests include political constitutional rulings and other rights. The purpose of this rule is not to unduly or properly or illegally infringe on any person's speech of freedom and association rights; but, instead, to strike a balance between the rights of individuals to associate and express themselves against the rights of voters. Safe secure confidence striking that balance we have this rule. That is the reason I support this rule.

CHAIRPERSON HANDEL: Mr. Worley?

MR. WORLEY: I oppose the rule because the balancing language that Mr. Evans just intimated, I think there are parts of the rule that to me unacceptably limit the rights of people that want to register people. I think there is little the gain on the privacy concerns of the registrants. I think there is very little information that is not always publicly available that is put on the registration form. So time going to oppose (F) and (G) I'm concerned about. I am not as concerned with (H) as I am with (F) and (G) so I am going to oppose the rule.

CHAIRPERSON HANDEL: Any other comments?

(No response.)

CHAIRPERSON HANDEL: All right. I have a Motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

MR. WORLEY: No.

CHAIRPERSON HANDEL: I will entertain a Motion on 183 1 06 03.

BOARD MEMBER: Move to second.

CHAIRPERSON HANDEL: Questions or comments on this rule?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: I will entertain a Motion on Rule 183 1-10-01.

MR. EVANS: So move.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: I have a Motion and a second. Any additional comment or question?

(No response.)

CHAIRPERSON HANDEL: All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: The Chair will entertain a Motion on 183 1-12 02.

MR. EVANS: So move.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: I have a Motion and a second. Any additional comment or questions?

(No response.)

CHAIRPERSON HANDEL: There being none, all in favor, please say aye.

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Next, I'm looking for a Motion on 183 1 14 06.

MR. EVANS: So move.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: Motion and second. Any additional comment or question?

(No response.)

CHAIRPERSON HANDEL: There being done, all in favor, please say aye.

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

THE COURT: I'll entertain a Motion on 183-1 14 08.

MR. EVANS: So move.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: Colleagues, is there any discussion or questions?

(No response.)

CHAIRPERSON HANDEL: There being none, all in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: I'm looking for a Motion on 183-1-14 08.

MR. EVANS: So move.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: I have a Motion and a second. Questions or comments.

MR. WEBB: Paragraphs 3 and 4.

MR. TAILOR: That was just brought to my attention, Madam Chair. Evidently, it was not exactly what was voted to be posted on by the State Election Board, include that three and four in there. I believe that (unclear).

CHAIRPERSON HANDEL: So it was posted with 3 and 4?

MR. TAILOR: Yes, ma'am.

CHAIRPERSON HANDEL: But it shouldn't have?

MR. TAILOR: Correct; I apologize.

CHAIRPERSON HANDEL: All right. So we need to have a Motion to post the Rule without 3 and 4?

MR. TAILOR: Yes, ma'am.

CHAIRPERSON HANDEL: All right.

MR. EVANS: So move.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: I've got a Motion and a second. Just to be clear for the minutes, we had an error on the posting of the original revised Rule 183-1-14-08. The Board had voted to repost it as amended today. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: All right. I'm looking for a Motion on 183 1 14 09.

MR. EVANS: So move.

BOARD MEMBER: Second.

CHAIRPERSON HANDEL: Motion and second. Any additional questions or comments?

(No response.)

CHAIRPERSON HANDEL: There being none, please say aye if you are in favor.

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Finally, I'm looking for a Motion on 183 1 14-10.

MR. EVANS: Mr. McIver, he has a passion on this one.

MR. IVER: Indeed. I so move.

MR. EVANS: Second.

CHAIRPERSON HANDEL: I have a Motion and second. Any questions or comments?

(No response.)

CHAIRPERSON HANDEL: All in favor, please say aye.

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: There being none, that was it. We have, as our next item, two additional rules. The first one is State Election Board Rule 183 1 6 06, which are the accompanying rules for Senate Bill 86, verification of U. S. citizenship of applicant for voter registration.

MR. TAYLOR: Yes, ma'am. My name is Wes Taylor. I'm the elected division director; just a brief synopsis where this has been, where we come, where we are. As you will remember, Board members, this rule as first provided to the Board members August 4th of this year for review. It came before the Board for consideration on August 12 at which point the Board voted to request an opinion from the attorney general's office, recording his validity with respect to section 5 of the Voting Rights Act. The attorney general's office wrote a letter regarding that from Mr. Dennis Dunn, on August 25th, back to the Board. This rule is now before the Board today for consideration or posting for public comment at which point after which it could be voted on to be adopted. If you will like I can give a brief explanation of the rule. I know that's your pleasure you have had plenty of time to review it.

CHAIRPERSON HANDEL: Do you want an overview colleagues?

(No response.)

CHAIRPERSON HANDEL: Any questions, discussions, or comments on this rule?

(No response.)

CHAIRPERSON HANDEL: I will entertain a Motion to adopt the rule of posting for public comment.



MR. EVANS: So moved.

MR. WORLEY: Second.

THE COURT: Motion and second. Discussion?

MR. EVANS: Madam Chair, if I might, two points, first, in preparation for today I went back to review the attorney general's opinion together with the minutes from there was the meeting as well as earlier meetings it became clear that the attorney general's position was that anything that the attorney general had participated in drafting and was prepared to submit to the department of justice reflected the attorney's general's opinion that indeed such regulation who be constitutional and valid and so I take the attorney general's office at it's word. I will note a second point, which is in the department of justice's October 13th 2009, correspondence. They include the following sentence which is of note. This legislation basically being senate bill, this legislation and accompanying registration, we have before us submitted for section five review may have significant impact on the analysis of voter regulation program that is before us resulting determination as to whether the program complies with section 5 that sentence seems to the draft expects to receive in conjunction with the senate bill submission the accompanying regulations and that this process is necessary for them to complete air voter verification analysis that being said I wouldn't want to hold up the voter verification process while waiting on the attorney general who has indicated that the attorney general participation of the crafting and drafting of the roles and will assign of validity and constitutionality. The combination of those two factors means it will be appropriate to adopt consider and don't regulations today so that we can get that practice moving as expeditiously as possible. First of all the comment was to make record for that purpose ending in the review.

CHAIRPERSON HANDEL: Any other comments?

(No response.)

CHAIRPERSON HANDEL: We have a Motion and second to adopt this rule for the purposes of posting for public comment. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

MR. WORLEY: No.

THE COURT: The next item for consideration is Rule 183 1 11 02, appearance of candidates name on ballot. Given that, some concerns have been raised whether or not I should be involved in the rule making or not. In the interest of having the utmost integrity, I will recuse and let vice chair, McIver handle this.

MR. MCIVER: Thank you. Let the record reflect that Chair Handel has recused herself.

MR. TAILOR: Thank you. As you see, you have two versions of 183 1-11 492 that's before you. Based on some comments we received before today I went in and revised No. 5 -- what was previously No. 5 and wrote that into No. 5 and No. 6. Essentially, that provision forth Board members is to leave the candidate as name in the hands of the candidate themselves within the guide lines of the rule as well as the current statutes. I know that the Board had previously asked me to bring to you specifics as to what we had seen what issue had come up before I provided you with some various e mail that's my office had received regarding listing of names on the ballots. These are, I can tell you the most recent I they are the ones I was able the find of we get those consistently over every election, but you can so that we had issues such as an individual wants his name as Joe from Decatur unhappy tax payer. Issues outside off Georgia where an individual middle name changed it to none of the above and want that to be listed because tissues had been brought to me from various elections owe officials around the State it made sense for me to bring before you to bring before you to determine whether the Board wanted to address that to put something forward in uniformity with respect to candidate's names on the ballots. I will say that you the section 2 of this proposed rule really is almost word for word from an attorney general opinion as well. And most of the rest of it comes from other states statutes and rules and what seemed reasonable and what had been in use and in place in Georgia but essentially was a way to slow the process. Everybody was on the same page on this

MR. MCIVER: Mr. Ritter, the bifurcation of the old five to the new five and six, in a legal opinion, will that require reposting?

MR. RITTER: That has not been posted yet?

MR. MCIVER: Not yet posted.

MR. TAILOR: I apologize, I meant to mention -- it had been brought to me before, the issue of 25 character use of 25 character that's was done on the advise of Kennesaw State University the builder of most of the ballots what that accounts for is to have on the ballot 3 columns where the ballot can be put into three columns on one page 25 character lose you to do this without wrapping the name or having to go to multiple pages I know at let's least 3 other states -- Kentucky has 25 limit, Virginia has 25, and Hawaii has 27.

MR. MCIVER: Questions for Mr. Tailor?

MR. EVANS: No questions. I have a couple of comments when the time is appropriate.

MR. WEBB: I have a question on Item 4. First, you given names or initials which you didn't allow the person to not use it require them to have their first name chipper Jones was running for you would have to have Larry chipper Jones you event have this.

MR. TAILOR: The way this is written no rule is something provided out to the Board recommendation rear pointed out policy decision made by the Board tone courage uniformity

across the State? If that is the way with you would like to see it done how some counties do it I leave that decision to you.

MR. MCIVER: Anymore questions or comments?

MR. EVANS: Comments, I think the three things that made my radar for folks who raised questions for first and it's illustrated by the example just given the example that is most frequently is son any per documenting period, Sonny Perdue why can't a candidate have the name appear on the ballot and is this a problem that's why such frequency as to merit such an change and wouldn't have raise questions about why this change and why not. And encourage a whole set of other issue. I am a little worried about section 1 which requires the first name appear when the first name very well could be a nickname. Now, obviously no rule that we can adopt with completely eliminate the proper because I remember when maybe Thomas just went and changed her name went down to the house and boom we can't eliminate all 100 percent of I'm Sonya the fair tax Thompson because they can just go change their name and so we have to be aware of that. The second one is the one that has been of a different is women's name that's are hyphenated or inverted. I notice even among the can you public comments some you gave to us which were very helpful there were a come of related to women who had gotten married and you know it's like Leah Sears Collins how does not name appear. So I think that had is some concern about how women previously married chose to retain their Maiden name at some point on the back end or front end whether that constitute a middle name or not a mid name. There was a request from the AG's office. This is a Board decision you have to figure this out. I am concerned about having rules that jump into that fray and then the final one I got the 3 of which there are certain face particularly the faith almost many time greater than 25 character limit. The question is not necessarily targeted to be designed to do that. Does it have an improper motive ethnicity component that we need to be sensitive 25 is a randomly selected note I noted in our note we had a number of names that were at the 25 character limit that is just in our survey of the cases that we had had before us today. So I'm a lit worried about jumping into this given the sparse number of complaints that we have gotten and the rather obvious issues that are implicated from son any per due not being able to be on the ballot to women who have natured names or men would natured names or people married whose name are long and extended to a degree it has that component. Those are the same issues we talked about before. The issues I'm raises are new or different but they are issues which calls into question whether or not we should do anything given there aren't been a huge and cry among to election this is problem that requires happens with such frequency that it requires immediate Board action.

MR. WORLEY: I move to have name on the ballot.

MR. MCIVER: Motion. Do I have a second?

MR. WEBB: Second.

MR. MCIVER: Motion and second. Any further questions?

(No response.)

MR. MCIVER: All those in favor of the Motion as propounded by Mr. Worley and seconded by Mr. Webb, please indicate by saying aye.

(Whereupon, there was a chorus of ayes.)

MR. MCIVER: Those oppose?

MR. WEBB: No.

MR. MCIVER: Let the record reflect Mr. Webb abstained and Secretary Handel recused herself, so the Motion passes 2 to 1.

CHAIRPERSON HANDEL: The last order of business has to do with ethics guidelines. There is a long discussion on our last meeting and Mr. Evans and I have worked diligently. What you have before all of you is a joint proposal from he and I. I thank Mr. Evans for his help in all this which should get us close to where we ought to be. We entertain a Motion.

MR. EVANS: Move that we post the proposed ethics rules on the Web for public comment.

BOARD MEMBER: I'll second.

CHAIRPERSON HANDEL: Any comments, folks?

MR. EVANS: I will join in the Secretary as comments which was that with her help and with Mr. Tailors' help, we have worked through a variety of litany of issues that's related to constitutional boundaries. There is no purpose hidden or stated to diminish in any way the statutory cons institution national obligations and responsibilities of the chair. In addition there were a number of prior rulings by the attorney general's office that we had to navigate dealing with recusal and other similar issues no shortage of authority dealing with those kind of complicated issues. If purpose as we headed into a very hotly contested year to remove any issues out there so anybody can have great confidence in knowing that Board is committed to the highest ethical standards that was the purpose of the rule that was the purpose of the compromised language which, I think captures that.

CHAIRPERSON HANDEL: Mr. McIver?

MR. MCIVER: Well, thank you, Madam Chair. I am delighted what I have seen here. I was an early proponent in many respects. However, I have a question with we get to 2 sub (D) like dog it reflects a members entity in which the member owes holds an equity or economic interest. This language is somewhat troubling to me. we lawyers pick between semi-colons and commas and so on. But say my 401 (K) becomes a mutual fund that held a company like Textile. If Textile decided to make a contribution to Secretary Handel, for example, would that automatically recuse me, something so distant as that. I can obviously -- if I'm the sole owner of

a business or I'm very careful not to lose that business and that entity makes that contribution given what transparency is obviously I was be forced to recuse which I would do so without a challenge, I'm sure. I am wondering about an argument that can be maid against us where we are in certain organization that hold economic interest that other entities. Appreciate any remarks that might come from the Board.

MR. EVANS: I won't speak for the Secretary that certainly was not the intent. I think in the other rules that apply to other entities in the State there is a numerical threshold if you own 10 percent or more of the company. That with be fine. We wanted to put that in so we avoid publicly trading.

MR. WORLEY: I don't think it's a problem as it's written, because it says a member's employer or anything in the member holds an interest has made a financial contribution, I don't think I don't think opening stock in a company fits. I think it is too distant to physical that fit that description and I don't think a 401 (K) for instances would have made a financial contribution.

MR. EVANS: I think the idea would be if 401(k) owned Coca-Cola stock and Coca-Cola gave to a candidate or in the alternative, any member here actually owned Coca-Cola stock.

MR. WORLEY: Well, the question in which the member hold an equity interest, or an equity in the economic interest. Perhaps should it be clarified, I prefer not to use the 10 percent rule because I don't think that's very effective means of disclosure generally.

MR. WEBB: I would say there is basically an employment agreement. These kind of rules don't apply to when you own public company stock. I would say more particular issue for me might be political action committee one might run make a donation where I wouldn't have any say. I don't know that needs to be dealt. In paragraph 2 (A) it serves on any campaign committee if I previously served on that committee should that disqualify me. I think the case is yes or no.

MR. EVANS: We put that in six perspectives.

MR. WEBB: Even so take five years down the road in the future, Board members now they are serving state election Board and candidate who they formerly served with comes up not talking necessarily about us.

CHAIRPERSON HANDEL: Can we bind a future Board?

MR. RITTER: My understanding is that future clear from the beginning. I think that guideline I think that the attorney general opinion not mentioned binding rules for qualifications. I think you can hope that a future Board would abide by these but that's up to them and I think in individual cases someone chose to believe that this rule didn't apply because it was too removed from the facts that were intended; the rule that that would be outside of the guideline they could say so.

CHAIRPERSON HANDEL: If I might, certainly, as you go through this process, I don't know if you can cover every single scenario. For example, Judge Daughtrey today. Not a close personal friend coming before us that a broad conflict covered by No. 1.

MR. MCIVER: Well, I have another comment that goes to the fact I am relatively acquainted with everyone. We have successful powerful spouses with whom we don't always share the same opinion that is certainly true with me. As I read this, this guideline this code of ethics not apply to spouses if my spouse contributes to anyone I don't want that at let's the she and a third of time on political candidates and that's just the way that marriage works. Is that the understanding of the other members the spouses have been specifically left out and therefore there is no restriction.

CHAIRPERSON HANDEL: As you read it, the spouses are not covered. Obviously, spouse is a respondent in a case.

MR. MCIVER: I meant as a contributor.

CHAIRPERSON HANDEL: Look, I think that will go to the individual board members moral compass. Certainly, all the time in marriages a check might be written by me versus my husband or by Steve versus by mean and I can only tell you what I would do if Steve handle makes a political contribution and I have full knowledge of it and I typically know who is he giving too we might not agree I know if he is giving I am personally going to recuse. As Kent pointed out, I don't think we can cover every last little area in an ethics policy. People have to use good judgment from time to time.

MR. EVANS: Of course, on those to your point, Madam Chair, public disclosure means everybody will know unless you give less than a hundred dollars, and everybody will know if your spouse does. I wish the Evans household was as predictable as the McIver household. The Evans household varies from day to day, whether or not we might agree.

CHAIRPERSON HANDEL: Anything else?

(No response.)

CHAIRPERSON HANDEL: I'll take a vote. All in favor?

(Whereupon, there was a chorus of ayes.)

CHAIRPERSON HANDEL: Any oppose?

(No response.)

CHAIRPERSON HANDEL: Any other business?

(No response.)

CHAIRPERSON HANDEL: If not, I will entertain a Motion to adjourn.

MR. EVANS: So move.

MR. WORLEY: Second.

CHAIRPERSON HANDEL: All in favor?

(Whereupon there was a chorus of ayes.)

STATE ELECTION BOARD MEETING

TRANSCRIPT OF MEETING

August 27, 2009  
10:00 a.m.

Sloppy Floyd Building  
2 MLK Jr. Drive, SE  
5th Floor, West Tower, Room 512  
Atlanta, Georgia



**CHAIRPERSON HANDEL:** Good morning, everyone. You guys, we have really a crowded house. The building is having somewhat of an issue with the microphones, so I'll try to talk really loud for this. I'm going to ask everyone to make sure that they speak up as well. I'm going to call our meeting to order. We're awaiting the arrival of Tex McIver. But we do a quorum with myself, David -- I mean, Randy Evans, and David Worley. So thank y'all. If we can go ahead and have the pledge of allegiance.

(Whereupon, the pledge of allegiance was recited.)

**CHAIRPERSON HANDEL:** Also, before we get into public comments, I want to let everyone know that it is with great regret that I have to let you know that Jeff Israel had to resign his position on the State Elections Board due to some health issues. I would ask that everyone please keep him in your prayers as well as his family, and we will be awaiting on the new appointee from the Speaker of the House. With that, I've got one speaker card. Is there anyone else here to speak on a subject matter that is not part of a case? Speak now. Okay. We have one speaker -- Susan. How are you?

**MS. SOMACH:** Good, good.

**CHAIRPERSON HANDEL:** It's good to see you. Come on up.

**MS. SOMACH:** It's a little scary with all of these people here.

**CHAIRPERSON HANDEL:** I know. We have a lot of people today.

**MS. SOMACH:** All right. I'm usually here in smaller numbers.

**CHAIRPERSON HANDEL:** Give us your name and address.

**MS. SOMACH:** Susan Somach, (unclear), Atlanta, Georgia. I just want to speak generally to the issue of my concern about the voter verification process and the fact that the secretary of state's office is trying to get a reconsideration with the department of justice about this process. I just am very concerned because of some of the comments I've heard and some of the issues and approach. Just to remind everybody and that hopefully people remember that voting is a right and not a privilege. That means that it can't just be easily abridged. It's not a matter of whether it's convenient to vote or inconvenient to vote. But everybody has the same right, the same level of convenience in being able to vote. I would just

make sort of an analogy that came to me, something that's near and dear to the hearts of a lot of Georgians about other rights that they feel very strongly about and that would be the right to have a gun. Imagine yourself, a gun owner, getting a letter one day saying, "I'm sorry. You're no longer eligible to own a gun. We have some secret verification process -- well, maybe not secret. But a verification process that we've put into place which says that we think you're not eligible anymore. Don't worry about that. You just have to turn in your gun. The sheriffs are coming out. We're going to take your gun away. We'd like you to come in for a hearing to prove that you're eligible to own a gun." I think people would have a problem with this. I think that kind of analogy may seem extreme. But that's what really happens to people with a voter verification situation. They got a letter one day. Most of them were overwhelming Hispanic, African-American, Asian-American. Some were new citizens; a lot not. This is what they were faced with. I think we need to be real careful about abridging those rights. I would just make another comment that I think it was inaccurate such as this press release that there actually was an injunction by the court. (Unclear), Jesus, you and all the groups that were connected with the process, and there was a change in that process to better protect voters rights. Thank you.

**CHAIRPERSON HANDEL:** Thank you. The first item on the agenda is an approval of minutes from May 12 under Tab 1.

**MR. EVANS:** Actually, Madam Chair, I think there's just one modification on the agenda. I didn't see it on here. But Board Member McIver and I would like to, somewhere on the agenda, probably towards the end, talk about the adoption of the ethics package. So if we can just make sure that's on here somewhere.

**CHAIRPERSON HANDEL:** We did respond back to both you and Mr. McIver about this. I talked to Mr. McIver and what we said in the e-mail is whether or not we could have this as an agenda item for our next meeting so that we can pull information for you, and Tex was fine with that.

**MR. EVANS:** What I would do to speed the process up, today, I'll present to the Board a package which is actually patterned almost verbatim -- it is verbatim after other similar states, specifically South Carolina. I will make a Motion and somebody can or may not second it in the minutes. Then we will use that as a predicate.

**CHAIRPERSON HANDEL:** With all due respect, it would have been

nice for your -- and professional to your colleagues to have shared this with us ahead of time. Especially, as a chairman, that would also be protocol to provide that. I believe it's even part of the rules already existing just to provide that ahead of time. So, if you would like to have this as an agenda item, I would ask that you follow the established procedures for such. I think having it at this discussion is quite prudent and something that we ought to do. But I would like to do it in a way that gives ample public Notice and gives all of our colleagues on the Board, including myself and Mr. Worley, an opportunity to know what the topic is and what you'd like to discuss.

**MR. EVANS:** I appreciate that. I think that's a good standard. I just note that we can make it part of the minutes later today. That during the last Board meeting, while we were talking about the clearance by the department of justice with any modification to rules, the secretary's office filed a Petition for Reconsideration. We would have thought that that topic might have come up while the Board was in session. Instead, a press release and a filing was done without any discussion. In fact, I think the Board members were all surprised to learn that the filing had occurred and we were told for the first time after the Board meeting. So I'm working to receive that standard that has been set which is to do it and ask later. All that will happen today is I will make available the product of a great amount of research so that everyone in participation of future meetings can have the benefit of that data and that everybody in the public can have it rather than have it be subject to ambush or finding out that something was done after the fact. But, to make a point, later in the meeting I will introduce in the minutes both the press announcement of the Petition for Reconsideration, the minutes that reflect that that issue was not discussed combined with the press release that reflected that, while we were in session, a matter that should have been discussed with the Board was conveniently left off the agenda.

**CHAIRPERSON HANDEL:** Well, with all due respect, I don't believe that I had to have the Board -- in fact, I know I did not have to have the Board's prior approval. When the information was transmitted, the Board was made aware of it. But I think, in order to change the agenda, since adding an agenda item, the agenda was published that we need a Motion to add an agenda item.

**MR. EVANS:** I so move.

**CHAIRPERSON HANDEL:** Is there a second?

**MR. WORLEY:** I second.

**CHAIRPERSON HANDEL:** A Motion and a second. All in favor?

(whereupon, there was a chorus of ayes.)

(whereupon, a nay was spoken.)

**CHAIRPERSON HANDEL:** Perhaps, when we have our discussion about the ethics rule, we can also have a discussion about the proper professionalism, as well as who has the statutory authority to do what.

**MR. EVANS:** I came prepared today.

**CHAIRPERSON HANDEL:** I'm sure you did, Mr. Evans. Agenda Item Number 1 is the minutes from May 12. Do I have any changes to it?

**MR. WORLEY:** I'll make a Motion to adopt the minutes from May 12.

**CHAIRPERSON HANDEL:** All right, second. Any other questions or comments?

(no response.)

**CHAIRPERSON HANDEL:** All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Next are minutes from June 2. Any changes or adjustments to those?

(No response.)

**CHAIRPERSON HANDEL:** If not, the Chair will entertain a Motion.

**MR. WORLEY:** I'll make a Motion to adopt the minutes from the June 2 meeting.

**MR. EVANS:** Second.

**CHAIRPERSON HANDEL:** Motion and second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** All right. Our first case today is Case Number 2007-44, City of Locust Grove.

**MS. LAGRUA:** This case was set over from the last meeting to notify the City of Locust Grove as a respondent. That has been done. The allegations were that Mayor Lindsey was campaigning within 150 feet; that the Mayor delivered absentee ballots from voters to the city clerk; that the Mayor had improperly assisted in the absentee process. Theresa Breedlove, the City Clerk, and Elsie McCarter, the Superintendent, had not received proper training and that the poll workers were not properly tallying votes. Mayor Lindsey was actually in her office which is within the polling location, but there was absolutely no evidence that we could find that she was campaigning during that time. There was no evidence that she delivered any ballots or improperly assisted. The only improper assisting appeared to be Mr. Upchurch, who was assisted by his wife, Purnie Upchurch, and she did not sign as assisting. I would note that Ms. Upchurch is currently deceased. Theresa Breedlove and Elsie McCarter have not attended training since July of '05. There was no evidence, however, of any improper tallying of the votes. But, during our investigation, we did find that Ms. Breedlove did not properly document or follow the procedures required for verification of the absentee ballots. It's our recommendation that the cases involving Ms. Breedlove, Ms. McCarter, and potentially the City of Locust Grove be forwarded to the Agent's office for sanctions and appropriate fines. I did receive for the Board's knowledge a letter from Mayor Lindsey indicating she was unable to attend today. She did indicate that the allegations were false. But that's what our findings show.

**CHAIRPERSON HANDEL:** Is there anyone here to speak on this case? Come on up. Everyone, if I could ask you, when the case is called, if you want to speak on the case, since we have a crowded room, if you could go ahead and work your way forward, that would be helpful. I'm also going to ask, if there are multiple people, we do allot 15 minutes for public response on something. So, if there are multiple people, I'm going to ask you to keep your comments to two or three minutes so that everyone has an opportunity to speak. Okay? Super. Come on up, folks. Tell us your name and address when you get before us. Come on up.

**MS. BREEDLOVE:** My name is Theresa Breedlove. I am the City Clerk for the City of Locust Grove. The last time we were before you, I stated my case as to what happened to the election. What I'm here today for is just to let you know how

we've followed up since then.

**CHAIRPERSON HANDEL:** Okay; good.

**MS. BREEDLOVE:** First of all, I attended an election training this past July. I have a certification for the qualifications that I'm going to be responsible for in this year's election. I passed the test on that. I also stayed for the absentee part, even though I won't be taking part of that, I did want to understand the issues of the absentees and what I needed to do to correct the procedure. The last time, I did the best I could for the time. But I do realize there were some mistakes made. I took that course, not because I had to, but just because I wanted to understand the process. Also, I've gone ahead, and I have brought, if you needed to see, I'm already ready for qualifications for next week. This is my qualification packet. I printed a lot of information for my candidates. I hope they're the best informed candidates we've ever had. I really tried very hard to do a good job on that. There again, I did not receive the training before because I was majorly sick. At the time, the County is doing our election this year. I brought a copy. I already issued you a copy of this. But this is the contract and the ordinance which gives the County the authority. I've complied with all of the advertising of the notices for this campaign in the election. Qualifying, I've already done. I've got one more notice I have to send out 30 days before the election notifying the City of this election. I want you to understand that I do understand that I made some mistakes, and I'm doing my best to correct those.

**CHAIRPERSON HANDEL:** Thank you. Anyone else? Do I have two more to speak on this? Just one more, okay.

**MS. SHELLNUTT:** Good morning.

**CHAIRPERSON HANDEL:** How are you?

**MS. SHELLNUTT:** I'm fine. I'm Janet Shellnutt, Director of Elections for Henry County. We tried very hard in 2007 to contract with all the cities. We also had a SPLOST county election. So we were trying our best to combine them. I worked with all the cities. We finally came to the point that we could not put them all on the same ballot because some of the county polling places had city people in it, but the polling places itself was outside the city limits. So we were told we could not pull them all into the county and have one bid. But we still wanted -- were willing to contract with the City to do theirs on a separate ballot. But one reason is we

have the equipment, and we have training where we keep all of our staff up to date on all the training. Somewhere or another there was, I guess, a miscommunication between the Mayor and I. It certainly wasn't Theresa's fault because she had been out ill. When she left to go, before she was ill, she thought we were under contract. When I went back and met with the Mayor, it was not the council. It was just the Mayor. I told her that we could not combine the ballot, but we could still do her ballot. But she chose to do it by paper ballot the way they had done in the previous, in the past. I did contract with all three other cities that I have. Locust Grove was the only one that I did not contract. So I do take up for Theresa because it did get kind of piled on her without her knowledge. I do probably receive more phone calls from Locust Grove than the cities I contracted with. But she has followed -- I have cut out all of her articles in the paper. I have made sure -- and she has followed through and done everything since this 2007 election to get certified to help us in 2009. But we're ready to do theirs and continue to do it as long as they ask us to.

**CHAIRPERSON HANDEL:** All right.

**MR. BOONE:** My name is Keith Boone. I live at 1211 Jackson Street, city of Locust Grove, Henry County, Georgia. If I could run over some things right quick. I had this crazy idea to run for Mayor. I've served on the City Council for Locust Grove for 17 years. Since that election, I found out there were some improprieties of the election. I appreciate the hard work that Elsie McCarter and Theresa Breedlove has done in the past. With that in mind, we did have some things that did fall through the cracks. One of the ballots was improperly marked, as we all know. That was a mistake. But we did have an election of the council that we had one vote difference. One of our council members lost by one vote. Goodie lost by two votes. If that would have been a good valid, it would have been a tie. But we won't have another. But, in my case -- I'm speaking in my case -- the analogy that I can use on this, and I used it last time before I came before this Board, was, if you're going down the road and you get pulled over and you get a ticket for speeding, after you go pay your fine, you find out that this officer wasn't certified or re-certified to run radar. I would think, by law, you would have to throw out that ticket and give that person his money back. I think an election is more severe than a speeding ticket. I know it's been almost two years since this has happened. I know the wheels of justice turns slow. I served my country. I have served Locust Grove for 17 years. I've always wanted to have what was done right and any

wrongs made right. I don't know what the possibilities are or what will happen, but I appreciate y'all taking the time to hear me.

**CHAIRPERSON HANDEL:** Thank you.

**MR. BOONE:** That's all I have to say.

**CHAIRPERSON HANDEL:** Thank you so much for coming. All right. Colleagues, any questions?

**MR. EVANS:** First, I thank all of you for coming. I will note that we do not have the jurisdiction to set aside elections. That's squarely and slowly in the superior court in the county where you reside. So, for all of you, just kind of a -- just in terms of the remedies that are available, we have the ability to correct and impose penalties for violation of the election code. If there is a question about the validity of an election, the appropriate code spells these out in some detail of what it is for you to get a new election. The time periods, I think the Chair will agree, are very strict and the courts follow them very toughly. As to the matter that's before us, let me -- just a question. On the Purnie Upchurch, given that, as I read this, she's deceased?

**MS. LAGRUA:** That's correct.

**MR. EVANS:** So would we -- I think that just (unclear) motive, doesn't it?

**MS. LAGRUA:** I believe so.

**MR. EVANS:** No punt intended. So that leaves us with Elsie McCarter and Theresa Breedlove?

**MS. LAGRUA:** That's correct.

**MR. EVANS:** I'm not sure that this is one that requires the resources of the AG's office. I think we should be able to deal with this. I would favor a reprimand and a cease and desist order.

**CHAIRPERSON HANDEL:** With a Letter of Instruction?

**MR. EVANS:** Exactly; definitely. I completely agree with the Chair. But, of course, given that that would be a penalty, they would have to agree to accept that. Otherwise, they would be entitled to a hearing. So what we would need is for Ms. McCarter and Ms. Breedlove to visit briefly, if they're



interested in this, or tell us now if that's acceptable. We can adopt the Motion and pass it.

**MS. LAGRUA:** I don't believe Ms. McCarter is here, Mr. Evans.

**MR. EVANS:** Oh, she isn't?

**MS. LAGRUA:** At least we've not had any indication that she is. I don't believe there is anybody representing her.

**MR. EVANS:** So that would just leave Ms. Breedlove?

**MS. LAGRUA:** Yes, correct.

**CHAIRPERSON HANDEL:** Would that be amenable to you a Letter of Instruction with a written reprimand in it?

**MS. BREEDLOVE:** Yes.

**MR. EVANS:** I would so move as to the matter involving Ms. Breedlove.

**MS. LAGRUA:** Second.

**CHAIRPERSON HANDEL:** Did you have anything to add?

**MS. BREEDLOVE:** Just on behalf of Ms. McCarter, she is sick.

**CHAIRPERSON HANDEL:** Okay. Well, we'll follow back up with her and then take care of this Motion and then try a second Motion regarding Ms. McCarter. We have a Motion and a second for a Letter of Instruction with a formal reprimand. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?  
(No response.)

**CHAIRPERSON HANDEL:** For Ms. McCarter, could we -- I guess I'll ask Ann this -- can Shawn call her and ask her this, or would it be better for your office to do it?

**MS. BRUMBAUGH:** Shawn can call her.

**CHAIRPERSON HANDEL:** Okay. Then I'll make a Motion that the Inspector General make contact with Ms. McCarter to see if we can have an agreement for the same Letter of Instruction and reprimand.

**MR. EVANS:** Second.

**CHAIRPERSON HANDEL:** All right; Motion and second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?  
(no response.)

**CHAIRPERSON HANDEL:** Theresa, thank you for attending training expeditiously and doing so well on it. I have every confidence that we won't see you here again. Right?

**MS. BREEDLOVE:** Right.

**CHAIRPERSON HANDEL:** All right; very good. Thank y'all. Our next case is 2008-34, Clayton County.

**MS. LAGRUA:** Yes, ma'am. This actually involved a private company, Neighborhood Assistance Corporation of America. The allegation was that this company assists at-risk folks to get mortgages on their homes. It's a company that finds mortgages for at-risk borrowers. The allegation was that, to be eligible for their service, you were required to register to vote. When we talked to the folks at NACA, they indicated that was not true. However, Investigator McBrayer pulled all of their information as recently as early '09 and in their documentation it actually said that you were required to register to vote. Now, what they said was they never enforced that. They did, however, provide us with updated information from April of this year where they had deleted all of that language from the information packets they put out. They do, however, still supply a voter registration application with their packet, but it is not a requirement that that be completed to qualify for their assistance. Again, in line with Mr. Evans' comments earlier, I'm not sure this needs the resources of the attorney general's office. I think it's been fixed. I would, if they're amenable, recommend that it be handled with the C&D enclosed.

**CHAIRPERSON HANDEL:** Is there anyone here to speak on that?

**MR. CHANCEY:** Yes, ma'am.

**CHAIRPERSON HANDEL:** Come on up.

**MR. EVANS:** While we're doing that, can we have the packet?

While he's talking, we can --

**MS. LAGRUA:** I'll see if I can find it, Mr. Evans.

**MR. CHANCEY:** Good morning. I'm Joe Chancey. I'm with the law firm of Drew, Eckl & Farnham. I represent Neighborhood Assistance Corporation of America which is commonly known as NACA. Phyllis Washington, who is the office manager and whose letter, I think, went to Clayton County and prompted this particular situation. As Ms. Lagrue said, NACA's position, and it's documented, has always been it has never, in practice, required anyone to register to vote in order to participate in NACA's program. Let me just take a quick moment to tell you a little bit about what NACA does. NACA is a non-profit organization with operations, I believe, in 38 states at this point. They've existed for a number of years. They cooperate with some of the major national lenders. What they do is they basically provide a counseling and educational program for people who inspire to buy homes. If somebody wants to participate in the program, they go through some educational workshops, counseling, that sort of thing; during which, they receive information about being a responsible homeowner. Part of that message of NACA is, in order to stabilize neighborhoods and be a responsible homeowner, it's important to be active in the community. What they have always said is there are a variety of ways to participate in the community to be active. One of those ways is to register to vote. If someone indicates an interest in registering to vote, then they provide them assistance in doing that. There are -- some of the older material do seem to indicate that registering to vote would be a requirement. But, again, in practice, that has never been the case. I would particularly call to your attention the investigator's report. He indicated that he contacted independently five of the 13 individuals whose voter registration forms were submitted with this package. All five of those individuals corroborated that.

**MR. EVANS:** Excuse me?

**MR. CHANCEY:** Certainly.

**MR. EVANS:** Madam Chair, I would ask that we give him maybe a couple more minutes just because I think this is an important issue.

**CHAIRPERSON HANDEL:** Yeah.

**MR. CHANCEY:** Okay. Each of those five individuals who were

independently contacted corroborated the fact that they were specifically not required to register to vote in order to participate in the program and were not told that they were required to register to vote. I asked NACA to provide me some information. In 2008 and through about May of 2009 of this year, they had had nationally 27,600 participants in the program. Of that total number, only about 6,900 had actually registered to vote. So about a quarter of the participants in the NACA program actually registered to vote. The rest of those judicial 75 percent did not register to vote and were able to participate in that program. As Ms. Lagrue said, NACA, once this issue surfaced, has gone back. They have revised their workbooks to clarify those materials. To indicate -- to clarify that registration to vote is not a requirement. So the materials are now in line with what their practice has consistently been. So that being the case, Your Honor -- Board members, we would ask, since the corrective actions have been taken, that this particular case be closed.

**CHAIRPERSON HANDEL:** Questions or comments?

**MR. EVANS:** I have a couple of questions.

**CHAIRPERSON HANDEL:** Go ahead.

**MR. EVANS:** First, I'm not convinced that requiring members to register to vote is a violation. So it seems as though the whole discussion centers on that. I'm not sure what the statutory basis would be. The violations, as I understand it, are two. One is that they held voter registration applications for greater than ten days. So it would be helpful if you spoke to that.

**MR. CHANCEY:** Certainly.

**MR. EVANS:** Then the second one is whether or not there was -- we have this rule in Georgia that we can't receive anything to get your vote. We can't hand out chicken biscuits in a voter line or whatever. The question is whether or not there was anything of value that someone received in exchange for their agreeing to register to vote. I didn't see anything, but if you will speak to that issue as well.

**MR. CHANCEY:** Certainly. Thank you. As to the first issue, that is clearly the case. At the time this particular letter went in, it indicated the registration forms they had received during the previous four months. The employee, Ms. Washington, at the time she sent those in, had just been hired. She was in the training process. She simply wasn't

aware of the requirement that they be submitted within ten days. That's been corrected. Their practice, at this point, is to submit any forms that they receive, individual envelopes within five to ten days after any such forms are received. So that was corrected immediately upon this coming to their attention. As to the second issue, I'm not aware, frankly, that there's even an allegation or any information indicating that people who registered to vote received anything of value as a result of doing so. As I think the investigator's report indicates, people who registered to vote just like people who didn't register to vote simply went through the NACA process which meant they had to comply with the NACA procedures, the educational requirements. If they met all of those requirements, then they were able to participate in the loan program; but absolutely no distinction made. And again, I'm not aware of any information or allegation that there was any distinction made depending upon whether somebody registered or did not register.

**MR. EVANS:** How many voter registration applications were held beyond the ten-day limit?

**MR. CHANCEY:** I believe it's 13. That's the information I have.

**MR. EVANS:** Is there a rule for protocol practice or procedure that has been reduced to writing that reflects the new guidelines or rules regarding handling of voter registration?

**MR. CHANCEY:** Yes.

**MR. EVANS:** Do we have a copy of that?

**MS. LAGRUA:** I'm sorry?

**MR. EVANS:** Do we have a copy of NACA's rule on the handling of the voter registration applications?

**MS. LAGRUA:** I don't believe so.

**MR. EVANS:** It would seem to me, Madam Chair, it would be something that we would take into account because we probably, as part of our cease and desist, would want to give the course of law to a time limit. I probably would train five to seven days not five to ten because I would never go up to a limit, but that's a topic for you. But I think we would probably -- I think, if we had that in hand --

**MR. CHANCEY:** What I think you do have in hand, I believe, are

the revised workbooks. I don't know and I don't believe they speak to that precise issue.

**MS. LAGRUA:** I don't believe they do. There were 13 applications.

**MR. EVANS:** I don't have any further questions.

**CHAIRPERSON HANDEL:** Mr. Worley?

**MR. WORLEY:** Mr. Chancey, what do you get for being a member of NACA?

**MR. CHANCEY:** You register for the process in the program. As I said, what that does, it takes people who are often times not conventionally qualified for a mortgage loan. They go through a counseling process which takes a period of time. They attend workshops. They are counseled on improving their credit score, paying off debts, those kinds of things; managing their money. If someone complies with that process, NACA has arrangements and has for a number of years with some of the major lenders. This began sort of during the redlining, you might recall, 15 years ago issues as a way to try to make money available for home mortgages in a responsible way. So that's what the process is. If somebody goes through the process, complies with all of those requirements, then those lenders make available mortgage products which is a very low fixed rate mortgage product to them to buy a house. What they have done more of recently -- and you may have seen this in the press. They actually had a fairly large event just within the last two weeks. Obviously, with the foreclosure crisis, they also work with lenders and borrowers to modify existing mortgages to try to bring the terms to a point where the homeowners can perform and stay in their homes and prevent foreclosure. That's what they do.

**MR. WORLEY:** You say that the form seem to require someone to register to vote to be eligible in the program. In fact, what it says -- and it gives a list of things that you have to do to be a member. One is you have completed a voter registration application for each eligible family member. How many people did you register in Georgia?

**MR. CHANCEY:** To vote?

**MR. WORLEY:** To vote.

**MR. CHANCEY:** I don't have that number specifically. I have the national numbers. I don't know the Georgia numbers.

**MR. WORLEY:** The national number was about a third of the people who became members.

**MR. CHANCEY:** About a quarter.

**MR. WORLEY:** More than a quarter.

**MR. CHANCEY:** About a quarter.

**MR. WORLEY:** No, more than a quarter; 6,900 out of 27,000.

**MR. CHANCEY:** Right. If I can speak to that, you're right. Of course, that handle has been revised. But I think it's important to view that in the context of the process. The people who participate in the process are doing that with a NACA counselor. They're walking through the process. So the question is: Would anybody be under the impression that they have to register to vote in order to participate in the process? The fact is they go to the workshop. That's the first step. Then they sit down with counselors. In that process, they are absolutely told. It's been documented time and again that persons who indicate they don't want to register to vote for any reason whatsoever are allowed to participate in the process. They have never been told that you must register to vote in order to participate in the process.

**MR. WORLEY:** Here's the problem that I have. Our job, as a Board, is just to determine whether it is probable cause to refer this on for further investigation by the attorney general's office. We have you standing here -- not you. I'm sure you can present a witness that would say, "Well, we've never done this. We've never required it of people." but you've gotten your booklet which says that you do require it. You've got the fact that more than a quarter of your members do register to vote. Then you've got the statute which basically says that it's a felony to basically give something of value for registering to vote. So it seems to me that, at this stage, there is probable cause for the attorney general's office to look into this further. We've passed on cases to the attorney general's office with much less evidence than something in writing from the organization saying that they're requiring this. At this stage, I think we need to pass it on to a finder of fact to take some testimony from your people that this doesn't, in fact, happen.

**MR. CHANCEY:** Well, if I might speak to that, Mr. Worley, in fact, I think I understand what you're saying in terms of the

hesitation to simply accept NACA's word or my word for what happens. That's why I think it's important to remind the Board that the investigator report indicates that the investigator independently contacted five of the 13 individuals here. Each and everyone of those five individuals told the investigator they were never told they had to register to vote as a part of this process. So I believe the Board has before it the information corroborating what NACA has said there and no information, to my knowledge, indicating that NACA has ever in practice required anybody to register to vote.

**MR. WORLEY:** Well, I think your forms are a big indication. The fact that people actually do register to vote is a big indication. The fact is you're giving something of value, the ability to get a loan, and there is some evidence that it's conditioned on registering to vote. So my view would be, under our past practice, we would have to refer it over to the attorney general's office.

**CHAIRPERSON HANDEL:** I concur, Mr. Worley. I think there is a couple of things here. One, this is a national organization, correct?

**MR. CHANCEY:** It is.

**CHAIRPERSON HANDEL:** So, simply because five people that were interviewed by our folks just in Georgia said they didn't, that's no indication of what was happening elsewhere as well. Then, secondly, it's clear that voter registration applications were being taken because there were 13 that we know of that were accepted and not turned over at the proper time. So that in and of itself is an issue. I'm in the place that I believe this needs to be referred on. Frankly, I'm going to make my colleagues in other states aware of this once we get some further information. Ready for a Motion?

**MR. WORLEY:** I would make a Motion that we refer this over to the attorney general's office.

**CHAIRPERSON HANDEL:** Second; any other questions?

**MR. EVANS:** I agree because of the 13 delayed transmission of -- but I don't agree that merely having, as part of a package, that you want people to register to vote is a violation. So, while I agree with the Motion, I don't agree. It strikes me that there are a myriad of organizing and registering entities, many of which have sued us for the right to be able to register. They've successfully sued us for the right to be



able to register. I would just say that will be something for the attorney general's office.

**MR. WORLEY:** I would just point out that those groups don't, to my knowledge, take people to register to vote. If they were paying people to register to vote, I think we would all be concerned about that. That's the situation that we appear to have here or at least arguably have some evidence of that. I'm not saying that, when the attorney general looks into this and comes back to us with their report, that I'm not going to accept the facts as Mr. Chancey has described them. But I just think that, under our policy and practices, this is the kind of matter that we refer over to the attorney general.

**CHAIRPERSON HANDEL:** All right. We have a Motion and a second to refer to the attorney general. If there are no other questions or comments, all in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(no response.)

**CHAIRPERSON HANDEL:** Thank you.

**MR. CHANCEY:** Thank you.

**CHAIRPERSON HANDEL:** All right. Our next case is 2008-36, Taylor County.

**MS. LAGRUA:** Yes, ma'am. This involves the July 15, 2008, primary in Taylor County. The allegations were that the absentee ballots were not being compared to the voter registration parts and applications and that there was improper assistance with absentee ballots on the part of Mr. Perry and Mr. Talton. What we found was that Mr. Talton actually did illegally assist at least two voters, actually filling out their ballots. In one case, the voter felt so intimidated that the voter did not vote for the person that he wanted to vote for. Ms. Bentley did admit to assisting voters with absentee ballots, but she always signed as assisting properly. The only ballots she mailed other than her own was her husband's ballot. Mr. Perry made the allegation that absentee ballots were improperly rejected, but he withdrew that complaint. We could find no evidence of that. There was no evidence that Mr. Perry assisted any voters with absentee ballots. Because of the findings, it's recommended that, as it relates to Mr. Talton, that case be referred to the

attorney general's office for appropriate sanctions and fines and possibly to the district attorney's office.

**CHAIRPERSON HANDEL:** Is anyone here to speak on this matter? Come on up. Again, I'm going to ask and repeat, anyone who is here to speak on behalf of the case, when it's called, please work your way up to the front so that we can move along. We have a lot of cases to get through today. Good to see you.

**MR. PERRY:** Good to see you too. Karen Handel, Secretary of State, and the rest of the Board, my name is Clinton Perry, Jr., County Commissioner of District II out in Taylor County. I come here today as a complainant and a respondent because it was on May 27, 2008, that I requested an inquiry into our local registrar's office for three reason. One was because of the conduct of our registrar's office; meaning, that there were 16 absentee ballots that were apparently sent into our office. They were rejected and then later counted. Those voters got letters and apologies from our registrar's office. Number 2, I also was motivated to ask for an official inquiry because of lack of oversight. There appeared to be Ms. Jones, who was our registrar at the registrar's office, was out sick, and I had some concerns. There was a gentleman working in the office that I've terminated as a state employee who I knew had some vested interest in trying to determine the outcome of that race. There was no doubt about that. I made that fully aware. I felt like, number 3, that, because the voters who had contacted me was very frustrated, that we needed some kind of outside intervention and opinion from the Secretary of State's office as it relates to what was going on down there. Apparently, I left Atlanta with a answer that, unless the local officials decide what to do, that was a local issues. There was nothing that the Secretary of State's office could do. Of course, I accepted that. Well, I find it ironic that the allegations that have been made against Mr. Talton are kind of strange because those two people who made the allegations, Mr. Morial Stinson and Ms. Billie Jean King, are tenants, people who rent the home of a person who ran against me for office. So I find that very strange that they would make these allegations that Mr. Talton has done something out of the ordinary or broke the law. I think that the registrar's office in Taylor County was motivated to file a complaint against us which was filed on June 2, 2008, as a form of retaliation and revenge because I was the person who initially asked for the official inquiry into what was going on down in the office. But I ask that the Board take all of those things into consideration. Mr. Talton, yes, has not only gone out and supported me as a candidate, but other candidates. I'm confident that he did nothing wrong, and I

find that -- I ask that the Board take into consideration that I believe, without a doubt, that those two people that filed those fictitious claims against Mr. Talton were coerced because they certainly are living in the home of the person who ran against me. I would like to say that I have won every election with 75 percent of the votes. So it was not even a close election by any stretch of the imagination. Thank you.

**CHAIRPERSON HANDEL:** Thank you. Would you like to speak?

**MR. TALTON:** I'm Quinton Talton. I live at 518 Crowell Church Road, Reynolds, Georgia, Taylor County, Georgia. I just basically want to say that, when these accusations were first brought up against -- well, not against me, I should say. When the investigators first came down from the Secretary of State's office, they were talking about the actual things that were going on with the voter registrar's office. When these accusations first came against me which was a month ago when I got a case -- when I got a call from an inspector saying they need to talk to me about something, that's when these were brought up against me. I had no idea about this going on back in July when this election was going on. I was reading these statements of what the complaint said. This girl -- this young lady, she clearly said that, when Mr. Talton -- when I got myself to her residence, I did not tell her who to vote for. She comes back and says I did tell her who to vote for. She totally contradicted herself in her statement by saying -- I don't know if you all have read it or not, but she totally contradicted herself in saying it. This young man here, I actually helped register him to vote. Once I did that and he got an application for an absentee ballott, I no longer spoke to him. I haven't seen him since then. I haven't heard from him. I have no recollection of where they are or whatever or anything like that. So, like I say, I would like you all to take that into consideration by knowing that I did not properly assist anybody with the ballot or intimidate anyone in telling them who to vote for in the election. Thank you.

**CHAIRPERSON HANDEL:** Thank you. Questions?

**MR. EVANS:** I would move that we refer it over to the attorney general's office.

**MR. WORLEY:** I would second that based on the evidence that the investigator has obtained from the witnesses.

**CHAIRPERSON HANDEL:** We have a Motion and a second to refer based on the evidence and the investigative report. Any other questions or comments?

(no response.)

**CHAIRPERSON HANDEL:** If not, all in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(no response.)

**CHAIRPERSON HANDEL:** All right. Thank you. Our next case is 2008-41, Treutlen County.

**MS. LAGRUA:** This involves the 2008 primary election. The allegations are that the Probate Judge Torri Hudson was campaigning from within his office. He was intimidating voters. He was not allowing voters appropriate privacy in the voting area. He was offering beer to voters to vote for him. The absentee ballots were mishandled. Dead people were voting. Photo ID was not being checked, and an elector was paid for his vote. Essentially, what we found was, again, the probate judge's office was in the courthouse where the election -- where early voting was taking place. No one could provide any evidence of campaigning intimidation, lack of privacy, vote buying. We interviewed five different poll workers and deputy registrars. Nobody said they had seen anything improper. No one was identified who had seen anything improper. We did receive the name of one dead person who had supposedly voted. We checked that. There was no corresponding name on the list of voters. Essentially, we could not substantiate any of the allegations in this case, so it's recommended that this case be closed.

**CHAIRPERSON HANDEL:** Is there anyone here to speak on this case, Treutlen County? Anyone here? Last call. Anyone here for this case?

(no response.)

**CHAIRPERSON HANDEL:** All right. Mr. Worley?

**MR. WORLEY:** Ms. Lagrue?

**MS. LAGRUA:** Yes.

**MR. WORLEY:** The report indicates that the complainants supplied the names of witnesses, and the investigator interviewed 21 witnesses, I believe?

**MS. LAGRUA:** I believe that's correct.

**MR. WORLEY:** And not a single one of the 21 witnesses provided any corroborating information?

**MS. LAGRUA:** That's correct. Investigator McNeal does a very thorough job.

**CHAIRPERSON HANDEL:** Any other questions?

(no response.)

**CHAIRPERSON HANDEL:** Is there a Motion?

**MR. EVANS:** I move that we dismiss.

**MR. WORLEY:** I second.

**MR. EVANS:** Or close the case, I guess.

**MR. WORLEY:** Close the case.

**CHAIRPERSON HANDEL:** Motion and second to close. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Thank you. The next case is 2008-64 Chatham County.

**MS. LAGRUA:** Yes, Madam Chair. This case involves two separate sets of allegations. One is that, on a qualifying petition, there were forged names found on the petition. The second violation -- and that involved a number of folks. The second violation that's different involved the registrar's office placing people in the wrong precinct from where they belonged. This case was noticed out to the parties approximately 30 days ago. Apparently, on last weekend, we received it. I have the printout. I saw the newspaper article on Tuesday of this week. New information was brought forward in the Savannah area that has caused us -- we actually sent Investigator McNeal who is out of our Statesboro location down to follow-up on new information that we received just in the last 48 hours. Based on that new information, we have identified additional respondents in the case. We may have additional information concerning some of the current respondents. Based on the serious nature of this case, the new information that we have just followed up on because we

just received it in the last 48 hours and based on my discussions with the district attorney in Chatham County, I was asked -- and I realize there's been a lot of interest in this case. I have received a lot of calls, as I know Madam Chair has. I would ask that this be put over to either October 26 calendar for us to continue our investigation to make sure we got everything identified or go ahead and refer it to the district attorney's office for their consideration with our continued investigation and our reporting to the district attorney's office and any additional information we have. I just don't want to go into facts because they've been changing a little bit based on the new information.

**CHAIRPERSON HANDEL:** Let me see how many people we have here -- seven.

**MR. WORLEY:** Madam Chair, I would like to hear from people who came all this way. I don't think we can refer it over to the district attorney's office without hearing some facts.

**CHAIRPERSON HANDEL:** If I might, I believe the DA is already looking into this. Given the seriousness of the issue, he was also made aware of it. I believe y'all are working in parallel with one another.

**MS. LAGRUA:** That's correct. In fact, this Board -- there are some criminal allegations in this case that this Board would not have jurisdiction over that the district attorney would. They had already been made aware. I received a phone call last Fall from Spencer Lawton who's the district attorney previously. His term ended, and Larry Chisolm is the current district attorney.

**CHAIRPERSON HANDEL:** Okay. Perhaps we can go ahead and hear from folks, and then we can make a determination there. We already have a precedence that, if there is going to be criminal -- moving forward criminally or with the district attorney, we try to work with parallel. Let's start over here. Then we will come back over here, if that's all right.

**MR. BORDEAU:** Madam Secretary, my name is --

**CHAIRPERSON HANDEL:** Are you speaking on behalf of everyone?

**MR. BORDEAU:** No. I'm speaking on behalf of John McMasters with regards to the continuance issue.

**CHAIRPERSON HANDEL:** I know. But hang on for a second.

**MR. BORDEAU:** Yes, ma'am.

**CHAIRPERSON HANDEL:** Let me figure out how many people I have speaking. We have a lot of people. So I'm going to ask you to make just whatever opening comments and things that you need to make. Then we may have questions here. Then I need for everyone to state their name and address and what their involvement is so that we can keep track of who is who. If you can come do that before you start talking about the continuance or lack thereof, that would be great.

**MR. BORDEAU:** Good morning, Members of the Board. My name is Tom Bordeaux, 126 East Liberty Street, Savannah, Georgia. I'm the attorney for John McMasters, one of the respondents in this case. I'm here to speak on his behalf with regards to the continuance. I was attempting to find out what the name of the newly discovered witness was. I think one of the questions involved in this case is that there were some false names on those petitions that were circulating. For our purposes, that's not a question. On the back of the petitions which were circulating, which I understand is the form of proof by the Secretary of State's office, there is a sworn statement by the circulator that the circulator or the person who was the one circulating that petition did it under proper circumstances. My understanding is that the new witness is Kim Walsh. I don't know whether that's so. But the assistant investigator called me the other day and asked for that person's name, I believe, and the address. We gave it to him. She's one of the circulators that's listed on the back of the petitions, and her address is there. It's been there since these petitions were circulated.

**CHAIRPERSON HANDEL:** Obviously, if there's going to be further investigation, I don't know that we're going to be discussing outside of the inspector general. I don't think we're going to be discussing the additional witnesses. They're going to do their job first. I'm sure you understand that.

**MR. BORDEAU:** Yes, ma'am. We just didn't want to bring everybody back up here.

**CHAIRPERSON HANDEL:** Okay.

**MR. BORDEAU:** With regards to Mr. McMasters' case, the allegations against him -- as I understand, the only allegation against Mr. McMasters, who is a former Republican county commissioner from Chatham County, is that he willfully put false names on there. Every one of the 18, 20-something like that names named in the report that he's accused of

collecting, he didn't collect. As a matter of fact, your own form shows that he is not the circulator. On the back of the forms, if you look at, for example, Dana Braun, she's on one of these forms. On the back of that petition is somebody else's name as the circulator, not Mr. McMasters. On the other 18, 20 of them, each of them is on a different form than Mr. McMasters. He didn't circulate any of these forms that had the false names on them.

**CHAIRPERSON HANDEL:** All right.

**MR. WORLEY:** Ms. Lagrue, is that accurate?

**MS. LAGRUE:** Mr. Worley, if I'm able to, there are some questions that have come up that I prefer, because of the nature of this investigation, not to go into the specifics on the different circulators and the petitions. I would respectfully ask, because of the investigation and the questions we still have and the questions that have been raised this week, to hold the answers to those questions. I don't have very specific answers to you on some of these questions right now because of some new information. That's why I want to make sure that we have everything accurate.

**MR. WORLEY:** Okay. But what was the charge against Mr. McMasters?

**MS. LAGRUE:** That petitions were circulated with names on them that were not accurate.

**MR. WORLEY:** Did he circulate them?

**MS. LAGRUE:** He circulated a number of petitions. The petitions in this case are 100 pages, I believe, of petitions and names on them.

**MR. WORLEY:** Do we know -- it describes him as the circulator, John McMasters. Is he the person on the back of the form?

**MS. LAGRUE:** That's what I am attempting to reverify. We have been given information by the registrar's office, new paperwork, and new witnesses. That's why I want to make sure that everything we have is accurate. I'm relatively certain we have identified a respondent.

**MR. BORDEAU:** Madam Chair, I understand that we're going to be continuing this because they're investigating other people. But we've got the petitions here. They've had them since Day 1, and Mr. McMasters' name is not on the falsified or the



wrong names. It's costing everybody a lot of money to come up from Savannah, including to pay me for this. In terms of this basic allegation, I don't know what further investigation needs to be made. The name is not there. It's somebody else's.

**MR. WORLEY:** Are we going to hear from some other people?

**CHAIRPERSON HANDEL:** Yes. Let's hear from them, and then we'll come back.

**MR. BORDEAU:** Thank you.

**CHAIRPERSON HANDEL:** Let's go through these folks, and then we'll hear --

**UNIDENTIFIED SPEAKER:** Thank you. Members, Honorable Board Members --

**CHAIRPERSON HANDEL:** I'm sorry. I just want to get through all of the folks on the respondent side, and then I'll come back over here.

**UNIDENTIFIED SPEAKER:** Please.

**MR. MCMASTERS:** Good morning, Board Members, Madam Secretary, my name is John McMaster. I reside at 607 Barnhardt Street, Savannah, Georgia, Chatham County, 31401.

**CHAIRPERSON HANDEL:** Didn't your attorney just speak for you?

**MR. BORDEAU:** Yes, ma'am. I didn't know he was --

**CHAIRPERSON HANDEL:** Okay. Folks, I need to know, as we start the case, if you're going to want to speak so that we can manage time and get through the cases. We have a lot of them.

**MR. MCMASTERS:** I'll be as brief as possible, Madam Secretary. This is a copy of all 109 original pages that were circulated with the affidavits on the back and the signature lines on the front. There are, in the inspector general's report, 20 names that are identified as being circulated by myself on behalf of the candidate. Everyone of these yellow tabs reflects the actual name identified by the investigators as either a forgery or a descendent. The two purple tabs are the two decendents. Every one of these pages that reportedly contains fraudulent signatures, I did not circulate. My signature is not on the back. You've certainly had these documents for some time. I kept my set. I'll be happy to make these

available to the investigative staff or to this Board.

**MR. EVANS:** Can I see them?

**MR. MCMASTERS:** Yes, sir.

**MR. BORDEAU:** John, do you have the cover sheet? It shows where the pages --

**MR. MCMASTERS:** Yes, sir.

**MR. BORDEAU:** What is that you're giving the Members?

**MR. MCMASTERS:** I'm providing the Board members an index to the 20 alleged forged names for two decedents and the corresponding page number and the name of the circulator that appears on the back of each of those petition pages.

**CHAIRPERSON HANDEL:** While they're reviewing that, I do have a very specific question. I find it somewhat interesting the verbiage and the language that you used to explain all of this. You said that your name was not on the petitions. But you have not once told this body that you had absolutely no knowledge or involvement whatsoever in an attempt to falsify or forge documents submitted to the Secretary of State's office.

**MR. MCMASTERS:** Madam Secretary and Board --

**CHAIRPERSON HANDEL:** I will remind you that this will be on the record.

**MR. MCMASTERS:** That's very well understood. I have no problems whatsoever making that affirmation to you that I had no involvement whatsoever in any way, shape, or form with the gathering and the collecting by myself or anyone else.

**CHAIRPERSON HANDEL:** That's not really what I asked. I didn't ask if you were involved with gathering or collecting. I was asking about your knowledge of whether or not any of the information on the forms gathered was incorrect, forged, et cetera.

**MR. MCMASTERS:** Yes, ma'am. Let me make that corrected statement for you. I have no knowledge, at any time, that there were any forgeries or problems ethically or legally with any of the signatures that were on the pages.

**MR. BORDEAU:** When they were turned in.

**MR. MCMASTERS:** Yes, sir.

**CHAIRPERSON HANDEL:** Right. I understood that. Thank you.

**MR. BORDEAU:** If I may, Madam Secretary. To your knowledge, is every page that has your signature on the back a page you collected, and any page that doesn't have your signature on the back one that you did not collect?

**MR. MCMASTERS:** Yes, sir; that's correct.

**MR. BORDEAU:** So, if the false names that are on pages have somebody else's signature, am I correct that you did not circulate or collect that page or those names?

**MR. MCMASTERS:** Yes, sir; that's correct.

**MR. BORDEAU:** Mr. McMasters, the report indicates that there are at least seven circulators. How many different names appear on those petitions as circulators?

**MR. MCMASTERS:** Madam Chairman and Board --

**CHAIRPERSON HANDEL:** I would suggest we need to move on to our next person.

**MR. BORDEAU:** Yes.

**MR. EVANS:** Our rules don't contemplate Q&A. We don't contemplate Q&A other than from the Board.

**CHAIRPERSON HANDEL:** Who from over here wants to speak? Anyone else? Do it; come on.

**MR. OSBORNE:** My name is David Osborne. I live at 8511 Elmhurst Court in Savannah, Georgia. I was the candidate for county commissioner district 1 in Chatham County. I am the person who's responsible for the petition itself. It was alleged that Mr. McMasters is the "mastermind." I can tell you that I am the mastermind or was the mastermind of this election. I had no knowledge. I had probably about 20 people that worked on my candidacy including people that collected signatures, including one "political consultant" who paid people to collect signatures. I did not redo those signatures, so I have no knowledge of any signatures that were fraudulent or any problems with them at all.

**CHAIRPERSON HANDEL:** Anyone else.

**UNIDENTIFIED SPEAKER:** I'm going to speak on behalf of the Chatham County Board of Registrars. I understand that these two people from --

**CHAIRPERSON HANDEL:** Okay. Let's just do this issue. Then we'll come to the registrar's issue.

**MR. GELLATLY:** Thank you very much, Honorable Board Members. I'm Dave Gellatly. I'm from Savannah, Georgia. I'm the 6th District Commissioner for Chatham County. I have been for almost nine years. I think for -- it's important that I also point out that I have a background of 40 years of law enforcement, 20 years of which I was the chief of police in the city of Savannah. So I understand what's going on. Commissioner Stone and I received information that -- obviously, we knew about the petition. We received information. I'm not going to testify. I just want to say how we got involved. There were some irregularities in 119 pages of petition. Commissioner Stone and myself spent two hours on a Sunday afternoon and contacted people in her district and my district. We contacted 26 people, all of which 100 percent said that they did not -- and we showed them the petition. They said it was not their signature on that petition. Two of them, we couldn't contact because they were deceased. I just need to tell you that, prior to coming to Savannah, Georgia, I was chief of police in the Chicago area. These are things that go on in the Chicago area that don't go on in Georgia. We talked to these people, their emotions. Commissioner Stone and I both represent individually 34,000 voters each, including these 22 people. I want to assure you that, if we had spent eight hours, I think we'd have come up with hundreds of forgeries. It's not two forgeries. It's hundreds of forgeries. I have examined this petition myself. Based on my law enforcement background, it's obviously other forgeries on there. These people, their emotions varied. They were shocked. They were scared. They were angry. They cried. We talked to a widow whose husband has been dead for two years. She was actually scared to go home. She was in fear. These things don't happen in Georgia. This happens in Chicago. I tell you what, I am very upset and concerned about this, as is Commissioner Stone. I think that these voters, they were seriously and criminally manipulated. They had their identity stolen from them. By Georgia law, each forgery is a felony. I would expect this to go forward very seriously and be ultimately vigorously prosecuted by somebody. I also want to point out -- and I'm not part of the investigation. I'm glad of that. But John McMasters' does have a role in this. We picked up -- he collected and passed in all 119

pages, so there's a receipt with his name on it at the Board of Elections. That's got to be significant. Thank you.

**CHAIRPERSON HANDEL:** Did you have a question?

**MR. WORLEY:** Yes.

**CHAIRPERSON HANDEL:** Go ahead; I'm sorry.

**MR. WORLEY:** I guess my question, Mr. Gellatly, is: Who do you think is responsible for this? We've got a whole list of respondents here.

**MR. GELLATLY:** I think --

**MR. WORLEY:** Nothing in the investigator's report says who's responsible.

**MR. GELLATLY:** I think there's a lot of finger pointing. I think that's why it needs to be criminally investigated. There's no doubt in anyone's mind --

**MR. WORLEY:** We don't do know that.

**MR. GELLATLY:** I fully understand that. I'm just here as a component that it needs to go to someone to criminally investigate it. It needs to -- people, their rights need to be adhered to.

**MR. WORLEY:** Okay. Who do you think is responsible for these forged signatures? The evidence that you've seen indicates what?

**MR. GELLATLY:** Some of the obvious evidence on one petitioner there was -- keep in mind, all of these petitioners were legal petitioners. Their affidavits were signed on the back and notarized. There seems to be up to 100 on one petition alone. I would imagine that the person that carried that --

**MR. WORLEY:** Who was it?

**MR. GELLATLY:** Morris, I think. Now, that's one. I don't know about the other petitions. I did not investigate. I investigated the complaint for my constituents. I will tell you, based on my experience, there's enough information here to -- this needs to be criminally prosecuted.

**CHAIRPERSON HANDEL:** Mr. Evans?

**MR. EVANS:** No questions.

**CHAIRPERSON HANDEL:** All right. Commissioner Stone.

**COMMISSIONER STONE:** Good morning, Secretary of State and Members of the Board. I'm here because I feel like I have an obligation to be here on the on behalf of the citizens whose names were forged on these signatures. I only have two questions, and I'm going to make a brief statement. The people that we spoke to felt victimized and felt threatened. This is wrong. Two and a half hours, we collected 26 -- we verified from 26 people that their names had been forged on those petitions. Yes, there were various people that carried these petitions. It is my understanding that Mr. McMasters turned in all of these petitions. I would also ask the majority of these petitions were notarized by one person. I don't know who hired that person. I don't know who took them to that person. But somebody notarized these. So I'm asking the same thing that Commissioner Gellatly is asking and that is to do what is in the best interest of the citizens in Chatham County and follow through on this. Thank you.

**CHAIRPERSON HANDEL:** Let us deal with this because that really is completely separate from this. Thank you. Colleagues, from my perspective, this is extraordinarily serious. We do have already the Chatham County DA interested in pursuing this. Typically, we've not done referrals if there had been local criminal investigation. So perhaps the way to proceed is to allow this to be continued to be investigated. Let the IG's office provide whatever support the local DA would need in investigating this further so we can really sort through precisely what happened here. So that, if indeed there were forgeries, et cetera, everybody can be held accountable.

**MR. WORLEY:** Madam --

**MR. EVANS:** Madam Chair, from my perspective -- and let me assure everyone that there is no question in my mind that this will be prosecuted for. There is no question that we have forgery. We have forgeries, not just the people who are deceased, but of people whose identities have been taken. This Secretary of State, I can vouch for, consistently as aggressively as anyone I've ever seen gone after people who violated the laws; especially, people who have used the process this way. So I want to first assure you that there is no doubt in my mind that this will be fully and completely prosecuted. The narrow question that I think is before us -- and tell me if I get this wrong. It won't be the first time I got this wrong -- if we have one individual who can confirm

for us that indeed the part that they did doesn't contain any forgeries, is it appropriate that we keep them in as part of our broad net, or is it appropriate that we let them go home. Certainly, every volunteer in a campaign, even those that operate properly, isn't then somebody who has violated the rule. If you've done everything that you're supposed to do, we're not one who just cast a raw net to try to hold people in front of us. The specific statute that we focus on is 21-2-562(a)(1) which is what we call a (unclear) requirement. It requires, in fact, that you have a specific poll. So, to me, it's a judgment call. On the one hand, I'm very sensitive to the issue of Mr. McMasters and the need to say, "Hey, my name is not on here." on the flip side, I think it's standing rule of the Board that, if a party requests a continuance, normally on the first request, we grant the request because that's just normal and it's part of practice. What I hear Ms. Lagrue asking for is that we grant a continuous. Now, be that as it -- so our normal practice, the first request, whether it came from you or them, if it's made and it's clearly not being abused or misused, we normally grant that. I don't see a compelling reason not to follow our established practice as granting that continuance. With that said, obviously, I'm sure Mr. McMasters wants to move it along. So you can request that he it be put on the earliest possible agenda. Certainly, our agendas are pretty full so we can't commit as to when it might be put on. But you can request that, and you can follow-up with it. But my inclination is that we've always done it this way. Probably, we should do it this way again. However, separately, make no mistake, when we have forgeries, the Secretary of State and our chair of our Board here will hammer people like you just can't believe because there is a zero tolerance for this kind of stuff. So I don't want you thinking that, because we're continuing, that's anything other than making sure we follow our rules. Because, at the end of the day, we are very good about dotting the 'Is' and crossing the 'Ts' so that nobody wiggles off the hook on a technicality.

**CHAIRPERSON HANDEL:** I guess the last question I have is: Shawn, do you feel that the district attorney -- would it be helpful in engaging his office and his assistance if the Board took an action requesting that?

**MS. LAGRUE:** I think it's always an assist for the district attorney when how seriously this Board is looking at something.

**CHAIRPERSON HANDEL:** Okay. Did you have questions?

**MR. WORLEY:** Yeah.

**CHAIRPERSON HANDEL:** Go ahead.

**MR. WORLEY:** It's not a question really but a point. I certainly agree with Mr. Evans that the allegations here as a whole are very serious and very egregious and the Board, I'm sure, will investigate this very seriously. I would just ask the inspector general to carefully look at the statute and make sure that the statute applies to the various people who have been listed as respondents. There's an element of willfulness intent here. The statute prohibits inserting or permitting the inserting of fictitious names. So I just want to make sure that all of these various allegations are matched against that statute to make sure that (unclear.)

**MS. LAGRUA:** That is the reason I want to make sure that everyone that is involved is identified and held accountable. If someone is not involved, that's just as important to identify.

**MR. EVANS:** I think there are other provisions and 21-2-562 looks like a good suspect for addition. I think there are a couple of others that follow in that chapter that are meaningful here.

**MS. LAGRUA:** Right.

**CHAIRPERSON HANDEL:** All right. Try a Motion. I move that we will continue this case in order to allow the inspector general's office to follow-up on new evidence, and I also move that we have a formal letter requesting the assistance of the Chatham County DA transmitted to the DA. Is there a second?

**MR. WORLEY:** I'll second it.

**CHAIRPERSON HANDEL:** Motion and second for the continuance and to simply send a letter to the DA. Any other questions?

**MR. WORLEY:** No.

**CHAIRPERSON HANDEL:** All in favor?  
(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** And you've got someone already in Statesboro who can --

**MS. LAGRUA:** I do. Investigator McNeal is here this morning, and he will be taking over now that we have someone in that



region to make it a little bit easier to make sure we get --

**CHAIRPERSON HANDEL:** Yeah.

**MR. EVANS:** I want to let Mr. McMasters know the same way I've let these folks know that, if at our next hearing it becomes clear that you had no involvement, this Board isn't reluctant to do what's right.

**MR. MCMASTERS:** Thank you.

**MR. EVANS:** We have a job to do which is to get to the bottom of it and hold those who are responsible.

**CHAIRPERSON HANDEL:** Thank you. If I can also let the record show that Tex McIver is now with us. Let's do the second half of the case from Chatham County now, the registrars.

**MS. LAGRUA:** Actually, believe it or not, it's rather serious but rather simple as well. There were over 400 folks that were put in the wrong commission districts. When we asked about it, essentially what we were told was the registrar admitted there was an agreement in the registrar's office in the past to put voters in a different precinct to improve the balance in the precinct. There was not an indication of what the balance was. They admitted that they had moved voters in between these two different precincts previously. It had been a common practice for some time and has been fixed. I don't think it changes the fact that it went on. We identified the 400 voters that were in the wrong precinct.

**CHAIRPERSON HANDEL:** And they were in the wrong precinct why?

**MS. LAGRUA:** Because there was an imbalance -- voter balance. I'll have to go back and look what the balance was. When we ascertained, there was a violation, and there was an admitted violation. I'm not sure that we delved a lot further as we were involved in forgeries and that allegation was admitted. We can follow back up on that if the Board desires. I believe the County attorney is here. We have spoken previously about this.

**MR. MCRAE:** I'm actually not the County attorney.

**MS. LAGRUA:** I'm sorry.

**MR. MCRAE:** I'm from the Board of Registrars. Although, the County attorney was here earlier. Yeah, he's back there.

**CHAIRPERSON HANDEL:** Can you just give us your name and affiliation with everything so we'll know?

**MR. MCRAE:** Sure. My name is Colin McRae. I reside at 217 East 49th Street, Savannah, Georgia. I'm the chairperson of the Chatham County Board of Registrars. I have been on the Board for four years and chairperson for about six weeks. But I'm very -- I'm eminently familiar with the subject matter. I actually attended the hearing where the forgery issue came up. It was raised to us at that time that there were approximately 400 voters who had been assigned to the wrong precinct. I'd like to just address one issue right off the top of the bat. That is, the idea that there was an agreement. I believe that was the term used by the supervisor of elections. That was not something -- it was not an agreement that we had to do anything to shift voters around. What we do at our office, at the Voters Registration Office, we take instructions on changes in the boundaries. At one time, dating back, we believe, to the '90s -- and at a time when the current supervisor of elections was not the supervisor. It was a predecessor -- the head of our office was instructed that, due to a plan to balance the size of two adjacent precincts in the same county commission district, that the supervisor of elections asked us to move these two condominium complexes, which sit on Mall Boulevard, from one precinct to another. It didn't change their county commission district. It was done on the instructions of the predecessor supervisor of elections. I want to make clear in saying that we tried to track down the person that we believed was that predecessor. We weren't able to do so. I do want to make clear that I know longer say that Mr. Bridges the current supervisor of elections had anything to do with that. Although, I do want to, again, re-emphasize there was no agreement to do anything to try to -- from our office to change the precincts of any of the electors. We only get our instructions from others whether it be from the elections office or from the municipality or school board who is changing their boundaries. We take in instructions, and we act upon those by coding the voters properly in our voter registration cards. In that regard, our Board met immediately after this hearing. We obviously take the issue very seriously. We determined that the problem that has manifested itself with these 400 voters is a systemic problem in the communication of these boundary lines. What happens is, in the past, prior to this issue coming up and our Board passing a resolution on it, in the past, we would get verbal instructions. Sometimes we might get a second or third generation copy of a map that, at one time, was color-coded to show where these different districts and precincts would be. From that, we would be charged with

ascertaining where these different voters might have been changed within the boundaries. Immediately after this issue arose, our Board met. We worked in conjunction with the Board of Elections who are right across the hall from us. We got their input at our Board meetings on this. We immediately passed a resolution in which, any time that our office sees any notification of a change in boundary that might affect where a voter would be placed, we're going to request that it be sent in writing, that we get some type of legal description of the boundaries of those changes so that we can do our job properly in coding those voters into the right districts or precincts. So we took that action immediately afterwards. We've communicated to the press. We've made it clear that that's what our future practice will be, recognizing the imprecision of the prior practice where there was not the written instructions that we need in order to ensure that people are placed into the proper districts and precincts. Again, I just to emphasize that there was no attempt, in any way, to try to balance any adjacent precincts on behalf of our office. We recognize that that is not our job. We take our instructions from -- there are two separate -- there's a separate Board of Elections and Board of Registrars in Chatham County. We recognize that it's the Board of Elections' duty to determine and to properly make the proper changes if there is to be a balancing of electors, and that that's not our job. Our job is simply to receive instructions on where these voters should be placed. I had some comments on the petition itself, but I think that that's been fairly well briefed by the people before us. So I think that's all I have.

**CHAIRPERSON HANDEL:** Anything else from anyone else on this? Any questions?

(No response.)

**CHAIRPERSON HANDEL:** I just want to make sure I understand the issue. So this is that one precinct was too large. So they were seeking to move through and then go through the proper procedure to realign the numbers of voters within the precinct?

**MS. LAGRUA:** That's correct.

**CHAIRPERSON HANDEL:** And then they didn't get proper notification?

**MS. LAGRUA:** That's correct. The word "agreement" came from Ms. Williams, the director, and not our -- I just want to make clear that that term was used because it was the term told to

us, not something our investigator came up with.

**MR. MCRAE:** I'm not aware as to whether -- I wasn't present when the investigation took place. I thought, from my reading this investigative report, that that was a term used by the Board of Elections supervisor, but I might be wrong on that.

**CHAIRPERSON HANDEL:** So it was from Ms. Williams. Tell me her role again.

**MR. MCRAE:** She's the head of our office.

**CHAIRPERSON HANDEL:** Okay. Has the process been revised?

**MR. MCRAE:** The process has been revised. But, first and foremost, the voters are in the right district.

**CHAIRPERSON HANDEL:** That's right.

**MR. MCRAE:** And that was done immediately upon notification. The process has been changed to avoid this problem ever arising again. Through our commitment to require any municipality or Board of Education to give us the boundaries in writing with written legal description so that we can accurately ascertain where those boundaries.

**CHAIRPERSON HANDEL:** With our first case this morning, we did a Letter of Instruction just around the topic just to reiterate that this is the way it needs to be done and what the process needs to be. Would you be amenable to our having such a letter sent? Would you be amenable to that?

**MR. MCRAE:** We would be amenable to that.

**MR. EVANS:** I would move that we have a letter that includes instruction, a cease and desist, and a reprimand.

**MR. WORLEY:** Second.

**CHAIRPERSON HANDEL:** Motion and second. All in favor?

(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** All right.

**MR. MCRAE:** Thank you.

**CHAIRPERSON HANDEL:** I appreciate the quick resolution of it. Our next case is Number 2008-80, Troup County.

**MS. LAGRUA:** That's correct. This involves the July 2008 primary. The complainant was William Gilmore; the respondent, William Gilmore and Donald Boyd, Election Superintendent. The allegations were that the election superintendent had placed 150-foot no campaigning sign at 300 feet, and that Mr. Gilmore had parked his truck with campaign material inside the 150-foot mark. The poll manager -- we measured the distance. It was right at the 150-foot mark. We could not find any evidence that it had been placed at 300 feet. On the flip side, there was a truck with campaign signing right at or -- inside, right at and outside the polling area. When the poll manager was informed, they tried to find the owner. When they couldn't, the sheriff came. When the sheriff arrived and Mr. Gilmore was located, he immediately moved his truck. So I would recommend, at this point, this case be closed.

**CHAIRPERSON HANDEL:** All right. Who's here to speak on this?

**MR. GILMORE:** I am, Madam Chair. My name is Bill Gilmore. I live at 210 Old Gabbettville Road in West Point, Georgia which is actually the unincorporated rural part of the county. I didn't know I had two minutes. I'll try to quickly put this thing together.

**CHAIRPERSON HANDEL:** Well, it's only you, so you'll have a little more. What I try to avoid is when there's ten people that want to speak on a subject that the first person speaks for 20 minutes and then everybody else has virtually no time.

**MR. GILMORE:** Thank you, ma'am.

**CHAIRPERSON HANDEL:** You're welcome.

**MR. GILMORE:** The reason I drove up this morning is I've talked to MS. Lagrue a couple of times, and she's been quite gracious. I am real concerned about the rule of law. I think the law is the protection that we have, the citizens. I respect it, obviously, for the government to uphold the law. I work really hard for our county commissioner. He's a great public servant, what one should be. I called beforehand to find out what the law was. I called the probate judge's office, and they said that no campaigning can occur within 150 feet of a polling place, except on a school ground and nowhere on a school ground. I then took my little handy-dandy tape measure here. I measured it off. I parked my pickup truck in a legal place, not on the right-of-way, 170 away from the corner edge of Gray Hill Community Center. I then was sitting there under the tree waiting for my wife. It was 7:00 in the

morning. She didn't go up there with me. So I waited a little while. One of my neighbors came by. He's the chairman of the Board of Tax Assessors. Wayne and Beverly saw me. They said, "What are you doing?" i told him. He said, "Well, hop on in. I will give you a ride down to the house." we all live out in the country together. So I then called my wife to tell her on my cell phone. When I got down to the house, I realized that I did not have my cell phone. Before that, before I even got down there, one of the neighbors called and told me that the poll manager had called and said the sheriff's department had my truck towed with my sign on it. So I stayed there, of course. Captain James Woodruff of the Troup County Sheriff's Department came. He found nothing wrong. He didn't say anything really about the situation. The polling manager kept repeating, "You have to park your truck on the other side of the sign, which she chose to put 300 feet, a telephone pole -- an entryway off of Balky Road. So I said that my truck was parked legally. She said, "I don't care. It has to be on the other side of that sign." so I then called Ken Smith, our commissioner. I didn't want to make a big scene there. I said, "Ken, I'm going to have to move my truck." well, I moved my truck to the other side of the sign which is a picture of it, 300 feet away. I have a question then for y'all obviously. Then, when I got home, I couldn't find my cell phone. I figured it must be up under the oak tree there. So we drove back up. We parked inside this sign about 290 feet. The poll manager, Ms. Patterson, comes running up. My wife was driving the stationwagon with Ken Smith sign on the side of it. She says, "You have to move your truck, your vehicle there." the motor is running. I said, "Ms. Patterson, I'm trying to find my cell phone." she says, "I don't care. It has to be on the other side of that sign." my question for y'all is: Is this a law or ordinance, 150 feet?

**MR. TAILOR:** It's a statute.

**MR. GILMORE:** By the Georgia General Assembly?

**CHAIRPERSON HANDEL:** Yeah.

**MR. GILMORE:** It doesn't say 170 feet. It doesn't say 300 feet. Does a polling manager have the right to change the statute? I'm sorry? The reason I drove up again this morning from Troup County -- I appreciate y'all's time. In the future, if I'm involved -- my wife and myself, we've probably attended about 300 meetings of our Troup County Board of Commissioners. We love finding out how our government works. We care about our government. In the future, what do I need

to do to ensure this doesn't happen again?

**CHAIRPERSON HANDEL:** I always recommend that, if there is an issue, just go ahead and give a call to the inspector general's office.

**MR. GILMORE:** We talked to the probate judge. He gave us no -

**CHAIRPERSON HANDEL:** If you have questions, you can always call our office.

**MR. GILMORE:** Okay. Thank you for your time.

**CHAIRPERSON HANDEL:** Thank you. All right; Mr. Worley?

**MR. WORLEY:** I have a question for the inspector general. The complaint that Mr. Gilmore filed was that the superintendent posted the sign 300 feet away from the polling place.

**MS. LAGRUA:** Correct.

**MR. WORLEY:** And that was a violation. Why did you all determine that was not a violation?

**MS. LAGRUA:** Well, when our investigator went and measured the distance to where the campaigning sign was, it was approximately 150 feet, as I understand it. There was no evidence when we arrived that there was a sign placed at 300 feet.

**MR. WORLEY:** There was no sign. When was this investigated?

**MS. LAGRUA:** We actually went out after the -- the allegation came in after the election. So there was no sign there by the time we went out. We didn't get it on election day when the signs would have been posted. But, when our investigator went out and talked to the election supervisor, she showed him where it was. He actually took the tape measure and measured both to where she said the sign was. He also talked to Captain Woodruff who was the one who responded to Mr. Gilmore -- to the allegation that the truck was parked in the wrong area. When the deputy arrived and spoke with Mr. Conway, the deputy couldn't remember exactly where the truck was parked as provided by the sheriff. But he did determine that where the truck was parked, it was inclusive as to whether it was inside the 150-foot rule which is why we recommend that this case be closed because we did not have the (unclear) in fact, Mr. Gilmore was inside the 150 foot.

**MR. WORLEY:** But Mr. Gilmore has got a picture of the sign that was supposed to be 300 feet.

**MR. GILMORE:** Yes, sir. I made a suggestive recommendation. They can do a lot of things like take a tire and put a 4x4, put it 150 feet if they would like to; but put it somewhere. But, for someone to say you have to park on the other side where we chose to put a 300 foot sign is --

**MS. LAGRUA:** I believe this is the first time, Mr. Worley, that we've seen the picture. We went out and investigated as best we could after the fact.

**MR. GILMORE:** As a matter of record and for the minutes, I measured. This was like 170 feet. Someone could have measured it that same day, if they'd like to.

**CHAIRPERSON HANDEL:** We do know what they're supposed to do, so we can follow-up with the Troup County folks.

**MR. GILMORE:** Thank you, ma'am.

**MR. EVANS:** On election day, because there are so many things going on, you can think of the election officials, like, the pilots and flight attendants on a plane, which is, they have the ability to regulate there. Now, there are times when I'm sure all of us have felt that the flight attendant told us that the FAA regulations required us to do something or the other, and we all knew it probably wasn't true. They just wanted us to do something. However, what we do know is it's so important we vest officials with great authority. Now, that doesn't mean that you -- that they can alter a state statute. So the remedy is that, if an election official gets something wrong, do exactly what the chair said. You then call the Secretary of State's office and you say, "Hey, they just told me to move my truck. It's 170 feet. They've got the sign at 300 feet. The statute is 150 feet." **MS. LAGRUA's** team is very adept of addressing that. However, I do want to make one very important point. It's not relevant here, but it's important for the future. That is, there is never a time that we will agree where we can simply disregard an election official. But, like a captain on a plane or a flight attendant, they do have enormous responsibilities in an orderly election process. It's high among others and a respect for their authority. When they get it wrong, the appropriate remedy is to reach out and talk to somebody in the Secretary of State's office. Trust me, when that happens, our election officials are very good at getting the answer right.



So, with all of that said, Madam Chair, I would support a closing of the file.

**CHAIRPERSON HANDEL:** All right. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(Whereupon, a nay was spoken.)

**CHAIRPERSON HANDEL:** Our next case is Webster County 2008, Number 85.

**MS. LAGRUA:** Yes, ma'am. This involves the July 2008 primary as well. It was an anonymous allegation that the election returns were being improperly stored in an office and not being turned over to the county clerk and that L&A testing was not handled properly. In fact, what we found was, in 2006 and 2008, envelopes containing the election returns were stacked against the wall unsecured in the elections office. Janice Storey, who was the chairperson, said that the office was swamped, and she they should have been turned over to the clerk of superior court but they weren't. In terms of the L&A testing, it was advertised to happen to occur on October 10 at 1:00 p.m. That actually did not occur until October 11 through October 13. So it's recommended this case be forwarded to the AG's office for appropriate fines and sanctions particularly including training.

**CHAIRPERSON HANDEL:** All right.

**MS. NEALY:** Good morning, Honorable Handel and this Board. I'm Elaine Nealy. I'm a Board member. I volunteer for the Board of Elections and Registration. I apologize for those returns failing to be delivered. I have been advised that returns are no longer stored in the clerk of the court office but, in fact, they're stored in a vault in the probate judge's office and have been for some time. I do see that the chairperson said that we're swamped. But, since 2006, I don't have an excuse for that, and I'm not sure why those returns were not sent in. I can only say that I'm sorry. I can only say that I personally, in the future, will make sure that this won't happen again. I will make sure and advise the other boards that they follow suit. But, at this time, we have no current results not being delivered. In fact, for the L&A, last year was the first year that Webster County did its own. It takes a little longer than actually the -- well, text has actually been doing it for us. Last year was the first time

that Webster County did it on their own. L&A actually started October 10 with programming, the memory cards, the first part of the L&A of the express poll, et cetera, and that was done by the three Board members that were present -- Patricia Burkes, Lorraine Ellington, and myself. But the completion actually completed on the 13th of the touch streams. Ms. Willis would not have known this part of the L&A. It was noted on the sign-in sheet that we start the L&A. But the article in our newspaper states that the L&A will begin at 1:00 of October 10 and continue to completion. We didn't complete all of this until on the 13th. So I feel that, all of 2008, we were in compliance based on the knowledge and training from KSU and the help that they gave us during the L&A and the guidance that they gave us. I will never do L&A other than what is specified in what we put in the paper. Thank you.

**CHAIRPERSON HANDEL:** Questions?

(no response.)

**CHAIRPERSON HANDEL:** All right. Do we have a Motion?

**MR. EVANS:** I move to refer it over.

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Motion and second. All in favor?

(Whereupon, there was a chorus of ayes.)

**MS. NEALY:** Thank you.

**CHAIRPERSON HANDEL:** All right; thank you. 2008, Number 88, Wilcox County.

**MR. HARVEY:** Madam Secretary and Members of the Board, this case involves an allegation that a candidate for County Commissioner James Marcy Stone provided false information on his Notice of Candidacy and Affidavit. The investigation revealed that there was confusion in the county about where district lines were. Previously, he had been a resident of District 2. County lines were re-drawn. He was no longer a resident of District 2. He then moved to a new address which was in District 2 and filed a subsequent Candidacy and Affidavit and Declaration correspondent to that. The complainant said that they didn't believe he lived at the address of 815 North Broad Street. The investigation revealed that the property -- the trailer home at 815 North Broad

Street is owned by James Marcy Stone. I will note that the summary you've got states that he has a Homestead Exemption in another -- on Harvey Road. Upon further research, that has been found to not be correct. It actually turns out that his son owns that property, and this respondent, James Marcy Stone, receives the tax bill. So there was confusion about whether or not he had a Homestead. The fact is he does not have a Homestead outside of his district. He does own the trailer home in the proper district of 815 North Broad Street. The fact is that he spends six or seven days a week out of the county doing contracting work on the coast of Georgia. He does maintain a room in the Broad Street address where he is seen from time to time by the people who lives there. Based on all of those facts, it is recommended that there is no violation and this case be dismissed.

**CHAIRPERSON HANDEL:** Questions?  
(no response.)

**CHAIRPERSON HANDEL:** Anyone here to speak on this? Anyone here from Wilcox County? Going once, twice; all right. Any questions, folks?

(no response.)

**CHAIRPERSON HANDEL:** Is there a Motion?

**MR. MCIVER:** Move to dismiss.

**CHAIRPERSON HANDEL:** A Motion to Dismiss.

**MR. WORLEY:** To close, yeah, second.

**CHAIRPERSON HANDEL:** A Motion to close and second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?  
(no response.)

**CHAIRPERSON HANDEL:** The next case is 2008, Number 90, Muscogee County.

**MR. HARVEY:** In this case, there were two allegations. One was that an absentee file was not properly sent or was not timely sent. And, secondly, the complainant said somebody's ID had not been checked when voting in person. In fact, what happened after the complainant made the complaint, she made

contact with the Muscogee County elections officials, rescinded her complaint, found out her son's absentee ballot had been mailed timely. She was not able to provide any identity as to who did not have their ID checked when they were voting. So there was no way to get any specifics on that allegation. Like I said, the absentee ballot was sent in a timely manner. It's recommended that this case be closed as well.

**CHAIRPERSON HANDEL:** Is there anyone here to speak on this? Anyone here from Muscogee? Is Ms. Garrett here, Mr. Miller.

MS. BORIN: I'm here, but I don't want to speak.

**CHAIRPERSON HANDEL:** Okay. That's Nancy Borin. Any questions on this one, folks?

(no response.)

**MR. MCIVER:** Move to close.

**CHAIRPERSON HANDEL:** Okay; a Motion to close.

**MR. EVANS:** Second.

**CHAIRPERSON HANDEL:** Motion and a second. All in favor?  
(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** The next case is Number 2008-92, Butts County.

**MR. HARVEY:** This case is a representation. This case was presented at the last meeting regarding respondent, Samuel Henderson. In this case, Mr. Henderson voted early. He returned to vote several weeks later. He attempted to vote. He was told he had already voted, and he left without voting. Mr. Henderson's family has provided documentation, including an affidavit from his physician saying that he suffers from medical conditions, including memory loss and dementia. Other family members and friends testified that he does not appear to have all his faculties. He was not able to vote twice. The election officials responded properly. It's recommended that this case be closed or perhaps a Letter of Instruction be sent.

**MR. EVANS:** Well, it creates a problem for us, I think. I could be wrong. The reason it presents a problem is that, if I conclude that he's not competent for purposes of having voted twice, then I have to conclude that we shouldn't allow

him to vote because Georgia has a competency statute. You have to be competent to vote. If I conclude that he is competent to vote, then I can't ignore the violation because it's a strict liability offense, which is, this is so important that voting twice is treated very directly. So I'm not sure what the answer is. But I do think it creates a bit of a dilemma for us. The only reason I use up the Board's valuable time on this is because I expect and I think the Chair expects that next year this issue of competency and voting issues and issues that we've already seen at the beginning edges is going to be before us. At some point, we have to figure out what's the right case to address that. Obviously, if we had an order from a court like a magistrate court or a probate court saying where a guardian ad litem had been appointed, based on the fact that he suffers from dementia or lack of capacity, that would make our job a lot easier because we could then site that order and close this case and it would also resolve the issue of future voting. But, absent that where we just have the evidence, it creates a bit of a sticky wicket deal. I almost wonder -- I would be inclined if you went back to them and said, "What's the situation in terms of" -- because, unfortunately, competency is like pregnancy. There is not a kind of like phrase of it. You're either it or not it. You're either competent to act on your own behalf, or you're not competent. It's not, "Gee, I'm not competent for being held responsible for my conduct. But I am competent to cast a vote." we can't do that, I don't think.

**CHAIRPERSON HANDEL:** Well, my second issue is why did Butts County allow them to vote twice in the first place?

**MR. HARVEY:** They stopped him. He was not allowed to vote. They caught him. He was turned away.

**CHAIRPERSON HANDEL:** I thought, when I read through, there was one person who did?

**MS. LAGRUA:** There were two that were bound over in the last SEB meeting already.

**CHAIRPERSON HANDEL:** Okay. I had them confused. So we did already refer those. Okay.

**MR. EVANS:** My only point is, Madam Chair -- I don't know if this is appropriate. But I will have our folks go back and say, "You just need to make a choice. Is your plea incompetence?" if your plea is incompetence, fine. You can't vote. If your plea is knowing he is competent, we have to

then figure out how to deal with the case.

**MR. HARVEY:** All right. Just so I'm clear, you're asking us to go back and ask them to --

**MR. EVANS:** That would be my preference. I don't mean to speak for the Board. When I read this preparing for today, I looked up the various competencies. I realized that, if we had an order, it would be pretty easy.

**MS. LAGRUA:** I have a question. I'm not sure -- I guess my concern is, if we ask someone if they're competent and they tell us no, how are they competent to -- I'm just not sure exactly. Do we need documentation from a medical person or from a guardian? I just want to know exactly what the Board wants.

**MR. EVANS:** The easiest thing in the world would be for them to go to somebody who does this like a probate judge and say, "We're going to have a guardian ad litem." the part I don't think we can do -- and we've been very careful of -- we're not going to let it kind of hoodwink us, "Gee, for your purposes, I didn't know what I was doing. But, for the other purposes, I know exactly what I'm doing." we have to make people --

**MR. MCIVER:** Madam Chair?

**CHAIRPERSON HANDEL:** Yes.

**MR. MCIVER:** Mr. Evans, do you think requiring his re-registration might be a vehicle for that?

**MR. EVANS:** It could be, but you see the dilemma. We don't -- burglars who claim, "I didn't know what I was doing." but then, they don't want to serve jail.

**CHAIRPERSON HANDEL:** Right. But then, there's also the dilemma that a judge is the one that declares incompetency.

**MR. EVANS:** If they went and brought us an order, then we would be fine. If this is true, if the defense is true, I would tend to think that's what they'd want to do.

**MR. MCIVER:** Is this an issue of unregistering him? Because the question is: Is it based on the evidence of this investigation?

**CHAIRPERSON HANDEL:** Well, I don't think we can that.

**MR. MCIVER:** No. We certainly don't have the power to do that. What are the vehicles to make this happen?

**MR. EVANS:** Well, it's no different than -- believe it or not, it's no different than a felony. You lose your right to vote when you're convicted of a felony. You lose your right when you're declared incompetent. There are any number of ways that you can lose the right to vote. But we have very careful procedural protections, which is why I'd rather have a probate judge to decide this issue rather than us decide it. What I have before me are medical representations which, if forced, we can decide. But the implications of deciding that he was not competent and thus shouldn't be held accountable for attempting to vote twice, the implication of that would be not competent to participate in the election process, or we would have excused an election violation. I think the family may be the best source to do this. Then, if they're not, it would be back before us. We'll have to make that decision.

**MR. MCIVER:** So are you going to move to --

**MR. EVANS:** Yes.

**MR. WORLEY:** If I might --

**CHAIRPERSON HANDEL:** Let me go ahead and make the Motion, and then we'll come back. A Motion to continue; and did you second?

**MR. EVANS:** Yes.

**CHAIRPERSON HANDEL:** There's a Motion and second to continue. Mr. Worley?

**MR. WORLEY:** I think probably the easiest way to handle this is to refer it over to the attorney general's office (unclear). That would be a lot cheaper for them. They don't have to go hire a lawyer to have him declared incompetent. And, at the same time, (unclear). So I would amend the Motion that you refer it over to the attorney general's office for the (unclear).

**MR. EVANS:** The reason I don't favor that option is because I don't think it's just (unclear). All that will happen is the AG will conclude probably not competent, and it will come back to us to decide, "What do we do with it?" really, what we would prefer is for somebody -- a jurisdiction who does that to decide.

**MR. WORLEY:** Well, it seems to me --

**MR. MCIVER:** So you're not agreeing to the --

**MR. EVANS:** No, I'm not agreeing.

**MR. WORLEY:** If the guy is not going to vote, the best way to get that -- the cheapest way for the family and the best way for us and the resources of this office is to --

**CHAIRPERSON HANDEL:** But can we even really do a Consent Order for someone to never vote again without that competency issue being dealt with? I don't know that it's enough that the person says -- signs a piece of paper of not competence. If they do that, there is all kinds of other ramifications. His family certainly can't sign a Consent Order on his behalf saying he's not competent unless the process to declare competency or lack thereof is --

**MR. WORLEY:** Well, I'm sure that somebody in the attorney general's office can figure out what the appropriate legal stance is for that better than we can.

**CHAIRPERSON HANDEL:** Right. I guess I just feel uncomfortable because --

**MR. WORLEY:** Maybe better than the inspector general's office can.

**CHAIRPERSON HANDEL:** I'm not asking them to try to do it either. I think it's a simple question of the gentleman and the family. What I'm uncomfortable with is I don't think that legally we can have any kind of Consent Order that says a person agrees to never vote again. That makes me uncomfortable even to try to seek that. There are specific legal reasons why a person cannot vote, and they're very clearly defined. So I would be more in favor of just asking a simply question and get the answer. Then we'll deal with it when it comes back. I have a Motion and a second to continue. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Oppose?

(no response.)

**CHAIRPERSON HANDEL:** All right. The next case is 2008-94, City of Santa Claus, Georgia.



**MR. HARVEY:** The complainant in this case is George Lewis who is a candidate for mayor in the November 7 -- I'm sorry, the November 6, 2007, mayoral race. The respondents are Mary O'Day, City Clerk, and Bernard Harden, who is the mayor. The allegations were inaccurate information was posted in public notices as to the date of the election; that the election superintendent had not received proper training, paper ballots were not printed in accordance with the law. The ballot boxes themselves were not secured; and the incoming mayor had undue influence in the hiring of the election staff. The investigation revealed that it was true that one of the public notices had the date of the election off by a day. It erroneously published that the election was to be held on November 5, 2007, when, in fact, the election was November 6, 2007. Mary O'Day admitted that she had not had any training prior to the election nor had she had any at the time of this report. The ballots did, in fact, not have printed instructions on them specifically regarding the admonition against acceptance of any kind of payment. The election superintendent and the mayor had keys, and the ballot box was locked. There was no evidence that the ballot box was violated. The mayor acted as the mayor. He ordered the printing of the ballots and attempted to get people to assist. There's no evidence that he did anything improper or exercised undue influence in running the election. Additionally, during the investigation, it was discovered that no election superintendent had been appointed. And this was -- by way of explanation, this was the first contested election in Santa Claus for over 20 years. So it's recommended that the case be forwarded to the AG's office for appropriate sanctions particularly mandated training for election officials.

**CHAIRPERSON HANDEL:** Is there anyone here to speak on this?

**MR. LEWIS:** Ho, ho, ho. My name is Georg Lewis. I was candidate for mayor in Santa Claus, Georgia in November of '07. I live on 25 Rudolph Way in Santa Claus, Georgia. I'm going to make this real quick. I'm kind of drove up for the same reason the previous gentleman did. I'm just asking that no matter what size town we are, we still got laws to go by. Just examples, and we went through them, that we haven't had anybody certified in 20 years. So you're still supposed to get certified if you have an election or not. The paper ballots that were done had no instructions on them. It was just printed on a computer, and they give you a little pretty box over there. You could 'x' it, check it, scratch it, or whatever. So I'm just asking that -- I know it's been the same administration for 20 years. I know they have gotten

letters through the years about their training. For some reason, they just conducted it -- run it the way they wanted to run it. So I was just asking that maybe you might get their attention.

**CHAIRPERSON HANDEL:** All right. Do we have anyone -- is Mary O'Day or Mayor Harden here? Seriously, Ms. O'Day, Mayor Harden?

(no response.)

**CHAIRPERSON HANDEL:** Did they receive proper notification?

**MS. LAGRUA:** Yes.

**CHAIRPERSON HANDEL:** All right; questions, colleagues?

**MR. EVANS:** Move to refer.

**MR. WORLEY:** Second.

**CHAIRPERSON HANDEL:** Motion and a second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** The next case is 2008-96, Sumter County.

**MR. HARVEY:** The complainant in this case is Sherry Ratliff, the election supervisor of Sumter Board of Elections. The respondent is Mr. F. D. Norton, Sr. It's a very similar situation as to the one we were just discussing in the previous case. Mr. Norton did vote twice. He is 77 years old. Again, we've got representation from his attorney that his physical and mental health has deteriorated. He's on medication for memory loss. Ms. Ratliff confirmed that she was distracted when she issued him a voter card. She didn't notice that he had already voted in sub-system. As far as Ms. Ratliff, it's recommended that she be issued a cease and desist and a public reprimand. As far as Mr. Norton goes, at this point, it would seem that we would have a similar resolution as to what you talked about with Mr. Henderson. We would be willing to do that if that's the Board's desire.

**CHAIRPERSON HANDEL:** Is anyone here to speak on this case? Is Ms. Ratliff here? No one is here?

(no response.)

**CHAIRPERSON HANDEL:** All right; colleagues?

**MR. EVANS:** Move to refer.

**CHAIRPERSON HANDEL:** Is that for Ms. Ratliff?

**MR. EVANS:** Mm-hmm.

**CHAIRPERSON HANDEL:** All right. A Motion and a second to refer Ms. Ratliff. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** And Mr. Norton, do you want to proceed with the way we did the other case?

**MR. EVANS:** I would. I'd give him at least the option.

**CHAIRPERSON HANDEL:** Okay. Move to continue Mr. Norton pending additional questions.

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** All right; 2008, Number 99, Lanier County.

**MS. LAGRUA:** Madam Chair, this was the case I discussed that we were asking to take off this calendar. It needed further investigation. It involved a name change.

**CHAIRPERSON HANDEL:** All right.

**MS. LAGRUA:** I don't believe the respondent, Mr. Minor, is here.

**CHAIRPERSON HANDEL:** All right.

**MR. EVANS:** Move to grant the continuance.

**CHAIRPERSON HANDEL:** Motion and second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** The next case is 2008, Number 100, White County.

**MR. HARVEY:** This case, the complainant is Martha Collins. The respondent is Pamela Desrochers. She is the administrator of the Friendship Health & Rehab Center. The allegation is that, when Ms. Collins went to visit her brother, who is a resident at the assisted living center, she saw people assisting him with his absentee ballot. She had some concerns. The investigation revealed that Mr. Shuler, her brother, was properly assisted. Upon checking into the facility, he filled out a paperwork saying that he did wish to be assisted. He did wish to participate in election. Before the election, he was individually asked if he wanted assistance. He said yes. He was assisted. It was properly documented he was assisted. There's no evidence anybody did anything inappropriate or against the election at all. It's recommended that this case be closed.

**CHAIRPERSON HANDEL:** Questions? Is Ms. Collins here or anyone here on this case?

(no response.)

**CHAIRPERSON HANDEL:** All right. We have a recommendation for closure.

**MR. EVANS:** So move.

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Motion and second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** All right. The next case is 2008, Number 102, Talbot County.

**MS. LAGRUA:** This is a November 2008 general election. The allegation was that Sheila Burrell assisted voters with inappropriately absentee ballots. What we found was that Ms. Burrell actually assisted four electors that we could identify in completing their absentee ballots. She took them and delivered them. She did not sign assisting. The voters weren't either disabled nor illiterate. In at least one occasion, she marked the ballot for an elector choosing a candidate that the voter did not wish to vote for according to the voter. It's recommended this case be forwarded to the attorney general's office for sanctions, potentially (unclear) attorney's office at the Board's discretion.

**CHAIRPERSON HANDEL:** Is there anyone here to speak on this

matter? Ms. Pinkston or Ms. Burrell?

**UNIDENTIFIED SPEAKER:** I'm here, but I don't have anything to say. At the time, I was the chief registrar.

**CHAIRPERSON HANDEL:** All right; thank you. Colleagues, do we have a recommendation to refer it to the AG's office as well as potentially to the Talbot DA?

**MR. EVANS:** I'll move to refer it to the AG's office.

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Motion and second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(no response.)

**CHAIRPERSON HANDEL:** The next case is 2008, Number 103, Carroll County.

**MS. LAGRUA:** This case involves the November 2008 general election. The respondent is Bill Chappell, Carroll County Commission Chair. The allegations -- and there were numerous allegations that came to us. Mr. Chappell was inside the polls during early voting and that he was campaigning. There is -- I believe his office is actually in this building. However, the election superintendent, when interviewed, as well as a number of other witnesses, told us that Mr. Chappell had been in the voting area nearly every day during the term of early voting. There were numerous other witnesses that saw him in the areas, talking to people, shaking their hands. We had one witness say that his presence in the voting area seemed to be intimidating. So it appeared that he is in violation. We recommend that this be forwarded to the AG's office for fines and other strong sanctions.

**CHAIRPERSON HANDEL:** All right. Do we have anyone here to speak on this?

**MR. CHAPPELL:** Yes, ma'am.

**CHAIRPERSON HANDEL:** All right; come forward.

**MR. CHAPPELL:** I'm Bill Chappell, 500 Ann Chappell Road in Carrollton, Georgia. I appreciate y'all's time, so I'll be

brief. In Carroll County, the first point I'd like to make, is that our physical setup -- we're in a 1948 school building. The elections office in the early voting areas is in the old cafeteria area. To go in to see the election superintendent, they recanted it for office as to violate this law. That's to deliver campaign reports or anything else. I did go down to the voting area, and I would walk normally straight to the elections office and ask how early voting was going. I did not go down with any intent to campaign or to disrupt or to offend any voters or to violate any law. Once the election superintendent notified me that she had received a complaint and that I might be in violation of the law, I left. I did not go back. Had she told me that the first time I had gone down there to ask about early voting returns, I wouldn't have gone back then. As far as fixing the physical problem in Carroll County, it's a combination of where we do early voting and where the election superintendent's office is. I don't have a solution for that. But I'm going to have to find one because every candidate in the county has to go through that area. Again, I appreciate your time. Sorry I'm wasting it. I'll be glad to answer your questions.

**MR. WORLEY:** Why do you say every candidate has to go through there?

**MR. CHAPPELL:** Because, at least once during that period, we have campaign financial disclosure reports to turn in. Grant it, somebody could mail them, but nobody does. We all go through that area and take them to the elections office. That was not what I was doing. My office is directly above the elections superintendent's office. As a matter of course during the day, I would tour offices in what we call the annex. That's where the commission chair's office is. I'd go down there just to check on how things are going, how voting was going. The one day that I think the complaint came in, Dr. Mack Martin, he's an old personal friend of mine. He's a retired surgeon. Mack had just finished voting. I helped Mack -- I saw his wife over in the line. They had worked their way through. I saw Mack, and I helped him over to a chair. I stayed down there longer than I normally did. But the allegation was that I was there 20 or 30 minutes, which is not so. I certainly was not down there to campaign. I had no campaign name tag or anything else. When Patty Brown, our elections superintendent, called me into her office, she said that she had had a complaint. That was the last time I went down there. I would respectfully request that y'all just close this one, and let us go on about our business. I'll get the physical problem straightened out.

**CHAIRPERSON HANDEL:** If I might, most of you know, I'm a former county commission chairman. Even when I had to file my things, I never went where the voting took place.

**MR. CHAPPELL:** But I did, and I apologize.

**CHAIRPERSON HANDEL:** Well, that's not what you're supposed to do. When I read the investigator's report, the shaking of hands, et cetera. When there is an election, if your name is on the ballot, you don't go into the precinct.

**MR. MCIVER:** Move to refer it over.

**CHAIRPERSON HANDEL:** Second. Motion and a second to refer. Anyone else, guys?

(no response.)

**CHAIRPERSON HANDEL:** All right. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Three ayes and a no for Mr. Evans. Thank you. The next case is 2008, Number 114, Troup County.

**MR. HARVEY:** Madam Chair, this case actually involves two counties. There were mailed precinct cards that were sent out. We've got two complaints, one from Troup County and one from Fulton County, where residents said that they received precinct cards at their address in a name other than their own. Investigations in both counties revealed -- in Fulton County, the voter had not had any activity on their voter card since 2000. When they re-did the district, they were automatically sent out. The voter has been urged it was essentially just an automation error. The second case in Troup County, the address change was a typographical error. It was corrected. As soon as it was made noted, the sooner it was brought to the attention of the election officials. There doesn't appear to be any type of fraud. The initial concern was there was some type of identity fraud. It's recommended that the case be closed. There is no violation.

**CHAIRPERSON HANDEL:** Is there anyone here to speak on this matter?

(no response.)

**CHAIRPERSON HANDEL:** All right, colleagues, I have a recommendation to close.

**MR. MCIVER:** So move.

**MR. WORLEY:** Second.

**CHAIRPERSON HANDEL:** All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** The next case is 2008, Number 128, Peach County.

**MR. HARVEY:** The complainant in this case is Michelle Riely, who is the election superintendent. The respondent is Walter Miller, Jr. The allegation is that Mr. Miller took a picture of his provisional ballot inside the voting area. An election official allowed Mr. Miller to vote provisionally when he was not on the express poll. He was standing at the provisional voting table near an election voting official. She heard what sound like a camera click. She turned around and asked him if he had taken pictures. He admitted he had taken a picture of his ballot. He said that he wanted to commemorate this historic vote. It was also found out that Mr. Miller was on a felony probation status. It was still active. It was effective for five years starting June 2, 2004, which means, at the time, he would have still been under sentence. Therefore, he was in violation of signing the false voter certification. It's recommended that this case be referred to the AG and the district attorney's office.

**CHAIRPERSON HANDEL:** Is there anyone here to speak on this case? Anyone here on this case?

(no response.)

**CHAIRPERSON HANDEL:** All right. We have a recommendation to refer to the AG and the Peach County DA.

**MR. MCIVER:** Move to refer.

**CHAIRPERSON HANDEL:** Second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(no response.)

**CHAIRPERSON HANDEL:** All right. It's almost 12:30 folks. We



still have quite a number of cases left, so let's break for lunch. We do not have any executive session items, so we should be able to be back here -- let's call it 12:45, everyone back. We might be a few minutes late from that, but we'll try to get started right at 12:45.

(A luncheon recess was taken.)

**CHAIRPERSON HANDEL:** All right. Folks, we're going to go back on the record. I believe we stopped off with 2008, Number 129, Macon County.

**MR. HARVEY:** This allegation was made by Shirley Odom. The allegation came from Shirley Odom's husband who said that, when he was voting, he saw an unidentified person using a Belk's Credit Card as a form of identification for voting. The witness refused to cooperate and give any kind of statement or to identify the person to our investigator. When we interviewed the poll workers, nobody had any information about this happening. There's no evidence there was any violation. It's recommended that this case be closed.

**CHAIRPERSON HANDEL:** Anyone here to speak on this?

(no response.)

**CHAIRPERSON HANDEL:** All right. Any questions, colleagues?

**MR. MCIVER:** I move that the case be closed.

**CHAIRPERSON HANDEL:** All right. I have a Motion. Is there a second?

**MR. WORLEY:** Second.

**CHAIRPERSON HANDEL:** All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Okay. The next case is 2008-136, Douglas County.

**MR. HARVEY:** This case involves a November 2008 general election. The complainant was James Quarterman. The respondents were Laurie Fulton, John Lawrence, Sylvanus Burney, Spencer Hardy, Rochelle Robinson, and Aaron Walker on the Board of Elections. There are many allegations made by the complainants, including the unauthorized position of voting machines by election officials, improper voting,

recount procedures, that the election supervisor destroyed or did not collect all election documents; that there was improper delivery of securing the voting machines. Voters were turned away because of long lines. There were problems with absentee ballots. A name was changed between on the ballot between a primary general election. That's the name of the candidate and numerous other violations. The findings were as follows: There was no evidence to support unauthorized positions of the voting machine. The voting machines are actually delivered by fire fighters in Douglas County. What might have been misperceived is that the express poll machines were retained by poll workers. There was no reason for a recount of the entire election because there was not a 1 percent margin of error, except for one case, the tax commissioner race. There is no evidence to support the allegation that the documents were destroyed. There were no voters that were identified that were turned away. If they were in line, they were allowed to vote. However, there were acknowledgment that there were long lines. The absentee ballots that were mailed were late as 1:00 in the afternoon before the election and that the election superintendent was not aware of any problems. The election superintendent, Ms. Fulton, admits the name on the primary ballot had Derrick T. Broughton as a candidate and on the general election only had Derrick Broughton. She acknowledged that there was an oversight on her part. She didn't think there would be any confusion with that. Because of that issue, because we had two different names, there was some confusion as to how the votes were going to be tallied when they were unloaded through KSU -- the election official, KSU, and the election division. The election division and KSU met prior to the election and discussed how to best solve this. The election officials were suggested that they not create two databases because that might create a problem with subletting the results. The election officials did decide to create two databases, one for Derrick Broughton and one for Derrick T. Broughton. It caused problems. The results had to be manually entered after the election, and that created some problems. There were violations regarding the count being about Logic & Accuracy testing. It was not really posted and conducted. There were 67 absentee ballots that were found after the election. These were found in a desk drawer. The absentee ballots were unsecured. All of the people who cast the absentee ballots were given credit for voting. The 67 ballots would not change any of the races. Lastly, the Douglas County officials failed to certify the recount of the election after re-doing the tax commissioners recount. It's recommended that this case be referred to the attorney general's office for appropriate sanctions and fines.

**CHAIRPERSON HANDEL:** All right. Anyone here to speak on this?

**MR. QUARTERMAN:** My name is James Quarterman. I'm the democratic candidate for County chairman on the November 8 ballot. I filed this complaint under O.c.g.a. 21-2-603 because the County chairman election supervisor and members of the Board Elections violated the law and constitutionally acted by illegally certifying election results, not recertifying a recount, changing election results, threw away absentee ballots, misapplied 25,000 votes, and much more. Incumbent Chairman Tom Worthy, after his election in January of 2008, rather than send the election superintendent, Bob Akers, to take the Secretary of State elected official certified training to hold County election, he sent Laurie Fulton, the then voter registrar, when she had nothing to do with holding elections. In January, they sent a newspaper report that the state legislature asked local officials to change election laws but could not get a consensus from democratic state legislation. So he then, in March of 2008, had Bill Henry, a local republican state representative, to enact legislature in the general assembly to create a five-member Board of Elections of registration effective May 2008 where four republicans and one democratic were appointed to what was supposed to be a balanced Board. After much talking to the media of the anticipated high expected black voter turnout, he replaced election superintendent with Fulton, hired as election supervisor, and the election they put on failed to comply with Georgia election code. It is, in my opinion, by an ordinance of the Board of Commissions in 2006 authorized by Tom Worthy. All of this was done so that he and other county election officials can receive a lifetime pension after serving five years in office. In running for chairman, I had stated, if elected, I would change that to a three-year term elective. The County never had any type of retirement plan only since instituting a full 401(k) plan in 2006. This Board must also question how local republican candidates got up to 3,000 more votes than the presidential candidates in a presidential election where every state and federal democratic on the ballot, one in Douglas County, including a first time democratic running for United States senator beating the incumbent republican -- United States senator in a so-called republican county. But only one in seven counts democratic one. This Board will also question how the seriousness of how the GEMS server counted 3,008 votes when 55,410 people voted; 25,402 votes were given to whomever they wanted because, according to Laurie Fulton, those votes had to be manually hand counted and entered as evidence in a December 15 letter with Ann Hicks updating the results after they were supposedly

already certified. But how do you hand count electoral votes? Ms. Fulton first claimed machine malfunction and now claims database error but never reported any GEMS server problem. Also, they were supposed to do a recount for one race with a less than one percent vote margin. But, rather, they did a full recount of every race. Why did they do there if they didn't or were not going to re-certify the new results? Every candidate now has three different results. So what is the number of votes I received, the legal amount certified on November 7, the change recount amount never certified, or the updated amount on December 15. One of the duties of this Board is to investigate election fraud and, upon finding fraud, impose fines and refer matters over to the attorney general's office for further prosecution. I'm asking that, upon further finding of conspiracy finding of Georgia election, a \$5M fine be imposed. If this Board can find Fulton County for leaving ballots unsecured in a locked room, it can surely fine \$5M for never certifying an election and 25,000 votes never being counted by \$100M electronic voting system that Georgia and the taxpayers have invested in. I also ask that the findings be referred to the attorney general's's office for prosecution and to ask the general assembly to amend the act creating a general election to reflect the appointment of two democrats, two republicans, and an election supervisor to handle the ballots. The County must be fined and the wrongdoers prosecuted, not just spend taxpayers' dollars and nothing happen to the ones that committed the fraud is wrong. The charges of conspiracy is supported by the following documents I have submitted to you as evidence. You can review them as I go along. Exhibit 1 shows Laurie Fulton -- Exhibit 1, page 5 shows Laurie Fulton's certification obtained in January of 2008 when the count -- she's a superintendent before the general assembly ever approved the Board of Elections. She's the only person certified to hold election in the County. However, she never signed a November 7 election certification. Exhibit 2 is a transcript from the election contest hearing held in January where the judge stated -- Exhibit 2, page 6 where the judge stated Ms. Fulton was lying about the election certificate, and he didn't believe anything she said. That's the judge, and that's in the transcript. Exhibit 3, page 7 where Laurie Fulton testified she didn't know what a cards cast ballot was. If you look at the transcript line 3 and 4, I question how you went and took the election official certified training and got that certification and they didn't even teach you what a ballot was. That's in the transcript in writing. Also, on the December 15 letter, she used cards cast when addressing a letter to Ms. Hicks stating cards cast ballots were left off the original certification. So how can you run an election,

and you don't know what a ballot is? Exhibit 4, page 8 is a newspaper advertisement that ran saying large test will begin on September 15 and continue day-to-day until completed. If you see from the exhibit in Exhibit 5, they didn't. Exhibit 5, page 9, if you start with that one, you will see that the first Logic and Accuracy test was done on 9/19. We got three, almost 400 pieces of voting equipment, but there was only 31 pieces of equipment tested then. Now, then it jumped over. No more Logic and Accuracy tests were done until 10/14; so almost 30 days before they ever tested any equipment. So they tested 31 pieces and didn't test any until the 14th. Exhibit 4 and 5 shows the 15th, and Exhibit 5 and 6 shows the 16th. So we, as a public, has no knowledge that these machines were ever tested and no votes were being counted from these machines because it was not proven that they were ever tested. Thirty-one pieces equipment was tested on 9/19. There was no unit showing express polls or optimal scanners. So, if they didn't test any optimal scanners or express polls, how did they issue voter cards to the people coming out and voting early when no machines or no express poll units had been shown to be tested. There is a clear violation of State Election Board Rule 183-1-12-.02(3)(a)(3)(b) and O.C.G.A. 21-2-267 certification testing and preparation. Compliance is mandatory by Georgia election law essential to ensure voters that the system is secure, accurate, and reliable, Exhibit 6, page 15. The general assembly House Bill then created a Board of election registration. If you turn over and look at that on page 15, you go down to section 8 it says in there, "all actions and decisions by the Board shall be by a majority of Board members." Douglas County Board of Elections or no one else has the authority to change a statute when the governor signed House Bill 1437. He signed it into law. It became the law. They can argue about it's general standard procedure for the Board for only the chairman to sign. But the law says all decisions must be by a majority of the Board. That brings us to the next exhibit, page 17 -- page 8. This is an official certification document, and it only had one signature. He signed that in the wrong place. He signed the line that says superintendent and supervisor of election. The person certified the -- Ms. Fulton, who holds the certification, never ever signed the document. The other four Board members never signed. This election was never certified because it clearly states in Exhibit 6 that the creator of the Board of Election and Registration provide for the powers and duties to provide the definition -- getting down to the Board is the superintendent. So, by O.C.G.A. 2-12-70, the Board is the only one that can certify a local election -- that certifies an election. The superintendent never certified the election. Therefore, these people are holding office illegally because

they were never certified to hold these offices, and the election they were in were never certified. Exhibit 16 is a press release issued by Madam Chairman here that states -- if you turn over, that's Exhibit 7, page 16, where she clearly states in there -- your press release that you issued on November 5 that ballots from military and overseas voters will be received and counted county election officials through November 7. Douglas County certified its election on November 7. So how can you certify the election when the Secretary of State, who is over all the elections, just told you you've got to receive ballots through the 7. So they certified the week before you even told them that they could. Exhibit 18 -- Exhibit 17, copy of certificate document showing only one signature. We have covered that. Exhibit 9, page 18, the defendant counsel, who Mr. Mathis is here today, he states that on the transcript, page 57, line 4 through 6 that the Board of Election is the superintendent, not one person but the Board of Election testified in court by their own counsel. Exhibit 10, Laurie Fulton, testified in court that it is a practice of a four-month-old Board for only the chairman to sign election certification documents. The Board just went into effect in May. So it's now general practice for them to have a chairman sign. They never issued one document -- no proxy, no nothing and an election contest hearing to verify or substantiate the fact that the chairman had to play in it. What happened was there was so much confusion. Like he did say that night on election that the other four people refuses to sign the election to certify documents because of all the problems with the GEMS and the vote not matching up and the counts not matching up. They didn't sign. But, if you look at the recount, they all did sign. Speaking on the recount, we asked in writing for a recount. Laurie Fulton told us that they were going to have a full recount of every vote. If you will return to exhibit -- you will see a copy of a full recount that was done by the county. It's Exhibit 12, page 21. If you look at the original certification of votes, the numbers change. I think it's 21-2-495 says that, when you have a recount and the numbers change from what they originally were, they have to be recertified. The County never recertified the votes. Jumping over, if you look at Exhibit 13, page 22, you will see a letter that's written from Laurie Fulton to Ann Hicks stating, "Dear Ann, it has come to our attention that you do not have the correct version of our certified results." so how can you certify an election when you're telling somebody that you ain't got the correct version of certified results? The election was never certified. If the election was certified, if you look at my votes from the original November 7, I have one vote on the recount. I had another vote and on the -- December 15, I had

another vote count. So what is the number of votes that I had? You can't say that he got this on November 7, but he got 500 more votes in December and you are not going to count and give me credit for those votes. So, if this election was ever certified, it was certified on December 15. Defense counsel in court testified that they never even seen the letter that Laurie Fulton sent to Ann Hicks. I got the transcript right here. I can give you a copy if you want to. They never even seen it; so if you look at that. The chain of custody that he spoke about earlier was not even correct. If you look at Exhibit 14, page 24 the chain of custody reports that the voting machines, supervisor keys, according to Code are supposed to be delivered one hour to the polls opening. These people signed and received these things on the day before. They had a supervisor keys and everything to run an election in their section, and they had the machines and all of that. What I really want you to get in is, starting at Exhibit 15, these are the documents that they turned in. This was given to me by the attorney general's office in lieu of anybody from the Secretary of State coming out to testify. If you look at these documents from 151 to 155, you will see where vote counts were scratched out and new numbers were written in. Nobody initialed. Nobody did nothing. They just struck out and wrote in number, new numbers. There is a colored copy that Mr. Ritter provided. I'm quite sure, if you ask him -- it will show you on those colored copies that were written in red, blue, black, I think. On certain days, eight different machine results were written all on the same day. I also call your attention to look at the Logic and Accuracy test. When you look at how that thing is filled out, those machines were not logically and accurately tested; one each at a time. Those machines -- you can look at the writing and tell it's the same writing all the way down. That paper was filled out all at one time. Exhibit 16 is a letter from Merrill King, who's in the election division at Kennesaw State University stating that Douglas County never reported any problem with any GEMS server or anything else. I call your attention real quick -- I know I'm running out of time. But, if you look at Exhibit 153 of five, read down on page 27. It will say that Jason worked on the machine twice but had to go to the (unclear) building. He would return. After Jason came back, he worked on the machine again, and the members finally came up. This is in writing. How are we going to vote on machines that ain't even writing, counting the votes? You're going to continue to let people vote on them. Then the numbers came up. What numbers came up? Did it come up under one, or did it skip 1,000 people's votes. This is in writing on this document. So I'm asking y'all today to do the right thing. This is not about republican or democrat. This is about

putting people in these positions who are out here using the election for people to get a pension. Nobody in the state of Georgia retired after service of five years in office. All right. Thank you very much. I'm sorry about my passion for this.

**CHAIRPERSON HANDEL:** That's okay. I like passion. Let me just say one thing for clarity. This body does not appoint County election officials. Can we get a couple of questions before --

**MR. EVANS:** I have a couple of questions too.

**CHAIRPERSON HANDEL:** Okay; that's fine.

**MR. QUARTERMAN:** I'm sorry. I got a little hot.

**MR. WORLEY:** The transcript that you provided us from the election contest, who was the judge in the election contest?

**MR. QUARTERMAN:** Let me tell you about that. According to state law, the administrative judicial judge of that district appointed -- well, he sent and got his buddy, who was the administrative judicial judge from Gwinnett County, to hold the election contest. What was his name? -- Judge Clark. So the administrative judge gets another administrative judge to come to Douglas County to hold an election contest hearing.

**MR. WORLEY:** Right. What was the result of the election contest?

**MR. QUARTERMAN:** He said that we didn't file within the five-day period of time when we identified that the election was never certified. As a matter of fact, I got the transcript because I wanted you to see who he sent to the supreme court. He didn't rule. He says he was going to send this over to the supreme court to see what they say because we identified Hamilton versus Valentine that the certification -- the filing five-day-process, again, when the Secretary of State certified the vote because, in that ruling -- and it's in y'all's little blue book where we got that from -- it uses the case of the -- that's why we need your finding before then, oral argument is on September 15 to determine whether we file in time enough.

**MR. WORLEY:** I think that has nothing to do with what we do.

**MR. QUARTERMAN:** Well, it has a lot to do with what you do because you have a document here. These people certified an election to the Secretary of State with one signature when the



law clearly states it takes a majority of that Board to do anything. Then you got a December 15 letter saying, "I'm updating the certified results." so when was the election certified? That's when the supreme court is going to rule on one thing, and that's time. Time determines when the election was certified. But, according to Hamilton versus Valentine, it's November 13 when Ms. Handel certified the election.

**MR. EVANS:** The way the jurisdiction works is the court will decide matters of law, including the finding whether the certification was appropriate when it was issued and what was the date. Our job is limited. We determine has there been a violation and, if so, what is the appropriate remedy for a violation. But we don't alter the outcome of elections. We don't reinvent elections. Our job is, if somebody broke the rules and you outlined the violation that you believe exists, we have to decide whether or not we think there is enough evidence to merit a further investigation to hand over to the attorney general. Then, if it turns out there were violations, we determine what the penalty is. We can take action to correct it from happening again through our investigative challenge. But, as far as the actual merits and who's right and wrong in connection with an election, that's really under our constitution court system. The supreme court will hear your arguments and figure out what's the right way to go. I had a couple of questions, if I could.

**MR. QUARTERMAN:** Okay. I'm ready.

**MR. EVANS:** In connection with the appearance of the name on the ballots --

**MR. QUARTERMAN:** Ms. Davis, that's theirs.

**MR. EVANS:** Did you request the opportunity to participate in Logic and Accuracy testing?

**MR. QUARTERMAN:** Yes, sir.

**MR. EVANS:** What was the response?

**MR. QUARTERMAN:** Stand over there.

**MR. EVANS:** Were you put in a position where you could clearly see?

**MR. QUARTERMAN:** No sir.

**MR. EVANS:** What was it that you couldn't see that you wanted to see?

**MR. QUARTERMAN:** The first day they had the thing and we were there, it was supposed to start that morning. It didn't start. The technician didn't have some tools or whatever. I'll say a few people showed up, not a whole lot because it was never made really public knowledge. You can put something in a legal notice section of the newspaper. Unless somebody is specifically reading that, they're not going to know. It was not made public knowledge. The only reason that I was there was because the election Code states that the Board of Election is supposed to notify both political parties that they can be there. Also, they are supposed to have a panel of grand jury, and this grand jury is supposed to be there. There was never any grand jury people and panel to watch the Logic and Accuracy testing. They never notified the democratic party for which I am the chairman of now. They never notified any of these people. All they did was stick a Notice in the newspaper, but I knew about it because we kept up with it. We called them and asked them when it was. I was probably about from here to where that wall is to see that, and you are supposed to be where you can see when they lock the doors and unlock it the doors. The locking mechanism and all of that stuff has been done. But we really couldn't see any of that. But also, real quick, in doing the vote count, they counted the votes in a room and would not allow us in the room. The law says that you are allowed to be in the room to not only witness the vote count but hear what these people are saying. So watching outside from a glass window, we don't know what they did in there.

**MR. EVANS:** I'm not sure I understand where the audio part of watching tabulations come in. I don't remember that. That was on the Board when we adopted the rules of transparency and vote tabulation. I remember it had to be in a clearly visible area. But I don't remember it being audio where you had to hear what was said. We will have to look into that.

**MR. QUARTERMAN:** Sir, if you're in a room and they're counting votes way back there and you've got to stand up here at this wall right here, you can't see what they're doing.

**MR. EVANS:** I agree; and that's a sight issue. I agree that you have to be able to see. I'm not sure you have to be able to hear. That was the -- I just wanted to make sure, on the Logic and Accuracy testing, it says Notice Logic and Accuracy testing. Were you there during all of the testing?

**MR. QUARTERMAN:** No, sir.

**MR. WORLEY:** No?

**MR. QUARTERMAN:** We were only there that first day they kept having problems. I don't know -- they opened some of the hoods on some of the machines. They left. A guy kept coming back and forth. I didn't see where they put the thing in there. During a Logic and Accuracy test, you're supposed to cast actual votes on that machine and then take that card and go put it in the GEMS server to make sure the card matches up with the number of votes that the machine says on the card. We didn't see any of that take place. But our biggest issue was they held the remaining Logic and Accuracy test almost 30 days later but never made that public that they were testing the remaining machines. If you will see, only 31 machines out of 360 were tested on that day. None of the machines on that day was an optimal scanner or an express poll. So, if they didn't test the express poll, how did they issue ballot cards.

**MR. EVANS:** I think that's possible, but that's another issue. So, on the certification recount, as far as you know, was the recount certified or not?

**MR. QUARTERMAN:** No, sir, it was never certified. They testified in court they used November 7 as the day of certification. My only thing with the recount of the votes changed. According to 21-2-495, I think it's 'c', 'b', or -- 'c'. That, when the votes change from the original, they have to be recertified. I didn't ask them. We asked for a recount. They denied us a recount saying they were going to do a full recount. They did a full recount. It's in the exhibits. You'll see that my vote numbers, as well as every candidate on the ballots, every candidate on the ballot results changed.

**MR. EVANS:** I'm just trying to determine -- that's an issue currently before the court, right?

**MR. QUARTERMAN:** No. That's an issue before you because that's 21-2-495 which is an election Code violation when you don't recertify the votes when the numbers have changed like the law told you you've got to do.

**MR. EVANS:** And this is why I'm asking. I thought one of the issues that was pending before the court proceeding -- let me take a look just to make sure that I understood. The issue was, when the trigger starts for the five days, one of the questions that's kind of caught up in that determination is, when and whether there had been an appropriate certification of the final tally. This then implicates whether or not you,

in fact, had a certification.

**MR. QUARTERMAN:** Yes. Ms. Davis can answer that.

**MS. DAVIS:** I think you're correct that the court has to decide when it was certified and whether or not it was properly certified.

**MR. EVANS:** That's the way I read it.

**MS. DAVIS:** Those are before the Georgia Supreme Court right now.

**MR. QUARTERMAN:** Our argument comes from your blue book right here where it says "time for filing the five-day period for contest election." contest began after the results have been certified by the Secretary of State, not after each county certify. It relates to Hamilton versus Valentine. That's what we went by, and that's what Ms. Gammell and Ms. Hicks gave us prior to filing this.

**MR. EVANS:** I think the court will have to decide. The next issue was this is an issue that the Chair and the Board has in another case or a couple of other cases which is: Can tabulation include when absentee are outstanding? Is that issue -- I did not see that issue before the court. Is that issue before the court?

**MS. DAVIS:** No.

**MR. EVANS:** What's the significance of that in context of the allegation you made?

**MR. QUARTERMAN:** The court hearing is just like what you're doing right now.

**MR. EVANS:** No, no. I'm asking --

**MR. QUARTERMAN:** I'm just saying, it didn't get to the merits on the law of the case. It just stopped at the times because that was the issue that basically says if you didn't file in time. I don't care what else, they did wrong it wouldn't matter.

**MR. EVANS:** But I think the question I have is -- maybe this is better for either Mr. Taylor or Ms. Lagrue. Whether or not under our rules you can conclude tabulations without sending absentee ballots. They site here 1-83-112-025(d). But I didn't read it that way. Maybe I'm reading it wrong. I know. I'm going to hear from Mr. Mathis who has probably got

a better prospective. But I'm just trying to, if you would, Madam Chair, narrow the issues away from what the court has and what we have. Can you -- what's the requirement in terms of concluding tabulation for absentee ballots outstanding?

**MR. QUARTERMAN:** Let me make sure I understand what you're asking.

**MR. EVANS:** I'm going to give you a cheat sheet.

**MR. QUARTERMAN:** Perfect.

**MR. EVANS:** If you look at five in the report, there is an alleged violation of 1-83-1-12-025(d) for concluding the tabulations while absentee ballots are outstanding. I think we have this -- Madam Chair, correct me if I'm wrong -- in another case that we have pending. So I just want to know what is the answer there? Am I missing the rule on that issue of when can you conclude the tabulation?

**MR. QUARTERMAN:** And then the results -- based on that and the conclusion of the tabulation, is that the next step?

**MR. EVANS:** Well -- so I was in six and -- certify in six and seven. I understand those are to be before the court. So all I'm trying to do is stop one step short which is can you conclude the tabulation when absentee ballots are outstanding? We got this certification here.

**MR. QUARTERMAN:** Are you speaking about --

**CHAIRPERSON HANDEL:** Let him speak.

**MR. EVANS:** I will get confused so easily. The best thing in the world is just let me work it through. Do you see what I'm saying?

**MS. LAGRUA:** I believe, Mr. Evans, the very last part of the last sentence unless all such unofficial results including absentee ballots have been transmitted to the Secretary of State.

**MR. EVANS:** Yeah. I read that as, I think, Madam Secretary, we should decide that not in the context of a violation but we probably should get Mr. Taylor here who has done a great job of putting things -- cleaning things up before we get to --we probably should have addressed tabulation because that's in here. Then the other issue is the safety keeping of the absentee ballots. I understand that. I understand the

Notice. I understand that our other person is going to talk about the name on the ballots, so I think I now got our seven things.

**MR. QUARTERMAN:** Can I tell you what you were just asking about? Is that about turning the ballots on the -- that came in after the election was certified. They were supposed to wait until the end of the night of November 7, but they certified the election on November 7 before all the ballots came.

**MR. EVANS:** No. I think that issue is before the court. The important issue which we need to decide for the state and which the Secretary has been pushing us to get clarity on is exactly when is the in time for closing tabulations because we had an issue of absentee and people going home not finishing the tabulation. The deal is we just need clarity. We just need to figure out exactly when you can close the tabulation and that's just a different issue. But thank you. I don't mean to use everybody's time.

**CHAIRPERSON HANDEL:** I just have one question for Ms. Lagrue. In the report, it says 67 absentees outstanding. Tell me precisely what you mean by that. Did they have them in hand that they were not counted or --

**MR. HARVEY:** Those are the ones that were misplaced. So they had them although apparently they didn't realize that.

**CHAIRPERSON HANDEL:** Okay; got it. But they had been received, but they just didn't know where they got it. Okay.

**MR. EVANS:** Great question. The way I read that is four and five have been -- we have been hearing the latest which is four and five have been interrelated. Four is they were misplaced and five is you closed tabulation before you found them; is that right?

**CHAIRPERSON HANDEL:** Yeah. All right. Now, I know we have someone over here.

**MS. DAVIS:** Good afternoon, Madam Chair, Board members, my name is Joan Davis, attorney for -- I represent Mr. Derrick Broughton, Derrick T. Broughton. He was a candidate for sheriff, Douglas County in the November 4 election. I just wanted to highlight a couple of points that we wanted to raise. I understand the recommendation is that you've already -- that you're going to refer this for further investigation. We just believe, on behalf of Mr. Broughton, that there was

just so many violations by the Douglas County Board in conducting this election. We like to call it the drip factor -- drip, drip, drip. It's not that each one of these items would be so significance. For instance, you're talking about the 67 votes whether it makes a difference. Well, you might say that didn't make any difference. Then you go to say whether the person's name wasn't spelled exactly right. Well, it doesn't make a difference because we have two different databases. Then we go on to find out that the results were manually entered, but it doesn't make a difference. But my point is, on behalf of Mr. Broughton, there were just so many irregularities in how Douglas County conducted this election. To answer your question: Has there been a violation? -- yes, we believe there has been a violation.

**MR. EVANS:** Can you allow me just to interrupt you.

**MS. DAVIS:** Sure.

**MR. EVANS:** We don't do the drip factor. For us, every violation is a violation period. So I just wanted to delay any concerns you have about do we have any that we need cumulative effect. We don't. You run the stop sign. I don't care how many times you ran it or how fast you were going or anything else, that's a violation and we deal with it. You go too fast, that's it. That's a violation. Now, in fashioning a remedy, certainly the cumulative effect is something that takes special -- as the Chair has made clear, we will necessarily come into a county and take very aggressive steps and have done so in the last year. But I don't want you to spend a lot of time on the drip thing because we treat every single violation seriously.

**MS. DAVIS:** And I appreciate that. I only wanted to point out, number one, you said the question is: Is this Board authorized to determine has there been a violation? We believe obviously there has been a violation, and I think you believe that because you have already referred it for investigation and also for a recommendation. So I just want to emphasize a couple of points on behalf of Mr. Broughton. The first point being that Mr. Broughton's name did appear in two different and possibly as many as three different ways with regards to this election. I have here a copy of the election summary where they listed his name as Derrick Brought, B-r-o-u-g-h-t. Then we have a copy of it -- it's an official absentee ballot where his name is listed as Derrick Broughton. Then we have a copy of the official sample ballot absentee provisional challenge where it's Derrick T. Broughton. So these are all documentation from the county,

from Douglas County, showing his name in three separate ways. So now, I believe there is a violation because I understand the testimony is that the person who spoke with your investigator said that they put two databases together in terms of counting the votes that Mr. Broughton got. But now, it appears there maybe have been three separate entries. So where did those third votes go?

**MR. EVANS:** Is it your position that a simple error of a name on a ballot is a violation, or does there have to be --

**MS. DAVIS:** I'm sorry. Could you say that again?

**MR. EVANS:** Is every time you have an erroneous entry on a ballot is that a violation in your mind, or does there have to be something more? We have typographical errors that happen. I'm just wondering whether you view that as every time there is a mistake there is a violation or as we have before us it's -- in fact, we have here the failure to proofread or designate to proofread. In other words, failure to take the precautions to help minimize it.

**MS. DAVIS:** I don't know if we want to call it a proofreading error or if each one is a separate violation because each of these documents are soliciting votes from the public. So, if we are sending out sample ballots and people are putting their votes down, I don't know. This says it's an official absentee ballot. So, if people are voting here and they know it's Derrick T. Broughton, clearly, if you see two different names, Derrick Brought -- I have met -- that person may say, "Ghee, I think it's him, but maybe it's not him. I don't want to vote for the wrong person." so, clearly, having the person's name incorrect on the ballot -- in this case, the official election summary that reads B-r-o-u-g-h-t, I would think, not only is that an error, but a pretty serious error.

**MR. EVANS:** I'm not concern if it's a -- I'm not minimizing the seriousness of the error. I'm just wondering whether or not the re-election official who puts the name on the ballot commits a criminal offense if he makes a mistake?

**MS. DAVIS:** I think, if the state law says that, I think it says you should not?

**MR. EVANS:** What state law you think says that?

**MR. QUARTERMAN:** I'm looking for it right now.

**MS. DAVIS:** Yeah, there is a section directed to that about



signing the voters documents.

**MR. EVANS:** So, if you have a citation, that would be very helpful.

**MS. DAVIS:** Okay. I'll help him. But there is a section that talks about the name that goes on the ballot, and it needs to be what you signed up and asked that they put on the ballot. Some people are famous for wanting their nicknames on the ballots. The second point I wanted to point out is, with regards -- I will let you look it up. The second point is there is a new House Bill that was passed, House Bill 1437, which created the Board of Elections for elections for Douglas County. It goes on to state how in that bill that the Board is to count by majority of the Board. Now, the reason I think that that is implicated is because the certification that the Cobb County Board purports to the Secretary of State is the one that's dated November --

**CHAIRPERSON HANDEL:** You mean Douglas County?

**MS. DAVIS:** Douglas County, I'm sorry. The one that they purported to send to the Secretary of State dated 11/7/08 is not signed by the Board. It appears to be signed by Mr. Worthy. But, as I said, they now operate as a Board under this statute. So there is room on the certification for the Board itself to sign -- for all the Board members to sign. One of the letters that we have show Fulton as being the supervisor, but she didn't sign the certification as the supervisor. So that is part of our position that it's not properly certified because it's not signed by the Board, or it's not signed by the majority of the Board.

**CHAIRPERSON HANDEL:** Well, did the Board take an action to certify it?

**MS. DAVIS:** We don't know. How can you tell if they didn't sign?

**MS. DAVIS:** I don't know.

**CHAIRPERSON HANDEL:** But that's a different issue. That's something I guess that -- Shawn, if we can find that out, I would like to know that. It's not unusual for a Chair of a body to sign on behalf of the body if the Board accounted and it was a majority action. So the fact that only the Chairman signed is not particularly -- there is a backup of an action taken by the full Board. For example, this body doesn't sign every single thing. If it's a majority action, I typically

sign. That's something, if we can find that out. Thank you.

**MS. DAVIS:** In that connection, I might also add that the form -- and this form is prescribed by your office, the Secretary of State's Office -- it says, "We, the undersigned superintendent/supervisor of election and his/her assistance do jointly and severally certify that the attached election summary is a true and correct count of the votes cast in this city/county. So the form itself seems to require that they all sign it. But the only other point I would add with regards to that is I understand that Ms. Fulton is the election supervisor. She did.

**CHAIRPERSON HANDEL:** Can you pass the form down?

**MS. DAVIS:** Absolutely. This is what she sent to the Secretary of State on November 7 to certify this election. If Laurie Fulton is the supervisor, then she did not sign as the supervisor. One of the Board members signed. So there would still be a problem if you're saying that the head of the body can vote on their behalf. Then that still hasn't happened with regards to the certification.

**MR. EVANS:** Can I see the document that you had which had the partial name?

**MS. DAVIS:** Yes.

**MR. EVANS:** I understood that there was a difference between Derrick Broughton and Derrick T. Broughton, but you indicated one that was like Derrick Brought.

**MS. DAVIS:** May I approach?

**MR. EVANS:** Yeah, absolutely.

**MS. DAVIS:** Those are the three documents that I have with his name.

**CHAIRPERSON HANDEL:** Okay. Can you --

**MS. DAVIS:** I only have a couple more points.

**CHAIRPERSON HANDEL:** Well, we still have at least one other person who wants to speak on this.

**MS. DAVIS:** I'm told that you asked earlier about the Code section with regards to the name in --

**CHAIRPERSON HANDEL:** Yes.

**MS. DAVIS:** 21-2-153(e)(1). Thank you.

**CHAIRPERSON HANDEL:** Thank you.

**MS. DAVIS:** Also, just two more points, and I'll sit down. The certification -- I think I have given you my copy of where the Douglas County Board have to certify the election and send it into the State. The election summary that they have attached talking about registered voters being 70,586 being registered voters. But it also says on that election summary that cards cast were 30,008 cards cast. Clearly, if you will look at the candidates on there, when they start out with the first candidate being Supreme Court Justice Robert Bynum got 38,544 votes. So that can't be correct. If you have only 30,000 cards cast and the very first person on your summary got 38,544 votes, the 8,544 votes, where did they come from if there was no cards cast. So then we understand that there was a letter sent by Ms. Laurie Fulton to the Douglas County Board of Election dated December 15, 2008, sent by the Douglas County Board of Election to the Secretary of State on December 15 where it says, "It has come to our attention that you do not have the corrected version of our certified results." that summary purports to show that you do not -- there were 70,586 registered voters but 55,410 votes cast. So apparently, 30,000 votes we don't know where they came from because people were supposed to be voting in the election machine. I just think that's a problem. That's in the letter that was sent to the Secretary of State.

**CHAIRPERSON HANDEL:** Anymore questions.

**MR. EVANS:** So Mr. Quarterman, you were a candidate for Chairman of Commissions?

**MR. QUARTERMAN:** Yes, sir.

**MR. EVANS:** So your name is wrong on here too.

**MS. DAVIS:** It is. It has Quarters instead of Quarterman.

**MR. QUARTERMAN:** Can I add just one quick point? I'm a computer system engineer and databases don't match up unless there is a difference in the database. It has to be something --

**CHAIRPERSON HANDEL:** We will address the database issue. That's in another area. Let's give this back to you so you

have that. We have -- I think these are yours too. There you go. Thank you very much.

**MS. DAVIS:** Thank you for your time.

**CHAIRPERSON HANDEL:** Thank you. Now, who do we have?

**MR. MATHIS:** Good afternoon. I'm Ben Mathis of Freeman, Mathis, and Gary representing --

**CHAIRPERSON HANDEL:** I'm going to need you to speak up. The mics are not working.

**MR. MATHIS:** Okay; I'm sorry. Ben Mathis for the law firm of Freeman, Mathis and Gary. I represent the Douglas County Elections.

**CHAIRPERSON HANDEL:** Could you, please, for the record, give us the names of everyone on the Douglas County Board Elections?

**MR. MATHIS:** Now, you're testing me. They're Aaron Walker -- Laurie, help me. Give me all the names.

**MS. FULTON:** Sylvanus Burney.

**MR. MATHIS:** Spencer Hardy, John Lawrence, Rochelle Robinson, Aaron Walker. It's my pleasure to address and clear up exactly inappropriate allegations that are being made without knowing what the true facts are. What is interesting about this is the underlying facts are not in dispute at all. As the investigator found, the vast majority of all of these allegations have no bases whatsoever. I think the comment "drip, drip, drip," is appropriate because that is what is being tried here and what has been tried in so many ridiculous, groundless allegations; that, if you find a few facts where there were, as the investigator found with one exception, he is absolutely correct about what happened on a couple of very narrow issues in addition to the 67 ballots which is sort of an issue in and of itself. I think I would be remiss not to point out particularly Mr. Quarterman is an engaging person every time I listen to him. Mr. Quarterman has filed now a number of lawsuits against the County. He has been sanctioned by the superior court there a number of times. Fines are not paid.

**MR. QUARTERMAN:** Your Honor?

**CHAIRPERSON HANDEL:** Hold on everyone. I have order in this

room. I am going to respectfully request that you keep your comments to what is germane to this body and the issues before the State Board. Thank you.

**MR. MATHIS:** I will, Ms. Chair. But I think, however, there is an order from the court that is restricted from even suing the County more --

**CHAIRPERSON HANDEL:** But that's not before this body. We have nothing to do with whether somebody does or doesn't sue a county. So let's talk about the State Election Board issues.

**MR. MATHIS:** I will say that it bears upon the allegations that are not in a factual record and just making allegations where there is no basis of facts to address the particular issues that are in the investigative reports. The facts are with respect to Derrick T. Broughton. He was listed as Derrick D. Broughton on the primary ballot. There was an error leaving him off the general election. For the earlier voting ballot, it was not caught. They left off the 'T'. That was the only difference, Derrick Broughton versus Derrick T. Broughton. Once that was brought to the Board's attention, they corrected it on the general election ballot. These are the only differences. The documents they are showing you now are from computer printouts where there is a limited number of characters that you have, so it shortens the name. It did it for everybody. I think it ends at six characters or eight characters. So it's the same for everything. That's not an official document that the public saw or affected anybody's votes. Those are the undisputed facts. What Georgia law clearly establishes is that is not a technical violation even of Georgia law. The state supreme court in Lou versus Sheffield 2278 Ga. 268. I've got copies of it. We can provide a document. It held that names given, a candidate's given name, family surname, therefore, ballots that simply are incorrect because they omit a middle initial do not create any violation. The court held the same thing in May versus Parks 267 Ga. 2243, a 1996 case. That's the issue on those. No impact on the election; no, not even a legal violation. Now, the Board obviously regrets that. I don't know if you can have so many procedures for trying to double-check, which they did. It was just missed. They have come up with a procedure now. In the future, they don't want what happened to happen again. They are trying to get the ballot out and have all the candidates look at it in advance so that they see it beyond what is required by this Board, by statute, by rule. But that's something they'll try to do and fix that situation because it's regret, but it happens. Dealing with the public notice of the testing which is the second issue, again, this

is an allegation violation of your own Board ruling and the facts are that, on September 14, there was advertising that testing would began the following week and would continue until complete. There was no publishing and, if there were subsequent days, then the testing was held incomplete. Your own rules do not require publishing. My understanding is it's a practice among boards throughout the state. They don't require --

**CHAIRPERSON HANDEL:** I really need you to speak up.

**MR. MATHIS:** I'm sorry. They don't republish the information. There is no requirement for that. So the rule simply says that the superintendent is supposed to publish it and "shall continue it from day to day until such preparation is complete." that's a citation of the Board Rule 183-1-12-.02(3)(b)1(i). So, again, on the second situation, no violation of any rule whatsoever. The issue of the absentee ballots, again, the Board regrets that situation. Again, what happened in all of these allegations about missing ballots and destroyed ballots and all of this kind of thing absolutely false; no factual bases. The investigator found no facts to support any of that. It's just more outlandish, outrage, untruthful accusations. The only thing that did happen is the 67 absentee ballots that came in one day by a temporary worker. When they were faced with the on slot, it was a difficult situation every metropolitan election Board found because it was over early voting that was going on. The temporary, instead of putting them in the correct file cabinet, put them in a different file cabinet and locked them. Therefore, they were not discovered until after the election was concluded and after the vote had been conducted. I think it was three days afterwards. To this Board's credit, to Ms. Fulton's credit, when it was discovered, they published it. At that point, they had already certified the results of the general election. So they had 67 absentee ballots that they found after the fact. Now, to deal with the whole issue of tabulation and all of that, that is not an issue in this case. The Board had tabulated all of the absentee ballots. They just didn't know about the 67 which was in a locked file cabinet in the election office due to the error of a temporary worker. So what do you do at that point? The election is over. They have certified results. They have one election that's going to be a recount. That's the tax division. That's the only one. The Board, confronted with this situation, made what we believe is the appropriate and reasonable decision. They did not then uncertify or take action to hold a recount of all elections. It was only 67 ballots. Even if they all were for one candidate, it would

not have affected the outcome or put them within a one percent margin of error of any of the other races. So, at that appointment, they conducted the recount of the tax commission race and, again, this is where the facts are clear. Making these allegations are so inappropriate because you have a computer recount. You can't just count one race. I think the Board is aware of that. You have to run through all of them. So you get a recount, but it's not legally a recount. You get a printout of all of the other races, as well as the one race you were trying to recount. That was done. That was certified. You have that in front of you. I can give you additional copies that was certified on the 14th. That's how the 67 ballots were handled. Now, again, this Board is trying to -- there are procedures in place. It's difficult to have procedures and tell someone who don't know to do what you didn't tell them to do. But they'll go back. They already -- they have promulgated some new internal regulations to try and make sure that a temporary doesn't make that kind of same mistake again. So, on all of these issues, we believe there are no technical violations with the extent of 67 ballots. A Letter of Instruction is the only thing that's appropriate, and there is nothing to investigate on those issues. There is nothing for the AG's office to look at anymore or do anything about the calculation of the database. Again, I guess, by trying to do the right thing, you give materials to folks who want to bend the truth around and bend facts around. There is one statement at least we believe is incorrect in the investigator's report, and that is Ms. Fulton's recommendation. There was never a recommendation from KSU about having there to be one database rather than two. Because you had a database with a Derrick T. Broughton and a database with a Derrick Broughton, you could not make them all together. So they had to do a manual calculation of the two databases. They had technicians there. They did everything possible to try and get the two to mesh. It wouldn't happen. So they did a manual calculation with all of the Board's members there present double-checking the numbers and putting together the calculations on election night. This Board, which has democrats on it, which has minority members on it, had no dispute whatsoever about what was done and what the results were. But the error, if you want to call it that, was on the top, on the cards cast. It showed only one of the databases. That's why you had a cards cast of the 30,000 votes when there clearly was fifty or 60,000 votes. They can scream all day about it. None of this was in dispute whatsoever. There were no missed votes. The totals were clear. Like they tend to do, there was a slight difference in some of the races, not in the recount. But you had that cards cast number difference on the original certification because

there was so many wild and untrue allegations. Ms. Fulton and the Board thought, "Well, the best thing to do at least is to get the technician to come back out and run it so we can get the cards cast right on what would be sent to the state as a corrected version. The technician came out and has got the correct cards cast. You have some differences again, minor differences, on -- it's not a certification -- this last summary of the votes because the technician was doing the manual calculations. All he understood was the big deal of the cards cast. So there was a lot of attention paid; similarly, a few votes off here and there. There are slight differences. So Mr. Fulton sent that into the Secretary of State to say at least this explains the cards cast total and why there was a big difference between the original certification. So I hope that makes sense. That's what happened. I think the investigator understands that's what happened. There are no allegations. Well, there are allegations. There are no facts whatsoever to support any of this nonsense about voting machines and tearing up records, et cetera, et cetera. A lawsuit was brought afterwards. Judge Clark from Gwinnett County, pursuant to the appropriate -- because the Douglas County judges were conflicted, the administrative judge of the circuit appointed Judge Clark. Judge Clark was the administrative judge. He was brand -- I don't know if I can say this on the record. He was brand-new to it. It was right around Christmas. So he said, "I'm going to stick myself with this job." so he hears it. He heard the arguments on it. He dismissed the case for not being timely filed. Their argument, we believe, is wrong. But it's outside the purview of this court. Their argument is that they don't have to bring it within five days of this certification; that there was no certification. Judge Clark held there was a certification. He held that you had to bring it within five days. The codes for state offices that are certified by the Secretary of State the time to file is extended. For a county office, by statute, is five days. These were county offices. That's what Judge Clark held. We think he's right, but that's the supreme court's decision. That is what's going up to the supreme court. So I will be glad to answer any questions. But, again, we would submit that there is no basis for this Board to give credence to these wild allegations. The facts are clear. The remedy is clear which is, I believe, a Letter of Instruction on certain of these issues. But I want you to know this Board has taken it seriously. They have tried to address all of this. This is the story. This is what happened. Again, it's not my version. It's what the facts show. There are no factual allegations.



**CHAIRPERSON HANDEL:** I have a quick question. My first question is about the names that were not correct on the ballot. Were they not correct because of leaving out the 'T', and it doesn't have anything to do with the length or whatever? So were the names different in the primary than they were in the general on the touch screen and/or on the paper ballots?

**MR. MATHIS:** They were --

**CHAIRPERSON HANDEL:** Simple yes or no.

**MR. MATHIS:** Laurie, correct me if I'm wrong, I don't want to mistake the record. My recollection is --

**CHAIRPERSON HANDEL:** Why don't we let Laurie tell us?

**MR. MATHIS:** That's fine.

**MS. FULTON:** Good afternoon. Laurie Fulton, 5317 Slater Mill Circle, Douglasville, Georgia. I am the election supervisor. It was after we had already begun conducting advance voting, early voting, when the error was discovered about leaving the 'T' off. That's the only error that was in any name. So the early advance voting and touch screening was and the paper ballots did not have the 'T' in November. That's when we got the second database. So, on election, date touch screening did have the 'T'. I went to the extent of the sample ballots that were distributed from my office that were already printed had community service workers handwritten the 'T' in and put a notice on the wall to where the voting was taken place and it was a typographical error and to correct it and the correct information was Derrick T. Broughton.

**CHAIRPERSON HANDEL:** And what about Mr. Quarterman?

**MS. FULTON:** Mr. Quarterman's name was not misspelled on the ballot. That is strictly a field on the port that is too short to --

**CHAIRPERSON HANDEL:** So it was correct the way he submitted his filing document on --

**MS. FULTON:** The ballot, yes, ma'am.

**CHAIRPERSON HANDEL:** Both the touch screen and --

**MS. FULTON:** Yes, ma'am. There is no question about Mr. Quarterman being correct. That was simply that report does

not allow more characters to accommodate the entire length of his name.

**CHAIRPERSON HANDEL:** Then my last question is: Is the way I understand all of this a lot of the issues with the whole entire process came out of having multiple databases in the first place.

**MS. FULTON:** Correct.

**CHAIRPERSON HANDEL:** It's my understanding that you were strongly counseled.

**MS. FULTON:** I would respectfully disagree. When I inquired with KSU about what could be done, it was -- it's not the ideal thing either way, but you could go ahead and have a second database. It was my understanding, until election night, that those two databases could just be merged. It was at that point that I found out, no, they cannot just be merged. They had to be manually done.

**CHAIRPERSON HANDEL:** Well, I'll have to wait for Mr. Taylor to come back in the room because he had a different perspective on it. I think KSU had a different perspective as well. All right. That's all I have.

**MR. EVANS:** I just want to make sure I understand. It's your position that, on the differences in the name, that there is no statutory violation?

**MR. MATHIS:** Correct.

**MR. EVANS:** So 21-2-153 (c)(e)(1) doesn't -- and I tend to agree with you. I say that so you don't think 153(e)(1) constitutes a --

**MR. MATHIS:** No, sir. Actually, I think that's not even probably the accurate circumstances because it doesn't deal with general election. It deals with the primary.

**MR. EVANS:** Was there someone designated to proofread the ballots? It does appear to me that 181-1-12-.02(3)(a)(3) does require that it be proofread and that you have that done.

**MS. FULTON:** I proofread the ballots.

**MR. EVANS:** Then we come to Notice provision. At a minimum, Madam Chair, I would think this is something that we ask Mr. Taylor as well because this is -- which put aside, for a

moment, the merits of this case. I don't think we can permit there to be a general catchall. We started the Notice. When you start it back up --

**CHAIRPERSON HANDEL:** I was waiting for Wes to get in, but that would not be the practice of the other counties that I'm aware of. But we didn't clarify that.

**MR. EVANS:** But I understand Mr. Mathis' argument is that's great, but the law is written on the day this occurred. It did print.

**MR. MATHIS:** I did think that. If the rule should be clarified, there should be other notices. If you are other counties, you don't know what that is and what would be sufficient.

**MR. EVANS:** Then, on the 67 absentee ballots, this was found three days afterwards. I read it as deducted, which is, if the rules had been followed, then we would have caught it. But that wouldn't be a violation. So we need to figure out -- I'm trying to figure out what is the violation of the absentee ballots and where I'm confused is it would seem to me -- I could be wrong -- that the mathematical calculations of inputting the number of ballots would have led to the idea that, at the end of the day, you are missing 67.

**MS. FULTON:** The process you go through when you refer an absentee ballot in our office was that you first view that signature -- you date and time stamp them first. Then do the signature verification on them. Then, because I had very many temporary staff people, they were not on the computer to do the entering. So those ballots should have been given to my permanent staff to enter into the computer because they were never entered into the computer. You are correct. Well, they been entered into the computer as having been voted. The numbers would have been off. But they never got to that. That was the point where they were put in the incorrect file cabinet and locked. So it was not until we were beginning to clean up from the election that we discovered those ballots.

**MR. EVANS:** But wouldn't the failure to enter them in the system would be a violation because I thought we had a rule that because this absentee ballots are sensitive that we have a rule that you have to -- you can't let -- if it turns out the reason they were under staff -- inadequate resources, et cetera -- those were all mitigation reasons as to why the rule wasn't adopted. But, if it hasn't really changed that the entry requirement wasn't so, do we all agree that they were

not entered promptly and, I guess, Mr. Tailor, you can figure it out for us. There is a rule here, which I couldn't put my hand on last night, that says you have to enter absentee ballots. You had just done a change of that rule for us at the last Board meeting, but I couldn't find your root of it. But I assume there is a website that absentee ballots, upon receipt, have to be entered in the system. That would be our violation section on the 67. Then we talked about 181-1-12-.02(5)(b), which I didn't read as clearly maybe otherwise, the certification issues before the supreme court.

**MR. MATHIS:** If I might point out one other thing sort of on this issue of what KSU said or didn't say. I guess, Mr. Tailor, the investigator may know their view on the issue now as opposed to what we understood at the time. But I don't believe the last person at KSU who did the card count, manual card count, did the corrected total of the interviewed. I think they couldn't find him or couldn't track him down. But, again, I think Ms. Fulton and the Board were trying to do the right thing that night. If they had understood that there was a better way to do it, they would have done it. They were trying. They stayed up all night trying to get those two pages to sync that night. They couldn't get it done. So maybe KSU has an after the fact justification on it. I understand going into the two databases were the best solution for a bad situation.

**MR. TAILOR:** I could address that, if you would like.

**CHAIRPERSON HANDEL:** Yes.

**MR. EVANS:** Might I suggest that we let them finish and then let --

**CHAIRPERSON HANDEL:** Sure.

**MR. EVANS:** I don't want to get into --

**MR. TAILOR:** Oh, I didn't know they --

**MR. MATHIS:** I think we have. Thank you very much.

**MR. WORLEY:** I have questions too.

**CHAIRPERSON HANDEL:** Sure.

**MR. TAILOR:** I recall Ann Hicks in my office when we spoke to Laurie about this issue when it came up before or during earlier voting. I also know that she spoke with the staff at

KSU. In order to have two different names on the ballot on election day and during early voting, you would have had to go into two database scenarios. But we did advise Douglas County not to go that route because there were roadblocks. There were issues with going into two databases. If you do that, you had to make sure each step was done with precision. If you went that route, if you didn't follow each step precisely, you would have issues. So while it's true it was an option, it was not the advised option.

**MR. WORLEY:** I've got a question about part of the report of the inspector general.

**MR. MATHIS:** I'm sorry?

**MR. WORLEY:** The last part, potential violation, that the inspector general identifies, Item 6.

**MR. QUARTERMAN:** Excuse me. How come they got a report, and we never got one?

**MS. LAGRUA:** We always provide our investigative summary to the respondents. We never provide them to others because it's still part of an ongoing investigation.

**CHAIRPERSON HANDEL:** But you will have --

**MR. QUARTERMAN:** If it's a fact, I mean, they came prepared. We didn't. That's not fair.

**CHAIRPERSON HANDEL:** You are a witness.

**MR. QUARTERMAN:** No, I filed a complaint.

**CHAIRPERSON HANDEL:** You are still a witness. But, guess what, please, don't call out like that again because it's not your proceeding. This is ours. We have been more than fair and open and gave you as much time as you needed. Mr. Worley, the floor is yours.

**MR. MATHIS:** Mr. Worley, I'm not sure what you are referring to.

**MR. WORLEY:** Potential violation, Number 6. It's the next to the last page of the inspector general's report.

**MR. MATHIS:** Okay. I'm with you.

**MR. WORLEY:** It says the facts in this case are indicating

that Douglas County Election Supervisor, Laurie Fulton, and the Douglas County Board of Elections Registration violated O.C.G.A. 21-2-495(c), in that, they failed to certify the recounted votes that had been changed and been submitted to the Secretary of State's office on December 16, 2008. What's your response to that?

**MR. MATHIS:** The information that was submitted at the time was to correct December 16. There was no legal basis to recertify all of the races based on the only thing they changed was the 67 ballots. They recertified the tax commissioners race. The information provided to the Secretary of State, on the 16th, was the corrected card count.

**MR. WORLEY:** Okay. Leave out the 16th for a moment.

**MR. MATHIS:** Okay.

**MR. WORLEY:** The statute in that provision included, if upon such recounts, it's determined that the original count was incorrect. The returns and all papers prepared by the superintendent or the Secretary of State shall be corrected accordingly, and the results shall be certified. Are you saying that you recertified the results?

**MR. MATHIS:** That's correct.

**MR. WORLEY:** But not the other races. Even those results have changed in the other races?

**MR. MATHIS:** That's correct. And the decision I would submit was is the appropriate point, at that time, was not to recertify all of the races based on the 67 ballots.

**MR. WORLEY:** Why had the vote changed?

**MR. MATHIS:** They had not changed; only for purposes of tax commissioner's race.

**MR. WORLEY:** But they had changed in all the races.

**MR. MATHIS:** Well, it doesn't say -- let's say the ballots had been discovered a month later. The only reason they were counted for purposes of the commissioner's race was because there was a recount. There was no statute authorization to recount anything in those other races when you do a recount. So, from the Board's perspective, when you do a recount, you are also going to get some changes that didn't recertify every race. I know this is sort of a unique circumstance where we

have the 67, but there is no statute basis to go in and recertify and recount all the races.

**MR. WORLEY:** Well, the statute base system -- you did a recount in one race as a physical matter you recounted the votes in every race. And the statute says, if upon such recount it was determined that the original count was incorrect, you recertify. That's what the statute says.

**MR. MATHIS:** No, sir, I disagree. The statute --

**MR. WORLEY:** That is what the statute says.

**MR. MATHIS:** The statute --

**CHAIRPERSON HANDEL:** Hang on.

**MR. WORLEY:** Am I misreading? Tell me if I'm misreading.

**MR. MATHIS:** The recount refers to the race you are recounting. If that was the interpretation every time you do a recount in any particular race, if it changed any of the votes in any of the other races, you would have to recertify every single race. I don't believe that's the law. It is a unique function of the new computer system, but it didn't change -- you are only recounting the race. It would change the way everybody does it. I understand what you're saying, but I would respectfully disagree with the interpretation.

**MR. WORLEY:** Yeah. My interpretation in an action like this where you found new ballots that were counted, you need to recertify them.

**MR. MATHIS:** I hear what you are saying, but we respectfully disagree.

**CHAIRPERSON HANDEL:** All right. Are we ready for a Motion?

**MR. MCIVER:** I move that we bind it over.

**CHAIRPERSON HANDEL:** There's a Motion that we send it over to the attorney general's office for all of the ones left.

**MR. EVANS:** I will move that we bind --

**MR. WORLEY:** I would move that we -- I don't think item 1 is a potential violation.

**CHAIRPERSON HANDEL:** Okay. Anything else, guys?

**MR. EVANS:** I agree with my colleague. I think one and two are the only two I have evidence. We have in here that the ballot was proofread. So I think that -- I agree on two of the ballots. On Item 6 and 7, I view those as a matter -- actually, they're the jurisdiction of the court. I read the statute. I don't think I read it the way Mr. Mathis read it. But I would suggest something about the statute that is 21-2-495(c), if upon such recount -- there wasn't a recount in this. There wasn't a recount in this particular race. It's only the race where there was a recount. If the numbers change, then we have to actually recertify.

**MR. MATHIS:** That's what I was saying.

**MR. WORLEY:** So I don't see 6 and 7, 183-1-12-.02(5), the tabulation.

**CHAIRPERSON HANDEL:** Can I just ask a quick question?

**MR. EVANS:** Sure.

**CHAIRPERSON HANDEL:** Since this is before the Georgia Supreme Court, is it possible that that would have had a barrier on -- I would hate to have those closed with an open case, not knowing what the outcome of the open case is going to be.

**MR. EVANS:** But, if I understand it correctly, if the supreme court reverse it, they would decide either there wasn't a certification to trigger it or the certification was within the five days in which case the complainant here would have a remedy. That remedy is they would be able to test.

**CHAIRPERSON HANDEL:** Correct. That mean that, if it wasn't certified, that meant that it wasn't properly certified. That means that their body wouldn't be able to have action.

**MR. EVANS:** Well, except that the allegation is that the recount -- we didn't have a recount on this. That was why I was curious about citation --

**CHAIRPERSON HANDEL:** No. I'm talking about certification at this point. If a supreme court says that there wasn't proper certification or it wasn't certified based on the time line, isn't that -- that would be a violation in and of itself. I guess I'm in the place of giving the litigation, not taking anything off the table at this time, except for perhaps one, if it was touch screen of the ballots. But I would like to see it just to allow this body to have the ultimately latitude



that it might want to have down the road.

**MR. EVANS:** According to the statute, 21-2-596, it's just anybody who neglected or refused to perform their duty. So that didn't really strike me on the certification of the election. So maybe there is a citation. But I don't think it's 21-2-495(c) or 21-2-596 because there's another citation we have for the statute that deals with the failure to timely certify; then that might be a basis to bind over, but we don't have it in the Notice. I do agree that failure the Notice issue with all due respect to my colleague, Mr. Mathis, I have a tough time just finding that we have an open-ended opportunity to test. I understand the argument. That could be addressed with a Letter of Instruction. But the one that's trips me up is the 67 ballots because I do think you have to figure that in the system when it comes in that we don't have adequate resources. It didn't get us around the violation. So I couldn't support a referral of all of them. I could support a referral based on 67. The idea that we will deal with the Notice in the context of a remedy, then I'm troubled by this idea that we can have multiple GEMS servers. I'm surprised that we don't have a rule on that. Maybe Mr. Taylor can address that situation which is to deal with this testing and deal with the GEMS issue. I can see how there would be great consolation to know that individual election officials to create a sister system which you then count on a -- I support 3, 4, and 5. I agree with you. I have no trouble, Madam Secretary, with tabling until we get the supreme court's decision for certification. You can you equally handle that with a referral.

**MR. WORLEY:** Madam Secretary, can I have an amendment --

**CHAIRPERSON HANDEL:** Sure.

**MR. WORLEY:** -- to Mr. McIver's Motion. The amendment would be that we refer all of the violations, except 1 and 2 to the attorney general's office at this time.

**CHAIRPERSON HANDEL:** We have a Motion and a second. So the original Motion and second on the entire packet for the AG's office to go through in more detail. Remember the AG's office, first, they look at it further and then determine whether 1 and 2 are most certainly not violations.

**MR. WORLEY:** Well, I appreciate that. That is their job, but it's also our job. I would like to refer 6 and 7 over to keep them open.

**CHAIRPERSON HANDEL:** Right. We are referring all, at this point, with a Motion and a second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** All oppose?

(whereupon, there was a chorus of nays.)

**CHAIRPERSON HANDEL:** We never had a -- let's try then a second Motion for all of that.

**MR. EVANS:** I make a Motion to refer 3, 4, 5, 6, and 7.

**CHAIRPERSON HANDEL:** I will second that. We have a Motion and a second for 3, 4, 5, 6, and 7. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

**MR. EVANS:** I misunderstood.

**CHAIRPERSON HANDEL:** The first Motion was --

**MR. EVANS:** I got the first Motion.

**CHAIRPERSON HANDEL:** The second Motion is 3 through 7 which will then keep 6 and 7 on the table, depending on the supreme court's ruling. I don't know. Let me call the vote again. So all in favor of referring 3 through 7, say ayes.

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** All oppose?

**MR. MCIVER:** Oppose.

**CHAIRPERSON HANDEL:** Okay. That's three to one. So it's going over. All right.

**MR. MATHIS:** Can I ask for clarification? You mentioned several times holding 6 and 7 open.

**CHAIRPERSON HANDEL:** 3 through 7 are being referred to the AG's office.

**MR. MATHIS:** Thank you.

**CHAIRPERSON HANDEL:** All right; 2009, Number 4, Lamar County.

**MS. LAGRUA:** Yes, ma'am. This involves the 2008 general election. The complainant was Joe Buice, who was the incumbent sheriff, made against the respondent, Larry Waller, who is the current sheriff. The allegations that there was ticket fixing occurring at the location college to encourage students to register. Students living outside the county were being registered. Mr. Buice could give us no specifics as to his allegations. However, we did investigate Douglas Gordon College Police Department was interviewed and provided a copy of the policy which prohibit political involvement. It also explained -- and this was verified by another member of the staff at Gordon College -- was that three different people had to be involved for any tickets to be dismisses. There were three layers of checks and balances, including the vice president of student affairs. We could find not evidence that any of that was going on. The election superintendent did look at the registrations coming in and found nothing out of the ordinary with any of the registrations from the students. In fact, they have a rule there. If they're trying to register with a college address, they have to actually give their dorm room so that they can verify who it is. So we could not substantiate any allegations and recommend that this case be closed. I do know that Sheriff Waller is here today, if the body wants to hear from him or ask him any questions.

**CHAIRPERSON HANDEL:** Did you want to speak, Sheriff Waller?

**SHERIFF WALLER:** Yes.

**CHAIRPERSON HANDEL:** Okay. And is there anyone else here to speak on this case? Anyone else for Lamar County? Is Mr. Buice here?

**MS. LAGRUA:** No.

**CHAIRPERSON HANDEL:** Okay.

**SHERIFF WALLER:** I'm Sheriff Waller from Lamar County. I come up today anticipating that the results were going to be, as we have heard, asking that it be dismissed. There was no truth in any of these false allegations. My chief deputy and I have held a number of false allegations over the last four years. We see this as one more of those. We thank the Board for your diligence and comprehensive review of this issue. We appreciate your work towards coming to the right conclusion. Thank you.

**CHAIRPERSON HANDEL:** Thank you, sir. Any questions, colleagues?

(no response.)

**CHAIRPERSON HANDEL:** All right; make a Motion?

**MR. MCIVER:** Make a Motion to close.

**MR. EVANS:** Second.

**CHAIRPERSON HANDEL:** All right. I have a Motion to close and a second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(no response.)

**CHAIRPERSON HANDEL:** The next case is 2009, Number 22, Dooly County.

**MS. LAGRUA:** Yes, ma'am. November 2008, general election. The complainant was the election superintendent. The respondent is Hardy Gregory which was a candidate's mother. The allegations were that vehicles bearing campaign material were inside the 150-foot mark. What happened was there was an old -- one of the candidates' relatives used to own a dealership, a car dealership that had the candidate's name on the candidate's tag like Hardy Chevrolet. That was the allegation of the campaigning. I'm not sure that falls within the rule. But, in any event, as soon as they were asked to move, they moved their cars. So I recommend it be closed.

**CHAIRPERSON HANDEL:** All right. Any questions?  
(no response.)

**CHAIRPERSON HANDEL:** All right. Got a recommendation to close. Is there a Motion?

**MR. MCIVER:** Any speakers?

**CHAIRPERSON HANDEL:** I forgot to ask that. Is there anyone here to speak on this one?

(No response.)

**CHAIRPERSON HANDEL:** I got a recommendation to close.

**MR. MCIVER:** Move to close.

**MR. WORLEY:** Second.

**CHAIRPERSON HANDEL:** All in favor?  
(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

**MR. EVANS:** It would strike me then -- one of the things that Mr. Taylor can do is have a nice clear role on how you measure the 150 -- we're spending an hour of our time on cases that involve whether you're within 150. We probably need to address that.

**CHAIRPERSON HANDEL:** Actually, I'll tell you it has been addressed extensively as many of the election directors will know. We can look to see if there needs to be other clarity.

**MR. EVANS:** Should we get Home Depot to volunteer?

**CHAIRPERSON HANDEL:** Yeah, exactly. The next case is Chattooga County case from 2006, Number 50.

**MS. LAGRUA:** **MR. EVANS** had asked at the last meeting that we go through potential violations and just list as to each respondent with potential violations that are involved. I believe we have done that. I should let the Board know, I received a letter from one of the respondents, Albert Palmer, essentially saying he had a -- this meeting was scheduled during the criminal term. He testified at trial he didn't think he did anything wrong. We have not heard from Carlton Vines or any other respondents in the case, except potentially Kim Moses who indicated to me, when she called, that she was going to try to be here. Dorothy Gilreath is here today. So I can go through all of the allegations. Essentially, what our investigation found was that Jeanette Parham, who was the registrar, may have violated 21-2-225 by providing the original applications for voter registration to the public. The registrar's office may have violated 386(a)(1)(c) for failing to properly validate signatures on the absentee ballot applications and the elections on the outside of the ballots; that Ms. McCutchins may be in violation of by improperly assisting folks on their absentee ballots and also in 562 by signing electors' names on the applications and the oath of an elector. Sidney Johnson may be in violation of 385 for not properly assisting -- for improperly assisting electors; 409

for providing assistance to electors who were not disabled or illiterate and 385 by taking actual possession -- I'm sorry, 385 was listed twice; sidney Johnson, 574 by having in his possession official absentee ballots. Those same allegations as relates to Mr. Johnson apply to Mr. Anthony Sparks and Mr. Steve Chappellear. All three of them were all picking up ballots and taking them to the office of Carlton -- Dorothy Gilreath. In relation to Dorothy Gilreath, she was the secretary for Carlton Vines. The allegations as they relate to her is that she may be involved in violation 385 by taking possession of the absentee ballots and 574, again, for having in her possession absentee ballots when she was not permitted. Lois Reed falls into the same category as Steve Chappellear, Anthony Sparks, and Sidney Johnson for not properly assisting or having possession of the ballots. Tommie Eskew may have violated 562 by signing electors' names on absentee ballot applications and the elector on the absentee ballot envelopes. Albert Palmour may have violated 16-2-20 by being a party to the crime of 574 by having possession of the 19 absentee ballots. As you may recall, Albert Palmour was the one that allowed Carlton Vines to use his postage meter to stamp the absentee ballots that he took possession of or his office took possession of. Finally, Carlton Vines, in violation of 385, 574, and 16-2-20 which is party to the above offenses. Joe Burford with the prosecuting attorney's office was the counsel who prosecuted this case in the criminal realm is here, if this Board need to hear from him again. I would just, on his behalf, remind the Board that, in his opinion, with the exception of Carlton Vines, the other parties in this case were cooperative in the criminal trial of this case and testified, in his mind, truthfully during the criminal trial. I can go back through some of that, if the Board desires me to. But I think we've heard this case a number of times when it was back on for some specific Notice.

**MR. EVANS:** Move to refer.

**MR. MCIVER:** I'll second.

**MR. WORLEY:** I have a question for Ms. Lagrue.

**CHAIRPERSON HANDEL:** Okay; go ahead.

**MR. WORLEY:** Thinking back to the previous discussions that we've had in this case, there was an issue about -- and some discussion about Albert Palmour being in possession of the absentee ballots and that he may have violated that. What is that based on? Was that based on the fact that he let Mr. Vines use his postage meter?

**MS. LAGRUA:** I don't think that we have heard that Albert Palmour had actual possession of any of the absentee ballots. However, there is no question that he knew exactly what the postage meter was being used for. In fact, the conversation about postage referred to the mailing of the absentee ballots. That's the basis for that.

**MR. WORLEY:** Okay. So it's your view that the statute provides that you don't actually have to have physical possession of the ballots as long as you know someone else does?

**MS. LAGRUA:** Well --

**MR. EVANS:** As long as you know someone illegal has possession of it.

**MS. LAGRUA:** The statute does say this actually, the criminal statute, that allows for a party of a crime and anybody involved in a conspiracy which is what this was in the complete picture. You had a group of people that together, in accord and in concert, violated the law. Albert Palmour was part of that and facilitated the ability for it to occur.

**MR. WORLEY:** So the evidence is -- maybe Mr. Burford can enlighten us -- that Mr. Palmour knew that Mr. Vines had possession of these absentee ballots?

**MR. BURFORD:** At the time the evidence had presented at trial -- excuse me. I am Joe Burford, the prosecutor in the case. I don't know whether everybody was here before. The evidence produced in trial was that Carlton Vines walked into Albert Palmour's office and said something to the effect of, "I've got ballots. Can I get some stamps?" that's all that was said.

**MS. LAGRUA:** Then he replied, "Nobody uses stamps anymore. You can use my postage meter."

**MR. WORLEY:** That was my only question.

**CHAIRPERSON HANDEL:** We have a Motion and a second to refer over. Any further comments or questions on this?

(no response.)

**CHAIRPERSON HANDEL:** All right. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(no response.)

**CHAIRPERSON HANDEL:** All right. The next case is Bill Ireland, Youth Detention Center.

**MR. HARVEY:** This case involves the November 4, 2008, general election. The complainant was Dr. Amstadler, who was working at the facility. The allegation was that there was campaign material posted in the facility. Some staff members were illegally getting absentee ballots for some of the students; and that an employee was campaigning while on duty. The results of the investigation were that a counselor -- it's originally in a detention facility, who has a house -- who was in charge of a house was asked by some residents there to get them absentee ballot applications. He got them absentee ballot applications. They completed it themselves. They faxed them in. He never knew anything else about it. Neither person got an absentee ballot. Neither person voted. They were all interviewed. They didn't influence him. They didn't intimidate him. He didn't do anything wrong. So there's no substance to the allegation that counselor improperly assisted with absentee voting. As far as the campaign material, apparently early in the campaign, there were one or two signs that had appeared on windows and on a fence in the facility. Those were immediately taken down, and the director, Mr. Richardson, sent out an e-mail to all staff reminding them about the laws and the rules of the facility with regard to campaign activity on facility. None of those things re-occurred. The third allegation was a staff member was wearing a shirt. The staff member was a Mr. Willie Scott. He said that he went jogging on the property when he was off duty. He remembered wearing a shirt with a picture of candidate Obama on it. He was just exercising. He wasn't advertising or politicing. It is the recommendation in this case be closed because there's no evidence of violation of the election rule.

**CHAIRPERSON HANDEL:** Any questions?

(no response.)

**CHAIRPERSON HANDEL:** All right.

**MR. MCIVER:** I guess I do have a question. If the T-shirt allegation is the subject of the (unclear). The purpose for it being worn may have been purely legitimate. But, reality



is, he was a staff member. He was on the grounds.

**MR. HARVEY:** Just for clarification, the staff member recalls that it was after the election. Now, the complaint was made prior to the election. So the staff worker denied doing it prior to the election. He says he did it afterwards. The complainant alleged that he did it before. That's in dispute.

**MR. MCIVER:** There goes the reason for that question.

**MR. WORLEY:** What's the statute that conducted the allegation? The report didn't indicate what the statute is.

**CHAIRPERSON HANDEL:** I don't know what Code section it is.

**MR. HARVEY:** I believe that statute talks about posting signs. I'm not sure.

**CHAIRPERSON HANDEL:** But there was campaign material on state property.

**MR. MCIVER:** (Unclear). I'm not sure that's in the election Code itself. That might be a state --

**CHAIRPERSON HANDEL:** A state ethics violation. All right. Do we have a Motion to close?

**MR. WORLEY:** Move to close.

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(no response.)

**CHAIRPERSON HANDEL:** The next thing we have is a Habersham County case, 2007, Number 12.

**MR. MCIVER:** (Unclear.)

**CHAIRPERSON HANDEL:** Please let the record show that Mr. McIver abstained from the previous vote regarding the Youth Detention Center.

**MS. BRUMBAUGH:** Ann Jarrell is the respondent in this matter.

She was former probate court judge election superintendent for Habersham County. During the June 2007 election, she committed at least 15 violations of the election Code. Her defense is that she wasn't given enough funding and personnel to properly complete her duties. She faults the Habersham County Board of Commissioners. When the Board considered this matter of the December 2007 meeting, it voted to require that Ms. Jarrell enter into a Consent Order providing for a Cease and Desist Order and also that she work with the County Board of Commissioners to correct the conditions that led to the violations. Since that meeting, Ms. Jarrell and the Board of Commissioners have conferred. They were able to agree on additional funding and personnel changes to assist her in completing her duties. As a result of that, no further election irregularities were reported in the two subsequent elections. So she signed the Consent Order requested by the Board and a Cease and Desist and reprimand. At the December 2007 meeting, the Board also asked that the Board of Commissioners be added as a respondent. However, I reviewed the election Code and haven't found any Code provisions that they've violated. So I recommend that the case against them be either closed or issue the Letter of Reprimand. Respondent Jarrell couldn't be here. She wanted to be, but she has health issues. But the attorney for the County is present.

MS. RONEY: Good afternoon. I'm Andrea Roney, attorney for Habersham County. I'm just basically here out of an abundance of caution. They did provide the County with a copy of the Consent Order that Ann -- it's my understanding that Ann Jarrell has signed and is ready to present to you. She does have different counsel, Mr. McDonnell is her attorney. Again, I'm just here out of the abundance of caution to make sure that whatever needs to be done for the County is taken care of since we are not part of the Consent Order.

**CHAIRPERSON HANDEL:** Okay.

**MR. EVANS:** I move to accept the Consent Order.

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Motion and second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(no response.)

**CHAIRPERSON HANDEL:** All right. The next case is the City of Jackson, 2007, Number 40.

**MS. BRUMBAUGH:** There were four respondents in this case that were referred to our office. They're not all linked together. So I'm going to start with the most serious of the respondents and move in descending order. This case arose as a result of the November 6, 2000, municipal election of the City of Jackson. Running for city councilman was Larry Pickett, who is the complainant in this case and Robert Thomas Raney, who is one of the respondents. Robert Raney had a friend and a helper named Debra Brown. Together Mr. Raney and Ms. Brown went through and helped people with their absentee ballots. Mr. Raney assisted 50 non-disabled literate electors with their voter registration applications or absentee ballot applications. He did not indicate that he had helped as the statute requires him to do. He assisted two electors with the outer envelopes with their absentee ballots. Then, most importantly, he took possession of 27 absentee ballots and mailed them at the post office. That is a felony. Those are the violations of the election Code that he has agreed and is reflected in his Consent Order. Ms. Brown also helped with the absentee ballots. She did a number of things. She assisted voters with absentee ballots. She did not mark that she had assisted, and she took possession of the absentee ballots. All total, there were 20 different ballots that she mishandled in one form or another. Additionally, Ms. Brown obtained an absentee ballot application for a man named Timothy Boyd. She filled it out. She signed it. She had the absentee ballot in his named mailed to a furniture store. Then she filled that out, and then she signed that as well. She has admitted to these allegations in her Consent Order, and those are both felonies, the abuse of the absentee ballots and then the forgery of the application and the ballot. The Consent Orders you have they're really just stipulations of fact and law. Neither Ms. Brown nor Mr. Raney, they -- I don't know if either of them are here. I know Ms. Brown was not going to be here. She did send you all a letter. I have spoken to her. She is very apologetic. However, neither one of them agreed to a dollar amount. They were advised by our office when we were working out these stipulations that they could be charged up to \$5,000 per violation. In fact, when a colleague in my office mailed them the Consent Orders, my colleague enclosed the statutes which they were accused of violating which very clearly say these are felonies. So they did get Notice of what they were entering into. The Board -- it is within the Board's discretion to issue a monetary fine. I have looked at previous fines in previous cases. I have a recommendation. I'll give it to you if you want or you --

it's up to you whether you want me to go there or not. Moving on to Fred Abbott, Fred Abbott and Evelyn Price were not connected to Raney and Brown. They were simply voters who voted in -- they had been -- both of them, independent of each other, had once lived in District 5. They both independently moved out of District 5. They did not change their voter registration. They voted by absentee ballott, claiming they were still in District 5 in this election. Additionally, Abbott then moved to Decatur and filled out a voter registration form saying that he live at his second address in the city of Jackson when, in fact, he lived in Decatur, Georgia. Mr. Abbott has agreed to a \$650 fine for his actions, and he has -- just like Raney, Brown, and Price -- was mailed the statutes. He signed off on the Consent Order knowing that some of these allegations were felonies. One more thing before we get into discussion, I forget to say that one of the reasons this case is important is that this is was a very -- at least in terms of Raney and Brown, Raney being the candidate and Brown being his assistant. This was a very closely -- this was a very close election. In fact, Raney only beat Mr. Pickett by 27 votes. There were, in fact, 57, I believe is the number, absentee ballots. Of those 57 absentee ballots between Raney and Brown, they have both admitted to improperly assisting voters with 27 -- excuse me, 47 absentee ballots. So, between the Consent Order and Raney and Brown, you have 47 absentee ballots that were improperly handled. Mr. Raney only won by 27 votes. In fact, if you only look at the in-person voting as oppose to the mail-in absentee ballots, Mr. Pickett would have won. So these mail-in ballots that Mr. Raney and Ms. Brown manipulated did affect this election.

**CHAIRPERSON HANDEL:** All right. Why don't we take them one at a time. There are questions.

**MS. BRUMBAUGH:** And this is Mr. Pickett.

**CHAIRPERSON HANDEL:** Would you like to speak?

**MR. PICKETT:** Yes.

**CHAIRPERSON HANDEL:** Okay, please.

**MR. PICKETT:** Just a few seconds. I just really want to thank you folks for what you guys have done. This is not the first time things like this has happened in Jackson. But, regardless of what happens today, I know what you have done would prevent a reoccurrence of this kind of thing. I'm very thankful for it.

**CHAIRPERSON HANDEL:** Well, we appreciate your courage in bringing it forward.

**MR. EVANS:** I just have a question for the six-fifty number. Is that a number that you recommended, or where did that number come from?

**MS. BRUMBAUGH:** That was a number that was subject to negotiations between Mr. Abbott and my colleague, Ms. Matthews, in our office.

**CHAIRPERSON HANDEL:** May I ask a question before we talk about fines? For this Board member with the felonies and how extremely egregious this is and the added fact that it affected the outcome of an election, I'm going to be in the place of referring the individuals with a felony onto the County district attorney. My question is, from your perspective, should we address the fine component now or allow that to play out? Typically, we've allowed a criminal case to go forward before we actually done -- levied fines.

**MR. EVANS:** Could I just speak to that for one moment? Madam Chair, I think it helps the prosecutors to get stipulations. We can accept -- at least put aside for a minute Mr. Abbott -- where it's got a number in it. But the other ones don't have a number in it. If they're willing to make admissions which the district attorney can then use, we're more than willing to accommodate.

**CHAIRPERSON HANDEL:** Absolutely. I was talking about the fine amount.

**MR. EVANS:** But none of them -- I don't think any of them have a fine amount, except one.

**MS. BRUMBAUGH:** That's correct.

**MR. EVANS:** So, with the other one, I would move that we accept the stipulations.

**CHAIRPERSON HANDEL:** For all four.

**MR. EVANS:** No; just for three.

**CHAIRPERSON HANDEL:** So your Motion is to accept stipulation for Raney, Brown, and Price?

**MR. EVANS:** Correct.

**CHAIRPERSON HANDEL:** All right; and I second. Any discussions on that?

(no response.)

**CHAIRPERSON HANDEL:** All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** We probably need a Motion. I move that we transmit this to the County district attorney for Raney, Brown, and Price. Is that the proper order?

**MR. EVANS:** No, I don't think that's the right order. I think the reticence you may be hearing from the Board is that we sometime ago engaged in some lengthy dispute about district attorney referrals and whether or not they were subject to use the process and prosecution.

**CHAIRPERSON HANDEL:** We have not ever discussed this under my tenure.

**MR. EVANS:** No. It just came up under Secretary Cox. So I think that that's why we all have some reticence.

**CHAIRPERSON HANDEL:** I would hope there would be no reticence over the fact that there is at least 30 -- I can't remember how many. But 30 felony violations here -- 47; thank you.

**MS. BRUMBAUGH:** That doesn't include the forgery.

**MR. EVANS:** I think it's the different between transmittal and referral.

**CHAIRPERSON HANDEL:** For heaven's sake, Mr. Evans, you know what I meant. All right. I will rephrase it. I move that we refer these cases for Raney, Brown, and Price to district attorney for criminal prosecution. Is there a second?

**MR. MCIVER:** I'll second.

**CHAIRPERSON HANDEL:** Thank you.

**MR. WORLEY:** I had a question.

**CHAIRPERSON HANDEL:** Go ahead, Mr. Worley.

**MR. WORLEY:** These respondents, did you have any discussions

with them? Do they appreciate that we have the option of referring this on to criminal prosecution? Did they understand that when they signed the Consent Orders?

**MS. BRUMBAUGH:** I did not personally negotiate the Consent Orders. I can show you the letter that my colleague wrote to each of them which has the statutes attached. The statutes very clearly say it is a felony. I have since discussed -- talked to Mr. Abbott and Ms. Brown. Ms. Brown said she understood that what she done was wrong. She was very sorry. She was going to pay whatever fine was levied. Mr. Abbott, I'm surprised, is not here today. He said he was either going to be here or send a letter. But they were given the law.

**MR. WORLEY:** Can we see that letter?

**MS. BRUMBAUGH:** Sure. This one -- there are four. Do you want to just see it for Abbott?

**MR. EVANS:** Just whatever, if they're all the same.

**MS. BRUMBAUGH:** Okay. These are the letters that were mailed with the package. So behind the cover letter is the proposed Consent Order and then the statutes.

**MR. EVANS:** This is what again? I'm sorry.

**MS. BRUMBAUGH:** This is the letter that was mailed to each respondent explaining the proposed Consent Order and then attaching the felony statutes that these people would be consenting that they had violated.

**MR. WORLEY:** They were informed of today's --

**MS. BRUMBAUGH:** Yes. As I said, I since have had discussions with Ms. Brown and Mr. Abbott in the last three to four weeks.

**CHAIRPERSON HANDEL:** All right. Any other questions on this?

**MR. MCIVER:** This is one letter for each person; is that correct?

**CHAIRPERSON HANDEL:** Correct.

**MR. MCIVER:** I certainly don't need to see this.

**CHAIRPERSON HANDEL:** So we have both Raney, Brown, and Price to be sent to the district attorney with a letter from the AG's office for criminal prosecution. Any other questions on

this one?

(no response.)

**CHAIRPERSON HANDEL:** All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

**MR. EVANS:** No.

**CHAIRPERSON HANDEL:** The next one is Mr. Abbott. We have a proposed Consent Order. How many violations for Mr. Abbott again?

**MS. BRUMBAUGH:** Mr. Abbott had three that he admitted to. He admitted to failing to change his voter registration card after -- first, he moved from District 5 to a different district in Jackson.

**CHAIRPERSON HANDEL:** Right. So those were the three?

**MS. BRUMBAUGH:** The first one was not changing his registration card. The second one was voting absentee ballot in the city of Jackson claiming that he was still in District 5. Then the third one was moving from this other part of Jackson to Decatur and then filling out a voter registration card saying he now lived in this second address when he no longer lived in the second address.

**MR. EVANS:** Can we accept the stipulations of fact and law without accepting the amount?

**MR. WORLEY:** I wouldn't think we could.

**MR. EVANS:** I don't either.

**MS. BRUMBAUGH:** I don't think that was -- yes, contemplated.

**MR. MCIVER:** That would breach the agreement of the parties.

**CHAIRPERSON HANDEL:** But I'll say what troubles me on the six-fifty amount is that we have gotten into a very solid practice of having a specific dollar amount per violation versus just a lump sum figure. That, I think has worked very well and given us a real systematic approach to how we're levying fines.

**MR. EVANS:** I completely agree. Obviously, we still have to



figure out what the specific penalty for Price and the other ones.

**CHAIRPERSON HANDEL:** That's right.

**MR. EVANS:** But I completely agree with the Chair. My recollection was that we, in fact, had, at one point, talked about, if there is an escalation component which is the first one it's 500 bucks. You touch a ballot, it was five hundred. The second time, you don't get another five hundred because it's obvious that five hundred isn't working. It goes up on the third violation. What troubles me most about this -- and I think this is maybe you're referring to -- is that we don't have just one. If what you're telling me that we can't accept stipulations and enter a penalty, if it's either up or down on this, I would say no. Six-fifty is too low.

**CHAIRPERSON HANDEL:** I agree.

**MR. EVANS:** You tell us what's best for you, and we'll try to get this matter resolved. We can reject it. However, as you know, that carries with it certain legal ramifications. We can say we're going to table it for the time being. We're not going to accept six-fifty. You can go back and figure out what the new number is. We can say here's the number which we'll accept. Take it or leave it for him. I don't have a preference. You're the one who's on the front line. Do you have a preference?

**MS. BRUMBAUGH:** I'm always happy to go forward in advice. So, if you have a number that you all agreed on and you wanted to tell me, that would, I think, save a lot of time.

**MR. EVANS:** For me, the number would be \$3,000.

**CHAIRPERSON HANDEL:** Meaning, one thousand per violation?

**MR. EVANS:** Five hundred, then fifteen hundred, then -- five hundred, then a thousand, and then fifteen hundred which is literally every time you do it, the price goes up. I think that's the only way we actually kind of -- I don't know if that makes sense. It makes sense to me. If there is an escalation, the very first one 500 bucks, then you double it, then you triple it.

**CHAIRPERSON HANDEL:** Well, these were on separate dates. The only reason I'm pondering it is because we had said 'x' number of violations in a specific amount. I see your point here because this is one and then fast forward to the next day. It

wasn't all on one day.

**MR. EVANS:** Right. But I'm not passionate on that. Let's just try to give a ballpark number. If the number came back and it was different, we'd have to consider obviously all the facts and circumstances and make a reasonable judgment.

**MS. BRUMBAUGH:** I will say that, looking at your prior Consent Orders when we've had the felony, the third one submitting a false information on voter registration, from what I reviewed, it appeared that that was -- you assigned \$1,000 fine to that. Certainly, you're escalation argument is reasonable and not arbitrary. So, just so you know, that's what your prior Consent Orders indicate.

**MR. MCIVER:** Madam Chair, I would either ask Mr. Evans or Mr. Ritter, have we actually engaged in this escalation course before? We certainly espoused it. That was part of the discussion.

**MR. EVANS:** We had one repeat violator, but it was back in the day, if you remember, when we were down in the \$100 range. So escalation didn't -- if you remember that we went from \$100 to \$300.

**MR. RITTER:** I do remember that.

**MR. EVANS:** But, honestly, Madam Chair, the \$300 meant no difference. It was pocket change.

**CHAIRPERSON HANDEL:** When you say it was repeated, was it that the individual was before us for one election and then that fast forwarded to another election?

**MR. EVANS:** Yes. It was a second.

**CHAIRPERSON HANDEL:** Are these violations all in the same election?

**MS. BRUMBAUGH:** No.

**CHAIRPERSON HANDEL:** Okay. Did you want to add something, Mr. Ritter?

**MR. RITTER:** I would say that my experience has been, if there hasn't been enough of a consistent practice to say this is the way we are going to do it, I have no qualms with doing that. I think you ought to make sure you have a flexibility with doing individual cases.

**MR. MCIVER:** This may be an excellent initial case.

**CHAIRPERSON HANDEL:** So we have a proposed \$3,000?

**MS. EVANS:** Well, I think she was asking for just kind of a sense of -- we're not deciding. We obviously have to consider all the facts and circumstances.

**MR. MCIVER:** We need a Motion to reject then.

**CHAIRPERSON HANDEL:** Do you need a Motion to reject it, or we just don't take any action?

**MR. EVANS:** No action.

**CHAIRPERSON HANDEL:** All right. Now, back to the first three to make a determination on --

**MR. EVANS:** So I had 20 for Brown, 20 ballots?

**MS. BRUMBAUGH:** 20 ballots.

**MR. EVANS:** Then I had 27 for Raney. What was the number on Price?

**MS. BRUMBAUGH:** Back up on Raney, 27 absentee ballots and then additionally 52 people -- 52 ballots -- 52 voter registration application or absentee ballot applications for the outer envelopes of the absentee ballots. Then Price, there was only one. She kind of did the first two things that Abbott did. She moved. She didn't tell the registrars she had moved. Then she voted by absentee ballot claiming she still lived at her old address.

**CHAIRPERSON HANDEL:** For Abbott, were any of Abbott's violations a felony?

**MS. BRUMBAUGH:** Yes. They're all --

**CHAIRPERSON HANDEL:** Okay. I got it. So there is 52 improper assistance and electoral handling for Raney and then 27 felony absentee ballot count?

**MS. BRUMBAUGH:** Yes.

**MR. EVANS:** I calculated \$34,500 for Raney.

**MS. BRUMBAUGH:** That's based on what?

**MR. EVANS:** \$500 per. But somebody needs to check the math. Mr. Ritter, don't you have a calculator?

**MR. RITTER:** What's the number?

**MR. EVANS:** It's 79 violations divided by two.

**CHAIRPERSON HANDEL:** Except that 27 of them are felonies. I don't know that I see having the same fine level for --

**MS. BRUMBAUGH:** Actually, I have one other thing that I'd like to point out. I think that Raney is different certainly from Abbott and also from Brown. He's the candidate here. So I think he gets perhaps more serious -- maybe there should be some gradation.

**CHAIRPERSON HANDEL:** This is outrageous, absolutely outrageous.

**MR. WORLEY:** If I can just say something just for the record. I agree that this is very outrageous. There was some discussion earlier about the fact that these folks, through the election, made a difference in the election. It's been my position and I think the Board's position for a while that the election results really don't matter when it's a violation. It doesn't matter if the guy who is only getting ten percent of the vote is the guy who's been wrong in the election. It's still a violation. We treat it just as seriously as any other violation. So I'm a little troubled with saying, because the election was close, we're going to treat it more seriously. We should treat them all serious.

**MS. BRUMBAUGH:** No. I don't mean to suggest that.

**MR. WORLEY:** No. I didn't think you did.

**MS. BRUMBAUGH:** My point was more he's the candidate versus these people that --

**MR. WORLEY:** That, I think is correct. I think he should be treated more seriously since he's the candidate.

**MS. BRUMBAUGH:** My point earlier, I did feel that there was relevant information.

**MR. EVANS:** It is relevant (unclear).

**MR. WORLEY:** Well, I'm not saying it's not important. I don't

want to get in the business of treating losers as --

**CHAIRPERSON HANDEL:** I guess for me what is the most troubling is that there is 27 felonies here. When we look at what we have done offering up Mr. Metts, we did the max on those. So I'm in the place of the max for each of the felonies and five hundred for each of the others. If I've done my math right, that's at least \$158,000. I think this is so egregious. Here is an individual who was the candidate and out -- and full well knew what the law was in; 27 felonies. In the case of Mr. Metts, we also tacked on investigative cost as well.

**MR. WORLEY:** I have no problem with that. I just also want to say that I'm a little troubled. It's not clear to me that these people were inform that, if they signed the stipulations, they were going to get hit with an \$80,000 penalty. So the letters from Mr. Mick, who is an excellent lawyer, member of the attorney general's office, it's just not absolutely clear to me.

**CHAIRPERSON HANDEL:** Mr. Ritter, I want to make sure -- because this is egregious -- that we do everything; absolutely, dot every 'I' and cross every 'T' given the fact that there are felony violations involved here so that we are in the place of -- to Mr. Evans earlier point -- making sure that we have provided the district attorney with the best possible investigative record to move forward on.

**MR. RITTER:** Well, let me address several thins. First of all, I have to say this as a matter of caution at the beginning. I wasn't privy to Ms. Mick's specific negotiations with these individuals. However, I have to assume that the individuals entered into it with their eyes opened as to the obligation to that. I think that, if they really feel that they have been led down the (unclear), which would never be our intent to do -- I should emphasize never. But should that happen though, they could come back to us and they could come back in front of you and ask for reconsideration. It wouldn't be the first time. As far as a record for the district attorney, I think it can go in front of the district attorney. At this juncture of the case, there wouldn't be any further investigation anyway. It's simply a matter of trial or not. There's nothing to add there.

**CHAIRPERSON HANDEL:** Okay.

**MR. MCIVER:** I have a question for Stefan,

**MR. RITTER:** Sure.

**MR. MCIVER:** Stefan, do we have authority to ask for (unclear) for all the public money say this candidate should not have ever won this election?

**MR. RITTER:** I hesitate to answer that question because I'm afraid I might say no. But I think the question is doubtful. There is an open question under 33.1 as to how broad the authority was to engage in equitable (unclear), if anything. Candidly, it's not something that we'd want to weigh into too deeply. Frankly, this Board, as the administrative Board, has delegated narrow powers only to the extent provided by law. I think that probably is beyond your authority. I'd have to research that in order to tell you that definitively. I think it would be questionable.

**MR. EVANS:** Yeah. We'd have to show monetary loss stemming from -- it's hard because there's the monetary loss part.

**MR. MCIVER:** In reality, couldn't the judge in this case sentence something along those lines?

**MR. RITTER:** Yes.

**MR. EVANS:** Of the criminal case, you mean?

**MR. MCIVER:** Yes.

**MR. EVANS:** Yes.

**CHAIRPERSON HANDEL:** We need a Motion on this. I will try a Motion. I move that the State Elections Board levy the maximum fine for the 27 felony absentee violations and \$500 per violation on the remaining 52. That is a total of \$158,000.

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Open to suggestions.

**MR. EVANS:** Well, I'm assuming you would include the Cease and Desist, the public reprimand.

**CHAIRPERSON HANDEL:** Absolutely, everything else.

**MR. MCIVER:** You didn't mean to exclude it.

**MR. EVANS:** No. I didn't mean to suggest that she did. I was just saying. I just happened to have it open here.

**CHAIRPERSON HANDEL:** Absolutely. I will amend my Motion just so it's clear on the record to incorporate all of that.

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** We have a Motion and a second. All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Oppose?

(no response.)

**CHAIRPERSON HANDEL:** All right. That takes care of Mr. Raney. Now, we have Debra Brown. Debra Brown had 20 ballots mishandled plus two ballots that were felonies plus the forgery felony; is that correct?

**MS. BRUMBAUGH:** She had 20 ballots -- the way it was broken out in the Consent Order, it was sort of broken out by violation. You had a spreadsheet in your packet. I went through the spreadsheet to see the six that she did this wrong and these nine that she did this wrong. How many total ballots were there? There were 20 total ballots that Ms. Brown mishandled. Then she also forged both the absentee ballot application and the absentee ballot when she got it back. So that's an additional two forgeries on top of the 20 absentee ballots.

**CHAIRPERSON HANDEL:** So, if we take the same formula that we just used, then that would be five hundred for each of the 20 mishandled ballots and \$5,000 for each of the two felonies for a total of \$20,000. I move that Ms. Brown be fined \$20,000 for the formula just described and have a Cease and Desist and all of the other components of the proposed Consent Order.

**MR. EVANS:** And reprimand.

**CHAIRPERSON HANDEL:** And reprimand.

**MR. MCIVER:** As delineated in the --

**CHAIRPERSON HANDEL:** Correct.

**MR. MCIVER:** I second.

**CHAIRPERSON HANDEL:** Motion and a second. Any questions or

comments?

(no response.)

**CHAIRPERSON HANDEL:** All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(no response.)

**CHAIRPERSON HANDEL:** All right. Now, we have Doris Price. Doris Price has -- walk through hers.

**MS. BRUMBAUGH:** I'm sorry. Doris Price lived in District 5 until 1999.

**CHAIRPERSON HANDEL:** No; just the specifics. Which ones were, as the formula we've been using, the \$500 versus --

**MR. EVANS:** She just moved. She didn't handle the ballots, did she?

**MS. BRUMBAUGH:** No. She just voted and pretended to still live in District 5 when she had moved out. So I assume would be \$500.

**MR. EVANS:** I think that's right. I would move five hundred plus reprimand plus Cease and Desist.

**CHAIRPERSON HANDEL:** All cross all of the other elements.

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Motion and a second. All in favor?

Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Is that everyone? Very good. Now, we have Polk County, 2008, Number 43.

**MS. ALMOND:** Evetter Hawkins is the respondent in this matter. She's the former director of social service at Cedar Springs Health and Rehabilitation Center, which is a nursing home. She admits to violating SEB Rule 183-1-6.03(v). She accepted unsealed voter registration applications from the residents of the nursing home, and she failed to transmit them to the Board of Registrars within in ten days as required by the rule. Ms.



Hawkins stated that she was keeping the applications so that she could transmit them with the residents' absentee ballot applications. As a result of her activities, she was terminated from her position. She signed a Consent Order providing for reprimand and Cease and Desist. I recommend that the Board accepts it because it appears that she was confused about the law and there was no fraud involved.

**MR. WORLEY:** I make a Motion that we accept the Consent Order.

**MR. MCIVER:** I have a question before we accept the Consent Order. Some time ago, we had a case just like this. She appeared before us. It was a young female. She was a director of activities or something in a nursing home; very contrite, as I recall. I remember a thousand dollars.

**MR. WORLEY:** Yeah. But that was also a situation where I believe her employer agreed to pay the fine.

**MS. ALMOND:** Yeah. And she -- it was a slightly different violation. She actually signed by the 'x' on the signature line that it was a different violation.

**MR. MCIVER:** Then I'll second.

**CHAIRPERSON HANDEL:** Motion and a second. Any other questions?

(no response.)

**CHAIRPERSON HANDEL:** All in favor?

(whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(no response.)

**CHAIRPERSON HANDEL:** Mr. Tailor had to leave to catch a flight. I know that we have one outstanding issue from the previous meeting, the request from the SEB to get an opinion from the attorney general's office. I think Mr. Tailor did make that request. The response came back. It was e-mailed to all of you. We had a hard copy distributed. I'm going defer to Mr. Ritter on this, if there are questions or anything about this.

**MR. EVANS:** I have a question, if I could. What I understood the opinion from the attorney general to be was that he

doesn't issue opinions where you ask about perspective rule making that's in the midst of litigation.

**MR. RITTER:** I think that's part of what's in here. That's correct.

**MR. EVANS:** I was confused. When I did the research, I found opinion after opinion from the attorney general where he had opined on perspective rule making even when rule making is in the context of litigation. So I'm trying understand. I will be happy to -- I would like to put these opinions in the record because maybe the attorney general can explain that to us or to me because I'm just confused about it. It isn't just -- at first I thought, well, maybe it's just opining on the constitutionality of a statute. Then I saw Opinion 2009-4. Then I thought, perhaps, it was just perspective rule making and whether or not you could do perspective rule making. Then I saw the June 8 opinion dealing with the public service commission. Then I thought, perhaps, it was that we had perspective policies, rules, regulations, and procedures. Then I saw Opinion Number 2006-3. So I was confused. Then I thought maybe it was because it's the subject of ongoing litigation. Then I saw Opinion Number 2009-2 dealing with the funding of the defense counsel in Georgia which is the subject of ongoing litigation. In addition, I note that DeKalb County and Peachtree DeKalb Airport litigation where the attorney general opined. Then I thought maybe it is that we didn't ask the right question. Then I saw Opinion Number 2000-7 which matched the inquiry, not that it was probably -- I know some might think that it was calculated that my question would totally parrot the question that had been posed to the attorney general on prior occasion, but it was happenstance. So I'm just confused. I'm confused that our question is punted and every other state agency's question got answered. I was just wondering if there was a reason why.

**MR. RITTER:** I think it's consistent with our practice. I can't comment on prior opinions that was issued by the attorney general. Why some of those would have been treated in a different way, I'm not sure that they were. Frankly, I think that the opinion that was directly by Mr. Dunn is a pretty thorough answer to the question that was asked.

**MR. EVANS:** I don't know. Maybe, it could be. I'm just not -- but this was the phrase, "As I previously advised you, this office does not publicly opine on the constitutionality or legality of a client's proposed actions." so then, when I looked at these various opinions, the questions posed were specifically that which was -- let me use my exact quote here

because it's in the earlier opinions. The attorney general precisely opines on constitutionality of proposed actions by government agencies. I thought it was interesting that, even the word "constitutionality" was bolded, highlighted, and underlined in other attorney general opinions. So the contrast was rather stark. I was just wondering why is it that the attorney general -- in fact, just to illustrate, this is the question that was posed. This is the attorney general speaking, "You have requested my opinion on the constitutionality and enforceability of statute O.C.G.A. 35-2-212" which strangely enough mirrors exactly the language that we had in the Board meeting. So I'm just curious as to why that would be.

**MR. RITTER:** I think that's the question you already asked. I can't comment on prior opinions, and I can tell you that it is the general practice of our office consistent with the top paragraph on page 5 of the letter from Mr. Dunn and Mr. Taylor that the office will not publicly opine with respect to constitutionality and legality for its actions where there's ongoing litigation. That is our general practice. If there had been instances in the past where that has been followed, I have no comments on why. But, in any regards, that's the best answer I can give you.

**MR. EVANS:** Well, if you can't give us an answer, who can?

**MR. RITTER:** I think that I have given the best answer that you can have. The point of fact, that six-page letter that was written by Mr. Dunn to Mr. Taylor, I think, was a very thorough answer to your question.

**MR. EVANS:** It answers every question but the one we asked.

**MR. RITTER:** I don't know about that.

**MR. WORLEY:** I think it would be fair -- sorry to interrupt,

**MR. EVANS.** In fairness to the attorney general, I think he does provide a lot of information that could allow one to conclude that, in his opinion, the statute and regulation would be likely (unclear).

**MR. EVANS:** But the question was: Is it constitutional? In fact, in other opinions, it is you may constitutional do whatever it is. Then, in another one, it is you may adopt these rules. In another one, the question is whether the State Personnel Board have the authority to promulgate policies or the personnel administration will be (unclear).

I'm just honestly at a lost as to the narrow issue of why you could answer that question to everybody but us. To make sure I'm understanding, your answer is because we didn't.

**MR. RITTER:** First of all, let's get it clear. I think I have already answered your question. But I do think what I ought to be clear about is one issue is here in this case. You're talking about a proposed rule, one that has not been voted upon by the State Election Board yet and, of course, could change substantially, not only after initially voted by the Board, but after public comments. Now, that rule is one that would be enacted consistent with statute, a recently passed statute, SB-86, which is the citizenship requirement allowing other additional forms of showing citizenship. The issue is, at this point, -- of course, there is litigation in the Morales versus Handle case. But the issue in front of the justice department is actually not constitutionality or legality. The question is in front of the justice department whether it has discriminatory purpose or affect. That's a separate question from legality or constitutionality. The law can be perfectly constitutional and legal and the justice department still fail to be clear because of its affect or it's purpose. We do not believe it would have discriminatory or affect in passing such a regulation. I think actually it can only broaden the basis proving citizenship regardless. What Mr. Dunn, I think, is saying in this letter -- I think it's very clear. But I can see how that could be a difference of opinion -- is that we're not going to speculate on what the justice department is going to do under Section 5 review. That's not a question of saying it's constitutional or legal or not. We're not going to speculate on that. But he does discuss what he thinks the scope and affect would be in relationship to SB -86. I don't think that's consistent with the opinions you're referring to which each are fact specific. I think that the general notion is that we're not going to speculate on the legality or constitutionality nor on what a federal office is going to do. It's consistent with the practice of the attorney general's office.

**MR. EVANS:** If I may, Madam Chair, specifically the opinion answers questions who requested advice on the following issue: Whether the state personnel board or the commissioner of the merit system have any authority to promulgate personnel administration that would be binding on all state agencies. It was specifically requested by a proposed action. There are a litany, which I'm going go get to -- whoever keeps our minutes -- of cases where it was proposed action. So honestly, I don't know -- it doesn't make sense to me that proposed action is the pivotal point. But the narrow

question -- just so we're clear, the question I asked was whether or not it would be constitutional whether our proposed rule, like the proposed rules of the personnel board, like other proposed rules in these opinions, whether they would be constitutional? That is a specific narrow question that has been repeatedly asked of the attorney general and for which the attorney general has repeatedly supplied answers. Those requests have been in the context of ongoing litigation and answers given. What I'm trying to figure out is -- I hear my colleagues saying you can figure out what the attorney general thinks about the rule. The narrow question is: Is it constitutional? I would think that -- honestly, the last time we were here, Madam Chair, it was this could take months for us to get an opinion. I think it's only been a couple of weeks and we've got a six-page answer. So I'm just -- how do we get an answer?

**MR. RITTER:** I think you've got an answer.

**MR. EVANS:** So where is the part that says whether it's constitutional? Did I miss it?

**MR. RITTER:** The question was specifically asked and answered. I'll tell you -- I'll pick out a sentence on page 5, "Inquiries regarding an outstanding citizenship are authorized and contemplated both under current state and federal law."

**MR. EVANS:** So is it your opinion --

**MR. RITTER:** In discussing the purpose issue, he says that he's unaware of any evidence that the Board has taken any action on the proposed regulations for intent of discriminating against minority voters. It touches on the purpose issue. Later, he addresses the affect issue and believes that it will have a beneficial (unclear). But, nonetheless, he is not speculating on the outcome for clearance process. I would say, Mr. Evans, without belaboring this, if you feel you have public opinion, you can add them to the record. You can right the attorney general and tell the attorney general you think he hasn't answered the question. But I think that that's the answer you got in this letter.

**MR. EVANS:** Well, we have the attorney general here, and that's you. We have a simple question which is: Constitutional or no? I take it from what you just said that the opinion of the attorney general is that it is constitutional, the rules are constitutional.

**MR. RITTER:** I think that the letter written on August 25

speaks for it.

**CHAIRPERSON HANDEL:** Well, we're just kind of going around now. Any other items?

**MR. EVANS:** I would move that we put in the record these opinions, along with a copy of the attorney general's records.

**CHAIRPERSON HANDEL:** Is there a second?

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** All in favor?

(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(no response.)

**CHAIRPERSON HANDEL:** Any other items?

**MR. EVANS:** I think we had an agenda item on ethics change. One of the things that we've done is try to look at other states to figure out where there are boards that are similar composition and makeup. But, more importantly, you look at things that are working. When you get into an election cycle where there are as many contestable elections as this one, we want to put questions that will certainly get called into play. It's whether the decision makers are (unclear). So, for consideration by the Board, I have obtained -- you have your copies - of the South Carolina State Election Commission political activity guidelines. While I'm not going to move for their adoption today, I would like for them to be put in the minutes so that at the next meeting we can take up a version that we can then post as rules on the State Election Board for public comment so that hopefully we can get something in place well in advance of the heart of the 2010 election. Otherwise, what happens is that every decision -- I'll say that the issue that prompted at least folks reaching out to me to ask me about it was that there were those who were worried about what happens if you're deciding on how names appear on the ballot if your name is on the ballot and whether or not there is some question of that. Rather than put the -- permit those kind of things to swirl, otherwise, impact the integrity of the Board, we did a research. I will share with you that there are other states that take differently when some of them have standards. I will pass these out. Although, these are not ones that I recommend.

They're from the Elections -- Center of the Elections Systems Commissions. But there are things that we should take into account as we move forward in order to avoid leaving the appearance of impropriety. I wanted to get those in the minutes today. I know that Mr. McIver and Mr. Worley are generally -- based on comments on the record, generally supportive of the idea that we have a set of ethic rules that would apply to these situations.

**MR. WORLEY:** Can I --

**CHAIRPERSON HANDEL:** If I could clarify the record real quick.

**MR. WORLEY:** Sure.

**CHAIRPERSON HANDEL:** In your comments, Mr. Evans, you said we have gone through all of this. That's not really exactly correct because it was not we.

**MR. EVANS:** I'm sorry. When I spoke "we," I meant my legal team.

**CHAIRPERSON HANDEL:** Okay. I just want to make sure that that was clear.

**MR. EVANS:** Mr. Worley has made clear over the years that -- and the record will be replete with my reference to "we," that occasionally I get research and information from colleagues and the Bar, other state election officials, folks from around the country, and then librarians who do nothing more than say, "Ghee, can you find anywhere where election boards have considered this and taken action?" generally, what we try to do, "we" being our team, is to collect that information and then put it in the minutes so we can have a real question. To kind of verify that, on a couple of occasions, there have been times when we've provided case citations. Today, the attorney general --

**MR. WORLEY:** I noticed the guidelines for South Carolina make the distinction between activity and full election. Do you know if the State Election Commission in South Carolina has authority over municipal elections or why that issue might be there? I wouldn't mind if you could circulate to us the South Carolina statutes that set out what their State Election Commission does (unclear).

**MR. EVANS:** I will be happy to do that. I do not precisely the answer. My understanding is that they're non-partisan, and that's the reason for distinction.

**MR. WORLEY:** Okay.

**CHAIRPERSON HANDEL:** The question I have is, in looking at this, it is not clear what the makeup is of the South Carolina State Election Commission.

**MR. EVANS:** Well, what I would suggest is that I put together or send everyone a makeup of the commission. I think Mr. Worley's comment is well taken as well which is to see the exact responsible -- duties, power, and responsibilities.

**CHAIRPERSON HANDEL:** If I might, what I'm getting at, Mr. Evans, is I do not believe that the elective Secretary of State serves on the South Carolina State Elections Board. I just need to be abundantly clear so that my colleagues have a sense of my viewpoint on all of this. I am Georgia's duly elected Secretary of State. Part of my statutory responsibilities include serving as Chair of the State Elections Board. There is a specific point in the statute that says this. It does not say "may." it does not say "at the discretion of individuals appointed." y'all are not even elected. I am. I want to make it abundantly clear as well that the Code most certainly does not in any way, shape, or form prohibit me as a duly elected Secretary of State for running from any other office simultaneously so long as the terms do not overlap. Obviously, if we were to adopt something that said something as such, it would mean that, even if I was running for re-election or any Secretary of State running for re-election would have to resign his or her position. That's obviously rather ludicrous. As far as Ethics Code, I want to remind this body that there is a State Ethics Code for all appointed State Board members. Each and every one of us are obligated already to follow that, first of all. Number two, I have an additional self-imposed Ethics Code that is placed on everyone in the Secretary of States Office, which I will remind this body that you chose not to apply to yourselves when it was first brought forward in the initial months of my election -- after my election. Third, I have a constitutional responsibility to do my duties. I just want to make it abundantly clear that this body, no matter how esteemed your intelligent or legally astute all of you may be, has any authority whatsoever to in any dampen or limit my constitutional authorities as the duly elected Secretary of State of Georgia. If I might also say, in addition to that, this body can adopt additional ethic policies. But I think, as the attorney general has already said to all of you, that it is, when it comes to recusals and things of that nature, this body cannot impose upon you. They cannot do it. We can



take it as an action. If at any given time you don't want to do it, so be it. While we're at it, maybe what we need to be looking at is perhaps restricting anyone appointed to the State Elections Board from serving as the paid adviser and counselor to individuals in elected office or running elected office. Finally, I will let Mr. Ritter provide the Code statute, if you would so choose to. If you would like the body to proceed down a path that would in any way cut into my responsibilities as the Chairman of the State Elections Board, I would let you know that the legislature will be back in just a couple of months. I welcome your thoughts if you would like to proceed with a piece of legislation.

**MR. EVANS:** Well, we can't impose on new ethics.

**CHAIRPERSON HANDEL:** Mr. Evans, do not try to make a statement. I am absolutely in the place of holding up the highest ethical standards. How dare you even remotely try to go down that path.

**MR. EVANS:** But you have to admit that --

**CHAIRPERSON HANDEL:** No, no, no. You're not goading me into that. I have my say. I am the elected Secretary of State. If you don't like that, why don't you consider running?

**MR. EVANS:** I don't want to be Secretary of State.

**CHAIRPERSON HANDEL:** Well, then change the constitution if you don't like the way that it is.

**MR. EVANS:** The constitution doesn't specify the duties of the Secretary of State. If you look at the constitution, you would see that. The duties are, in fact, specified in the specific statutory provision which includes the ability of the State Elections Board to supervise it.

**CHAIRPERSON HANDEL:** No, it does not. Oh, no, no, no. We're not going to go down that path again, Mr. Evans.

**MR. WORLEY:** Not anymore.

**CHAIRPERSON HANDEL:** We have specific -- that's exactly right. Ladies and gentlemen, I hope that you see the hypocrisy in all of this.

**MR. EVANS:** Well, let's finish. So, if we're changing the way names appear on the ballots that your name is on it, you could only have people call it a question whether there's a conflict

of interest. You're right, I can't and the Board can't impose on you any ethical obligation. However, we can present the issue. You can vote no. You can vote no to enhance ethics. I'm trying to do that. However, I'm concerned because I know and the folks that called me, there is genuine concern about whether or not folks whose name appear on the ballot should participate in the rules regarding the ballot. That does not eliminate your involvement in the Board. Instead, there are two categories of things. There are deciding cases for retroactive conduct. There is no question that you can participate in that or that any of us can. Then there is a question of whether or not you should be able to change the rules of the game in an election where you're on the ballot. Now, candidly, that is a refusal issue which the proposed rules that I handed you does not address. In fact, I've made this clear in separate conversations with Mr. McIver and Mr. Worley. I do not intend to muck up, if you will, the ethics rules with a recusal issue. Those are very different issues. The ethics issue says that, if you're a member of the Board, you shouldn't endorse a candidate. You shouldn't take sides in the primary. You shouldn't take any of those steps. I agree. I would be bound by those rules to the same extent as every member. But I would ask you to, before you object so strenuously to the ethics package, that you take a look at them. I think you will be presently surprised that these rules that's drafted do not go to the issue that you're talking about which is the recusal issue on close (unclear) rules. These rules only say that you can't be involved as a campaign officer. You can't give money. You can't endorse a candidate. You can't serve as a poll worker. You can't serve as a poll manager. You can't serve in a designated capacity for a campaign. That's all it says.

**CHAIRPERSON HANDEL:** I would like to point out, Mr. Evans, I voluntarily impose those on myself already.

**MR. EVANS:** Then you will have no objection to my rule.

**CHAIRPERSON HANDEL:** You, I would like to point out, did not. So the idea -- look, there is clearly motivation on your part. Ladies and gentlemen, you should know that he is the legal counsel to another candidate in the race who is my opponent. Let's just put it like this, I have made my point abundantly clear. I don't need a lecture from you on ethics. I have a strong record of ethics and, in fact, asked you to recuse from a case in which you had a family member. You refused to.

**MR. EVANS:** That's right. Let me set two things on the record clear here. One, there is a hotline where things gets

reported. The person reporting, who happens to be my wife, is not the complainant. All they do is transmit information the same way Ms. Lagrue is a reporter of claims, and she doesn't get disqualified. As to the law firm, you should know one of my colleagues in the firm, a political director, who is the chairman of the finance committee of Karen Handel. You should also know that --

**CHAIRPERSON HANDEL:** He's not getting paid.

**MR. EVANS:** What you should also know that another one of my partners is the counsel to John Oxendine. Another one of my partners is a counsel to Thurgood Baker. Another of my partners is counsel to Roy Barnes. And another of my partners is counsel to Nathan Deal. Randy Evans, if you check, has never endorsed any candidate just so the record is very clear.

**CHAIRPERSON HANDEL:** Would you like me to pull the disclosure and pull your name off of the press release.

**MR. EVANS:** I remember Eric Johnson putting my name in the press release. I remember sending Eric Johnson a note saying that I have not endorsed any candidate.

**CHAIRPERSON HANDEL:** Well, I've made my point.

**MR. EVANS:** You have, and I'm sorry you oppose. You have made your point.

**CHAIRPERSON HANDEL:** Randy, that is outrageous. The record is going to show that I object to your comments. You have been, from Day 1, nothing but argumentative and disruptive on this body under my tenure. I will not have you or anyone else on this body impugn my integrity.

**MR. EVANS:** Then support my ethics then.

**CHAIRPERSON HANDEL:** I will support whatever ethics are needed. But I have actually, frankly, enough confidence in this body that they will follow the state law. This jurisdiction, this State Elections Board will not and I will not support anything that is going to limit my ability to uphold my constitutional responsibilities because you have whatever motivations that you have. I will entertain a Motion to adjourn.

**MR. EVANS:** We'll have to see how the vote turns out, won't we?

**MR. MCIVER:** May I just speak for one moment? Just so that everybody has a good and full perspective, I have been a big supporter of ethics for this Board for a number of reasons, none of which have anything to do with Mr. Evans' argument. One, as you should all know, we have to take an oath to serve on this Board. I took my oath at the supreme court where I thought it made the most sense. My mother was there by the way. Nonetheless, that oath indicates that we will be guided by these principles. One of the first things that happened to me when I was a SEB member, I began receiving phone calls from people who were doing business -- I'll not use their name, but very large public companies doing business with the Secretary of State that had to do with elections -- equipment, things of that nature; asking me to go to lunch. Since I thought I was a regulator of those groups, in my opinion, I refused those invitations. But I looked and it was unclear to me whether or not I could go to lunch with these folks and hear whatever it is that they had to say. So that was always a concern. Perhaps a little like Mr. Evans, prior to the time I came on this Board, to be honest, there was a substantial contributor to a number of campaigns maximizing in many instances. In those instances, I was continued to be asked by candidates to please write the big check. Again, if I'm going to be looking at that election, I was very troubled by that as well. So I wanted to know where I stood. I received an opinion letter from Attorney General Baker that outlined, not as specific as I would have liked, but was fairly clear. It seemed to match what I thought the rules were. But anything by way of rule making that helps me and perhaps other members of the Board understand where the lines are, when can somebody take you to lunch, when can you go to a fundraiser and have a glass of wine and listen to the speech. Can you write a check? Can you not? Can you be of guidance or a contributor in these campaigns by way of strategy and so on. So all of that I thought would be much more helpful. That's the reason I support this. It's just good basic guidance for us. I will tell you, there are many temptations out there. You need to understand -- at least I do -- each of us need to understand what those rules are. I'm convinced every member of this Board -- I will speak for Jeff Israel who is no longer with us -- clearly understands that. But, starting off, I didn't. I didn't have a crash course in what was required of us and what the expectations were. I had to reach out and find them. I'd like to have something a little more specific. I like the way some of this reads, by the way, in terms of no contributions and not functioning in the capacity of principal advisor or fundraiser or things of that nature. That's very helpful to me. I just feel like I had to learn it the hard way.

**MR. EVANS:** I would refer to the Secretary to September 14, 2005, minutes which long pre-dated her in which I raised this very issue when Kathy Cox was the chairperson and the minutes reflect that, at that time, I raised this issue. So this isn't about anything. This is about the government and it would raise -- I'll cite to you the September 14, 2005, minutes where literally the same comments that I made today deals --

**CHAIRPERSON HANDEL:** Ladies and gentlemen, I would like to read one portion of this that in this language what has been offered by Mr. Evans most certainly -- and Mr. Kemp, you might want to pay attention. The following says, "This political activity is not permitted. Involvement of any kind in the campaign of a candidate for office other than municipal offices, this would prohibit any activity in the campaign of federal offices, including candidates for blah, blah, blah, and any office that could be protested or appealed in an election contest to the Board of (unclear)." that, by virtue of the language, is saying that I cannot do my job as a constitutionally duly elected Secretary of State of this great state of Georgia. I am of the mind that, first of all, each and every one of us are grown individuals. I would like to have confidence that every person on this Board knows precisely the difference between right and wrong. Mr. McIver, it is disturbing to me that you felt you needed some guidance to tell you not to go to lunch or dinner with someone who wanted a multimillion dollar contract with this agency. I don't need any guidance like that. I know right now period in the paragraph that's not appropriate. If a case came before this body with someone who I didn't endorse but they were my friend, I would absolutely recuse myself. If a case came before this Board that involves someone I was a contributor to, I would absolutely recuse myself. It doesn't take a piece of paper or Randy Evans pontificating to me and lecturing to me about ethics to have me do that. I'm going to do that because I know the difference between right and wrong. Mr. Worley, would you like to close us out?

**MR. WORLEY:** Well, I've been on the Board since 2004, and no one has ever asked me to lunch.

**MR. MCIVER:** I'm not touching that one, David.

**MR. WORLEY:** I'll be happy to listen to whatever is proposed and consider it. I will say that Mr. Evans is being consistent in that he raised this same issue when there was a democrat as the Secretary of State. I do have to agree, as I

said at that time, that the Secretary of State has a particular rule as a constitutional officer and particular responsibilities. I didn't think, at the time, it was really the Election Board's job to supervise the Secretary of State. I think that's even clearer now since the statute has since been changed.

**CHAIRPERSON HANDEL:** Yes, the statute has.

**MR. WORLEY:** So, if the attorney general will offer Mr. McIver an opinion as to what we could or couldn't do, I certainly would like to get a copy of that. I'm sure the other Board members would too.

**MR. MCIVER:** I'll be glad to furnish you a copy.

**MR. WORLEY:** I'd like to have it so I can be aware of that. That's all I had to say.

**CHAIRPERSON HANDEL:** Motion to adjourn?

**MR. EVANS:** So moved.

**MR. WORLEY:** Second.

**CHAIRPERSON HANDEL:** All in favor?

(whereupon, there was a chorus of ayes.)

SPECIAL CALLED  
STATE ELECTION BOARD MEETING

TRANSCRIPT OF MEETING

August 12, 2009  
10:15 a.m.

Sloppy Floyd Building  
2 MLK Jr. Drive, SE  
5th Floor, West Tower, Room 512  
Atlanta, Georgia

**CHAIRPERSON HANDEL:** I call the meeting to order. I do have a quorum with myself and Randy Evans and Dave, with our staff. We're good to start. We'll call the meeting to order. We'll start with the invocation followed by the pledge of allegiance.

(Whereupon, the invocation was given.)

(Whereupon, the pledge of allegiance was recited.)

**CHAIRPERSON HANDEL:** We just got word that Mr. Israel cannot join us now, but Mr. McIver will be here in about 15 minutes. Is there a way to turn these microphones down? I think we have some interference. I think it might be these little ones. Can everyone hear me okay? All right. We have -- the first order of business, Shawn, do you want me to go ahead and just call these three cases together?

**MS. LAGRUA:** Yes. They are all parts of a --

**CHAIRPERSON HANDEL:** All right. We have a combined case of State license board cases, 2008, Number 84, Number 104, Number 134 involving Fulton County. If Inspector General LaGrua could give us a quick overview, then we'll have an update -- just to refresh our memory -- we'll have an update from Mr. Ritter from the AG's office and then hear from Mr. Parks.

**MS. LAGRUA:** Thank you, Madam Chair. As members of the Board may recall, we heard this at the last State Election Board meeting. It involved allegations of misconduct on the part of Fulton County involving both the November 2008 General Election and runoff. The most significant of the violations involved absentee ballot issues that are not being sent out on time, people not receiving them and not being able to ultimately go. There are a number of other procedural issues at the actual polling places both during the primary -- or during the general election and during the runoff. At the Board meeting, these were presented. The State Election Board voted to refer these to the Attorney General's office but also gave Lee Parks, who was representing the majority of the respondents in this case, 30 days to provide a response to Mr. Ritter and then gave Mr. Ritter some time to respond back to Mr. Parks. If that's sufficient, then I'll turn it over to Mr. Ritter at this time.

**CHAIRPERSON HANDEL:** Okay; very good.

**MR. RITTER:** Thank you.

**CHAIRPERSON HANDEL:** Mr. Ritter, do you want me to go through the questions or wait for --

**MR. RITTER:** I'll wait for just a minute.

**CHAIRPERSON HANDEL:** Okay; thank you.

**MR. RITTER:** Again, really, this meeting today is by way of update; the meeting on May 12 where probable cause was found as to the violations, and probable cause was found as to every violation as to which it was recommended that probable cause be found in the inspector general's report and not on the ones in which probable cause was not recommended in the



inspector general's report. But, at that time, Mr. Parks requested, on behalf of his clients, which is a lengthy list of clients, as I understand it, to respond; and he did. He responded on June 12, disputed a lot of the facts, agreed with a fair number of the facts. In fact, I think the most important aspects of the case which were absentee ballot problems that occurred in Fulton County are effectively admitted by his response. I would anticipate that we would go looking for substantial sanctions on that at the time when that is finally brought before this Board. Of course, I'd like to have the entire case stay together. Based on that response, we discussed this, Mr. Parks and I. I went through this with the inspector general's office and their investigators in great detail. On the 30th of July, we sent a detailed set of stipulation of facts back to Mr. Parks trying to get stipulations on what I think are all of the relevant facts in this case. Certainly, I think that most of the key facts should be able to be stipulated by the parties to avoid trial or at least produce some of the trial burden on the parties should we have to go in front of ALJ. Frankly, I'm ready to go in front of ALJ today. But I do think that there are several factors that suggest we should probably spend a little more time negotiating this case. First of all, they have had since the 30th of July to respond to our stipulation of facts. I haven't gotten a formal redline copy of the response back. I did receive a letter this morning from Mr. Parks asking for more time. My understanding is -- and I'll let Mr. Parks address this further -- they have, in fact, three new board members, which he met with for the first time last night. They have a new director of the license division. They also have Norman Underwood who is here with us today who will be functioning as an auditor based on the prior case that was in front of this Board, and I'm sure he would like to look at the situation as well. To be candid, there is one other reason why I would like to wait. And, that is, I think their efforts that are going on right now are to make sure that the upcoming elections, particularly the November election in Fulton County or in the City of Atlanta, which may be hotly contested is one that our case isn't interfering with. Right now, this case is on the fast track. I could file a Statement of Matters Asserted by the end of this week without a problem. I'm happy to do that if so directed by this Board. I do think, however, that we can probably use a couple more months of negotiating. It would be imprudent to really proceed on this case aggressively for that November election. That's where we are. I'm not going to go through the detailed issues in the case because I think that's premature. Although, I have the response, which is about 40 pages long. So I've got admissions on a number of them. I think it's premature to go through all of those. I will say again though, to reiterate what Inspector General LaGruta stated, that I think that the most important violations have been admitted by them. We're really in posture now to talk about what the appropriate remedies are. Lastly, in that regard, let me know note to the Board, if you do not recall this, for whatever reason, Fulton County Board of Registrations and Elections is not a respondent in this case. We have, in fact, by my count ten individuals who are respondents including Representative Ralph Long who is not represented here today by Mr. Parks. In fact, there are three others who are not as well all for relatively minor claims but not the Board itself. The Board itself is not a respondent. Any guide that you can provide us as to how we should proceed with sanctions in this case is welcome. Thank you.

**CHAIRPERSON HANDEL:** All right; thank you. Any questions before I give Mr. Parks an opportunity to --

**MR. EVANS:** I just want to make sure procedurally I understand where we are. Procedurally, we had found probable cause on a number of issues. You are now in the process of handling it on behalf of the attorney general to either resolve it by trial or by agreement?

**MR. RITTER:** Correct. I would think that what we would present to the Board would be ultimately two documents, perhaps three. Those two documents are, first, stipulation of facts and, secondly, a Consent Order. Those two separate documents would be presented separately in this case because I think there are so many issues that we can't combine into one single order. The third possible document, if we have to go to trial, we are going to present the initial decision of the ALJ as well for consideration of the Board in supporting evidence for the Board to review. But, if we're not able to stipulate, that would be the situation. If we are able to stipulate, then I'll expect to stipulate. Then we'll have a proposed Consent Order. In the prior case, Mr. Evans, the primary problem with coming to our Consent Order were disputes, in my opinion, over what the appropriate remedy would be.

**MR. EVANS:** I guess we will wait to hear from the rest of the folks who need to address this. Candidly, in reviewing this in preparation for today and in preparation for the earlier May 12 hearing, it struck me that there was a distinction between the conduct that occurred prior to the close of the polls and the conduct that occurred after the close of the polls relating to the absentee ballots. I viewed there to be a qualitative difference between either negligence or just failure to comply technically and specifically with all of the various requirements that we have for the operation of good and solid elections that can have the integrity for voters and the conduct that involves the absentee ballots where it appeared that there was a much more conscious, deliberate, or considerate decision not to abide by the directions that were being given by the Secretary of State. So, honestly, I will tell you that, while I appreciate your preference that we treat these together as one, I am a little reluctant just because I see such a qualitative difference between the two categories of conduct.

**MR. RITTER:** Fair enough. I want you to know that -- well, first, by point of reference, I went through the summary of investigation. Secondly, what I saw was the actionable counts of which, based on the numbering in there, was either 23 or 24 depending on how you count; 23 or 24 different potential violations that were found probable cause by this Board. We've got admissions on many related to pretrial or pre-election conduct and some during the election conduct and then some related to runoff issues after the election. But there are contentions throughout that process of each stage of that. The absentee ballot issues both occurred on elections day and prior to elections day. Again, those are substantial. I'm not quite sure how I would divvy those out. My view is just one. There are a number of different separate acts, but there's one continuous course of conduct in this case, which we intend to prove. There is an entire singular story to be told about what was going on in Fulton County, which I would like to tell if I have to go to an ALJ.

**CHAIRPERSON HANDEL:** All right; if I can just ask one question. So, if this has to go to the ALJ, if we split up the case, will we only in that courtroom be allowed to talk about those specific violations and not be able to show the whole -- the broad picture of the breakdown?

**MR. RITTER:** I think that's right.

**CHAIRPERSON HANDEL:** Okay. I'm just trying to make sure I understand the difference.

**MR. RITTER:** I don't want to prejudge the evidentiary issues that will occur there.

**CHAIRPERSON HANDEL:** Sure.

**MR. RITTER:** I think there are questions about that. I don't know how it would be split out right now.

**CHAIRPERSON HANDEL:** Okay.

**MR. RITTER:** But, if we were to come to a proper Consent Order as to the ones that are already admitted, leaving the other ones, then I think we have how that was tried and so forth.

**CHAIRPERSON HANDEL:** Okay; all right. So, basically, what you need from the -- and Mr. Parks, we will definitely hear from you in one second; just make sure that we know what we need to determine today. One, if we're going to go straight to -- there comes Tex. Let the record show that Tex McIver is here. You came right on point. We're talking about what we need to do today to determine if we're going to go expeditiously to an ALG or continue attempting to negotiate.

**MR. RITTER:** Right.

**CHAIRPERSON HANDEL:** With either scenario, provide some guidance to you around not prejudging but some general guidance around sanctions. The last time we had the funds that we put dollars in et cetera on the route that we're going to go.

**MR. RITTER:** Exactly.

**CHAIRPERSON HANDEL:** Could you, for the Board, so that we will have this in our minds, give us a timeline for -- you mentioned that the ALG path was rather expedited at this point. Could you give us sort of that timeline so that we'll have it in our minds?

**MR. RITTER:** Well, just as background, depending on our workload, it normally takes us six months, sometimes a year before we can proceed to an ALG. We have so many cases. That's not just election board cases. But the group that we work in with Ann and others, we have numerous number of cases. We have typically 30 cases a month that come in. So we're on an expedited time frame right now since probable cause was found on May 12. We just received a response a little over -- about a month and a half ago. I'm happy for it to be that way. This is a very important case. Now, if we go in front of an ALG, if I were, for instance, to file a Statement of Matters Asserted which is a complaint or an initiating document in front of an ALG, typically, they would have 30 days to respond and a trial would normally set 45 days or later after that. In this case, right now, without stipulations and so forth, I think we're looking at at least a week-long trial given the 23 different counts that exist. After that, it takes ALG 30 days to issue an order. After that, it comes in front of this Board. Typically, we have a 30- or 60-day period for that. It would be unusual in a case of this request for us to go to trial within 45 days after a complaint would be filed. But I can't say that wouldn't happen. I think that the Office of State Administrative Hearings would work with us if we wanted to do it that way. That's what the posture is. I don't think, given that that's the case, however, that it would be wise to do that since that would put a trial really basically in the core of when the election is occurring this fall. But, that's again, up to the Board.

**CHAIRPERSON HANDEL:** All right; Mr. Parks.

**MR. PARKS:** Thank you.

**CHAIRPERSON HANDEL:** Mr. Parks, before we get started, if I could go through the list of respondents just so that we have on the record who you represent and who you don't; just so we have clarity on that, that will be great. I will start with -- is it Waheri Ojaniky?

**MR. PARKS:** Yes. I represent her.

**CHAIRPERSON HANDEL:** April Haude?

**MR. PARKS:** Yes.

**CHAIRPERSON HANDEL:** Brenda Williams?

**MR. PARKS:** Yes.

**CHAIRPERSON HANDEL:** Beverly Walker?

**MR. PARKS:** Yes.

**CHAIRPERSON HANDEL:** Dejuan Smith?

**MR. PARKS:** Yes.

**CHAIRPERSON HANDEL:** Shawn Kelley?

**MR. PARKS:** No, I do not. That is the gentleman that is on -- he's no longer with the department. He's on active duty in Iraq. We don't represent him.

**CHAIRPERSON HANDEL:** All right; Christopher Boddy?

**MR. PARKS:** No.

**CHAIRPERSON HANDEL:** Joseph -- is it Malger?

**MR. PARKS:** Yes.

**CHAIRPERSON HANDEL:** Ralph Long?

**MR. PARKS:** No.

**MS. LAGRUA:** Madam, Chair, Mr. Malger was the gentleman with Christopher Boddy at the North Precinct that was under the influence at the time.

**MR. PARKS:** I don't represent him.

**CHAIRPERSON HANDEL:** He is a no. I got it. So the individuals that you do represent are Ms. Ojaniky, Ms. Haude, Ms. Williams, Ms. Walker, Ms. Smith?

**MR. PARKS:** Yes, Madam Secretary.

**CHAIRPERSON HANDEL:** Okay. Then also, the Fulton County Board of Registrations and Elections has pointed out colleagues. They are not a respondent on this particular case, the individuals. So I guess we need to have -- So, Stefan, what do you need from us around that just to make sure everybody understands that the Board of Elections isn't a respondent?

**MR. RITTER:** Mr. Parks will address that.

**CHAIRPERSON HANDEL:** Okay; Mr. Parks.

**MR. PARKS:** Thank you. Again, just by way of some background on the chronology of this, we did have our meeting here on May 12. The cost of this 20-something odd allegation, I think, we all agree that it's a more comprehensive way of responding other than to submit something in writing. We submit a 41-page response based upon our investigation review of the IG Report. It is detailed factually, and it gives the legal position on those positions -- those matters where we have a difference of opinion on the statute by Mr. Ritter. A substantial number of these allegations are poll worker-related. I think -- I agree with Mr. Ritter that some of those are going to be expeditiously resolved. The two large issues in this case have to do with the handling of absentee ballots before the election and the counting of absentee ballots after the election as Mr. Evans noted. We have provided our factual analysis of that. As Mr. Ritter noted, we're not contesting a violation there. There are degrees that will relate to sanctions. There are explanations. But we're not here to be combative about that issue. This is by no means to -- from June 12 until August 1, I wrote Mr. Taylor on a number of occasions, as well as Mr. Ritter, urging some response of this report given the fact that I sense from this Board that they wanted this meeting to be a adjudicative. They wanted this meeting to be one where we are much further along then we are right now. That did not happen. On August 1, when we received the stipulation of facts, this is a very rough draft. There are parenthetical questions in it. There are a number of issues. I was not able to talk with my Board about it because the next scheduled meeting after I receive that was yesterday afternoon. Although, I communicated and sent it to them, they did not have any ability because they had to do this in a collective body, as you know, to meet and discuss this with me until yesterday. We have three new Board members as of June, as well the same time, a new executive director, Barry Garner. Attending the meeting here is Ron Edmonds, our new chair. Can you stand up, Ron?

(Ron complies with request.)

**MR. PARKS:** Bill Riley, a new board member and Stan Nephronzo, a new board member.

**CHAIRPERSON HANDEL:** Thank y'all for being here.

**MR. PARKS:** These new board members were represented along with our executive director, an incredible new amount of energy, pragmatic energy, in terms of reshaping and re-orienting how Fulton County conducts elections; and, as a sub-part of that, how Fulton County relates to this Board. That being said, as far as the fact that we are very mindful about the concerns of this Board to move this along as expeditiously as possible, quite frankly, me and Mr. Ritter simply have not had a moment to negotiate. That's just a function

of when we receive the documents and what we are about to undertake. The other issues that I want to raise are initiatives that this Board is taking just in the 30 days that they have been involved. That is going to be -- let me just list some of them, not all of them. But all of which, I think, would be pragmatic information that would be helpful to this Board when it decides what should be done about this matter. This Board is involved in systemic change. Hopefully, where that might not be a complete response to the sanction issue, it's going to be an important consideration in that context. We have initiated with Pitney-Bowes a process by which we will automate the absentee balloting process. Several of the larger counties have bought this technology. Without going into it in depth, you have people who are experts and they can explain it further. I'm certainly not an expert in it. But this is an all encompassing technology that takes the absentee ballot upon receipt and essentially remove human error from the process. It's amazing technology. This Board has committed to funding to put that in place. Naturally, it would be --

**CHAIRPERSON HANDEL:** Hang on a second; I'm sorry. It's not in place. So we've haven't received it and approved it by the Board of Commissioners?

**MR. PARKS:** We're in that process to have that. We anticipate that on a -- Pitney-Bowes has agreed on a trial basis to provide it for us in the upcoming election so we can actually have a dry run with it, if you will, which will give you all and us some idea of what we can do. We have seen other counties with this technology, and it is an amazing technology. We're committed to that. We have initiated with our county manager -- I don't know if it's a unique program. But it's going to be a great program to cross-train a significant number of technology and other skill set people within our existing county that work for us to be able to leave their desk to a two- to three-week period in which to conduct the elections and supplement our existing permanent staff; which, due to budgetary problems in Fulton County right now -- while I won't call it skeletal -- it's certainly not sufficient to conduct the number of municipal and county elections that we will continue to conduct on the general election day. Third, Mr. Garner has initiated personnel changes in a number of key manager positions. We're currently interviewing for those slots. We hope to have that in place and be able to present to you the experience and expertise we hope to put into those positions before we come to you with a final Consent Order, which I'm confident Mr. Ritter and I can work out. We are evaluating and re-training our existing work force. We realize that the existing evaluation process there was substandard and now people are going to have to actually go through an evaluation process that justifies their continued employment rather than assuming that seniority is enough. Lastly and most importantly, we really welcome Mr. Norman Underwood and his involvement. I have known him for a very long time. We think that his involvement in this actual process, not so much the litigation process, but the systemic changes that we hope to be making over the next 60 days; that his evaluation and concurrent should give this Board some level of confidence that the decisions on the direction that we're taking are ones that are going to do what I hope that we're all about here, long-term systemic change as oppose to a patchwork of sanctions that are not necessarily degenerative of that long-term change. But the fact of the matter is is that this Board is not only having to learn its job. It is facing a significant general election with ten or 11 municipalities with which we have contracted with to conduct those. All of these are admissions at this point in time which we hope to bring to fruition within the next 60 days, as well as this Board basically has no -- had no prior knowledge of this. They need some time to get up on this. They're the ones that have to vote on it. They're the ones that are going to have to sell it, if you will, to the Board of Commissioners. They're going to be the ones with the absentee ballot equipment, the cross

training, the information. These are the people that we need to be the ones to discuss this and convince our Board of Commissioners that this is the right way to go for our election department. So that, in a long way, I guess, is to say that we're concurring with Mr. Ritter that, if we have to go through the ALJ process, that's the law. We will do that. But this is a Board that believes that they would rather not do that. They would rather be able to come to you, not with promises of change, but with change in place. That, when you finally deal with this case, that you at least have that progress to judge this new board by, as well as in the context of our old process, an evaluation of a number of these respondents and their work in the general election that are you concerned about because that is also a part of our investigation and our analysis and our reaction to what happens in this. But that's certainly -- given the fact that I received the stipulation on August 1, their first insight into it was August 11. It doesn't mean that we're simply not able to articulate to you today the solution. But, hopefully, I have given you enough of the road map to what we see as the solution to give you confidence in going along with Mr. Ritter's suggestion that he -- the decision makers on your side at least as we construct a proposed solution is one that we are entering into in good faith and with no effort at all in delaying this process but to come to the right answer rather than just a quick answer. I'm happy to take any questions. I also welcome the opportunity for some of our Board members to speak to you so that you can hear directly from them on why they believe that Mr. Ritter's proposal is the best way to go.

**CHAIRPERSON HANDEL:** Questions? I think everybody would be more than happy to hear from the Board.

**MR. PARKS:** Okay; Mr. Edmonds.

**MR. EDMONDS:** Madam Chair and the Board, my name is Ron Edmonds. I'm an attorney by trade and profession. I'm really looking forward to serving as a chairperson of the Fulton County Election Board. Let me just tell you, I just really want to reiterate what he's said. We are excited about the prospect of, quite frankly, getting it right. Mr. Garner has been hired. He comes with a wealth of experience from down in Florida and all of the things that we believe will manifest itself to us having a clean, smooth election in November. This is what we're looking forward to. In reference to this particular issue, I can tell you he thank you that you e-mailed the Consent Order to us today, that he got it. I didn't have enough time and, quite frankly, I just didn't go through -- I didn't have the ability to sit back and see what I agree with and what I don't agree with. I will definitely do that before signing off on anything. But I'm just going to ask you that all, quite frankly, give us a little bit of time. Let us have this election in November. I think we are all going to be excited and happy with it. Then, afterwards, let's just deal with whatever sanctions are appropriate at that time. I thank you for your time. I look forward to seeing you (unclear). But, anyway, it's good to meet you.

**CHAIRPERSON HANDEL:** Thank you very much.

**MR. RILEY:** Good morning, I'm Bill Riley. I'm vice chair of the Board. I'll just say that my job in the past has been to build things. I take this job on in the same way. Some of you may know me. Some of you may not. I used to be the chief judge of the City of Atlanta. I rebuilt that system. When the mayor wanted us to combine the two courts, I built that system. When we had the Olympic court, I built that system. When we had the community court for drug and alcohol and people in -- disabled people, I built that court. Then we started

building other things. We were the lawyers who built Sandy Springs and Johns Creek and Milton. I see this is very similar to what that we did especially in the cities. In the cities, we had a short time frame that we would -- we had to start up. We had to take what we had and make it work. Really, it was Fulton County that we had to take what we had and start it up. Then we had to rebuild it. But we didn't have the opportunity to sit back and cast it all aside because we had to keep government running. We are in the same place here. What we need to do now is we need to focus all of your attention to all of the problems that the inspector general has pointed out that are particular to the last election and try to solve those problems now. We need to do that systemically as we can now. We also realize that we have to have - - that is the immediate goal in front of us. That's all we need to focus on. Then we have to have short-term goals for systemic change. We have to have long-term goals for systemic change. We've had that discussion with our director, and he has taken that direction. I would hate to have to ask him, at this point in time, to stop what we think is the most important thing, and that is to try to deliver you the cleanest, best election we can; and go back and start building to tell you how we're going to do short-term and long-term changes when he doesn't have the weeks to do that. So I would ask you to allow us to continue to do that and allow Mr. Ritter and Mr. Parks to work because, frankly, I see you as our advocate. The sanction, I hope is really part of the solution because I'm hopeful that -- I feel that Fulton County is behind us at this point in time and they are going to stand with us on this. But, at some point in time, I know that I may have to call on this Board to help me to get to where we need to be. So I would suggest that it's premature to talk about the sanction at this point because I don't know what to ask for yet. Hopefully, I won't have to ask you to give me a stick to help to work. But that's what I'm really looking for in the long-term and where to get to in the potential sanction is that, if I need to, I have to ask you. So thank you very much, and I want you to know we're going to all work with you.

**CHAIRPERSON HANDEL:** Thank you.

**MR. NEPHRONZO:** Hello, my name is Stan Nephronzo. I'm also a new member of the Board. I bring a different prospective. First of all, I worked at the polls for over 15 years. I'm probably one of the few people, as a Board member, to have that level of detailed experience in managing polling places. Also, I'm a retired CPA business consultant, so I view a lot of what goes on with the Board meetings from a financial standpoint and an organizational structure standpoint. One of the things that struck me about yesterday's meeting is Mr. Garner's operational report. Larry Garner, the director, already has taken great strides in the remedial fund that came out of the other session's allegations and addressed the areas of absentee ballot registration records with allocated funds at least on a proposed basis to deal with that. So I think this indicates to me that both the new director and the new Board members and even the staff seem to have a new level of energy towards solving the problem, and getting results. I agree with Councilman Parks that we do need some time to make sure the '09 election go well. But we are already using the remedial fund allocation to solve some of the problems that we addressed, not only in the '07 issues, but problems that alleged in the '08 issues. Thank you.

**CHAIRPERSON HANDEL:** Questions, colleagues?

**MR. EVANS:** I have to say I'm somewhat concerned. The level of problems are Enronlike. The people who most have to step up to the plate to fix these problems will be the Board of Commissioners. While I appreciate the talents and the credentials and seal of those who are



now on the Board of Elections, they don't have the ability to allocate resources over time. Candidly, Madam Chair, I don't view us as being the stick or the advocate or the allies for anyone. Our job is to make sure the job is done, and it's done right. We are the referees. We make sure the rules get followed. We don't help one team or the other team. Our job really is to make sure that the voters' votes are counted and done in a way that reflects the integrity that they expect, and it's reliable. When we have systems that produce more votes than there are registered voters and we have rules, which are continually insisted on compliance that goes -- those are disregarded. I have a report that indicates to me that we have neither the resources nor the manpower nor the procedures in place. It's just worrisome. I'm not sure what the answer is. One option, obviously, is we can take this and get a ruling. I suspect that what will happen is that we will get a ruling that does a little more than confirm that which we know which is that we had a complete meltdown of potentially catastrophic proportions had we had close elections. Given that we are not that far off from what will be one of the most contested elections in Georgia's history in both political parties, it's my expectation that the margin for error will only diminish. So I'm troubled by it and concerned by exactly where we go from here. I'm a little unclear just exactly what the issue is before us. I guess one is that -- the question is do we want to, in advance of ALJ, try to negotiate some kind of resolution. But I hear simultaneously members of the Fulton County Board of Elections saying we don't even have enough information upon which to effectively negotiate. I hear Mr. Parks saying, honestly, they haven't had an opportunity to begin the negotiations, and my general experience in life has been things really don't happen until you have a fixed deadline. So my belief, candidly, is that we should, the attorney general's office, request and get a trial date from the administrative law judge. If some proposals can be worked out in advance of that date, great. If they can't be worked out in advance of that date, then we try the case. There is little doubt in my mind, based on the good work of our investigator and the good work of Mr. Ritter, how that's going to turn out especially when we have as many admissions that are already in place. The stuff part for the Board, which the Secretary has already experienced in real time during the election itself, will be fashioned on an appropriate remedy that deals with both the retrospective which is the sanction that's appropriate for this level of misconduct combined with a prospective plan that permits us to ensure that in advance of the 2010 election circle that, in fact, these elections in Fulton County will be conducted in a way that is in compliance with our ruling. That would be -- I would expect we would probably take a better part of the day to fashion that level of relief only because the types of misconduct we have here is so egregious and they are so far -- they permeate so many different aspects of the process. I don't know what we're asked to do today. But, in fairness of trying to keep us moving along so that we're not here all day, I thought I would just pose the question of what it is, and simple and in a hurry, thoughts how we go from here. But my general recommendation would be get a trial date. If there is a proposed arrangement to resolve all of this in advance of the date, we call a meeting of the Board and we consider it. At some point, I think it will be incumbent upon all of us, specifically the Secretary, to make an announcement of the specific remedial actions that have been taken to assure that the voters of Fulton County, in fact, their election will be fair, accurate, and honest.

**MR. WORLEY:** I would attempt to agree with what Mr. Evans has said. I am very please with the quality and the experience and the dedication of the new members of the Board of Elections. I'm a little troubled with this idea that, if our role is to rule on problems so that there will be solutions before the next election, I'm a little uncomfortable with this idea of waiting until we see what happens in the next election before we make some corrections. But, given the efforts that Fulton County is making and given that Mr. Parks and Mr. Ritter

have, I think, done a good bit of what they have had the time to do up to this point, I'm willing to give them a little lead way on that. But I do agree that these problems are very egregious, and we need to make it clear to Fulton County, not necessarily the Board of Elections, but the county commissioners that this is something very serious and that we want to resolve it as quickly as possible.

**CHAIRPERSON HANDEL:** Okay; all right. I concur with both Mr. Worley and Mr. Evans that these are extraordinarily egregious violations here and certainly to see new members on the Board with the level of commitment that's been expressed here is extremely encouraging. Then to have Judge Underwood -- and, in a moment, I'll give you a moment, if you'd like, to address the Election Board as well. Judge Underwood, colleagues, is the individual that we asked and he very graciously accepted to sort of be an outside monitor over Fulton activities. What we'll be looking for coming up through him are reports around moving forward and clearing up some of these issues. For me, there are two separate things. First, there are -- I am also encouraged to hear the word systemic being expressed from Mr. Parks because that is -- has been the concern that I have personally had all along with this, and that was not born out in the '07 violations that were discussed before this Board previously. So, to have an acknowledgment of that, I think is very important because to fix everything is going to take a very broad systemic change within the elections division. I have some angst around trials right in the middle for the election time period. But I'll say this, I do agree with Mr. Evans that having a deadline in lies the things that typically make us take some action and take it expeditiously. So we need to find a way to do that. I want everyone to know that certainly for this one Board member the goal here is to ensure that things are corrected so that, not only for the internal operations of the group, but most importantly that the November elections goes smoothly because that will be imperative that that occurs. Mr. McIver, anything?

**MR. MCIVER:** No. I would like to hear from Judge Underwood.

**CHAIRPERSON HANDEL:** Yes. I would like to hear from Judge Underwood. Thank you, again, for your willingness to take on the initiative.

**JUDGE UNDERWOOD:** Well, thank you. Just to refresh your memory, our function is the product of a Consent Order that was entered into with respect to the prior case, not the '08 case, but I guess it was the '06 case. There was an agreement that was a part of the remedy and the solution. Going forward, it would be a special auditor. I've never been an auditor, but I think your chair is hoping that an old lawyer is sort of like a special auditor. But I'm interested in this area. I want to kind of tell you how I'm going to approach it. I'm working for you. I'm working pursuant to that order, so you tell me if this kind of makes sense. But what auditors do -- I've worked with a lot of auditors. As you know, auditors take a snapshot in time and through a lot of verification procedures they try to say what a situation is on that given day. This is a different concept in that the important time is, of course, elections day. What we want to do is back up and try to look at what's happening 30 days, 60 days off and see if we can make a reasonable prediction about what the situation is going to be on elections day. So I talked with Wes Taylor and with Larry Garner a good deal about this approach and this is generally how I propose to do it. I would like to -- I'm gathering this information now. But I would like to make the -- I propose to make the first report to you 60 days out. That would be the first week in September. That report would kind of look back. It wouldn't be a finding of fact in a legal sense. It would be observations about what

happened in the last election, what the problems were. There would be a lot of focus on registration. I'll try to explain that, when you're processing those registrations, the new registrations, if you get behind, then actually and psychologically, as you approach election, if you were behind on that, that sort of colors everything. I think that's one of the things that happened. In that report, there would be a lot of attention given to absentee -- the processing of absentee ballots. We would focus on what happened with handling the process and the request for absentee ballots. Then, again, I think it's sort of common sense. If you let those requests accumulate, if you don't process them quickly and have some way of basically staying current, then you're overwhelmed when elections day gets here. That's kind of looks like what happened here. On the processing of the actual ballots, by the time you get to elections day, those absentee ballots are there in particularly the kind of numbers they were the last time. If you have not taken a lot of steps to be ready, if you don't have your ducks in a row to process those, then you're in significant trouble from that point on. My notion would be to try to write that out to look back at what happened, not to assign specific blame to specific individuals, but to summarize what looks like the problem was, what the deficiencies were. In many respects, what I would write down and the way I would express it would be a product of Larry Garner's perception since he's become aboard. I've spent time with him and talked through it. I have a very favorable impression of his preparedness for this job and his attitude. I'm very confident that he is capable of managing a team that can perform at a very high level. I'm not going to jinx him by saying it will be perfect or create an expectation that it's going to be perfect. But I've had very extensive discussions with him. I'm convinced that he's got the background and understands how to get there. So that would be the first report to you is basically what you already know but just kind of put it down. Then 30 days would go by, so we are now 30 days out. We're into early voting. We're starting a process, absentee -- request for absentee ballots. I would hope to give you a report based upon these discussions with this management team as to what appears to me to be the level of preparedness, at that point, 30 days out or you're behind with -- you're caught up with processing the registrations, new registrations. How about the request? And very specifically are you getting your ducks in a row to count the absentee ballots. How do I get that information? The only way I know to get it is just to ask lots of questions. I don't think it would be pretentious to compare this, to you lawyers, this socratic method. But there is something sort of -- there's a lot of common sense if you just ask questions. If you ask somebody, "Are you prepared? Do you have a specific thing planned to handle this?" get to the nature of being what it is. Most of us, if we get past that question, if we're not quite there, we're going to try to get there. The general idea is that we try to promote and try to help them with preparation and the planning of this by asking a lot of questions. Then it would be my notion maybe five days, the last week, that I give you a final report. These will not be like you're used to getting but kind of a common sense summary of what I found out and what you sort of sense about the process. I have told Mr. Garner, and I'm going to tell all the members of the management team, I'm meeting with most of them in the next ten days. Nothing would please me more than to be able to write out some kind of positive trajectory. This is my county. I attach a great significance to this function. There's nothing more important in the world than public affairs and politics if you have an elections office that functions well and timely with integrity. My duty will be to call it as I see it; to tell you what the level of preparation is. But I hope that we are able to report a kind of a positive uproot trajectory of the preparation. One time, when there was an Arthur Andersen, I went through -- up to the Arthur Andersen campus and was sort of an instructor for their young accountants for a about a week. What I was telling them about was how to approach state governments and ask for business. But the first time I'd ever heard this term in the context of accounting and auditing, all week they were talking about

helping clients and navigating through whatever it is that they're navigating through -- through change, through problems. That seems to me to be a got term. They've had to do a lot of navigating here. My hope and expectation is, by asking questions, asking relevant questions and timely questions, that that will kind of help them as an agent of you. That's what I am in doing this. You will be kind of through me kind of help them navigate through what they all know was a very unacceptable, unsatisfactory, and embarrassing result last year with respect to the absentee ballots in particular. They wanted it -- I'm very persuaded that they want -- they don't want to kind of repeat that. They want that to be better. It would be presumptuous of me to have any comment on the subject matter you're discussing. I'm not suggesting that they have any -- nobody needs an incentive to have high performance in this kind of work other than the duty that's there. It would be done right because it has to be done right. But, to some extent with the posture that sounds to me like y'all put this in, the individuals involved do have an incentive for a very high performance; if nothing else, to demonstrate to you that they are capable of conducting an election in an efficient and very workable way. Anybody got any questions about that general game plan -- three reports, not fancy audit reports, but sort of common sense perceptions of what went wrong, where we are, and where we want to be? Anybody have any questions about that?

**MR. EVANS:** Madam Chair, may I?

**CHAIRPERSON HANDEL:** Yes.

**MR. EVANS:** It struck me that one of the most critical problems from Fulton County's perspective was the unexpected, dramatic increase in new voters registrations in a stressed time period, which was, as I understood it, about 134,000 applications, 78,000 of which were received on October 7. What would be very helpful to me -- it struck me in trying to think this through. There were two possibilities. One possibility is the dramatic increase in applications; while noteworthy, were not historical. In which case, this excuse really doesn't carry a lot of weight, which means that we have a different kind of problem. Then the other possibility is that, in fact, this was completely -- no, it was historical. It was something that no one could have foreseen. It was a tsunami of registrations in which case we needed to alter the way in which Fulton County and other counties project forward on a going forward basis. So it would be helpful at least from my prospective in the context of preparing your interim reports to note historically comparing apples to apples which would be presidential election years to election years and then, by a corresponding way, comparing non-presidential years off election cycles so that we can determine that our projection system is off and needs to be modified so that we have adequate resources for these events or confirm that, in fact, this was not extraordinary. It was notable but not extraordinary in which case we'd know that, in the course of considering sanctions, we conclude, "Well, this was a factor. It wasn't the kind of factor that it's being portrayed to be." To me, that really goes to the heart of the mitigation of how bad things were. The mitigation offered it's -- this was so impossible that nobody could do it. The second piece is equally important. It reminds me of what Wiley Butts once said, "You can have the greatest heart in the world. But, if you have no helmets, no uniforms, and no stadium, it doesn't do you a lot of winning football games." It would seem to me that it would be helpful to know the kinds of budget parameters early on before we get to the cusp of the election of the kind of manpower and resources that needs to be deployed in order to make sure that we don't have a repeat performance. It would seem to me that the best way, Madam Secretary, I can be convinced that Fulton County's heart is in the right place is to see the pocketbook match it with manpower resources, locations, facilities, et

cetera. The worse thing is to put really good people in the positions of serving on boards of elections and superintendent roles and to send them into battle with no helmet, no gun, and no uniform and then leave it to them to come down here and face us to explain why it is we had a disaster. So I personally believe this has to be backed up with arming and giving it is tools and resources necessary to good people, not just sending them down here to face us. I appreciate everybody coming here. Truthfully, I would have been much more impressed if we had seen the chairman of the commission or someone -- a member of the board of commission come down here and say. "Hey, we got your message." Honestly, I'm not convinced yet they have the message.

**JUDGE UNDERWOOD:** On that point, I think Mr. Garner probably absolutely agree with you. I'm impressed that he's opened up communications with proper channels to begin stating -- making the case with those resources. Also, I think, while recognizing that you've got to have up-to-date stuff, you don't want to blame it totally on the stuff because people have got to perform. So I think he has a very good handle on what's available. If you don't have -- there is no question that some other process, just the basic data entry things, are not the latest and how you break out the causation of a delay between the slow equipment and the efficiency with which it's done. That's very tricky. I don't think anything that you've said would be -- I think Mr. Garner would agree with just about everything you've said. Thank you.

**CHAIRPERSON HANDEL:** Thank you so much. Mr. McIver has a question; I'm sorry, Judge.

**MR. MCIVER:** How are you, Judge?

**JUDGE UNDERWOOD:** Good.

**MR. MCIVER:** I, for one, believe we're blessed to have you involved as our monitor in this matter, a term certainly that I would use. You, in turn, are blessed to have somebody with the quality of Mr. Parks and Mr. Ritter here who have the skills to get this thing done. The question that I have, given that as a predicate, do you feel there are any restrictions on you in any way, either through the organization from which you have been hired, the way you have been retained in this instance, what your role is, what our expectations are of you, any restrictions on you that would impede you from doing the job that we expect to be done?

**JUDGE UNDERWOOD:** No, there are certainly no structural restrictions. The limitations would be my own ability to grasp a very complicated situation. But, to answer your question, no. If we don't identify problems, it's not because of any structural or limitations. I think the challenge is just to make this transition in operational attitude and day-to-day functions. You just have to get faster. We have to do things with more dispatch. That has a lot to do with the way it's been done; just management. I think Mr. Garner understands that. I'm not able to predict the pace at which those kinds of changes are going to be made, but I do have a sense that they are going to be made. But, to answer your question, I don't feel any limitations. I can look under any rock or any place that relevant information may be presented.

**MR. MCIVER:** Similarly, do you feel that all resources are available to you such as Mr. Taylor's office, certainly, access to this Board, so on and so forth; any limitations in that respect?

**MR. UNDERWOOD:** Mr. Tailor has been very helpful in helping me understand this. For example, he and I spent time alone after being out in the DeKalb office; just looking at how that works and trying to get an understanding. I couldn't ask for more cooperation and help. This is a relevant point. I think we talked about the positive experience that we had with DeKalb's office and with Linda Latimore. It was an implicit suggestion that Mr. Garner might want to do the same thing and he has. I thought that was a very good pickup by the staff that he has potential to go see -- this is his first experience in Georgia. Rather than coming in and saying, "We're going to do it like you did it in some other state," you go visit somebody with some experience, who's been through a lot of elections. So, to answer your question, I have had lots of help. I hope we can do something that's practical and useful. You can hold off on any praise until it's over, but I certainly hope that we can play a constructive role. I appreciate it.

**MR. MCIVER:** Let me leave you with this thought: Should there be additional resources that you think is necessary for you to accomplish your goal? I trust you won't hesitate to ask that this Board convene and consider that request? I can't imagine we would deny it; anything short of wanting a staff of 100 like they do in Washington.

**JUDGE UNDERWOOD:** I understand that, and I appreciate that. I think that -- you know the way it is with a task of this kind. You put bodies on it and you get lots more paper. But I really think what's needed here is sort of, not reams and reams of paper, but sort of practical assessment of where we are and so forth for Mr. Garner to get everybody working on the same page and going forward. Hopefully, we will have some good results.

**MR. MCIVER:** Thank you.

**CHAIRPERSON HANDEL:** Thank you very much. Mr. Evans, just one follow-up on new registrations point. That is an excellent one. In fact, all counties, including Fulton, were directed a year out from registration to began to prepare for historic levels of new voters' registrations. When all is said and done, we'll pull these numbers again for you. I think it was nine percent?

**MR. TAILOR:** I believe it's ten.

**CHAIRPERSON HANDEL:** Ten percent increase which parallel the increase in '04. But your point is well taken. Again, all of the counties starting well over a year out were directed to prepare for that. In fact, Mr. Parks might want to know that there were personal meetings with Fulton County on that specific point as well. I think what we need to have for Stefan is to give him some direction of whether we want to proceed with a smaller trial or negotiate. So I open that up for -- I've heard some comments from Mr. Evans around it, a little bit from Mr. Worley; if anyone has any additional comments there. Do you need a Motion from us on that?

**MR. RITTER:** No, not necessarily; just a sense of the Board. I want to be able to do what the Board wants to approve form of a Motion. We can file a smog with the request of the Court, immediately meet with counsel and have a status conference to discuss scheduling. If not, I would fully agree to having a set of deadlines in place would be very helpful regardless of whether we file a smog this week or in 30 days. Thirty days will be preferable from my

standpoint, but I will follow what the Board wants.

**CHAIRPERSON HANDEL:** All right; colleagues? Randy, you were in the place of let's just do it immediately?

**MR. EVANS:** Yes. I think we should just set a trial date and simultaneously have settle negotiations. If the discussions are fruitful, great. Then we reach a resolution. If they're not, we would not have lost time and, at that point, be looking for a trial date.

**MR. RITTER:** Yes.

**CHAIRPERSON HANDEL:** Mr. Worley?

**MR. WORLEY:** I would have to agree with that.

**CHAIRPERSON HANDEL:** Mr. McIver, do you tend to agree? I think you have some set directions.

**MR. MCIVER:** Fair enough.

**CHAIRPERSON HANDEL:** Very good. All right; thank you. Thank you everyone. The next order of business is we have a number of rules that we have been asked to look at over the past couple of weeks. I think maybe Mr. Tailor can just read when he goes through there. The action that we will need today probably is on the rules. One, are there any additional changes? Again, I know Wes tried to collect all of those from each of you. Then we need to decide if the Board is ready to oppose these per the requirement for new rules.

**MR. TAILOR:** Thank you, Madam Chair. I will go through and point out the provisions based on comments from the Board on some of these from what you've seen before. The very first one -- I've presented you with a list. The very first one that I'm going to discuss is 183-1-6-.01, Acceptance of Voter Registration Applications. Essentially, this rule addresses some issues that took place in the last election. And, that is, where there is not a date stamp or a postmark on a voter registration, what should the County do with that? This rule makes it clear that the County should date stamp it and that the registration application would have been made as of the date of the application, the date stamp thereon, and that the County then have seven days and only seven days to get that application to another county if that is, in fact, where the application goes.

**CHAIRPERSON HANDEL:** Any other questions on this one, colleague?

**MR. EVANS:** I think the only question that I raise when I met with Mr. Tailor was to make sure that Mr. Ritter or the AG's office had confirmed for us compliance with any and all orders that had been entered in the very civil proceedings relating to voter registration. My memory was that we had on an earlier day dealt with the time limit of not later than seven days. For some reason, we had decided in that meeting that we could not do that. But, if we can do it, I'm for it. I just want to make sure that we do not run a file of -- we don't run a file of order of the court.

**MR. TAILOR:** Just very quickly, I had discussed this with Mr. Ritter. I'll let him address

the question about court orders. My understanding is it does not conflict with any. Also, with respect to the other rule, that may have been considered. The one that I could identify is 183-1-6-.03 which deals with additional voter registration places and return voter registration application to the main office within ten days. That is a requirement in that rule. But this is a different scenario and should not conflict with that rule of having a different -- multiple voter registration.

**CHAIRPERSON HANDEL:** Do you concur, Mr. Ritter?

**MR. RITTER:** I do concur. I'm aware of no orders in place right now that this rule would violate. There was an issue before which we changed from 48 hours. I believe that's the rule that Wes is referring to. I'd have to look at it; that we changed the 48 hours to ten days. It's a different issue. I think seven days is reasonable. I don't think that it conflicts with any order that I'm aware of.

**CHAIRPERSON HANDEL:** All right. With that colleagues, do I have a -- we just need a Motion to Post; is that correct?

**MR. EVANS:** Council, solely on the reliance on the advice of counsel, I would move that we adopt.

**CHAIRPERSON HANDEL:** Adopt for posting?

**MR. EVANS:** Yes; that's correct.

**CHAIRPERSON HANDEL:** Is there a second?

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** All in favor?  
(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?  
(No response.)

**CHAIRPERSON HANDEL:** All right; the next one.

**MR. TAILOR:** The next rule is 183-1-6-.02. This rule is specific to Senate Bill -- the recently passed Senate Bill 86. It's the next in order of numbers. This rule -- if you will recall in Senate Bill 86, there is a provision, which allow the State of Election Board to pass a rule for additional documentation or methods of truth for voter registration applicants to prove their citizenship. This rule does that. I know you've had a chance to take a look at it. I'm happy to answer any questions that you might have.

**CHAIRPERSON HANDEL:** Questions in addition on this one, colleague?

**MR. EVANS:** The same thing, I remember us being sued over college fraternities wanting to register voters and the degree in which we offered rules that in any way inherent their ability to collect that registration. So, along those lines, I would like to have on the record, the



advice of counsel as to whether or not this conflicts with any other rulings that we have that have been imposed on us.

**MR. RITTER:** I'm happy to comment on that. Wes and I have briefly discussed this. First, to specifically answer your question, I'm aware of no order of the court that would invalidate this rule. Secondly, I think this rule is actually more lenient than previous rules. I think we have litigated, as I think everybody here knows, the issue about the prior Secretary of State's office by informal practice -- it wasn't even a regulation or ruling -- rejecting batch voter registration applications and also there was a great deal of vagueness about what private individuals can do in registering people to vote. You can't actually register them to vote, but there is nothing that prevents private individuals from copying and handing out voter registration applications. There are privacy concerns with sending those in. However, we have litigated that. There is no outstanding order on that right now against us. If we had to litigate it again, I would be prepared to do that.

**MR. EVANS:** In reliance on the advice of counsel, I would move for the adoption and posting of 183-1-6-.03.

**MR. TAILOR:** Madam Chair, that's -- I thought --

**CHAIRPERSON HANDEL:** Do we have a second?

**MR. WORLEY:** I just want to be clear. I thought Wes was talking about 183-1-6-.02.

**MR. TAILOR:** I was. But I understood from the conversation we have been talking about 03.

**MR. EVANS:** I thought it was 03 also.

**CHAIRPERSON HANDEL:** Which one are we on?

**MR. TAILOR:** They were discussing -- Mr. Ritter and Mr. Evans were discussing 183-1-6-.03.

**CHAIRPERSON HANDEL:** Okay. Let's go back to 183-1-6.02. Is that the one that you just gave us an overview on?

**MR. TAILOR:** Yes, ma'am.

**CHAIRPERSON HANDEL:** Okay. I guess we have the same question from Mr. Evans. He just wants to make sure that each of these has been said properly for any previous court rulings.

**MR. RITTER:** I have not seen this one before.

**MR. EVANS:** I'm not worried about an existing order on 183-1-11-.02. This rule --

**CHAIRPERSON HANDEL:** No, no.

**MR. TAILOR:** That's the wrong one. It's 6-.02. I can give you another copy.

**MR. EVANS:** Oh, 6-.02. All right; thank you. We're on the same page now.

**CHAIRPERSON HANDEL:** Are we on, just so we know, 183-1-6-.02?

**MR. TAILOR:** Yes, ma'am.

**CHAIRPERSON HANDEL:** Okay; questions on this one?

**MR. MCIVER:** Yes, ma'am.

**CHAIRPERSON HANDEL:** Okay; Mr. McIver.

**MR. MCIVER:** Mr. Tailor, although you were kind enough to engage in some discussion on this ruling, subsequently, I have two questions.

**MR. TAILOR:** Yes, sir.

**MR. MCIVER:** Only because our firm is employment lawyers heavily involved in immigration work. We represent a number of American-Indian tribes. We now that the identification processes are somewhat unorthodox. That might be the better way to say it. Sometimes it will be a set of cards, things of that nature. Let me take you to paragraph 2, sub-F, as in "Fred". Is this properly worded, "Bureau of Indian Affairs Card Number" as opposed to the card itself and the same would be true in the run-on phrases in the reminder of that section?

**MR. TAILOR:** Yes, sir. This was taken from the statute as well. So the number itself is the identification. That will be included on the voter registration application. So, yes, sir, the numbers are on there.

**MR. MCIVER:** So somebody might just verbally give a number?

**MR. TAILOR:** Well, no, sir. They would include that on the voter registration application itself.

**MR. MCIVER:** Then, is it the obligation of the County to then determine the source of that number and its authenticity?

**MR. TAILOR:** Under the current rule and under the statute, the number itself will be proof of citizenship.

**CHAIRPERSON HANDEL:** What if they just write 1-2-3-4-5?

**MR. TAILOR:** If somebody writes 1-2-3-4-5, then that is their Indian identification number, and that's their --

**CHAIRPERSON HANDEL:** No, no. I don't think that's what we're asking.

**MR. MCIVER:** How do you authenticate that? How do we make this easy for Fulton County if they get one of these?

**MR. TAILOR:** At this point, given the difference -- as you say, the difficulty in the way that Indian tribes keep their information, there is not a method for identifying -- authenticating the number that's included on the application.

**CHAIRPERSON HANDEL:** I still don't think that's what we're asking. How do you know that the number is a valid number, not whether or not the person got a card legally no legally, but that it is a valid number?

**MR. TAILOR:** That is what I was answering, yes, ma'am. There is not a necessary way, at this time, to authenticate the number itself. But, including the number, of course, and knowing that putting a false number on the voter registration application will be a felony.

**MR. MCIVER:** Let me take you back in time. In the earlier days, it was a photo ID. When the legislation was being considered, Mr. Evans and I were involved in that. For example, there was some concern about how would an American-Indian coming off of a reservation where they had not been subject to all of the identification and obligations that we might -- how would they then demonstrate to a registration person the fact that they are who they are? We then added language to the photo ID. One of the accepted forms was identification. You may remember that.

**MR. TAILOR:** Yes, sir.

**MR. MCIVER:** I then remember, because I spread this story in the AJC, that there was a chap in Georgia somewhere that decided that he was a Cherokee. I think it came to him in the middle of the night. He was selling or offering to sell before the Jargon Founding membership, I gather, for lack of a better term, to the Cherokee nation for which he would issue you a identification card and you, therefore, could vote under the requirements of a photo ID, all a completes hoax. Of course, that was dealt with. But I would like to know that we're not going to have to run that risk again. Whoever reads the record of this hearing may well pick up an idea on how to do that. But how is it that we somehow can authenticate the accuracy of that information and get around the old situation where this chap was literally selling memberships to his tribe here in Georgia?

**MR. TAILOR:** As in Arizona where Senate Bill 86 is modeled after, the number itself is the authenticating and is the proof of citizenship. It's deemed to be adequate proof of citizenship. Now, if it's determined afterwards that it is not in some manner, then that can be dealt with. But, at this time, I'm unaware of any method by which, unlike with the driver's license and those kinds of identification where that can maybe go back to the Indian tribe who issued the card and authenticate that.

**MR. MCIVER:** Isn't that true that the person, whatever their actions may be, would still need an identification at the time they vote? Is that right?

**MR. TAILOR:** Absolutely.

**MR. MCIVER:** Maybe that's the part that --

**CHAIRPERSON HANDEL:** Yeah.

**MR. MCIVER:** I would be concerned about that. A similar question would be to sub-G -- let me put my glasses on -- small 'b' here, American-Indian card issued. Now, there again, it sounds to me as if we've got to take a real hard look at it.

**MR. TAILOR:** Yes, sir.

**MR. MCIVER:** Again, I don't want to complicate -- it's already a tough job as a register by -  
-

**MR. TAILOR:** I understand, Mr. McIver. The sub part 'b' and the rest of those documents that are located there are taken actually out of the Medicare Guidelines as to evidence that is sufficient evidence for proof of citizenship in order to qualify for services under Medicare. So that's where these documents which the Board may consider, may alter, may say yes. But that's where these all came from.

**MR. MCIVER:** I think I've made my point.

**CHAIRPERSON HANDEL:** Okay. Any other questions, colleague? Mr. Evans and then Mr. Worley.

**MR. EVANS:** Has the statute been submitted for pre-clearance?

**MR. TAILOR:** No, sir, it has not.

**MR. EVANS:** For me, that's worrisome. Obviously, the United States Supreme Court has elevated the stakes for all of us, especially in those states subject to voter rights act. The Supreme Court created a way that you can basically be exempt from the application, which has a ten-year decade of a clean record. One way that you forfeit that is to implement or act in violation of the statute, which means that you then stay under the context of the Voting Rights Act. It would seem to me that a safer course of action for us, given the stakes that are at play, would be to submit the statute. If the justice department approves the statute and the context of that, given their expressed willingness to work with us on implementation, we can have rules of tracking them without much consequence. If the department of justice, the clients -- and I understand that historically the attorney general's office has always submitted the statute with the rule. But, however, the department of justice has made clear that they will indeed accept statutes prior to ruling of limitations. So, with that said, why would we not ask the attorney generals' office to submit immediately a statute for pre-clearance?

**CHAIRPERSON HANDEL:** In discussing the whole issue with DOJ, it was -- they know that we're going to submit everything as a packet. There was concurrence on that.

**MR. EVANS:** Right. But my question is why would we take that risk while that's an acceptable option? Why wouldn't we take the less -- the option that involves less risk to the State? The implications are so great. Is there a downside to submitting just the statute?

**MR. TAILOR:** Actually, I do believe there are, Mr. Evans, in that that statute allows for the

State Election Board to adopt rules to broaden the number of documents that they so choose, and that was approved. What that would end up doing is to actually give new registrants in the state of Georgia more opportunity to prove their citizenship than it was currently provided in Arizona, which was pre-cleared. They also pre-cleared their manual, which was, in fact, their rules. So, therefore, I think it would actually be more prudent and less likely to raise an objection if the rules and the statutes were submitted as one package so that the DOJ can deal with the entire issue; rather waiting and saying, "We'll deal with it then."

**MR. EVANS:** As I understood it -- maybe I misread all of this, which is possible. But, if you submit the statute without the rule, the department of justice is then permitted to contemplate in evaluating the statute, the most lenient rule. So every possible good permutation is presumed in the defense of the statute; whereas, if you submit it with the rule, you then are locked into what the rule says. It just seems to me, given the risk that we're talking about, that we're better off. If we have the basis of the Arizona pre-clearance to ride on the statute, and this mirrors -- and I agree with you. It absolutely mirrors it. Why would we not take that and run with it? Get a pre-clearance. We can then adopt the rules without minimizing the risk at stake.

**MR. SIMMS:** Madam Chair, may I?

**CHAIRPERSON HANDEL:** Yes.

**MR. SIMMS:** Mr. Evans, Mr. Taylor and I discussed precisely these questions and issues extensively with Dennis and Julie in the attorney general's office both, the Secretary of State's office and the attorney general's office. We also engaged in extensive conversation with the attorneys from the civil rights division specific to the summation of Senate Bill 86. It was both our -- I can't speak for the attorney general's office. But I can speak as to what my impression is and that it was all of our consensus opinion that, in fact, the lesser risk for the State was to proceed with the rule-making process and to provide the rules. We alluded to the manual. In addition to the statute for pre-clearance in one summation that, like I said, from our vantage point, from this office's vantage point, that was done specifically to lessen the risk as to convey or discuss both in person and via teleconference with the attorneys from the department of justice.

**MR. RITTER:** I can elaborate on that briefly. I can tell you, I have not personally been involved in those conversations. So there's substantial chance -- well, speaking out of -- I shouldn't speak.

**CHAIRPERSON HANDEL:** We welcome your comments.

**MR. RITTER:** I will tell you that, based on my conversations with people at the attorney general's office, Dennis and Julie particularly -- and I am supervisor at the election session -- that, based on their conversations with the department of justice, they feel that the chances will be improved by submitting statutes and the regulations together. Dia Genali [sic] prefers it to be done that way. But, you book standards to the side as to what things may actually say in terms of likelihood of success. This is not a situation where we would have great options to appeal an adverse ruling. The safer course is to submit the two of them together. It is a judgment call.

**MR. MCIVER:** How did Arizona proceed? Were theirs submitted together?

**MR. TAILOR:** I do an overall manual of the entire elections process. They do submit that every year. Was it done at the exact same time, I'm sure it must have been.

**MR. MCIVER:** They have been approved by DOJ?

**MR. TAILOR:** Yes, they have.

**CHAIRPERSON HANDEL:** Mr. Worley?

**MR. WORLEY:** I had a couple of questions.

**MR. TAILOR:** Yes, sir.

**MR. WORLEY:** I'm just going to refer to the page. Y'all said the subsection is wrong. But, on the third page, your proposed rule, section 2, at the top begins to discuss documents that can be used at hearings by a Board of Registrars to review the applicants and citizenship. Then, underneath that, item number -- Roman numeral little 4 says that among the documents or a list of documents that can be used. It says, "If created at least five years before the application for registration and showing a United States place of birth," what was the rationale for settling on five years as the term?

**MR. TAILOR:** Again, to mirror what Medicaid guidelines required. For all of those documents, it's the five years and showing the United States placement.

**MR. WORLEY:** Then, similarly, the one on the next page, they just worded it at the top of the page, Roman numeral, large capital ten. It talks about, "If other forms of documentation cannot be obtained, documentation may be provided at the hearing by written affidavit, signed under penalty of perjury, from two citizens, one of who cannot be related to the person in question." Is that also from the Medicare or Medicaid guidelines?

**MR. TAILOR:** Yes, sir.

**MR. WORLEY:** Thank you.

**MR. EVANS:** I think the only other question that I had, Madam Chair, was that, in advance to the meeting, I sent a note to Mr. Tailor asking that the attorney general give us an opinion as to whether or not the attorney general believed that the proposed rule comply with the Voting Rights Act.

**MR. TAILOR:** Yes, sir. I did talk with Mr. Dunn in the AG's office. I will let Mr. Ritter elaborate. But, from my discussion with Mr. Dunn, he felt, one, that the attorney general's role, with respect to the Voting Rights Act, he will -- well, the attorney general will make the submission and will make the arguments that the position on the State known as to the fact that this does not have a disparate impact with respect to the minority voters in the state of Georgia. Also, as a further response, Arizona has been pre-cleared with their statute already. So there is precedence already for this type of legislation not to violate the Voting Rights Act. As well, I mentioned, the proposed rule is not necessarily -- if you want to quantify it one

way or the other -- as strict as in Arizona. But, yet, it still accomplishes what the statute is set out to do.

**MR. EVANS:** So, translating that into Georgia, he's more than willing for us to go out on a limb, but he is not willing to go out on a limb one inch. We routinely ask the attorney general to give us advice as to whether or not conduct is constitutional and legal. I can send you any number of opinions where the attorney general has opined on whether or not the governor or any number of agencies are acting legally or not in compliance with the law. And, yet, what I hear is that, on this issue, he will not give us his opinion as to whether or not this complies with the Voting Rights Act; is that right?

**MR. RITTER:** I think that's not the message that we're conveying at all. To the contrary, I think quite clearly, we plan to submit this. It's been passed as a law. We plan to submit it and advocate for it as we would with any other appropriate law.

**MR. EVANS:** I'm asking a different question. My question is very narrow. The rules that are before us, do they comply with the Voting Rights Act? That's a really easy, yes, they do based on our best guess, based on the evaluation of the law or, no, they do not. That is a very different question from will you agree to submit them on our behalf and defend them. I understand that you're duty bound to submit them and defend them. What I would like to know, from the lawyer for the State constitutionally now to do so, is what does the lawyer for the State think as to the legality of the rules and will you give us that opinion?

**MR. RITTER:** First of all, I'm not going to offer you a formal opinion of the attorney general, as we sit here today. But let me answer your question. If I can tell you, on behalf of our office, if we thought the law was unconstitutional or illegal, we would not submit it. We plan to submit this law and defend it. I'm not going to second guess what the department of justice is going to do. I'm certainly not going to lay out rationale and arguments about the laws pros and cons in a meeting like this. I think that it's appropriate for us to submit the law and defend the law as we're not on duty bound to do but anxious to do. Frankly, we don't want to delay things with an opinion in it either. But I think that's the appropriate answer to your question.

**MR. EVANS:** Given the stakes which is that we're subject to the Voting Rights Act for an additional decade, if we get this wrong, I would move that we ask the attorney general for a formal opinion on whether or not the attorney general believes that the proposed rules comply with the Voting Rights Act.

**MR. MCIVER:** Is that Motion limited to the rules or the statute and the rules?

**MR. EVANS:** Just the rules. I think the statute is the statute.

**MR. MCIVER:** I second that Motion.

**CHAIRPERSON HANDEL:** Questions or comments. I need some sort of guidance out of the AG's office about whether or not -- can we do this? It's just a question.

**MR. RITTER:** I don't think that anything prevents us from receiving a question from the Board. Whether we think it's an appropriate question is another issue. Time frame on which

that question might be answered is another question. I can't tell you you can't vote on it. You can vote on it and ask a question and we can receive it. I don't think that it is necessarily the most prudent course, but that's within the forum to decide whether they want to ask the question or not.

**CHAIRPERSON HANDEL:** Doesn't the AG's office help draft the rules?

**MR. TAILOR:** Yes, ma'am.

**MR. RITTER:** We have reviewed the rules.

**CHAIRPERSON HANDEL:** You have reviewed the rules?

**MR. RITTER:** Yes.

**CHAIRPERSON HANDEL:** When you do your review, do you not, in general, look at the legality of them?

**MR. RITTER:** Yes, of course. I think we have made every effort to make sure they comply with the law.

**CHAIRPERSON HANDEL:** All right.

**MR. EVANS:** That's what makes me concerned. You would think it would be a pretty easy thing to opine; that which you have drafted is, in fact, legal. So it makes me -- it concerns me when the moment I have somebody say, yes, I drafted it. I'm more than prepared to put your name on it, but I'm not going to put mine on it by giving an opinion.

**CHAIRPERSON HANDEL:** Well, actually though, it is the attorney general's name on it when it's submitted.

**MR. EVANS:** Exactly. Then we should get the opinion. It shouldn't be a problem. It should be pretty quick if the attorney general will defend it and thinks it's legal, he should be able to say that to us.

**CHAIRPERSON HANDEL:** Any comments from anybody?

**MR. MCIVER:** Mr. Ritter, any idea of how long it would take the attorney general to opine on this matter?

**MR. RITTER:** I can't speculate to that. I don't know. Our opinions typically take 60 days, often plus. Particularly, we have a number of election days that are outstanding. Some are longer than that.

**MR. MCIVER:** You have already indicated, I gather, at least in your department, if not the attorney general, is well immersed in this issue already.

**MR. RITTER:** We have looked at this issue. Whether we're going to be doing an opinion rather than a submission, I don't know. I'm not going to make any promises one way or the



other. I don't know.

**MR. EVANS:** Would the level of care that you exercise be less for a submission than an opinion?

**MR. RITTER:** No.

**MR. EVANS:** Would the level of investigation and research be less than an opinion?

**MR. RITTER:** I can tell you that the number of people who will look at it and review has also been known to execute an opinion greater than for a submission. An opinion is actually reviewed and executed by the attorney general while the submission is not actually executed by the attorney general.

**MR. EVANS:** So you would be more careful that the attorney general's name is attached to it than you would be if our name is attached to it?

**MR. RITTER:** No. I said more people might look at it. I don't about anybody being more careful. The fact of the matter is, I can tell you that myself and everybody I work with would be as diligent as possible with the submission.

**MR. EVANS:** What is the purpose of having more people look at it?

**MR. RITTER:** Mr. Evans, as you know, the opinion itself comes from the attorney general himself. There are additional people in the office who would look at it.

**MR. EVANS:** Because I presume, since he's attaching his name to it rather than our name to it, he wants to be sure. Why would we be any less diligent in being sure before our names got attached to it?

**MR. RITTER:** I think that what you'll see with a submission is that the attorney general's office signs off on that submission. We consider that submission by the office.

**MR. EVANS:** As oppose to him?

**MR. RITTER:** His name is on that submission.

**MR. EVANS:** I would hope that he would expect no less from us than he would want for his own name.

**CHAIRPERSON HANDEL:** We already have a Motion and a second. Any other comments?

(No response.)

**CHAIRPERSON HANDEL:** All in favor?  
(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?  
(No response.)

**CHAIRPERSON HANDEL:** I guess I will now ask this question. I think we've got rules in front of us. We can take them pending AGs, or we can just table everything and --

**MR. EVANS:** Well, I think we have other rules. I think we were prepared to move on 183-1-6-.03.

**CHAIRPERSON HANDEL:** I think it was here in my questions that I meant --

**MR. RITTER:** If you haven't passed the rule, we're not going to opine over it, I'm sure. If you want to, go ahead and pass that rule.

**CHAIRPERSON HANDEL:** All right.

**MR. RITTER:** The rule is just a proposed rule. It's not active. But active or not, we'll opine, I'm sure, on the constitutionality or legality of that rule. Now, I can tell you, from prior practice, we're asked to, for instance, to opine on the statutes all the time that have not been inactive. We are asked to opine frequently on other rules and regulations and situations that haven't actually occurred. So you may want to pass the rule first before a petition to request an opinion to us.

**MR. EVANS:** Let me get this straight only because I've been at this a while. The attorney general never opines on a proposed course of conduct that has been outlined for the attorney general in advance of the action being taken?

**MR. RITTER:** I didn't say that.

**MR. EVANS:** I didn't think so.

**MR. RITTER:** What I said was I think the chances of the attorney general's office issuing an opinion on it are better if a rule is actually passed.

**MR. EVANS:** Well, the attorney general helped us draft it. The attorney general has got to put his name on it. Now, he needs to put his name on it with us.

**CHAIRPERSON HANDEL:** So it's the Body's pleasure to pass it and send it, or we can always send it and see what the response is. If we don't get a response, we can reset it.

**MR. EVANS:** Madam Chair, my Motion contemplated that we request an opinion, a formal opinion, from the attorney general. My working assumption is that, having done all of the due diligence in order to submit it to us, that's something that we can vote for. They have done all of the investigation, research, and other items. So the opinion could be pretty easily done.

**CHAIRPERSON HANDEL:** We can send it over based on the previous Motion and see what happens.

**MR. TAILOR:** Just practically, if we do wait, the statute is in place January 1, 2010.

**CHAIRPERSON HANDEL:** I think we're all well aware of that.

**MR. TAILOR:** Okay.

**CHAIRPERSON HANDEL:** Which of the rules that don't deal with the 86?

**MR. TAILOR:** None of the other rules deal with that section.

**CHAIRPERSON HANDEL:** All right. Let's go through them.

**MR. TAILOR:** 183-1-6-.03 is the rule that Mr. Evans and Mr. Ritter were already discussing. It deals with -- it's an existing rule in contemplation of Rule 183-1-6-.04, which deals specifically with third-party voter registration drive.

**CHAIRPERSON HANDEL:** Motion?

**MR. EVANS:** In reliance on the advice that we received earlier, I move for the adoption of posting 183-1-6-.03.

**CHAIRPERSON HANDEL:** Is there a second?

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Any questions?  
(No response.)

**CHAIRPERSON HANDEL:** All in favor?  
(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** All right. That one is ready to post; next one.

**MR. TAILOR:** 183-1-6-.04. Again, this are private entities for voter registration and making the rules clear as to how they apply to third-party voter registration drives.

**CHAIRPERSON HANDEL:** Any questions on this one, folks?

**MR. WORLEY:** I have some questions.

**MR. TAILOR:** Yes.

**MR. WORLEY:** Mr. Tailor, if you look on page four and five of this rule.

**MR. TAILOR:** Yes.

**MR. WORLEY:** Actually, before we get to that, will you please tell us generally what is the reason for the new rule?

**MR. TAILOR:** Yes, sir. The reason is there is some uncertainty. As you remember, there was litigation with respect to existing voter registration drive rules of the SEB and how those

apply to third-party registration drives. Mr. Ritter can talk about that if you'd like more. But that case was dismissed. But there seems to be still some confusion as to how third-party registration drives should be conducted in the state of Georgia. Actually, these rules are taken and drafted with a number of third-party registration organizations and their input into these rules.

**MR. WORLEY:** Which organizations?

**MR. TAILOR:** I know we had a project vote -- NAACP was an organization -- the organizations represented by Mr. Hearn in that lawsuit.

**MR. WORLEY:** Okay. With regards to rules on page 4 of 5, the last section, Section C of Section 9 -- I'm sorry, Section 8 right above Section 9, it says, "With each transmittal of completed voter registration application, a private entity should include a transmittal summary sheet which, at a minimum, provides the name of the submitting individual, the name of the private entity sponsoring the voter registration programs if different from the submitting individual, the physical residence or business address of the submitting individual, the daytime and evening telephone numbers of the submitting individual, and the total number of applications being submitted. The Secretary of State may design and make available to private entities a model transmittal summary sheet." What was the rationale for requiring --

**MR. TAILOR:** The main rationale there, Mr. Worley, was so that -- there were instances and have been ever since voter registration drives were first instituted. Certain people thought voter registration -- I submitted my voter registration application. I gave it to an individual, and they submitted it. They didn't have to be a registrar. So this would be a way to allow, not only the third-party organization, but the registrar's office in the Secretary of State to know did these, in fact, -- were these submitted by the individual that you're registered with? So that there would be a trail so that folks could actually get back to, yes, in fact, I did provide my voter registration application.

**CHAIRPERSON HANDEL:** Anything else?

**MR. WORLEY:** I have just a general comment. This is a pretty comprehensive rule, which strikes me as proposing a number of pretty burdensome things among the third-party rules. That, having been said, you indicated that a number of these third-party groups had input in these rules. So I'm willing to vote to post these and provide comments and have a hearing. But I would be very interested to hear what -- any of these third parties and other third parties have an opportunity to come and speak to us.

**MR. RITTER:** Madam Chair, can I comment just a few minutes?

**CHAIRPERSON HANDEL:** Yes.

**MR. RITTER:** I was involved in some of the litigation involving challenges by these entities or individuals on their right to submit rules. I think we should emphasize first that the violation of these rules would not be a basis to deny someone's registration application itself. In no way would that have interfered with someone registered to vote or not. The real curtain is over the individuals who want to register to vote and have private entities or

individuals collect the voter registration information and do things with it that are improper. One of which we have seen in the past and many other states have seen as well is doing things like taking a large stack of voter registration applications and just leaving them in the trunk of their car. The question one should have is: If it doesn't prevent someone from registering to vote, what is the purpose of having rules? What rules actually do is provide basis to sanction those who collect such applications if they do things that are improper with those applications. I think it's entirely appropriate that the Board would exercise its jurisdiction to do that. I have reviewed these rules. But I will tell you they are similar to and, in fact, more lenient than the rules of some other states in terms of voter registration activities by third persons. One other brief comment just from a historical point, the Georgia regulations that governed regulatory practices in the past, I think, for a while, were misinterpreted as meaning that no private individual could go out and register or try to collect voter registration applications. Of course, a private individual is not registered to vote when they give an application to someone who is not a registrar. They have to give it to a registrar. If that private individual or entity collects it, there is no absolute submission of the application until the registrar actually receives it. The prior rule that existed in Georgia for a long time really applied to registrars and deputy registrars who govern third conduct. It didn't touch on what private individuals might do. But it does need -- some need to make sure that private individuals are not misacting when they go out and collect voter registration applications. That's what this rules does.

**MR. WORLEY:** I certainly recognize that as a concern. We got the ballots on the one hand. The assurance that someone who fills out a form at a third-party registration drive will have that submitted to a registrar with the potential chilling effect of burdensome regulations on the person conducting the drive. So that's something that I will be waiting with input from these third parties.

**MR. RITTER:** I think that's duly noted. If I can, let me just make one other comment. In NVRA, there was a finding by the House Committee that reviewed that that improper conduct by those who collect voter registration applications could actually be chilling on people's willingness to register, particularly those entities. They actually can encourage people to register with these entities if they know that there is corporate regulatory scheme in place

**CHAIRPERSON HANDEL:** All right. Do we have a Motion to Post on this one?

**MR. EVANS:** I so move.

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Motion and second; all in favor?  
(Whereupon, there was a chorus of ayes.)

**MR. EVANS:** Madam Chair, can we ask that we specifically give Notice to the groups that sued us over this? I'd rather hear from them at the hearing than in court.

**CHAIRPERSON HANDEL:** Absolutely. We can definitely do that; next one.

**MR. TAILOR:** 183-1-10-.01; and that is Qualification of candidates for office. Both of

these subsections, by the way, are almost verbatim from the statute itself regarding insufficiency, if a candidate provides a check for insufficient funds. What the rule provides is a time period in which everyone is aware that the Notice that the insufficiency of funds was the bank's fault, and it gives that two-week period. For the Board's knowledge, I did contact local banking institutions and asked them what would be an appropriate period to generate such Notice. The two weeks were more than enough.

**CHAIRPERSON HANDEL:** Great; any questions on this one?

**MR. EVANS:** The only question I have is: Would a bank error be, for example, if you had all the overdraft protection and the bank failed to provide you with the overdraft protection?

**MR. TAILOR:** That's my understanding, yes, sir.

**MR. EVANS:** I just wondered if we were -- if there is a way where we make that clear because that's number one question I got which is there are many people who write checks. But it's on the assumption they have overdraft protection.

**MR. TAILOR:** If it is the Board's pleasure, I will be happy to take a look at that. It could even be a different subsequent rule or an amendment to this rule, if you'd like?

**MR. EVANS:** Yeah. We can do that as a result of a common period. So I would move that we post it with an idea that we provide that level of clarification to the banks.

**CHAIRPERSON HANDEL:** Second?

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Motion and second; all in favor?  
(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?  
(No response.)

**CHAIRPERSON HANDEL:** All right; next one.

**MR. TAILOR:** 183-1-11-.02. It's Appearance of Candidate's Name on Ballot. This rule is specifically designed to address the issues that we have seen in the past on candidate confusion as well as election confusion in this regard. Just quickly, number 1 is taking -- it's modified from other states' rules and regulations about using different types of names or different variations of the first name. The second is taken from a 1984 attorney general's opinion; just apply it as a rule rather than an attorney general's opinion. The rest, again, is taken from similar states' rules with respect to how things should appear on the ballot. Two things that were brought to my attention, and I'll address. It was how a nickname should appear in sub-paragraph 4 and whether a nickname should be the name or should it appear in quotes. That really is an issue for the Board to decide. This is similar to other states' rules. I found no references and past SEB minutes, even though I looked regarding this. Similarly, with number 5, that is really more of a technical rule. But, at least, it makes people aware of that ahead of time that there is -- in order to be able to produce the ballot, that 25 characters

limitation is necessary because otherwise the ballot, it can be produced in a fashion that everybody can read it correctly. Again, I checked on this. I could not find a case that had dealt with this issue in the past or an issue that had come up. But, again, this is a pleasure point.

**MR. WORLEY:** Can I ask you a question?

**MR. TAILOR:** Yes.

**MR. WORLEY:** Paragraph 4 goes -- I just don't recall from the last election. But do you know how government Purdue's name was listed on the ballot? How it would be listed under these?

**MR. TAILOR:** I believe it was -- it just appeared as Sonny Perdue.

**MR. WORLEY:** But this rule would prohibit that?

**MR. TAILOR:** Yes. It would have to be Georgia "Sonny" Perdue.

**MR. WORLEY:** Yes. Is there a reason why we need to make that change?

**MR. TAILOR:** Again, because what we had seen in the last election were variations that caused questions. Can we do a certain type of nickname? Can we do a nickname at this rate? Can we do it before the first name? Can we do it in the middle of the first name or after the whole name? This was designed simply to give guidance around that.

**CHAIRPERSON HANDEL:** Excuse me.

**MR. TAILOR:** Yes, ma'am.

**MR. WORLEY:** Just to be clear, the statewide offices it is the Secretary of State who determines if Sonny Perdue is okay and then for local offices it's the County?

**MR. TAILOR:** Yes, sir. Then, for city, it would be the City.

**MR. WORLEY:** Right.

**MR. TAILOR:** But it would have to be consistent with any ruling that would be passed if you decide to pass a rule.

**MR. WORLEY:** Just for my part, I don't really see it.

**CHAIRPERSON HANDEL:** Give an example of what was the confusion with qualifying.

**MR. TAILOR:** As I said, we did have somewhere the nickname would appear. It's improper to have a nickname appear after the full name appeared. Some local officials had dealt with it differently.

**CHAIRPERSON HANDEL:** So it wasn't a question of whether the person went by the

nickname. It was a question of where the nickname went?

**MR. TAILOR:** In some, yes. Some were questions of what could the nickname include?

**MR. WORLEY:** Like Sonny, vote for me, Perdue. I think that's a pretty easy call.

**MR. TAILOR:** That one is easy. But there were some -- I think there was a lady with a tax -- I can't remember exactly what the nickname was. But it was tax champion.

**CHAIRPERSON HANDEL:** Oh, they wanted to put it on the ballot?

**MR. TAILOR:** Yes; and identifying her specific issues. Those are the things that generate these.

**CHAIRPERSON HANDEL:** Randy, do you have anything?

**MR. EVANS:** I'm not for this rule. I just don't think we have enough to fix a problem that isn't a big one. I can just see -- I remember when this came up before. For example, we had questions on hyphenated names for women who had been married and the degree in which this article impaired them. I remember we had a huge Muslim contingent, who was very concerned because this was being directed in their regard. Have we had a parade of complaints?

**CHAIRPERSON HANDEL:** That's what I was going to ask. Can we hold on this one? Can you bring us some specific examples of what the issues were?

**MR. TAILOR:** Yes, ma'am.

**CHAIRPERSON HANDEL:** In the meantime, we'll hold that. It's supercalifragilisticexpialidocious; still don't want to -- so we're going to hold that one. Okay; what's the next one?

**MR. TAILOR:** 183-1-12-.02. This is simply several revisions to an existing statute. This is a revised version of what you all have seen before. I'll quickly point out the revisions. The first sub-paragraph A, simply clarifies assistance, the word "assistance" in the coding rule. There has been confusion over that by definition over the years. The added language that was included here is after -- it's on the fifth line, "operate the voting equipment, including touching the video screen or button adjacent to the video screen of a DRE unit." That is taken directly from the definition sections of 21-2. The other is in sub-paragraph G. That defines early voting for later use of the rule; 'H' would be enclosed space. I did take out the original language that was taken from statutory reference to make it more clear -- "that must be clearly designated as the inner portion." That's what is on the first page. On the other, the next half, where I've had your rule, I made it clear that early voting needs to take place before early voting begins. There's some concern about should there be a front-end limit on that so the counties can't start it a year ahead of time. That isn't a concern because L&A can't begin until the ballots are ready. So there is a written time when that has to be done. Lastly, sub-paragraph D, the third tab in your rules, included absentee ballots within all precincts. All that is designed to do is clarify absentee ballots must be included in the election reporting so there is no confusion about that.



**MR. EVANS:** I move that we post 183-1-12-.02.

**MR. MCIVER:** I second it.

**CHAIRPERSON HANDEL:** All in favor?  
(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** All oppose?  
(No response.)

**CHAIRPERSON HANDEL:** All right; the next one.

**MR. TAILOR:** Yes, ma'am; 183-1-14-.06, 183-1-14-.07. In .06, this is designed specifically for voters, elected officials, everyone on the same page regardless of how the margin is of a spoiled ballot. It specializes what the registrar must do. When we get a spoiled ballot, the directions that must be included on the absentee ballot when it goes to the voters so that they understand what the requirements are; 183 -.07 version of this is the definition of a spoiled ballot. I attempted to draft a definition of a spoiled ballot based on practice and what is out there in other jurisdictions. There is no definition of the rules of spoiled.

**MR. EVANS:** Just an idea, could we change spoiled ballot from having an exhaustive list which is spoiled ballot shall include a ballot? Why don't we say, "Spoiled ballot includes a ballot?" That way we're never hoisted on our own -- having set forth in this exhaustive list. As it turned out, there's some definition we didn't think of. So, subject to that, I would move to post it.

**CHAIRPERSON HANDEL:** Motion to post this rule as amended. Is there a second?

**MR. WORLEY:** Second.

**CHAIRPERSON HANDEL:** Motion and second. Any oppose?

**MR. EVANS:** On both.

**CHAIRPERSON HANDEL:** Right, on both. We're doing them together.

**MR. WORLEY:** I want to make sure which ones we're doing together.

**CHAIRPERSON HANDEL:** We're doing 06 and 07. The Motion is to post 06 and 07 as amended; and a second. All in favor?  
(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?  
(No response.)

**MR. TAILOR:** In that same rule, '08 deals with additional sites for voting places especially with respect to the (unclear). This is revised from a previous 07. This definition of what is a

government building as contained in the statute and the rule is taken from Title 30 of handicapped persons and applied in the elections.

**MR. WORLEY:** Excuse me a minute. In my packet, I had 183-1-14-.07.

**CHAIRPERSON HANDEL:** I think he has two copies of 07.

**MR. TAILOR:** I apologize; .07 is the old, original version of .08. I apologize for the conclusion.

**MR. EVANS:** My question is: Could we add after the phrase "operated by" used by. I think we can -- if we give our registrars the maximum flexibility, it would seem to me that, if the county government, local government instead will be using the facilities, they would have met all the other non-discrimination requirements and all the other things that are attached to them, operation by state entity.

**MR. WORLEY:** Well, does that mean any existing polling place? I'm kind of confused because it would be currently used by local --

**MR. EVANS:** The answer would be yes.

**MR. WORLEY:** I'm fine with that. I just want it to be clear.

**MR. TAILOR:** I think, by this definition, it would essentially open up any facilities that the county government wishes to choose and use.

**MR. EVANS:** Subject to the other rules that also apply to governments.

**MR. TAILOR:** Correct.

**CHAIRPERSON HANDEL:** But would it also be subject to the other rules of an appropriate environment for security? A city might be -- and I don't know that any city is. But, in the interest of just being barred out, a city could potentially use a grocery store for some special projects. Obviously, a grocery store would not be an appropriate polling site for the obvious security aspect of it. I just want to make sure that this does not --

**MR. EVANS:** I think you're exactly right. But there may be other facilities owned/lease that they shouldn't use as well.

**CHAIRPERSON HANDEL:** Right. That's why I want to make sure that this does not supersede the parameters of what a polling site needs to be.

**MR. TAILOR:** That's correct.

**CHAIRPERSON HANDEL:** Okay. I just want to make sure.

**MR. EVANS:** So, with that modification, I move that we post it.

**CHAIRPERSON HANDEL:** Is there a second?

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Motion to post as amended and second. Any other questions?  
(No response.)

**CHAIRPERSON HANDEL:** All in favor?  
(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?  
(No response.)

**CHAIRPERSON HANDEL:** All right; two more to do.

**MR. TAILOR:** We're on our last two.

**CHAIRPERSON HANDEL:** Are these appropriate to take together?

**MR. TAILOR:** No, ma'am. They're slightly different; 09 is a voted absentee ballot. It simply defines what an absentee ballot, which has been voted in the statute. It actually means -- because there is a definition of that in the Code. It has been a source of confusion. It simply clarifies that a ballot is deemed to have been voted when the registrar has certified it as a voted ballot. If there's a mistake, a minor mistake, which could include leaving off a date of birth, this would allow the voter to actually be able to cast the ballot rather than having that ballot rejected and not being able to be issued another ballot.

**CHAIRPERSON HANDEL:** Any questions on this one?

**MR. WORLEY:** Do you know how this works with someone canceling an absentee ballot that they mailed in and they come in?

**MR. TAILOR:** This rule and statute wouldn't have any affect on that. That is a separate statute on how to cancel an absentee ballot at the polling place if you choose to do that. This rule and statute deals much more with somebody returning an absentee ballot and makes a mistake on the outside of the envelope. If it's rejected under a strict reading of the statute, another ballot could not be issued to that voter. This allows for some parameters within which another ballot could be issued in that circumstance.

**MR. EVANS:** So the phrase received by the Board of Registrars, logistically, how did that happen? Is that the date of the stamp? Is that the date it's entered in the system?

**MR. TAILOR:** The received by is the date that the -- under the statute, it's the date that registrars receive in or get in the ballots from the voter. So, when it gets to the registrar's office, then it is received. Then, on that day, they are required by the statute to certify whether that ballot can be accepted under the statute, which is why I used that language.

**MR. EVANS:** But I think Dave's question was: When a voter decides to cancel, can they cancel after the received date?

**MR. TAILOR:** My understanding is no. That's what the statute provides is that -- and this rule doesn't change that. If somebody has voted and they made their decision and it's accepted and certified by a registrar, they cannot change their mind and cast a different vote somewhere down the road, no, sir.

**MR. EVANS:** That's my understanding as well. I just want to make sure.

**MR. TAILOR:** Yes.

**MR. EVANS:** So I move we post 183-1-14-.09.

**MR. TAILOR:** I second.

**CHAIRPERSON HANDEL:** Motion and second. All in favor?  
(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?  
(No response.)

**CHAIRPERSON HANDEL:** Okay; last one.

**MR. TAILOR:** This is the last one, Acceptance of Absentee Ballots from military and overseas citizens. This does deal -- really, the only difference from the statute itself is the rule. It does take into consideration where the envelope doesn't bear a postmark and what should the registrars do where no fault of the voters. USPS or a carrier does include a postmark on their ballot that's received within the three days. This rule will allow that ballot to be counted.

**MR. EVANS:** Wouldn't we be better off having a deemed postmarked date? If it doesn't have a postmark but it's deemed, you have a deemed postmark on the date of the receipt, which is the moment --

**MR. TAILOR:** Other than when you receive it. It would have to be deemed on elections day because postmarks --

**MR. EVANS:** So I deem them all received by the deadline.

**MR. TAILOR:** By the deadline, right. You could draft it that way or I don't -- however you'd like to draft the language is fine.

**MR. EVANS:** I move we post it.

**MR. MCIVER:** Second.

**CHAIRPERSON HANDEL:** Motion and second. Any other questions?  
(No response.)

**CHAIRPERSON HANDEL:** All in favor?  
(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Any oppose?

(No response.)

**MR. EVANS:** I would like to say that Wes did an absolutely outstanding job in putting all of this together. In the context of us discussing (unclear), he was very receptive. It was a pleasure to work with him. I appreciate his good work.

**CHAIRPERSON HANDEL:** Thank you very much. I appreciate that feedback. As we go forward, there's obviously always going to be areas of the rules that we need to update. So let's make sure we keep this in a continuous dialog. Any other business for today?

(No response.)

**CHAIRPERSON HANDEL:** If not, I'll entertain a Motion to adjourn.

**MR. EVANS:** Absolutely, second.

**CHAIRPERSON HANDEL:** All in favor?

(Whereupon, there was a chorus of ayes.)

**CHAIRPERSON HANDEL:** Thanks everybody.

(Whereupon, the meeting started at 10:00 a.m.)

Chairperson Handel – “All right, I’m going to go ahead and call us to order for today’s State Election Board Meeting. If we can stand and have the Pledge of Allegiance and invocation. Can we do the invocation first followed by the Pledge.

(Whereupon, Mr. Worley gave the invocation, immediately followed by the Pledge of Allegiance.)

Chairperson Handel - “And call the roll -- Randy Evans.”

Mr. Evans - “Present.”

Chairperson Handel - “David Worley.”

Mr. Worley – “Present.”

Chairperson Handel - “And I’m Karen Handel. Tex McIver did call us a little bit ago. He is hung up with an appointment. He should be here by 10:45 and I did hear from Jeff Israel two weeks ago that he was not now going to be able to make today’s meeting but we still do have a quorum. With that, I’ll start with public comment, if you will. I’ll call everyone’s name. We will ask that you keep your remarks to two minutes during the public comment time period. Rhonda, back here, is our time keeper, so you’ll be able to see her waive a card when your time is up. Our first speaker is Minnie – is it Ruf-fin or Roof-in?”

Ms. Ruffin – “Ruff-in.”

Chairperson Handel - “Ruffin, come on up and followed by Ms. Minnie will be Margaret Rice.”

Ms. Rece – “Rece.”

Chairperson Handel – “Rece, sorry.”

Ms. Ruffin: “Can I request that Garland go first, please?”

Chairperson Handel - “Okay, I guess that’s fine. All right we’re going to have Garland followed by Minnie, followed by Margaret– and if we can go ahead and get you to come on and work your way up so that we can move through everyone. ”

Mr. Favorito – “I just want to briefly mention to the board that yesterday there was a - -”

Chairperson Handel - “If you could state your name? Thank you.”

Mr. Favorito – “Garland Favorito, 220 (inaudible) Drive in Roswell, state of GA. I just wanted to mention to the board yesterday there was a brief filed in the Georgia Supreme Court involving unverifiable form of electronic voting. The key federal issue in this case is whether or not voting

is considered to be a fundamental right in the state of Georgia protected explicitly and implicitly by the United States Constitution. The Supreme Court, we believe, has already said that it is and the right to have our vote counted is as equally open to the protection as the right to put the ballot in the ballot box. The fundamental rights are subject to strict scrutiny which our current machines and procedures cannot meet for the reasons that I think I've already explained to you and to the Board. The State's witnesses have admitted under oath that these machines do not have an independent audit trail as they were required by law when they were implemented. The voting machines can swap votes without detection according to state's witnesses and the tabulation service can be altered without detection at the state and county levels, therefore they cannot prevent fraudulently manipulated votes which is a requirement of federal guidelines under which is a requirement of which they were certified. Furthermore the election system's commission ruled that no detestable form of state's requirements can be implemented to ensure the software in these machines are correct. So to conclude, we always are to do the right thing, the right thing, I think, is to replace these machines and procedures prior to the 2010 election before we get into the issues of conflict of interest. The cost of an issue can offset an entire issue and optical scanner can be (inaudible) and that would include a ballot marker for the visually impaired in every precinct. So as a result it will save us millions of dollars in additional cost. "

Chairperson Handel – "Thank you."

Mr. Favorito – "Thank you very much."

Chairperson Handel – "Ms. Ruffin."

Ms. Ruffin – "Good morning."

Chairperson Handel – "Good morning."

Ms. Ruffin – "I am up here to speak about unverifiable –"

Chairperson Handel – "Ms. Ruffin, would you please state your name and address for the record, please."

Ms. Ruffin – "My name is Minnie Ruffin, I live at 157 Lyon Road, S.W., Atlanta 30331 and I came to talk about unverifiable voting and this past election, I witnessed voting flipping. I had taken two senior ladies – I'm a community organizer, so I work with the voting and I had taken two senior ladies to vote. One could not walk well so they allowed me to walk her to her voting box and I stood and watched her and I saw her vote for one candidate and when she got to push the button for the vote to go through, it had flipped to the other candidate. So these voter machines are unverifiable and they are not accurate and so I'm concerned that our voting process is one that does not ensure the accuracy that we need. And without a paper trail, there's no possible way to conduct a thorough and accurate recount of any election results. Georgia is now the only state in the Union that still expects to conduct statewide elections in 2010 on unverifiable voting equipment. The only other state that attempted to do so was Maryland and their legislators voted overwhelmingly to replace their nearly identical T-Boles, Accuboles, TS Voting Machines with optical scanners for the upcoming elections. The Attorney General of

Maryland has also filed an 8.5 million-dollar lawsuit against Diebold, which now goes by the name Premier Elections Systems.”

Chairperson Handel – “All right, thank you. Margaret Rece and then followed by Margaret will be Gloria Tatum and Aaron Rusetta and is it Bob Toxen or Tuxen?”

Mr. Toxen – “Toxen.”

Chairperson Handel – “Toxen. All right, Ms. Rece.”

Ms. Rece – “My name is Margaret Rece. I live at 461 Sherman Way in Decatur, and I’m here to talk about the voting machines as well. I’ve voted ever since I was eligible and have always felt security in the equipment that was used. It was different in those days but I was secure in it. After seeing the irregularities in the voting that have occurred in this state, and knowing that there’s no way to actually guarantee proper functioning of these machines, I think it’s unconscionable that we are still using them in this state. I’m not very proud of this state for doing this and I think we as the people need to speak up about it. We are the only state using these and they were considered obsolete when they were bought with taxpayer’s money of 54 million, which we never had a chance to actually vote on. So we had bipartisan legislation in 2006 and 2008, three in the House and one in the Senate bills delivered and none have ever made it to the voter. So I think this is something that the people have to stand up and say, we don’t want voting on these machines, they do not count our votes and register us the way we don’t vote and it’s time to do that. Thank you.”

Chairperson Handel - “Thank you, very much. Ms. Tatum.”

Ms. Tatum – “Thank you for the opportunity to speak on unverifiable electronic voting. My name is Gloria Tatum and I’m a member of the Georgia Peace and Justice Coalition. I live at 1103 Willowbie Drive in Decatur, Georgia. I do not have confidence in the voting system that cannot be verified. The current voting system can flip votes between candidates in a race without detection. This has happened to a lot of people. Our county’s databases can be fraudulently manipulated in any race without detection and in a 2006 published report, our Secretary of State, Karen Handel, stated in that report, “That electronic voting machines used in Georgia elections are obsolete and cannot be record fitted with a voter verifiable paper audit trail. We must put procedures in place to have audits of elections to verify that the electronic vote totals are accurate. The paper audit trail should be the determining factor in discrepancies in the vote and should be the ballot of record. I don’t understand why this hasn’t happened since you yourself, Secretary Handel, these are in your report, and you’re running for governor and if this is not – and we still have unverifiable electronic voting at that time, you know, how can we trust that you really won or didn’t win - - either way, it can go either way. It is not us that cast the votes but those that count the votes that controls who is elected. Who is counting our votes? D-boles, is discredited in every state in the Union, a potentially fraudulent system is counting our votes. Thank you.”

Chairperson Handel – Thank you so much. Mr. Rusetta.



Mr. Rusetta – My name is Aaron Rusetta. I've been a citizen of Georgia for 26 years. I currently reside in Decatur in DeKalb County. My professional career in Georgia has been heavily invested in computer technologies, especially those surrounding the media and internet industries where I work as a computer graphics artist and animator, a computer programmer, a systems administrator and a web developer. I've also been heavily involved in technology education including six years as an advent instructor in the computer arts and electronics program at the Atlantic College of Art. I've also have 20 years of volunteer leadership roles with computer education support communities, the Atlanta and the Atlanta enthusiast, the membership of which I am representing today. In my current roles as first contact event coordinator and webmaster for the Atlanta enthusiast, I helped lead a group of several hundred computer professionals, system engineers and industry leading IT securities specialist. Almost to a person, these members agree with my opinion that Georgia's use of zero-evidence election systems constitutes election fraud. This is a statement that can be made with impunity because any competent computer technology professional knows that the voting systems in Georgia provide no physical evidence by which that statement could be refuted. It doesn't take much professional examination of Georgia's zero-evidence and DRE and tabulation systems to conclude that during the requirements of a legitimate transparent voting process, their entirely incompetent applications of computer technology. It is immediately clear that these systems were not designed with concern for conducting verifiable elections but with the focus of removing all accountability, all responsibility and all fair-market competition from the voting systems in order to minimize risk to the vendors and maximize their tax dollar profits some of these expensive systems and establishing the expensive monopoly maintenance contracts required to sustain them. The good news is the taxpayer's investment in these systems can be easily salvaged and if you care to consult with any of our people we can do that pro bono.

Chairperson Handel - Thank you.

Mr. Rusetta – I'll be happy to talk to you about that. I have a written statement from the Confederate --

Chairperson Handel – The record will show that Mr. Rusetta gave us a copy of the written statement and our next speaker is Bob Toxen.

Mr. Toxen - Good morning, Bob Toxen, Gwinnett County, Georgia. I am a Georgia based securities computer consultant (inaudible) considered one of the top computer experts in the world. I have published and written these two (inaudible) books on computer security. I've advised President George W. Bush in 2001 on the NSA CIA Defense Intelligence Agency as a part of his National Security Presidential (inaudible) to repair breaches in computer services as well as State Election Officials got there information on voter security. My 30 - plus years of computer experience, I found that no computer is immune to bugs, computer breaches or tampering. The Diebold voting machines in Georgia has been proven to miscounting votes. In California the Secretary of State hired computer security experts in an attempt to breach security of these Diebold machines virtually identical to Georgia. These machines easy voting totals very different than the votes actually cast proving that vote tampering was easy. I've seen numerous ways that while voting with the Georgia machines I could have committed voting fraud. It's easy. The Diebold voting machines are so buggie that Diebold saw the need to do a software

repair two days before an election. Has massive voting fraud already been committed with Diebold voting machines in Georgia? We'll never know because there's no way to have a paper trail – if there's no paper trail, there's no way to audit results to see if they represent what was actually voted. This is unacceptable under Democracy. Has any other states using the Diebold voting machines has either replace this or audit them with verifiable paper ballots. Two states also filed multimillion dollar lawsuits against Diebold. The Diebold violate the U.S. Constitution's guarantee for the citizen's right to vote and have that vote counted. They also violated the Georgia Constitution requirement that voting be by secret ballot available for audit and recount. Merriam Webster's Dictionary defines the ballot as a sheet of paper used to cast a secret vote. Thank you very much.

Chairperson Handel - "All right, thank you so much. We have three more. All right, ladies and gentlemen, we have three more. This is the last call for public speakers. We're now a good sixteen minutes into the meeting and public comment is at the beginning of our meeting so if you want to speak for public comment, I need for you to speak up at the time when I call for them early on. Our next speaker is going to be Sven Lungren?"

Mr. Lungren – "Sven."

Chairperson Handel - "Thank you. Sven, thank you."

Mr. Lungren – "Thank you. Thank you for letting us speak today - -"

Chairperson Handel – "Absolutely."

Mr. Lungren – "I hope at some point it will be some response from the Board to all the comments that are being made. It's nice to have a little feedback from our officials as to how they feel and stand on these issues. I'll be very brief because you've pretty well heard the arguments at this point. I think they're pretty strong and straight forward. There's an article in the paper just today already talking about some of the discrepancies in our voting system as regards registration. But let me just simply say that we need a paper ballot or some verifiable trail other than what we've got here in Georgia that meets the ballot that's the official vote should be something that we can go back to and say, well, did this machine count it correctly or not? Regardless of what kind of machine it is, whether it's Diebold or pull lever or whatever, we've got to have some back up system so people trust the voting system and that's the basis for our whole Democracy. Thank you."

Chairperson Handel – "Thank you so much. Next, we have Lynn is it Vorbach? I'm sorry, Rene Vorbach? And then after Rene our last speaker is Gunther Ruckl."

Ms. Vorbach – "Good morning."

Chairperson Handel - "Good morning."

Ms. Vorbach – "I spoke before this Election Board quite a few years ago when Cathy Cox was our Secretary of State at the time and in my hand I had a letter from Cathy Cox to Bob U. who

was president of Diebold at that time and they were considering congratulating the fact that the state of Georgia and Diebold had a partnership in the voting machines. Then she went on to say, however, there were 26 problems with these machines and at that time I had those papers in my hand and when I was finished speaking, the attorney who was representing the Election Board asked if he could have a copy of those minutes and I did turn them over to your office. And my question now is, what was ever done with all of those problems which included votes jumping basically from Democrats to Republican. The card coming back sliced, the card that had filled up that did not have enough room on it to vote on the machine and other serious problems and never was the public told at that time – never once was the public told at that time that we had any problems at all and in the meantime all those years we were never told that those problems were fixed and that is my question that I would like the Election Board to look back at and try to fix those 26 problems that we had at the beginning and find out how many of them are fixed and as far as we are concerned with the Vote Georgia Group, we want to see a verifiable vote and we do not want to see a Diebold machine in this state at all in 159 counties and be the only state in the Union and the United States having unverifiable voting. Thank you so much.”

Chairperson Handel – “Dr. Rukle.”

Dr. Rukle – “Good morning members of the Board. Good morning. My name is Gunther Rukle. I want to apologize for my attire because right after this I have to go out working and I can’t do it in a suit. This is the second time that I spoke before this Board on this issue and it seems to me that the resistance to change a principle element in our election system does not get the hearing that I wish it to get. I remember a couple of years ago a small group of us met with Cathy Cox and I pleaded for the simplest of all systems, a piece of paper, a pencil and circles around the names and you make choices, you fold it up, and you drop it into a voting box and that’s it. At the end of the day, in front of all people you open these boxes and you count one after the other. The old-fashion European way many countries are still doing it. Well, her answer was, in the past there have been so many fraudulent actions when we did it, when we tried doing it this way that we ruled out using that tactic. The alternative of the electronic approach, I cannot follow the path of a ballot from the author of the ballot to the counter of the ballot. This is required by law and again I would plead with you to save this bedrock of Democracy. Well, I have often heard that well, we are not living in a Democracy, we live in a Republic. I never understood that argument too much. I’m an immigrant and I have to be honest with you, there are two things in this county that prevented me from becoming a citizen. I do not assign on to the fact by the U.S. Supreme Court that money is free speech. Money can never be free speech. Never.

Chairperson Handel – “Thank you so much today.” All righty. Colleagues, I’m going to ask that we move up the Attorney General’s report because it’s pretty short while we are waiting for Mr. McIver to arrive so I will jump forward to Ms. Almond. It’s going to be Tab 22 – 23, I believe with the first one being City of Greenville.

Ms. Almond– “ This was heard by the Board at it’s last meeting – ”

Chairperson Handel – “You might want to wait for one second while we clear, until everybody stops talking so we can all hear, thank you. And if any of you all standing want to go ahead and come up and fill in the seats, please, go ahead and do so. Very good, all right.”

Ms. Almond – “This matter was heard at the last meeting and it involved numerous violations in the absentee balloting procedure at the City of Greenville , November 6<sup>th</sup>, 2007 General Election. Johnnie Owens who is the former Elections Superintendent admitted to all the violations. Ann Moreland who is still the Poll Manager involved, also admitted to one violation. At the last meeting the City agreed to pay a \$500 fine for all the violations as well as to pay for the training of Respondent Moreland in addition to a reprimand as well as a cease and desist order. The Board, after considering that countered that the City should pay instead of \$500 total, \$500 per violation and then pay the Attorney for the City of Greenville, said that he would have to consult with the Board and so he stated that he would update the Board. The other respondents, I believe - - are also here --”

Chairperson Handel – “ Step up. Do you have any other questions for the Board?  
Mr. Meeker , How are you today?”

Mr. Meeker – “Good how are you.”

Chairperson Handel – “Thank you for coming back down.”

Mr. Meeker – “Sure. I understand from the last meeting there was a discussion about increasing the fine. I’ve spoken with my client and have the authority to sign the consent order at the \$500 per violation and fine for what my understanding along with the police record would be a total fine amount of a thousand dollars. Before we go over it, I would like to ask the Board for some consideration in that fine amount. I – clearly, whatever the fine is, it’s in this Board’s discretion and I recognize that and I also believe what Mr. McIver said at the last meeting in terms of uniformity in terms of your penalties and your fine amounts. I also believe there are some circumstances and occasions when some deviations from those standard fines can be inquired by the Board or at least considered. As I’ve told the Board, this is my third appearance. I can’t help what happened prior to my becoming involved in this case. I know the Board was inundated. This case was drug on for too long – along with being inundated with the people from Greenville who decided they could use this Board for whatever political purposes they were trying to make and it’s obviously the wrong place and the wrong time. Since my involvement, and I believe Ms. Almond would agree with me on this too, we’ve worked to get this matter to a conclusion, not delay it any further. When the investigative report contains admitted violations, it’s not a whole lot to debate. I understand like any other governmental entity right now that the City of Greenville is not exactly rolling in cash for a city of it’s size. A \$5000 dollar fine, is a considerable amount. I would tell the Board that any fine that is paid is obviously it’s sent a message to the City. We’re considering tonight an agreement with Meriwether County and their Board of Elections to conduct their elections this fall and hopefully after we get the plan to move it forward. These are obviously the things that could have been avoided, should have been avoided but unfortunately, were not. But I’d just ask the Board’s consideration in the final analysis stand here willing to sign a consent order as it’s been presented to the Board.”

Chairperson Handel – “All right, any comments?”

Mr. Evans – “Do you have drafted an order?”

Ms. Almond – “No it’s not in the binder you have.”

Mr. Meeker – “Mr. Evans, I have a copy – May I approach?”

Mr. Evans – “Yes, absolutely.”

Mr. Meeker - I’ve also prepared an identical one with the fine amounts left blank hoping again it gets totaled . I believe the last time I had the signed consent order Bobby Moreland and Ann Moreland voted on it and I think it was left –

Mr. Evans – “Yes, I think that’s Robert Moreland’s copy right there.”

Mr. Meeker - I should have had Ann Moreland adopted consent order - get that to you.”

Mr. Evans – “ I move that we adopt the consent order that’ s been consented?”

Chairperson Handel – “Second? “Any questions or comments?”

The Board – No response.

Chairperson Handel – “All in favor?”

The Board – “Aye.”

Chairperson Handel – “Mr. Worley, abstained.

Mr. Worley – “ I abstained.”

Chairperson Handel – “I just want to make sure since we had the three of us with the one extension, we qualify as a quorum on this –”

Ms. Almond – “Yes. ”

Chairperson Handel – “Yes, perfect.“ And please know that we very much appreciate how willing and how diligent you’ve been to work with us. Because you really have since you’ve been on Board shown a great desire to take corrective action and we stand still through our State Election’s Division we are there to help partner with you to help move things forward.”

Mr. Meeker – “And I appreciate the Board’s consideration.”

Chairperson Handel – “Yes. You’ve been great. Thank you so much. Is that your only case, Calandra?”

Ms. Almond – “Yes.”

Chairperson Handel – “All right. I do have in my binder another one, City of Jackson, but I believe that one, we are not taking up today; is that correct?”

Ms. LaGrua – “That’s correct.”

Chairperson Handel – “Is that the one we wanted to do broader notices on?”

Ms. LaGrua – “Right.”

Chairperson Handel – “Okay, for those of you in the audience, we are not taking up City of Jackson. All right. Our next case is 2006 Number 50 – Chattooga County.”

Ms. LaGrua – “Good morning Madam Chair, Members of the Board. The Chattooga County case goes back to the 2006 General Election. It involved a number of individuals but in particular the election under this Board’s attention and brought before the Secretary of State’s office was the race between State Court Judge of Chattooga County. Shortly after the election we received a complaint from an individual that had -- apparently that’s done some research in the Registrar’s Office and had come across and not -- and I apologize for a misnomer in the report -- the report says 19 sequential ballots, it’s actually 18 meter ballots. And these ballots were all from the same postage meter in sequential order. There was some concern about that. An investigation was launched, and in fact, we were able to verify that, in fact, there were 18 sequential ballots metered from a postage meter. We tracked back the tracking from the postage meter belonged to a Mr. Albert Palmour, an attorney, in Chattooga County. In his office was also another attorney, Carlton Vines, who is one of the subjects or Respondents in this case. I should let the Board know before I get too far, I did receive correspondence from Mr. Palmour. He asked me to let this Board know that he would not be here this morning. He’s in court and that he testified in front of the grand jury and wanted y’all to know if I could send this down. As the investigation progressed, what we found were a number of different violations in regards to this election. After reviewing all of the evidence and determining that verily likely -- the allegations involved absentee ballot fraud essentially and the using of the absentee ballot process to try and change the outcome of the election, which, in fact, it did and if I could, there are a number of different Respondents, so I’m going to break this up a little bit and address the more minor Respondents in this case before I get into the lengthy investigation. There were a number of Respondents at the Registrar’s Office and Janet Palmour in particular, that allowed the voter registration cards to be copied initially. When Mr. Wright went to look at these ballots, which would also potentially be allegations, there are also some peripheral folks, which were it not referred to in this case as runners. What we essentially found out was that Carlton Vines had a number of individuals in Chattooga County that at his bequest and on his behalf were going out and picking up absentee ballots for individuals and getting them sent to the Registrar’s Office themselves or taking them back to Carlton Vines office at which point either Carlton Vines himself who was the sitting state court judge, or was running for state court judge, or his secretary Dorothy Gilreath, would attach postage to the absentee ballot envelopes and mail them to the Registrar’s Office. There were four runners in particular that worked with Carlton Vines. There was Anthony Sparks, Sidney Johnson, Steve Chappelle and Lois Reed. And all four were interviewed during the course of our investigation and subsequently during the GBI

investigation and admitted, in fact, to at the bequest of Carlton Vines, picking up absentee ballots from individuals and either mailing them, delivering them or bringing them to his office for the affixing of -- for them to be processed. We also spoke with Dorothy Gilreath, who is the secretary of Carlton Vines who initially declined to cooperate, but ultimately did cooperate with the GBI investigation and had actually kept a list of the absentee ballots that were processed either through registration, application or ballot through Carlton Vines' office. This case was then -- when we realized the breadth of the case we asked for the Attorney General's office to be involved. Ultimately the Attorney General's Office appointed Joe Burford who is with the Prosecuting Attorney's Counsel and he is here this morning to address some of the issues that were investigated and found out after it was turned over to him. He was appointed by the Attorney General's Office to be the prosecutor in this case Prosecuting Attorney's Counsel. At that juncture it's my understanding, Mr. Burford and Prosecuting Attorney's Counsel requested the assistance of the Georgia Bureau of Investigation into this case to assist them. Their investigation goes beyond the summary you have. The summary you have was the initial summary of our investigation here in the Secretary of State's Office. We continue to cooperate with the GBI and at the direction of the Prosecuting Attorney's Counsel to assist in their investigation. The long and the short of the investigation is -- and again I'll answer any specific questions but what we found was there were the 18 sequential ballots that was run through the postage meter and Albert Palmour was actually asked by Carlton Vines to be allowed to use the postage meter in his office to affix postage to these ballots. They were on Dorothy Gilreath's list that she had there were approximately 49 names. Of those names they were either persons that, that office had participated in registering to vote in assisting them with getting their applications or absentee ballots or individuals who actually brought the ballot into the office. What Mr. Burford was able to assess after the investigation with the GBI was as follows: That Steve Chappellear had six ballots that he picked up that were on Dorothy Gilreath's list, that actually made it to the Registrar's Office. Anthony Sparks picked up, I believe, 14 ballots. Six of those ballots were part of the 18 sequential number of ballots, eight were not. All of his 14 ballots were all on the Dorothy Gilreath's list, which means there were potentially eight more ballots that were processed through that office. We can't tell you for sure whether or not they did. Lois Reed picked up 13 ballots. None of the ballots that she picked up and were ultimately counted were on Dorothy Gilreath's list. One of the ballots she picked up, and the reason we know that this happened is we talked to Ms. Helen White who said that Lois Reed picked up her ballot, and Ms. Reed admitted to picking up her ballot. That ballot was never received in the Registrar's Office and was never counted. Ms. Reed said she took some of the ballots to Carlton Vines, some were mailed and some were to a party office. So there were -- all 13 were on Dorothy Gilreath's list that Ms. Reed picked up and had processed. Sidney Johnson picked up eight ballots. None were on Dorothy's list, but eight -- all eight were of the 18 sequentially numbered. What all that means when you get down to it is that we know for certain that 22 absentee ballots went -- that were ultimately counted went through Carlton Vines' office. We also have had testimony during the trial of this case that Carlton Vines was actually delivered a number of these ballots personally. So of the 22 ballots that we know definitively went through Carlton Vines' office, we know he personally handled a number of them. We know specifically that 22 went through his office and made it to the Registrar's office and were counted. We know that one ballot that was picked up by a runner for Carlton Vines never made it and was never counted as a ballot in this race. Now, between the list of -- on Dorothy Gilreath's list 38 of the list that she kept -- the Secretary in Carlton Vines' office, kept 38 people on that list did vote by absentee ballot. So

what we know definitively as it relates to Carlton Vines' office 22 absentee ballots went through his office. There are 16 on his secretary's list that were ultimately counted and we cannot tell you definitively whether they went through his office or whether these runners delivered them directly to the Registrar's Office or mailed them themselves. As Mr. Burford and Dan Simms with the GBI got involved in this case, they approached Mr. Chappellear, Mr. Sparks, Ms. Reed and Mr. Johnson for their information as it related to Carlton Vines in this investigation. Those four individuals all cooperated with the prosecution of this case and were given criminal immunity by the prosecution for their cooperation and testimony in this case. The Registrar's Office who was also cited in this report for having allowed voter registration applications to be copied as well as for not comparing signatures appropriately with the ballots that actually came into the office and we know that because in Mr. Burford and GBI's investigation there were numerous signatures that clearly did not match. However, during the investigation and up to trial which was tried in Chattooga County in April of this year, the Registrar's Office was cooperative. In terms of the copying the voter registration application, Janet Palmour was the only one at the Registrar's Office that was present during that time. Ralph Wright was in the office, got the copies. Ms. Palmour said that she did not allow them to be copied. Mr. Wright said that he was provided with the copies which are the basis of those allegations. The case was taken to trial on charges of false swearing oath of office, possession of unlawful absentee ballots as of April. As to unlawful possession of absentee ballot, the jury hung ten to two to convict in this case in Chattooga County. It was the decision of the prosecution at that time because of a consent agreement with the Judicial Qualifications Committee not to retry the case and in exchange Carlton Vines agreed with the Judicial Qualifications Committee that he would never run for, seek or accept judicial office ever again and that's where the case has ended. In terms of Candice McCutchins, who's named a Respondent in this case, she signed a number of individual names to the absentee ballots which is the basis of those charges. Tommie Eskew signed for her sons who were out of town on their absentee ballots, not applications – signed their names at the request of – I believe it was Steve Chappellear for Carlton Vines in the case which is the basis of those allegations in the case. Dorothy Gilreath also cooperated fully in the trial of the case and was granted criminal trial immunity because of her cooperation. Albert Palmour did testify – and I'll leave questions about the level of his cooperation with Mr. Burford – but his cooperation in this case was not what you would have thought, especially for a member of the Bar that was a witness to illegal activity in this case. Before I answer any questions, I would like to just thank the GBI and the Prosecuting Attorney's Counsel for their level of work that they put into this case. There were many man hours. This was very complicated case but for their efforts, we would probably not have Carlton Vines not being a judge at any time in the future. So I'll be happy – I know I tried to make that succinct and short investigation. I'll answer and I think Mr. Burford would at like to least briefly address – I believe he's asking this body to take into consideration the cooperation of the witnesses and whatever sanctions this Board would like to --“

Chairperson Handel – “Let's hear from him directly. Mr. Burford.”

Mr. Burford – “Madam Chairman --”

Chairperson Handel – “ Good morning.”



Mr. Burford – “Board. My name is Joe Burford. I am a prosecutor for the state of Georgia. I am a Member of the Prosecuting Attorney’s Council. The Council was appointed as District Attorney Pro Tem in this case. My boss, Richard A. Malone, is actually the District Attorney (inaudible) who prosecuted him and he appointed myself and Gary Bergman, another member of the Council that did prosecute this case. We took it over and in January of 2007, I believe it was, the investigation started from the GBI’s standpoint. We asked for GBI help because of the level of secrecy that was initially expected by the county and the operation that was going on up here. GBI did the investigation a year and a half later we took this to trial. I’m pro se, I will answer any questions that the Board or Madam Chairman might have as to the criminal prosecution.

Chairperson Handel – “ Colleagues? Mr. Worley.”

Mr. Evans – “ I have a few questions had the grant of civil trial immunity does that extend to any issues that we may have?”

Mr. Burford - “ No, sir. A grant of immunity is strictly on criminal prosecution. I will say – I would like to get into that – I can do it now, or we can take the questions and go at it again – you want me to proceed now?

Mr. Evans – “Yes.”

Mr. Burford – “ We had four runners -- You have to understand the case in general. This was a conspiracy and the major problem with a conspiracy is that everybody that is involved that knows what’s going on is part of the criminal action. Therefore you don’t get a whole lot of cooperation generally. Something has to give in order to get a witness to come in and talk about the conspiracy. The conspiracy as near as we could tell was that Carlton Vines was running for the office of state court judge. He made the statement directly to Steve Chappellear that absentee ballots would be the deciding factor in this election. The absentee ballots were the deciding factor in the election. I don’t have the figures right in front of me but when the optical scanned votes and the machine votes were counted, the incumbent who was Sam Finster, won the election by approximately 150 votes. After the absentee ballots were counted Carlton Vines won the election by approximately 200 votes. Judge Payne is here, he’s the Probate Judge of Chattooga county and I’m sure he can give you the exact numbers. But that was the general situation that we walked into up there. The runners: Steve Chappellear, Anthony Sparks, Lois Reed and Sidney Johnson all cooperated fully from the very first. They never – their stories, they came in and told us what was going on. They told us exactly what they had done and what they had done with ballots and their stories never changed. They always cooperated with us 100 percent. As a result we gave them immunity from criminal prosecution for their actions in this case. What were their actions? Carlton Vines, after he had decided that absentee ballots would be the deciding factor, had the people working for him, go out and talk to anybody that was friend, neighbor, relative, anybody they knew, ask them if they were going to vote, no problem, you do that. If they said yes, they were going to vote, the runners would say, please vote for Carlton Vines. No problem, there’s no difficulty with that. If they made any kind of waiver, it became, well, have you thought about voting absentee ballot? As I understand it, there’s no problem with that. We can get you the applications for absentee ballot. They would go get applications, take them back to the people. The people, in most instances, fill them out

themselves, sign them, hand them back to the runners, the runners would either mail them or drop them off to the Registrar's Office. Then absentee ballots would be mailed out. Then the problem began. After the absentee ballots were mailed, the runners would then contact the individuals again and say, you have voted. If they had, have you mailed it. If they hadn't, we will come by and pick them up or you can drop them off at my house, we can get you stamps. They would then pick those ballots up. Some of them had stamps on them. They would take them down and mail them. That is against the Code because they are not helping somebody that is either disabled or illiterate. But the problem became when they took them back to the office of Carlton Vines. Steve Chappellear said that he actually handed ballots to Carlton Vines. The other runners said that they took them into the office. Carlton Vines' secretary, Dorothy Gilreath. Dorothy Gilreath is here today. The four runners are not. They all called and told me that they just -- you have to understand that these people are -- one's elderly, they don't have the ability or the money to get down here nor do they have the ability or the money to hire lawyers to be here for them. As a result, I told them that I would be here and I would tell the Board exactly what they had done and these runners all took ballots to Carlton Vines' office. Dorothy Gilreath, as Ms. LaGrua already told you, had a list that had names on it of people that either sent out applications, they picked up ballots, it's unclear exactly about what each one of the people did but there were 49 names on that list. Sidney Johnson could name eight people that he remembered that he picked up their ballots. He said that he picked up many more ballots than that. He couldn't remember whether he took them by Carlton Vines' office or whether he mailed them but he did one or the other. But he knew of eight. Those eight that he named were on Dorothy Gilreath's list. Tony Sparks said that he picked up 14 ballots. Of the 14 ballots that he picked up all 14 were on Dorothy Gilreath's list, the names. Steve Chappellear picked up six, all six were on Dorothy Gilreath's list; and Lois Reed picked up 13, of the 13 all 13 were on Dorothy Gilreath's list. I made a mistake -- and I apologize -- none of Sidney Johnson's people that he named were on Dorothy Gilreath's list, but all eight were part of the 18 ballots that run through the postage meter. That's where we stood. Without the testimony of the runners or without the testimony of Ms. Gilreath, prosecution probably could not have gone forward because what we had was hearsay of something's wrong with the ballots. If the complainant in this case, Mr. Wright, had not been able to look at the 18 envelopes that are stamped, we would never have known what the problem was. So this is a very strange situation and it being conspiracy, that's the only way that there is to do it is to get inside the conspiracy and then ask for witnesses. I believe that anybody that's a trial lawyer would not realize what was going on. That's the way we did it. I would ask the Board for leniency on the four runners: Mr. Johnson, Mr. Chappellear, Mr. Reed and Mr. Sparks. I would also ask leniency for Ms. Gilreath without her testimony and without her notes that she kept this would have been a very difficult case to even take to trial. As for the Board of Registrars, Ms. Palmour, Ms. Owens and Ms. Moses, they cooperated fully. They gave us whatever we needed. They explained whatever needed to be explained. I'll tell you right now, I know more about election law than I ever possibly wanted to know at this point in time that is because the people up there was trying to explain it and they were trying their best to correct a situation that was bad. That's where we are, okay, I'll ask the Board for leniency for those people. Okay, I can answer any other questions that you have, Mr. Evans -- I kind of got worse with the whole explanation but may I answer --"

Mr. Evans -- "What particularly I was zeroed in on, if I understand it, is the confirmation of immunity which is in the March 18, 2009 correspondence, it says the following: "For the truthful

testimony of information is outlined above. When reported by the State, the State agrees that you will be immune from the use by the State from your statements and testimony and from anything derived from your statements and testimony against you.” That does not appear to be limited – a limited immunity to criminal trial but instead is a use immunity where the state would be precluded from using any of your testimony or statements in any proceeding of that would appear to include us and I just was curious as to whether I’m reading it properly or correctly or not.

Mr. Burford – “ We do – the State of Georgia has only one type of immunity and that is for the testimony that you cannot use anything that is said against a person on the stand, from the stand against that individual at criminal a prosecution. That’s why I’m here asking the Board to extend this to those individuals that was not possible for us to do. We can’t fine the Board on anything.”

Mr. Evans – “Just so that I understand, your position is that the immunity that was granted in the March 18<sup>th</sup> correspondence is limited to the criminal proceedings?”

Mr. Burford – “Are you reading the Ms. Claus – excuse me – Ms. Reed’s?”

Mr. Evans – “ I’m reading the Chappellear –”

Mr. Burford – “ Oh, okay –”

Mr. Evans – “But I think it’s the same paragraph in every single letter -- and it appeared to me when I read these materials that that immunity was a general use immunity and I was concerned if that immunity would preclude the Attorney General’s Office from using any of those statements in a proceeding by this Board against the individuals? You’re saying that is not the case?”

Mr. Burford – “That is not the case. If they were to attempt to criminally prosecute under any of the criminal statutes in the Election Code then that would preclude it but as far as a civil proceedings which is what this Board is involved, they cannot. That does not extend to civil.”

Mr. Evans – “In the plea bargain or deal that was struck with Judge Vines, is there any preclusive effect that extends to us?”

Mr. Burford – “No, sir. ”

Mr. Evans - “As to whatever boundaries are?”

Mr. Burford - “No, sir.”

Mr. Evans – “ Is that documented in any way other than just simply his resolution of the Judicial Qualification’s Commission Docket Number A-15?”

Mr. Burford – “Yes, that’s right.”

Mr. Evans – “But is there a documentation -- I mean is there any record of an agreement between the District Attorney or between you and Mr. Vines that would indicate that it operates as resolution of the other --”

Mr. Burford – “Yes, sir. I thought that, that was part of the packet that you all got.

Mr. Evans – “ Maybe I just --”

Mr. Burford – “Can I have just a moment, please -- ”

Mr. Evans – “ Sure.”

Mr. Burford – “ Yes, I think I understand your question. Now the documentation was through the motion to the Noelle pros and is filed with the County Clerk in Chattooga County and all that states is that we would Noelle pros the indictment if one defendant entered into a consent order with the Judicial Qualifications Commission resolving all issues with that Commission and that issue being filed as Enri -- inquiry concerning Carlton S. Vines, Docket Number 08-15. Defendant Carlton Vines will resign his position as State Court Judge effective May 1, 2009. He did that. Defendant will provide acknowledgement that the governor has accepted defendant's resignation. That has been done. You have a copy of that? The defendant will publicly announce his resignation from the position of State Court Judge. And that was done through his attorneys about three days following the Noelle pros and that's all that was involved with the Noelle pros.”

Mr. Evans – “So does the Noelle pros have a double jeopardy preclusive effect as to any proceedings by us? ”

Mr. Burford – “No, sir, it does not. Your proceedings are civil and Noelle pros is strictly criminal.”

Mr. Evans – “What concerns me about that – I guess we'll take that up in discussion is that in the event that a penalty is impose other civil remedies that are available to us. We have had occasions where defendants have said that you are precluded from any criminal penalties or punishments that are authorized under the statutes and I'm trying to make sure because I know that Mr. Vines is heavily lawyered in this case and you're a lawyer and I think you're very good -- making sure we have a record here on the minutes that reflect the exact boundaries that you as the prosecuting attorney agree. Madam Chair, we would need to get a copy of the Noelle Pros in the minutes here. So I don't know if we have a copy or we can get those. I was confused a little bit because I know in our Board meetings -- ”

Chairperson Handle – “It's in the packet.”

Mr. Evans – “Just point me to it.”

Mr. Burford – “ I'm told you can get it. I'll have a copy.”

Ms. LaGrua – “I apologize, I’ll find it.”

Chairperson Handel – “When you get it, will you let me have it.”

Ms. LaGrua - “Yes.”

Mr. Burford – “I have a copy, I’ll make copies of it.”

Chairperson Handel – “ We’ll get some made before you straight away. That’ll be great. We’ll have it all ready to go. “

Mr. Burford – “I’m sorry, Mr. Evans, go ahead.”

Mr. Evans – “Not a problem. All I’m trying to do is that we eliminate as much wiggle room as we can -- I was confused about one thing I heard you refer to and I know was referred to in the Board Minutes as we’ve taken up this case on a couple of occasions and that is the idea of a level of secrecy and I didn’t quite understand what was so confidential about the facts and circumstances surrounding these events?”

Mr. Burford – “ Well, what you have is an attorney, board certified attorney, judge, he has been judge of the State Court up there for – either four or five terms. I don’t remember exactly which and then he resigns his position in order to take a position as Solicitor. That didn’t work. So he was running again for State Court judge as the challenger. That’s what happened in 2006. You have a State Court judge, a past State Court judge and an attorney telling laypeople to go out and do this, no problems. That’s fine. So they go do it. When the information started to leak out, I cannot prove it – I will never say who gave me the information, but it came back that there was – wait a minute, circle the wagons, and that’s typically what happens in a conspiracy. If Ms. LaGrua and I decide that we’re going to defraud this Board, neither one of us is going to come in here and say, Oh, by the way, we defrauded the Board. Well, the runners didn’t do that, nor did Ms. Gilreath. They said, huh-huh, wait a minute, we did something illegal. We’re not going to complicate it by lying about it and they cooperated.”

Mr. Evans – “I hear you. But what I’m confused about is that we would afford a greater level of protection and secrecy to someone simply because they’re a lawyer? I don’t --”

Mr. Burford – “ I didn’t say that we would. I think that was all done on past association, past work that they had done for him. The Democratic Party is extremely strong in Chattooga County. All of the runners are registered Democrats. They have all done work for the Democratic Party up there, as well as, the individual candidates. Those candidates being Carlton Vines. Carlton Vines is a life-long resident of Chattooga County – probably knows everybody in the county to begin with and these people were doing it because it was one, they wanted to see him elected and two, that they worked for him before. His secretary had been a secretary for quite a number of years and—if you walk out -- if somebody walks into you who is a judge and says, look, I need you to do this and I’m sure nobody is going to look up and say, is that legal? I mean, he’s supposed to know the law.”

Mr. Evans – “I mean, I hear you and we’ll talk about it in the discussion. It is what makes me not very acquiescent in excepting that we should in any way you know treat this other than a case in which a judge and a lawyer had at least 18 ballots that were sequentially numbered and stamped through his postage meter pursuant to conspiracy violating election laws.

Mr. Burford – “I’m not asking you to --”

Mr. Evans – “No, I’m not. What I don’t understand is that I noticed that I could only notice throughout handling of the case, that there is a very hands off, gingerly secrecy, we need to be very protective of this. This particular defendant was treated in a way far differently than any other member of this audience had been caught with 18 ballots, they’d been – if any person in this audience had been caught with 18 ballots had been run through their private postage meter in violation of the election laws, everybody in this room would have been run up and yet consistently throughout the handling of this case, it has been, oh, we can’t talk about it, we have to be very secretive. I heard the word secrecy in the minutes or reflect the word level of secrecy and what I don’t understand is why? This is a particularly -- this is a particularly troublesome case in terms of the implications for the variety the voracity of elections. I don’t understand why that is?”

Mr. Burford – “I apologize, Mr. Evans, but maybe I’m confused. The secrecy was in the initial use of the runners to go out and gather ballots. Once, the investigation started there was no secrecy. I do not believe that the prosecution in this case has ever said that there was secrecy once the case began or once -- other than we were to go out and tell what we were finding. What we were finding in our investigation until we actually charged and went into court, and once in court there was no secrecy. What I believe that probably I didn’t explain it well. The secrecy that I was talking about is when you have conspiracy, everybody is in it is doing the illegal act. Therefore, you’ve got to get somebody inside that illegal act to come forward and say the illegal act is being done. That’s exactly what all the runners did once this hit -- as we say hit the fan.”

Mr. Evans – “Uh-huh. ”

Mr. Burford – “The runners went, wait a minute, we’re not going to complicate this. We’re going to tell what we did. Ms. Gilreath did the exact same thing. ”

Mr. Evans – “So whose law office was this?”

Mr. Burford – “Albert Palmour has a law office that was down the street and across the street from the post office. It was Albert Palmour’s law office. The testimony that Mr. Palmour gave was that Carlton Vines walked into his office and said, I have got a bunch of ballots here that somebody left in my office. I want to put postage on it. Can you give me some stamps at which point, yes I’ll give you some stamps, we can use a postage meter, you’re welcome to use the postage meter. Had one of his girls run it through the postage meter and Carlton Vines took them and left.”

Mr. Evans – “Did Mr. Vines pay Mr. Palmour for the amount of the postage?”

Mr. Burford – “Do not know. It was never brought up and it was never stated one way or the other. ”

Mr. Evans – “Do any other attorneys share that office? ”

Mr. Burford – “Yes. I think it’s Tim --”

Ms. LaGrua – “Perry.”

Mr. Burford – “ – Perry ? Tim Perry, who is currently the Solicitor for Chattooga County? That is - - it is shared space, only. They are not a law firm.”

Mr. Evans – “Do they share the postage meter?”

Mr. Burford – “Do not know. – I do not believe so because the testimony for Pitney Boles was the meter was that of Albert Palmour.”

Mr. Evans – “ Just make sure I understand, the criminal trial immunity that was extended to the individual runners in your opinion and as to one of the parties to agreement does not extend to a protection against any violations that we may find?

Mr. Burford – “No, sir --”

Mr. Evans – “Right? ”

Mr. Burford – “—I do not believe that we can fine this Board, that’s why I’m here.”

Mr. Evans – “ The Noelle Pros agreement with Vines does not operate in any way to preclude any actions by the Board for violations? ”

Mr. Burford – “The only thing that Noelle pros agreement was that we would, Noelle pros the criminal prosecution if he were to perform the four acts to which I referred.”

Mr. Evans – “That’s all the questions I have at this time. ”

Chairperson Handel – “All right, Mr. Worley”

Mr. Worley – “ I just got a few questions. There are a number of people who are named in the -- in Ms. LaGrua’s and Mr. McBrayer’s report and I just want to go through some of these people, Candice McCutchins, did you have any immunity agreement with her?”

Mr. Burford – “No sir, -- excuse me, my notes, but no, we do not.”

Mr. Worley – “Tommie Cheryl Eschew, did you have any agreement immunity agreement with him.”

Mr. Burford – “No, sir, we did not. I will say that she cooperated fully when we went in to talk to her. Alfredo with the GBI told us what exactly what had happened up there.”

Mr. Worley – “And I wanted to follow up on what Mr. Evans had asked about Mr. Palmour, our report, the Inspector General’s report says, ““the facts indicate that Albert Palmour may have violated O.C.G.A. 21-2-574 by having in his possession outside the polling place 19 additional absentee voting ballots for the purposes of affixing postage with the postage meter registered in his name and the outer absentee ballot for mailing. Mr. Palmour sent us a letter citing a provision of the State Code or the Administrative Code – the Regulation Board, Rules and Regulations that the Board operates under that it is not a violation to provide postage, from your investigation, from your knowledge, what evidence is there that Mr. Palmour took possession of ballots?”

Mr. Burford – “ I’m going to have to explain that, if I may?”

Mr. Worley – “ Sure.”

Mr. Burford – “When the first investigation started it was through the Secretary of State’s Office, and Steve McBrayer was the investigator. When Steve went up to talk to Albert Palmour , Albert Palmour stonewalled, I guess is the best way to put it, and said, I won’t talk to anybody until there is some kind of charge. Therefore we knew that the – I shouldn’t say we – I wasn’t in it at that point – at that point in time the only thing that the investigator knew was that the 18 ballots had gone through Albert Palmour’s postage meter which he had confirmed though the post office and that they had come though Carlton Vines’ office. So there was no information as to whether Albert Palmour took physical possession of them or what had happened in that office. We served Albert Palmour with a subpoena for grand jury and Albert Palmour responded to that subpoena. He did cite 18 –19-1-3 -- I’m sorry 183-1-19-01 as that all he did was provide postage. His story remained the same. He was served a subpoena and he testified at the trial and his testimony was that Carlton Vines brought them in. He said I would like to get some stamps, as I told you before – and all he did was say, you know, Susie – one of the young ladies that worked for him, please run these through the postage meter. And so, there was nothing that said that there was any actual possession of those ballots by Albert Palmour.”

Mr. Worley – “Was that confirmed by the secretary or by Mr. Vines?”

Mr. Burford – “ Nobody else in that office would talk to us and the only side of that story comes from Albert Palmour.”

Mr. Worley – “ So you’re not aware of any evidence that would indicate -- ”

Mr. Burford – “No evidence that says that he was physically in possession of those ballots.”

Chairperson Handel – “Any questions, Mr. McIver? ”

Mr. McIver – “ No, not at this time.”



Chairperson Handel – “ Rebuttal?”

Mr. Evans – “ Madam Chairman, follow up.”

Chairperson Handel – “All right.”

Mr. Evans – “ I just want to make sure I understand here, so if the indictment charges Mr. Vines with violation of 21-2-574 and that has been Noelle Pros and we charged him with 21-2-574, it’s your position that there’s no preclusive effect?”

Mr. Burford – “Well, it’s my understanding that the only thing that the Board can do is fine or sanction. Am I incorrect in that? Neither of which would be considered a criminal penalty. ”

Mr. Evans – “ Well I – Madam Chair – maybe we should direct that to the AG’s Office. Because I think that’s -- What worries me is the parallel which is that we will assert that there has been a violation of 21-2-574; 21-2-603; 21-2-132 – those are the exact statutes which were mentioned in the indictment and we’ll basically be issuing a notice of violation that parallels language in that indictment that has been Noelle Pros. And if that is going to create a defacto infirmity, because I don’t want –I don’t want this guy to get off the hook with having led a conspiracy to commit election fraud and laugh at me. I want to make sure we get this right and the last thing I want to do is basically move into the lawyer’s will house and say that’s exactly the thing to say. ”

Chairperson Handel – “Do you have an opinion there?”

Ms. LaGrua – “ I don’t have the immunity agreement but as long as the immunity is limited to criminal violation -- this affects the Board civilly -- there should be two separate proceedings and I’m aware of no difficulty with that.

Chairperson Handel – “ I just want to make sure because we got several cases that we have referred over for criminal prosecution that then eventually be coming back and certainly as we do that we want to make sure certainly for this one -- State Election’s Board Member, I’m not willing to abdicate our role in levying fines and sanctions. So it’s always been my understand that’s a dual path.”

Ms. LaGrua – “Yes. There’s no difficulty with that part. That should be no problem with that going forward so that we do our part so that there’s no – difficulty with that part. There should be no problem with that.

Chairperson Handel – “ Perhaps we could, Mr. Evans consider referring this over with some guidelines around it pending them taking a specific look at that issue. ”

Mr. Evans – “I think at a minimum my inclination is to make sure that in the -- in the notice that it’s issued with regards to Carlton Vines that the list of violations extend beyond those that are listed in the indictment. ”

Chairperson Handel – “ Oh, absolutely.”

Mr. Evans – “But we don’t have the proposed document here that we have references 21-2-385 but does not reference 21-2-574 ; or -- 603; or – 132 and so what -- the only reason I’m very sensitive to all this is because you know so far as you would expect by someone who is well-versed in the law and well-represented. There’s been a very careful navigation to avoid the consequences of deliberate conduct. And so we have to be equally deliberate and equally cautious in preparing ours in anticipation of effective lawyering to basically allow someone to escape the consequences of their conduct. So I want us to -- I would recommend, Madam Chair, that we, that we , in fact, have the Inspector General or the Attorney General’s Office we’re both working together prepare for us a draft notice – a notice of violations which we can then make sure that we have contemplated and considered the legal maneuvering that we know will come and we have crafted this in a way which permits the least amount of maneuvering so that in my opinion we’re in a position that in the event if a determination of guilt is found, we can impose \$5000 for every single ballot. ”

Chairperson Handel – “Okay, is that your motion for all of that or do you want to take each of the individuals separately?”

Mr. Evans – “I would like to -- ”

Chairperson Handel – “I would like to see it for all of them, personally, and then we can make a determination.”

Mr. Evans – “I completely agree with you because I am very sensitive to this – I think that we will need their cooperation – we will continue to need their cooperation in the context of our prosecution on behalf of this and as a result, it may be that if we need to contemplate similar use immunities that is associated with our agreement to help, with this we can’t, we can’t fiddle around with this. ”

Chairperson Handel – “So, do you want to make a motion?”

Mr. Evans – “ We can move to table, well one procedural item is I would move that we accept -- Do you have the letter? ”

Chairperson Handel - “The letter -- ”

Mr. Evans – “ Yeah. ”

Chairperson Handel - “We can get that as well, we’ve got a letter – who’s got the letter – I need a motion to enter in on Mr. Palmour’s letter as well as the motion, as well as the Exhibit A. ”

Mr. Evans – “ I would move that they all be accepted. ”

Mr. Worley – “ Second.”

Chairperson Handel - “ Motion second. All in favor?”

The Board – “Aye.”

Chairperson Handel - “ Any opposed. ”

The Board – [ No response. ]

Mr. Evans – “ And the reason I want to make this point, just for the purposes of the minutes, if the Palmour letter acknowledges notice of the meeting without requesting a continuance and I wanted to foreclose that procedural maneuvering that I expect that will come down the path. As to the ballots, I would move that we ask that the Attorney General’s office and the Inspector General’s office prepare for us a draft notice of violation of, you know, as to all of the various Respondents and all of the violations may be implicated by conduct that is contained. I would also ask that, that the Inspector General obtain and permit us to put in the minutes the testimony -- was the testimony transcribed?”

Mr. Burford – “Yes, it was – well it was recorded, it has not been transcribed.”

Mr. Evans – “Well I would like for us to have the minutes all available, every piece of evidence that we can have just so that we can reduce if not eliminate, you know, the legal maneuverings that we can anticipate. ”

Chairperson Handel - “And that’s in line with what we do. ”

Mr. Evans – “I completely agree. So that’s actually two motions, so the first motion is that we request the IG and the AG working together to present us with a notice of violations as to each of the Respondents.”

Chairperson Handel - “Second? ”

Mr. Worley - “ Could I -- ”

Chairperson Handel - “ Yes -- ”

Mr. Worley – “ – the Executive Code just clarify that this is not – as you’ve stated it binding it over to the AG’s office at that point we’re going to have to come back and vote on that a second time ?”

Mr. Evans – “That is correct, yes.”

Mr. Worley – “I think it would be a mistake to bind it over now – we would end up with forever litigation fencing, so. ”

Chairperson Handel - “ Do I hear a motion to second? All in favor? ”

The Board – “Aye.”

Chairperson Handel - “ Any opposed? ”

The Board – [ No response.]

Mr. Evans – “And the second motion is I move that we request and obtain a copy of all of the evidence that is in your possession that can be made available may not be a part of our minutes, so if you can supply that to --”

Mr. Burford – “You know that there is a cost for transcribing that two-day trial – it was a two and a half day trial. I’m guessing a dollar a page.”

Chairperson Handel - “We’ll do this.

Mr. Burford – “Five- thousand, six- thousand dollars.

Chairperson Handel - I’ll check in if a cost estimate comes back totally exorbitant than, I’ll come back to y’all but -- this is too important to not find a way to do what we need to do. ”

Mr. Evans – “I agree because we’re looking at basically a hundred thousand dollar fine.”

Mr. Burford – “I just didn’t want the Board unaware of it.”

Chairperson Handel - “Sounds light to me compared to (inaudible) given the breadth of this one. ”

Mr. Evans – “Maybe even more, I don’t know, I can’t prejudge the case.”

Chairperson Handel - “We’ll see what the document’s say . ”

Mr. Evans – “So I so motion. ”

Chairperson Handel - “I’ve got a motion and a second, all in favor?”

The Board – “Aye.”

Chairperson Handel - “Any opposed? ”

The Board – “No response.”

Chairperson Handel - “All right, you guys clear on what we need? ”

Ms. LaGrua – “Yes, ma’am. We’ll attempt to move on that today, transcripts.”

Chairperson Handel - “Yeah, we need to try to get that done straight away.”

Mr. Burford – “ Mr. Evans, one thing I have that I have never have actually said, do you realize there’s been no adjudication of guilt?”

Mr. Evans – “I understand that and that’s why I said that I was very careful to say that presupposing the outcome obviously until we have a determination by us that there is a reason to believe that a violation has occurred, obviously a grand jury’s determination on that point will be persuasive but not to (inaudible) determination; and then second, we bind it over then a determination by administrative law judge and our determination ultimately of the facts. The only thing that I can assure you isn’t going to happen is this Board’s just not just going to go away. I don’t think the Secretary is, it’s never been her position on matters and I certainly don’t think it’s the Board’s position. ”

Mr. Burford – “ I will state to the Board to the Prosecuting Attorney Counsel will cooperate in any way necessary and we are at your disposal.”

Chairperson Handel - “Well I want to thank you for your help and assistance. We wouldn’t have been able to get this far without your involvement and support in this process.”

Mr. Burford – “ Thank you, ma’am.”

Chairperson Handel - “And I apologize for the temperature in the room. We’ve asked three times to have the GBA to turn it down but, I have a feeling that – oh yea – I have a feeling budget cuts are hitting us. My next case is 2008-Number 30. Maybe if they think they’ll sweat us out of here. We’ll have a quick meeting.”

Ms. LaGrua – “Thank you, Madam Chair, 2008-30 came out of Richmond County – Amber Ashley Ryan came out of Richmond County. There was not a particular election involved in this. Lynn Bailey actually the director of the Richmond County Board of Election Registration was the complainant. The allegations were that Amber Ryan obtained a voter identification card by using a false date of birth, falsely swore that she did not have a voter identification card and, in fact, on April 17<sup>th</sup> of ’06, Ms. Ashley -- Ms. Ryan, applied for and obtained a voter identification card using a date of birth of June 15<sup>th</sup>, of ’87. The Department of Driver Services provided paper work showing Georgia Identification Card issued by them on March 4<sup>th</sup> of ’05 to Ms. Ryan indicating a date of birth of 6-15-87. They also provided paperwork showing another Georgia Identification Card issued some four months later using the same date of birth. Finally they provided an applicant declaration form, driver’s license affidavit and Georgia driver’s license photo dated 3-27-07 with a date of birth of 6-15-07. On February 21 of 08’ she was issued a Voter’s Identification Card using a date of birth of 6-15-86. She does and the investigator’s actually here on this but we were able to verify all this. She does have prior history with the Richmond County Solicitor’s Office with criminal history and we would recommend actually that this case be forwarded to the Richmond County District Attorney’s office or Richmond County’s Solicitor’s office for prosecution.”

Chairperson Handel - “Questions or comments? ”

Mr. Evans – “I vote we bind it over. ”

Chairperson Handel - "Second?"

Mr. Worley - "Are we voting to bind it over to Richmond County or Attorney General?"

Mr. Evans - "Attorney General."

Mr. Worley - "That wasn't what --"

Chairperson Handel - "I know, so I'm going to withdraw my second. Can I just ask a question because it goes to whether or not I want to second this, did we not have another similar case sort of along these exact same lines and didn't the Board refer this to --"

Mr. Evans - "Interruption --"

Chairperson Handel - " -- and we referred that one to Richmond DA. Do we have any status there?"

Ms. LaGrua - "Investigator Garner, were you able to investigate -- Investigator Garner's the one that worked on that as well as this --"

Investigator Garner - "They didn't come in altogether -- trying to track down these people and the documents and stuff has been a little difficult for myself. I e-mailed the Richmond County District Attorney last week. I have not had a response Ms. Christian Donnell is the Assistant DA of Richmond handles County Intake. I've been working with her. I have not had a response from her to report today, sorry."

Ms. LaGrua - "We've been trying to get some of the documents if you may recall, Madam Chair, the first case involved a check cashing scheme."

Chairperson Handel - "Right, right."

Ms. LaGrua - "And that initially went to the Secret Service. We have been working to get the documents back from the Secret Service but Richmond County has indicated an interest, they've been -- the Sheriff Department was working with us initially and indicated they're interested in pursuing the charges."

Chairperson Handel - "Do we think this is related?"

Ms. LaGrua - [ No response. ]

Chairperson Handel - "Just separate but similar?"

Ms. LaGrua - "Probably similar though. Her prior criminal history does involve shoplifting charges which potentially involve identification in terms of refund and that kind of thing."

Mr. Worley – “Well, I would -- do we have a pending motion?”

Chairperson Handel – “Yes, we have a motion to refer to the AG’s office. But I withdraw my second.”

Mr. Worley – “Okay, then I would make a motion then that we refer it to the Richmond County.”

Chairperson Handel – “Second.”

Mr. Evans – “I’ll be honest, I think we need to, I think we need to be very diligent and aggressively moving forward with where we know there are violations and so far in my service on the Board, the act of deferring to the criminal prosecuting authority has done little other than create enormous delay and I have come around to the idea, which I rejected when I first joined the Board, of which I now conceive the wisdom of why it in fact makes sense from the folks who had first served the Board when I joined the Board which is simultaneous, which is, you know, that’s great to coordinate, we will try to make sure we don’t step on anybody’s toes one way or the other or jeopardize our respective jurisdictions. But we need to reassure voters that we’re moving promptly.

Ms. LaGrua – “Most of the counties, I’ve spoken with, Mr. Evans, regarding criminal prosecution, unless it’s a case of the magnitude of Chattooga County, do not have any problem with this Board proceeding concurrently with criminal prosecution. I try to make it a point if the Board wants it to go criminal with the Prosecutor whether they have any problem – if whether this Board moving forward would impact negatively on their criminal proceedings. I don’t see any problem moving it forward concurrently as long as we make sure that we’re not impacting criminal prosecution.”

Mr. Evans – “Well, all I’ve gotten is I’ve heard District Attorney’s tell me that their budgets are being cut by 25 percent, they’re screaming that we can’t expect the Board for them to be pursuing basically election law violations when they have murderers and rapist and robbers and others. As a result it drops down the priority list. And what I don’t want to happen is the result of kind of just, this is one waiting on the other but nothing.”

Chairperson Handel – “What I’d like to see is certainly we don’t want something to just sit with a county DA’s office for an indefinite period, however, I think that first of all we should be consistent we have had the previous case referred to the Richmond County DA and this is of a similar nature and it’s my preference that for this one Board Member that we try to have some consistency. Secondly, if after a certain time period we can say, you know, they’ll let us know -- Do they not, if they’re not going to prosecute them -- we do keep in touch with them -- ”

Ms. LaGrua – “Yes, ma’am.”

Chairperson Handel – “So we don’t see anything moving forward then certainly we always have the option to then move forward. Mr. Worley.”

Mr. Worley – “And Ms. LaGrua, the Richmond DA is interested in moving forward with this case?”

Ms. LaGrua – “That’s correct.”

Mr. McIver – “ Madam Chairman.”

Chairperson Handel – “Mr. McIver.”

Mr. McIver – “What is the complication - - I guess I can address this to my colleagues, but what is the complication of proceeding in an coordinated way with the motion on the table now seconded, it is that it be sent only to the Richmond County officials and not to the DA? ”

Mr. Worley – “Well that’s the motion and my view would be that we are in a budget crisis. State employees have a lot of work to do, you know, let’s not waste time and money – send it either to the Attorney General or well, I think this case the DA because it’s a criminal matter really and I think you’re going to get an appropriate penalty – a more appropriate penalty if you refer it to the DA. ”

Mr. McIver– “Would you yield if I were to offer an amendment that it be referred both to the AG’s office and the Richmond County officials?”

Mr. Worley – “Well, it seems there are at least two votes on the Board that would want to do that, so yes.”

Mr. McIver – “Madam Chair, I would offer an amendment to the motion that a jointly referred to the Richmond County officials as identified by General LaGrua and the Attorney General’s office.”

Mr. Evans– “Second.”

Chairperson Handel – “All in favor?”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [ No response.]

Chairperson Handel – “All right, our next case is 2008-76 Habersham County. ”

Ms. LaGrua – “Yes, ma’am, there are two Respondents in these cases -- ”

Chairperson Handel – “Who were the -- I’m sorry, I didn’t ask, is there anyone here to speak on the Richmond County case before we move on – I’m sorry, I didn’t ask and if I can ask yall’s



help, if there is someone here to speak on the case just kind of stand up so I'll see you. Thank you, got it, why don't you come on up? Go ahead, Shawn."

Ms. LaGrua – "There are two Respondents in this case, Madam Chair – I'm sorry Sue Bottoms was the candidate for probate judge and Ann Jarrell was the former probate judge. We have Andrea Runyon is the attorney for Ms. Bottoms and initially, she is here and would like to proceed on behalf of Ms. Bottoms. Late yesterday we got a request for a continuance from Douglas McDonald on behalf of Ms. Jarrell. I attempted to get back to Mr. McDonald let him know that I could not answer that question before I met before this Board this morning, but I was unable to get through to him yesterday. As I say we got that motion late yesterday on continuance. It's my understanding Ms. Runyon is here prepared to go forward on Ms. Bottoms but the attorney for Mr. McDonald, and I have a copy of the letter – Judge Jarrell is here, her attorney is not. I have a copy of the continuance request to this Board. So I need a little direction from the Board on how you would like to proceed."

Mr. McIver – "Have there been any previous requests for motion for extension?"

Ms. LaGrua – "Not on this particular case, Mr. McIver."

Mr. McIver – "Then I would ask the question of either Mr. Worley or Mr. Evans, do we have a relatively standing policy on how we address the first request for extension?"

Mr. Worley – "We pretty much grant them."

Mr. McIver – "That is my recall."

Chairperson Handel – "We have two Respondents on this one, we have Sue Bottoms and then Judge Jarrell; is that right?"

Ms. LaGrua – That's correct.

Chairperson Handel – "So we have Sue Bottoms is ready to go but Judge Jarrell, no?"

Ms. LaGrua – "That's correct. But I would like to let the Board know they're separate and distinct allegations, so they're not necessarily directly tied to each other."

Mr. Worley – "So they're only together because they're both from Habersham County?"

Ms. LaGrua – "Well, the complaint came in from the same individual on these two individuals though their alleged conduct is not concurrent."

Mr. Worley – "So we don't need evidence of one --"

Ms. LaGrua – "That's correct."

Mr. Worley – " – To make the decision on the other?"

Ms. LaGrua – “Correct.”

Mr. Worley – “I would make a motion that we continue Ms. Jarrell’s matter and proceed with this one.”

Chairperson Handel – “Is there a second?”

Mr. Evans – “ I second. ”

Chairperson Handel – “Motion is seconded. All in favor.”

The Board – “Aye.”

Chairperson Handel – “All right, that’s approved, thank you.”

Ms. LaGrua – “As it relates to Sue Bottoms, the complaint came in from Beth Cantrell who is a candidate for probate judge at the time. She was complaining that Sue Bottoms who was at the time a probate court clerk was campaigning on duty for her office after she had qualified and had a vehicle in the parking lot with 150 feet marked with her campaign signs on it. Essentially what we were able to determine through our investigation is that prior to qualifying Sue Bottoms may have done some campaigning within the confines of the Office of Clerk which is there in the courthouse. We do not confirm, there was one witness that indicated they had overheard Ms. Bottoms campaigning sometime close to the election but she couldn’t be sure of the date whether it was before qualifying or after qualifying and was a supporter of Beth Cantrell the complainant in this case. However, she did have her car parked in the parking lot outside within the hundred and fifty foot rule. According to Judge Jarrell and Ms. Bottoms she removed it once she was told by the probate judge to move her car but she was still be arguably in violation of the 100-foot rule -- and I’ll leave that.”

Chairperson Handel – “But she did move it immediately?”

Ms. LaGrua – “That’s my understanding, Madam Chair.”

Chairperson Handel – “And didn’t park there?”

Ms. LaGrua – “That’s my understanding.”

Chairperson Handel – “All right, would you like to add anything?”

Ms. Runyon – “Good morning, I’m Andrea Runyon, Habersham County Attorney here on behalf of Sue Bottoms and we’re here basically to answer any questions that you all have regarding this. Sue – if you have any questions for her, she basically throws herself out to the mercy of you all as far as the car situation is concerned. She and her husband and son share vehicles and one vehicle does have magnetic signs on it and she can explain the situation about how somebody having to haul something somewhere and she didn’t realize that the magnetic

signs were on the back of the vehicle. She does not – the incident that she recalls, she doesn't recall whether it was during – when it occurred and it may have occurred before qualification and not during the absentee ballots or anything along those lines and however she did have somebody go out from the county and have them measure where the car was parked, if that, in fact was the same day the alleged violation and it was 90 feet from the building, although in the Habersham County Courthouse, you cannot enter from that location for voting purposes. You would have to go around to the front of the building which far exceeds the 150 feet. And as Ms. LaGrua said, as soon as she realized, maybe I didn't take that sign off of there, she did get up and go remove the car and I can assure this Board there was a lot of tension in the probate office during election time with the old probate judge going out and two members of the staff actually running for probate judge. So Ms. Bottoms went beyond and above trying to be very careful about handling any matters as to her election. Again you can ask her questions about that. I would like to have you all keep in mind, this is a real small town community. I just guess with Ms. Bottoms trying to recall any situations that may have even been perceived as improper campaigning during this time, in fact, she explained to me -- and she's more than agreeable to answer any questions, being a small town you walk in the door of the probate office and her office is – there's no walls between them. Everybody comes, people come in and shake her hand and say, you know, congratulations, I'm going to vote for you and all her response to me, you know, all she could do is say, thank you. I mean, she could not actually be rude in that sort of thing. So that may have been perceived of actual campaigning though, if you look at the statute, it did not say solicit. So that's where the information might provide you if you have any questions --

Chairperson Handel – “ Any questions, colleagues?”

The Board – [ No response]

Chairperson Handel – “All right do you have a motion?”

Mr. Evans – “ Is the matter before us 22-2-414(a) is one of those strict liability cases which it really doesn't matter. It's kind of like running the red light or you run the stop sign, what happens? So in that regard, if the vehicle has a sign on it and it went under 150 feet of the edge of the building, we really don't have discretion on it. Where we have discretion is, what is the appropriate penalty. So I would suggest and maybe counsel could speak with her client that we find a violation with an issue of Letter of Instruction making clear that without regard as to the entrance of that building that a vehicle parked within 150 feet of any edge of the building is, in fact a violation of the statute.”

Chairperson Handel – “ So you're motion is to refer for Letter of Instruction?”

Mr. Evans – “Well, I was hoping that we could actually save the Attorney General some time and resolve it all today. Maybe they could take a break, talk to her client and see if that's agreeable with us and then we can save Cassandra from having to actually take the referral, open the file, go down the path, but I'm open to either way. It does strike me we really don't have any discretion on it. ”

Chairperson Handel – “You understand that -- ”

Ms. Runyon - “Right.”

Chairperson Handel – “-- there would be a letter from the Board?”

Ms. Runyon – “And the letter and itself would be a cease and desist and no penalty.”

Mr. Evans – “ Well the penalty would be --”

Ms. Runyon – “A cease and desist?”

Mr. Evans – “ That violation, right.”

Ms. Runyon – “And I believe we have already discussed that and that would be acceptable to Ms. Bottoms. ”

Mr. Evans – “ All right, that would be the my motion.”

Chairperson Handel – “All right motion and second.”

Mr. Worley – “ Second.”

Chairperson Handel – “Motion and second, Mr. Worley. Any questions or comments?”

The Board – [No response.]

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Ms. Runyon – “ May I ask direction from the Board? On the other matter that was continued today, I know that you can’t speak to the matter in itself but since we were named as Respondents in that when will we be removed from this action?

Ms. LaGrua – “It won’t be noticed on the next one, but we won’t remove the name from the report. It’s already a public document.”

Chairperson Handel – “But the action today will be reflected in the updated report?”

Ms. Runyon – “But we would request because it still involves Habersham County, and the reason why Judge Jarrell has separate counsel is because of a conflict of interest --

Chairperson Handel – “All right.”

Ms. Runyon – “Since she’s the prior judge of the county is still facing the bill for that.”

Chairperson Handel – “So will you like to be noticed? ”

Ms. Runyon – “ Yes.”

Chairperson Handel – “ All right. ”

Ms. Runyon – “ It does involve the county which I would like to be noticed –”

Chairperson Handel – “We can do that. Make a note of that. All right. ”

Ms. Runyon – “Thank you.”

Chairperson Handel – “The next matter is 2008 Number 78, Bibb County.”

Ms. LaGrua – “Yes, ma’am. This case involves. The November 8, 2008 General Election. The Plaintiff is Scotty Shepard a candidate for sheriff. The Respondents are: Walter Mitchum, Sidney Hinson and Raymon Wilkes allegedly working for the candidate, Mr. Modena who was also running. The allegations were a number of deputies were intimidating persons that had Scotty Shepard signs on their property. We got the names of the businesses and the witnesses which were supposed to be privy to this. They were interviewed at three different businesses that had Scotty Shepard signs, all said they had been approached by individuals requesting that they be allowed to put up signs for the other candidate, Mr. Modena, up and were allowed to do so but also they were not threatened or intimidated, in fact, one refused to give us any kind of statement at all. The others said they weren’t intimidated or threatened when they were approached by the individuals about putting up a sign for the other person. So based on the inability to substantiate any of these allegations we recommend that the case be closed.”

Chairperson Handel – “Questions?”

Ms. LaGrua – “The investigators are here.”

Chairperson Handel – “Anyone else want to speak on this matter? Is there anyone else here on this? Is Scotty Shepard here? Okay, going, going, gone. If anyone wants to speak on this. All right, questions, colleagues? No questions? Do we have a recommendation to close the case?”

Mr. McIver – “I so move.”

Chairperson Handel – “Second.” – “Anything on either of your minds?”

The Board – [ No response.]

Chairperson Handel – “Any questions, comments, anyone? All right, all in favor?”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [ No response.]

Chairperson Handel – “All right, thank you. The next case is 2008 Number 120, Bibb County.”

Ms. LaGrua – “This is also Bibb County November 8, 2008 General Election case. The Plaintiff in the case is Linda Evans. The Respondent is an unknown poll worker. Received allegations that a poll watcher reported that a poll worker was giving out personal information about a voter to an unidentified person leaving the polling place. The poll watcher was interviewed, could not give any details about what information was being given out. He said that a citizen approached him, the poll watcher and told him that the poll worker was giving out personal information. He couldn’t give us specifics, who he told and what the information was about. We interviewed all of the poll workers as well as the Elections Supervisor and we could not substantiate the allegations. So at this time it is recommended that this case be closed.

Chairperson Handel – “ All right, questions colleagues? Do you have anyone on this case. Anyone here on this case?”

The Audience – [ No response]

Chairperson Handel – “All right, I have a recommendation to close, is there a motion?”

Mr. Evans – “I so move.”

Mr. Worley – “ I second, that motion.”

Chairperson Handel – “Motion and a second. Any other questions?”

The Board – [ No response.]

Chairperson Handel – “ All in favor, say aye?”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – No response.]

Chairperson Handel – “Can I ask, is this your Linda Evans?”

Mr. Evans - “Yes. She was doing the hotline that day, I think.”

Chairperson Handel – “I guess I wondered because she’s just the Complainant, I mean that one was closed but I just want to make sure, if we don’t have a -- I don’t know what the nature of the next one’s are going to be, if we have one that we need to refer we need to have a recusal on it.”

Mr. Evans – “Yeah, I know, we’re very careful. She mans the hotline and whatever is involved she’s the transmitter of the information she gets – anybody that calls in. But if you recall, we adopted last year prior to the election, I submitted a letter to the Board specifically outlining how I would separate myself from the process. The Board accepted the letter.”

Chairperson Handel – “Okay, I’m – I don’t want to make a huge issue here but it’s different if the complainant is one’s spouse. Certainly if my husband was complainant before I would recuse and I guess I won’t even get a – I’ll have the AG’s office look at it. So let’s see if we have an issue going forward but I don’t have any other ones have that but I’d like to get some kind of clarity on that because if we have a real serious case I know you would want to make sure that we could do whatever we needed to do for it.”

Mr. Evans – “Well actually there’s an open ADA opinion and their are report opinions that specifically address the spouse issue.”

Chairperson Handel – “Okay, well -- that wasn’t what I received from the AG’s office previously. So I will ask the question again and ask if I can have clarity on that matter.”

Mr. Evans – “You just Google me, you’ll see the opinions.”

The Audience – [ Erupts in laughter.]

Chairperson Handel – “ All right, let’s do one more case I think he needs – 2008-Number 79 -- Please make sure the record reflects my concern on the matter – Number 2008 – Number 79, Rabun County.”

Ms. LaGrua – “This was not involving a particular election. The Complainant was Karen Lovell. The Respondents are the City of Tiger Thomas Ramey, the Mayor, and Susan Rickman, the Councilperson. The allegations are that they didn’t conduct elections in 2007 when they were required to do so. Essentially they had five elected officials, the mayor and four councilmen that served four-year terms. Their terms expired in December 2007 and they had no election until sometime in 2008.”

Chairperson Handel – “ So wait, did anyone hear from the City? What happened. We would all like to know, I hope you didn’t take any serious actions concerning that time?”

Mr. Ramey- “ We did. My name is Tom Ramey. I’m the Mayor of Tiger. I’ve been the Mayor now for 14 years and it was a very embarrassing situation. But in January 2008, we received a notice from the Elections Division that we needed to send in the qualifying fee or notice to hold an election – and let me just go back. I first got elected in 1995 and since that time, the Probate Judge of Rabun County, Judge Larry Cannon, was also the County Election Superintendent and Judge Cannon always handled any election business for Tiger, of course Rabun County and a number of other cities in the county and he always notified us and told us when to publish notices qualifying and that sort of thing. Of course, we went through three terms, or I myself did, and in 2005 Judge Cannon retired and his secretary, who is now probate judge, her name is

Lillian Garrett she got elected as the probate judge there and when we received this notice from the Election's Division to publish the qualifying notice in February, I went to the probate judge and asked her what we needed to put in the paper and she informed me that they didn't handle city elections anymore. So, during the time that Judge Cannon got retired, the county put in a new Election Board and hired an Election's Superintendent. But they also didn't do anything for any of the cities in our town. The fact that we relied on the previous Elections Superintendent for Rabun County to take care of those things, time had slipped away --"

Chairperson Handel – "Was there an agreement between the city and the county in writing – did y'all not pay them for that - -"

Mr. Ramey – "I did not know this but no, at the time there'd never been an agreement. This judge, I've been to since then – and he always told me that he took that on himself. He felt like that was a service that he could offer to the citizens of Rabun County and he did that out of his faith and he acted as the Election's Superintendent. And I have notices from the past 14 years where his name is put in as our Elections Superintendent. I always assumed that he was the man, and like I say, when he retired we didn't receive those notices because that office quit handling cities and when we found out, well, they – When I found out that they weren't handling it and I called the State Elections Division to find out what we needed to do to start getting ready for an election. This was in January of 2008. I talked to Ms. Ann Hicks and Ms. Hicks gave me the information. We – I don't know if y'all have this report that was done – from the investigator? "

Chairperson Handel – "Yeah."

Mr. Ramey – "We published the notice that was supposed to be done at that time and some, some short time after that I realized we had gone over in our election and our election was supposed to have actually been in 2007. I contacted Ann Hicks again and Ms. Hicks really didn't know what to tell me other than – I told them we needed to prepare for an election. We continued on publishing the notices throughout the year and was preparing for an election. In August when our qualification fees are to be published because we are handling this ourselves, I didn't know how to publish that in the papers. So again I called Ms. Hicks and reminded her who I was and that we were the town that forgot to have an election and she said, you know, I might ought to check on some things and called me back and told me we need to get an attorney."

Chairperson Handel – "So you had some elections in '08?"

Mr. Ramey – "So we got an attorney. We were told that we'd have to file a petition for a special election. We went through that process petitioned for a special election and that election was held in November of 2008. And of course we have been, I guess we violated several codes by missing our elections and there's no excuse other than it was confusion on the fact that our old Election's Superintendent retired and we missed it."

Chairperson Handel – "Who's running your elections now?"

Mr. Ramey – "Since then we have hired, trained, and we have an Election's Superintendent --"



Chairperson Handel – “Is that person gone through the certification?”

Ms. Ramey – “She has. That was done in August, I think Ms. Hicks did a class down here August of 2008.”

Chairperson Handel – “We’ll need to confirm that because I think we have been given different information but that’s very important. Any other questions, colleagues. I don’t think there is anyone else for this case. Is there anyone else for this case? Questions, Mr. Worley.”

Mr. Worley – “Were the 2008 elections contested. Did you have any opposing candidates?”

Mr. Ramey – “We did have opposition for the council and myself.”

Mr. Worley – “Oh, well that’s what I meant.”

Mr. Ramey – “Yes.”

Mr. Worley – “So there was an actual election?”

Mr. Ramey – “First time in over 20 years we’ve had contested elections. We’re very small, Tiger’s population is about 300 people. We’re on a very limited budget. I would just like the Board to consider if there are any monetary fines, they would just keep that into consideration. Any questions?”

Chairperson Handel – “The last one: You’re not going to let this happen again, are you?”

Mr. Ramey – [No response.]

Chairperson Handel – “I couldn’t hear you. You’re not going to let this happen again, are you?”

Mr. Ramey – “No.”

Chairperson Handel – “Okay.”

Mr. Ramey – “I’m very sorry. I apologize to the state, the county, the Board, the citizens. It was a very embarrassing situation, and you know, I’ve been there for those many years and time just fly’s by and before we knew it, it was passed.

Chairperson Handel – “Maybe I need to be a mayor, it doesn’t fly that much. I think you know how very, very serious this is. It’s very egregious, so.

Mr. Ramey – “I do have one recommendation also. I have learned a lot about the election stuff since this has happened and one thing is the notice that’s sent to us in January 2008 from the Elections Division was a notice informing us to be sure and post our qualifying fees and, of course, there’s a state law now that was passed in 1993 that all municipal cities have to hold

their elections in the odd - numbered years. If we were aware of that, we would have known that something should have been done in 2007.

Chairperson Handel – “Well, with all due respect as the mayor of the city, it is your job to know that. I think it would be better that if you didn’t try to push it off on the state to fine –”

Mr. Ramey – “But I’m not – I’m just saying -- ”

Chairperson Handel – “Our job is to certify the elections and collect the data. It is your job to actually run them. So --”

Mr. Ramey – “ That’s right.”

Chairperson Handel – “I do want to make an encouragement that for our small cities in particular that – and I don’t know if anybody from Rabun County is here but, we do encourage the counties and the cities to partner for elections. We do understand though, especially for the smaller cities, it’s a big job and the counties tend to be better equipped to do it so I would urge you to consider reaching back out to the county and having a formal agreement and see if you can partner up, because that will save expenses on elections as well.”

Mr. Ramey – “We tried to do that this year and they - - they didn’t seem to want to work with us and the expense, we just couldn’t bear the expense.”

Chairperson Handel – “All right, colleagues, do we have a motion on it?”

Mr. Evans – “I move we bind it over.”

Chairperson Handel – “Second. Any other questions, comments?”

The Board – [No response.]

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Chairperson Handel – “All right, it is five after twelve. I just want – Do we have anything for Executive Session today?”

Ms. LaGrua – “Yes.”

Chairperson Handel – “We do. Okay, then I need a motion to go to into Executive Session for litigation purposes.”

Mr. Evans – “So move.”

Chairperson Handel – “Second.”

Mr. Worley – “Second.”

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Chairperson Handel – “All right, let’s see, we will – -

[ Interruption ]

Chairperson Handel – “Then we are going to have litigation update. I have a duly made and approved motion. It’s five after twelve. Let’s call it back at 12:45 so we could be a little bit late, but that way if we’re all back we’ll be able to get started, all right. Thank you.”

[ Whereupon, 12:05 p.m. motion to enter Executive Session taken.  
A recess ensued off the record.]

[ Whereupon, the record resumes at 12:48 p.m., motion made to return to General Session, the record resumes.]

Chairperson Handel – “I need a motion to come out of Executive Session.”

Mr. Evans – “So moved.”

Mr. Worley – “I’ll second.”

Chairperson Handel – “Motion second. All in favor.”

The Board – “Aye.”

Chairperson Handel – “And for the record, there was no action taken. Executive session. Our next case is 2008 Number 83, Dougherty County.”

Ms. LaGrua – “Yes, ma’am this is involving November 2008 Dougherty County was the location. The complainant was Nancy Justice sister and guardian of Jack Justice. Respondents Henry Robinson and Laura Newberry, Primus Industries Company that supervises training and mentally challenged individuals and also special conduct within their training, sort of like an adult daycare for those that had mental challenges -- cannot be alone the whole time. Allegations was that several clients and that’s what they call these individuals, the mentally challenged individuals Primus Industries has several clients were taken voting. Their voting was influenced by Mr. Robinson and Ms. Newberry who are counselors and or teachers, custodians at Primus Industries. This was a very difficult case to investigate because of the nature of the -- for lack of a better word alleged victims. The case, the votes was alleged influenced. Henry

Robinson and Ms. Laura Newberry took a number of these clients to vote. They did not receive permission from the families of these clients to do this. It had not been done in the past and with that, they allege they sent memos home to the families indicating they were going to assist these clients in voting. They could never produce memos that was allegedly sent to the caregivers. Mr. Robinson actually marked on ballots as assisting clients but said they were physically disabled which they may have had some difficulties but they were able to go to the polls. Ms. Newberry took one client voting and took the client to the library first showed client a photograph of two individuals that were running for president, did signs as assisting and said client could not speak when she assisted.. Second, the presidential selection it was by identifying the presidential candidate. It appears that the Presidential Election was the only election involved in what we can tell. Obviously we do not know that for certain. We spoke to the clients in this case, they talked about the Presidential Election that was the only election they talked about. The Department of the Human Resources also conducted investigation and we have been unable to share information with them. There has been conflicting views regarding statements gotten from these clients at least two of the client said Mr. Robinson told them which candidates to vote for. Our (inaudible) want to introduce the Georgia Department of Human Resources. There was an official claim that alleges Mr. Robinson gave money, candy, food to these people for their votes. What he said was that after they went to vote went by a convenience store and got Coke and went to a park. It's clear in my mind, Members of the Board, that something here isn't Kosher. The problem is that we have people with mental challenges that cannot give a consistent statement as to specifically what happened. There's no question that at least two individuals indicated that Mr. Robinson told them how to vote and that in regards with Ms. Newberry, that she was the one that actually pushed – marked the ballot for the individual because he couldn't read or write English. There's never been an organized effort that we could find on behalf of Primus Industries in an effort to get these clients to vote or assist them. They could not produce the memo to the caregivers. Unfortunately, as I say, the statements are not completely consistent in what happened. It appears in some respects that these individuals may have been taken advantage of because of their challenges. I have spoken briefly with the District Attorney's office. The initial inclination was that they were concerned about the conflicting testimony though I would be happy to revisit this if the Board would like me to do that based on the totality of their investigation. Arguably, there is an inclination potentially that 567 intimidations just through the nature of the relationship between caregivers and the clients here, we also may have a 568, which is going into and improperly entering the closed space. I'll try and answer questions as I can. Mr. Harvey's here as well and has dealt directly with the Department of Human Resources, so -- ”

Chairperson Handel – “Is there anyone here from – okay.

Mr. Stiller – [ Approaches]

Chairperson Handel – “You're with --”

Mr. Stiller – “ I'm Howard Stiller, I'm an attorney in private practice, I represent the agency.

Chairperson Handel – “Okay, great, gentlemen ?”

Mr. Robinson – My name is Henry Robinson, I'm one of the persons that took the people.

Chairperson Handel – “Okay, let's hear – you can discuss with us the DHR investigation.”

Mr. Stiller – “No, I actually represent the agency that was investigated but I just --”

Chairperson Handel – “Got it, I'm sorry. Is anyone here from DHR?”

Ms. LaGrua – “No.,”

Chairperson Handel – “Do we have their report?”

Ms. LaGrua – “Yes, we do.”

Chairperson Handel – “That would be good to make sure we get those things ahead. While they're doing pulling those, if either of you would like a few minutes to comment and then we'll open for questions.”

Mr. Stiller – “ Well, I'm closer, so I guess so I'll get here first. Again for the record, I'm Howard Stiller. I practice law in Albany, Georgia. I represent Albany Area Community Service Board. If this is repetitive or redundant, I apologize. But the Community Service Board is a creation of the Georgia Legislature providing the state – State of Georgia with community service Board of Regions (inaudible) where it provides mental health services for disable people. By way of history dealing with disable people was institutionalize both with the advent of medications and different techniques a lot of people around the -- in the community today can function and try and live as normal a live as can be done. Here's a plug for Publics, most of you have been to a Publics and you might have noticed a disabled person or a disabled-appearing person bagging groceries or carrying your groceries to the car. Albany Community Service Board facilitates those arrangements as an example, Proctor and Gamble paper plant. They package paper towels and pampers and things of that nature . They participated as well in Albany. We will go out and contract and the agency will contract people to earn wages by packing diapers on occasion or doing other repetitive kinds of things for which they can earn money and feel like a productive member of society. The key goal of the Community Service Board because since we moved away from the institutional model is to make life as normal as possible. So for example with work activities are a lot going on, field trips, to the movies, to the Albany River Aquarium because we have our own aquarium in Albany and it's a pretty magnificent structure and the reason I'm bringing this up is this -- ”

Chairperson Handel – “Get to the case.”

Mr. Stiller – “Albany Community Service Board does not have a rule somewhere for every activity to follow. We have no rules making sure the constituents – another thing we didn't have a rule for was taking people to vote. It's my understanding that it's not been done before, we had no policy. So the Board -- it did not even come to my attention until complaints were filed. Legal guidance was not sought and how do you take someone to vote ? It's my understanding that even if it had been – and I consulted the Department of Human Resources because we follow all the policies, there's probably not a policy mechanically on what do you do. How do

your employees take disabled persons to vote? That information that you give them – should you push the button or lever or mark the ballots. What do you do and it's in that guise that people were taken to vote. I've probably spoken too much already. If there are any questions about what the Agency did or did not do, I'll be happy to address those. I do not represent two employees whose names – heard one was present, so my remarks are limited to my representation of the Agency."

Chairperson Handel – "I do have just one question for you, you commented that the clients are taken to aquariums and on outings, etc. Are the guardians notified about those outings?"

Mr. Stiller - "No, it's my understanding that being in the program we have like standing permission to take people to work, take people on outings and activities. Perhaps Mr. Robinson can address that little bit better because he's one of the people that does it. But a written permission slip unlike school and school-aged children are not required."

Chairperson Handel – "Thank you."

Mr. Stiller - "Any other questions?"

Chairperson Handel – "Is it Mr. Robinson?"

Mr. Robinson – "Yes, ma'am."

Chairperson Handel – "Come on up, sir."

Mr. Stiller – "One of the things for the record I do want to clear up, I do not represent Mr. Robinson. I've never spoke to him. I've never met him, never seen him until now."

Mr. Robinson – "First of all, he makes it sound like I'm a bad man – not true." And the statement – in respect to the statement, the state came and investigated us at Primus, according to this right here, I got in the mail Jackie Justice did go on voting – even though I read off everything to him, I asked him a couple times who they wanted to vote for, who they chose to vote for that was their choice. I did not punch it. I did not tell them who to vote for. The statement I made is nothing like the young lady just read. As far as the outings, I did not buy them nothing. They always had their own money and that's part of when we take them out on an outing, I don't even try to do all that – pay them for what they did. Once a month, twice a month we have to take all of them out into the community. So that's part of training. As far as trying to tell them who to vote for or what to vote for, I had no part to do with that. And I don't know who changed – I'm not saying somebody changed my statement. My statement -- as a part of the investigation is nothing like she read off the paper. I don't know who gave that statement but it seems like somebody is trying to fault me. I did not do nothing wrong. That's just a part of my job. And a letter was sent out because some of the people did send I.D. cards so we can register – so if they didn't get a letter, how could we get the Identification Cards in order to get them there? All I did was take them to vote. I read the names of the candidates. Now who told them to vote and how to vote, I don't know. I told them what they should or what they wanted to do and so punch the button. Whoever they voted for, that's who they punched. Any

wrongdoing, I had no intentions. I don't see where I did anything that was wrong. If you read my statement, other than -- I was questioned twice. My statement was the same. I don't know who the people that was who changed it but it was nothing like that.

Mr. Worley – “Can we get whatever letter he has.”

Ms. LaGrua – “What he gave me, Mr. Worley was just a page out of your summary Page 4.”

Mr. Worley – “Oh, okay.”

Ms. LaGrua – “If you'll notice there is summary of his statement to investigators as well as what Mr. Justice told us in a recap of what Mr. Justice and the others told the Georgia Department of Human Resources.”

Mr. Worley – “Right. Do we actually have the DHR report as well?”

Mr. Harvey – “Yes, sir.”

Ms. LaGrua – “Mr. Worley, I would respectfully ask the Board at this point if I can answer questions if we make that part of the record. It would be inconsistent with our other records policy in terms of open investigation, which is why we summarized in the report at this point what the findings of the DHR are. I do have that report here.”

Chairperson Handel – “Well, would you tell us again what the DHR summary was?”

Ms. LaGrua – “Yes, ma'am and --”

Chairperson Handel – “—or the report – summarize the DHR report.”

Ms. LaGrua – “Yes, ma'am. When DHR went out they, they spoke to the individuals as well. In regards to the Jack Justice, the original subject of the original subject of this, he initially told us he was told to vote for Mr. Obama. He told the Department of Human Resources that he wanted to vote for Mr. Obama but that Henry did tell him to vote for Mr. Obama. In relation to Jason Thomas, when we interviewed him, he said that Mr. Robinson told him who to vote for but that he didn't know who he voted for. According to the Department of Human Resources, Mr. Thomas claimed he voted for both candidates for President. In relation to Mr. King, another one of the clients, when we spoke to him, he told our investigator he intended to vote for Mr. Obama and was able to articulate that Mr. Obama had a white mom and black dad like he had. He also said the other candidate was mean. And he also said that Mr. Henry, referring to Mr. Robinson, showed him which button to push and that he only voted for president. According to the DHR interview, Mr. King said that Mr. Henry told him to vote for Obama and then went on to say that King told Patton, who was the investigator for DHR that he did want to vote for Obama. And in relation to Brenda Wiley who apparently was not interviewed by DHR, she said that she didn't usually vote, that she went with several other people to vote and she was told by Mr. Robinson that she needed to be quite in the voting area. She could go to jail. She was later taken by Ms. Newberry. In relation to Mr. Newberry Ryan Stubbs told our investigator that he usually

voted in an election. Election records showed this was his first time. He said that Ms. Newberry told him to vote for Obama and he did not vote for anyone else on the ballot. According to the Department of Human Resources Stubbs did not remember voting until he was prompted but then said he voted for Obama and he pushed the buttons himself. There is also, the Department of Human Resources and the Office of Inspector General indicated in their findings that it would appear that the Primus staff violated their regulations because DHR Policy #1202 states that DHR employees may not participate in any form of political activities while on duty or under color of office or position. So they have a parallel of confidential investigation at this time as well but they did know that they would be referred a summary of these findings.”

Chairperson Handel – “So their investigation is still ongoing?”

Ms. LaGruta – “That’s my understanding.”

Chairperson Handel – “Can I just ask – Mr. Robinson, how long have you worked there?”

Mr. Robinson – “First four years, I worked part time. And six years I went full time. So it’s been about ten years now.”

Chairperson Handel – “Ten years? Have you had the clients taken to vote previously by you?”

Mr. Robinson – “No, it was my first time.”

Chairperson Handel – “ So, in the ten years that you worked there never did clients get taken to vote until this time?”

Mr. Robinson – “I can’t say that. I actually don’t know. ”

Chairperson Handel – “Is Ms. Newberry here? Colleagues, I for one find this to be extraordinarily troubling. Perhaps as DHR moves forward with its investigation some of their conclusions might be helpful benefit trying to see what they come up with themselves. I certainly think they will have a greater access in terms of talking with employees than we would around all this --”

Ms. LaGruta – “Apparently, they have completed the investigation as it relates to this. The Department of Justice has been in touch with us as well about how they will proceed and I don’t know the answer to that – yet. They were waiting for the outcome of today’s proceeding and wanted to know what we were wanting. ”

Chairperson Handel – “Okay. I find this extremely troubling just because there was more than one client who had challenges and Ms. Newberry in her report, as a report of Ms. Newberry’s interview indicated that there was a letter sent to the families of the clients, yet the letter could not be produced and now to find that this had never happened before and I’m not saying it is not a good thing, but if any of these individuals have guardians I don’t know how they just get taken to vote so --”



Mr. Worley – “ They’re adults, I don’t know if you need permission of a family member or guardian to go vote.”

Chairperson Handel – “ Again, I just don’t know. Given that, the one individual parents waited on this as well as the individual. There’s just a great deal of conflicting information and it all – it troubles me very much.”

Mr. Robinson – “I like to say something else, in the meantime somebody had to escort them up to the office. I don’t know if they were encouraged to say what. I’m not no lawyer or nothing, I wasn’t with them and the person that came to take them up front to be investigated, I don’t know what was said during that length of time. ”

Chairperson Handel – “Any other questions?”

Mr. McIver – “I move we bind it over.”

Chairperson Handel – “Second. Mr. Worley, questions?”

Mr. Worley – “I don’t have any questions. I mean, I’m going to vote to bind this over because there is a dispute about the testimony and so I don’t think we have any choice but to bind it over. I can certainly understand how it’s going to be very difficult to get any definitive testimony on this. ”

Chairperson Handel – “ All right, I have a motion and second to send this over to the Attorney General’s office, all in favor?”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [ No response.]

Chairperson Handel – “All right, the next case is 2008-Number 86.”

Ms. LaGrua – “Ma’am, this case involves a woman by the name of Anita Vines”

General election in Whitfield County complainant was Thomas Vines, Respondent Anita Vines. I should let the Board know at the outset that the relationship between Mr. Thomas Vines and Ms. Anita Vines was very contentious and Mr. Vines reported that his wife was a convicted felon and had voted as a convicted felon. What our investigation found was that Ms. Vines was serving a first offender sentence and therefore not consider a convicted felon and was eligible to vote. There was also some questions you may have noted in the summary about whether or not she had registered, she had changed her address and voted improperly and changed registration. Since this summary was provided we have received additional information from Whitfield County. In fact, she’s not in violation 562. She had moved, but was within that time frame of 218. We just got that information. So she validly let the registrar know of her appropriate address and did what she was instructed. It does not appear that she’s in any violation so at this point. We would recommend that this case be closed.”

Mr. McIver - “ Let the record reflect that the Chair has temporarily left the meeting. I’ll take over as the Vice Chair. Anyone else be heard other than the Inspector General on this matter? ”

[Whereupon, the Chair has left the meeting, Mr. McIver takes over as Vice Chair.]

The Board – No response.

Mr. McIver – “Any discussion?”

Mr. Worley – “All right, I’ll second, Mr. Evan’s motion to close the case.”

Mr. McIver – “The motion to close has been seconded. Any discussion?”

The Board – No response.

Mr. McIver – “If not, all those in favor signify by saying, aye.”

The Board – “Aye.”

Mr. McIver – “Opposed?”

The Board – No response.

Mr. McIver – “Motion to carry, matter closed. We will move to 2008, Case Number 89, Walton County, are you ready General LaGrua?”

Ms. LaGrua – “Yes, thank you. This involves a gentleman by the name of Marcus Herren. This is similar to our Primus Industries case even though a little bit more serious. Marcus – we got a call from Myrtle Ivey – well the Respondent is Myrtle Ivey who is the caregiver and for Marcus Herren and employee of the Department of Human Resources. The allegation was that Ms. Ivey improperly assisted Marcus in registering to vote. We got a call actually from his mother who was very upset that her son who is legally declared incompetent had been registered to vote and apparently Myrtle Ivey, who is the caregiver talked to him about voting, was going to register him to vote, actually talked to his father. His father told Ms. Ivey that she needed to be in touch with his sister or his mother who are the legal guardians. She did not. They never gave permission for him to be registered to vote – and they could not have given permission and could not have registered him because he had been declared legally incompetent. Thankfully, this was picked up. He was registered but he was taken off the registration list. He did not vote but at this point I ask that this be bound over forwarding to the Attorney General’s Office for appropriate sanctions.”

Mr. McIver – “Anybody here to be heard on this matter?”

Mr. Honore – “Yes, sir.”

Mr. McIver – “Please approach the microphone. Can you begin by stating your name?”

Mr. Honore- “Good afternoon. My name is Alcead Honore I’m here representing Myrtle Ivey. Her mother – I’m sorry the petitioner’s mother, Ms. Herren is here as well. Just real briefly, I’d like to state that some of the investigation indicates Ms. Ivey is charged with voter registration

fraud. In order to be guilty of this charge, there must be a willful violation of the law. The statute 21-2-561 is rather clear, it requires a knowing violation, a mere accident or mistake is not sufficient for a violation under this code section. The summary of investigation record already indicates that Ms. Ivey made no attempt whatsoever to hide or conceal the fact that she was assisting Marcus with the ability to register to vote. She contacted his parents while she was at the Voter Registration Office in order to obtain his social security number. All of in here – I hope every single person in here is a registered voter, you know that once you fill out that Voter Registration Form in order for that registration to be valid you must include a social security number. She contacted her [sic] parents at their home phone number for that reason. At that particular time Ms. Herren was not home, Mr. Herren was the only person there. It was mentioned by the IG that, you know, that there was a referral by the father with whom Ms. Ivey spoke that you should wait until, you know Ms. Herren makes it home so that you may speak with her, so on and so forth. However, the nature of that conversation was actually limited to a discussion about the social security number because a very important fact be taken into consideration here was that, Ms. Ivey took Marcus Herren to register to vote on October 8<sup>th</sup>, as you all know, that was the last day to be eligible to register to vote in the November 8<sup>th</sup>, 2008 General Election. And so what she was simply trying to do was save the time of having to go all the way back home to obtain the social security number. Ultimately, you know, Mr. Herren did not have that number in his possession, they went back home, got the number, came back to the Registrar's Office having basically just a few minutes left in order to enter the registration. Ms. Ivey did not have months, weeks or days to investigate and research the propriety of these actions. She had no knowledge whatsoever of Marcus's judgment of October of 2005 of being legally incompetent, nor did she know, the status of being declared legally incompetent disqualifies an individual from being able to vote. So, you know, Ms. Ivey has served as Marcus's caregiver for some time. She continues to serve in that capacity. Ms. Herren, Mr. Herren's mother is here as well. She is the person that has indicated by the IG who sort of initiated this whole process on Marcus's behalf. She does not wish to see this go any further, you know, considering the fact that the family and Ms. Ivey continue to have a good working relationship, I would ask respectfully that this Board dismiss the petition and allow these good folks to go on with their lives. Thank you."

Mr. McIver – "Do either of you ladies wish to be heard?"

Ms. Herren – "I'd like to be heard."

Mr. McIver- "Please give us your name."

Ms. Herren – "My name is Shirley Herren. I am Marcus Herren's mother and his guardian. I don't believe that Myrtle did this with any malice or vindictiveness or out of any anger with anybody or trying to do anything she shouldn't have done. I was not aware myself that it was fraud and punishable as a fraud case with the state. I've been a registered voter for many, many, many years and I don't even remember reading why you couldn't register and I don't think that Myrtle even realized when she read it, it had meant Marcus because he does need help. He can read, if you have on a baseball hat or a football helmet, he knows something about your team. But he doesn't read news, he doesn't know anything about politics. So I don't really think he understood. But he had been carried by the center where he goes under the Department of

Human Resources to a meeting called People are People Too, or Putting People First. They're the ones that were telling these people that they had a right to vote. And that's why he had told Myrtle he wanted to vote. So it wasn't anything that Myrtle thought up, he told her he wanted to and that he had been told this by this group of people that run this meeting and that was a meeting that he was encouraged to go to by the Unlimited Services where he goes. I'd like for you to drop the case against Myrtle. I don't think that she should be punished any further. I think she's paid dearly for having done what she did. So I really would appreciate it. My family would appreciate it if you don't prosecute Myrtle. Thank you. Anyone else like to be heard? "

The Board – [ No response.]

Mr. McIver – "Let the record reflect that the Chair has returned to the meeting."

Chairperson Handle – "You finish the case."

Mr. McIver – "I'll finish the case. Anybody else like to be heard?"

[ Whereupon, it is duly noted Madam Chairman is now in attendance.]

The Board – [ No response.]

Mr. McIver – "Members of the Board any questions of the two individuals that spoke in this situation?"

The Board – [ No response.]

Mr. McIver – "Any discussion whatsoever. All right, I'll entertain a motion."

Mr. Worley – "Well, it appears to me that the Statute requires a knowing violation of the act and there doesn't appear – it doesn't appear to me that we have any evidence that there was a knowing violation of the act and so I would move to close the case."

Mr. McIver – "Second. I want to rule a motion that dies for a second. Do I have another motion. Anybody interested in tabling this matter? "

Mr. Evans – "What is the section – the specific section --"

Mr. Honore – "21-2-5 --"

Mr. Evans – "No, no, no. I know the section that's been cited, the section that deals with that you cannot register to vote if you have been adjudicated as incompetent? "

Mr. Honore – "21-2-216."

Mr. McIver – "Mr. Tailor, please."

Mr. Tailor – “21-2-216 subsection (b).”

Mr. Evans – “Clearly to me, we have to draw lines that we can’t permit people to register who are not eligible to register. I agree with Mr. Worley, however I do not believe that there’s sufficient evidence to the knowing element required under 21-2-561. So I would recommend that we resolve the case subject to the agreement of the respondent with the Letter of Instruction noting the requirement of 21-2-216 and noting that subsection (b) prohibits the registration of someone that has been initially determined as being mentally incompetent with a corresponding cease and desist so that we have established a precedent on this issue. So that would be my motion.”

Mr. Worley – “I’ll second that motion.”

Mr. McIver – “Motion seconded. Any further discussion?”

The Board – [No response.]

Mr. McIver – “Those in favor of the motion, please indicate by saying, aye.”

The Board – “Aye.”

Mr. McIver – “Opposed?”

The Board – [No response.]

Mr. McIver – “Motion passes. Madam Chair, I’ll turn it back over to you for case concerning 2008-91.”

[Whereupon, the Chair resumes order.]

Chairperson Handel – “Thank you. Case Number 2008-Number 91, DeKalb County.”

Ms. LaGrua – “Yes, ma’am. This involved the November 2008 General Election. The complainant was Laurel Morris. The respondent would be an unknown employee of DeKalb County Library, Chamblee Branch. The allegation were by Ms. Morris that when she went into the library and requested a sample ballot at the November 4<sup>th</sup> General Election, she was told they didn’t have one and then they found one, a sample ballot and gave it to her and it didn’t have any Republicans on the ballot. The best we were able to determine in this case was – we got a description from Ms. Morris of the employee that provided the sample ballot. We interviewed everybody at the library that came close to matching the description as well as the branch manager. Nobody knew anything about it. The branch manager suspected that what happened was because they post ballots for the elections through the Superintendent of DeKalb County, that somebody had stuck the primary voting sample ballot in a drawer and Ms. Morris was inadvertently given July’s Primary sample ballot, instead of being directed to the one that was posted on the bulletin board for November 4. Obviously, this brings up a little bit of a training issue that maybe the Superintendent should give more specific communication to

wherever publicly they are going to post the sample ballots. In terms of a specific out charge in this case, we couldn't substantiate one, and in fact, we don't have anybody as a Respondent as to substantiate the allegations so we would recommend that it be closed.

Chairperson Handel – “Is there anyone here to speak on that?”  
Yes, come on up. Tell everybody who you are.

Ms. Hart– “My name is Twyla Hart and I work for the DeKalb County and Elections Supervisor and I want to make it quite clear, our office does due diligence. We send sample ballots to each election and each library, our Election Staff does. So it's not really have a training issue because we do that. It's just the point that a library person may have not been aware of where the ballot samples were. But we do it for each Election. As soon as we get copies of the ballots we send them to each library in the county.”

Chairperson Handel – “I think the training referral was for the library versus for y'all. That was the reference.”

Ms. Hart– “Yes, I just wanted to clear that fact up.”

Chairperson Handel – “Mr. Worley?”

Mr. Worley – “No, I just wanted to be clear that this was a library employee and not an Election's Board employee?”

Ms. LaGrua – “That's correct, Mr. Worley.”

Chairperson Handel – “Any other questions?”

The Board – [ No response.]

Chairperson Handel – “Is there a motion? Is there a recommendation to close?”

Mr. Evans – “So moved.”

Mr. Worley – “Second.”

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed.”

The Board – [ No response.]

Chairperson Handel – “All right, the next case is 2008- Number 92, Butts County.”

Ms. LaGrua – “Yes, Ma’am, I should note at the outset there are four Respondents in this case: Mr. Henderson, Mr. Johnson, Ms. Varner and Avery Smith should be a Respondent as well and I believe that is in the summary. We did receive a letter from Angelia Cash who is the guardian and has power of attorney for Mr. Henderson who is the Respondent requesting a continuance and I brought it to Madam Chair’s attention and you did grant the first - time continuance in this case as it relates to Mr. Henderson. I think we are prepared to go forward if the Board desires on the rest of the Respondents in the case.

Chairperson Handel – “All right. Are Ms. Johnson and Ms. Varner here?”

[ Whereupon, an roll call was made for Respondents in attendance. ]

Chairperson Handel – “ She received notification?”

Ms. LaGrua – “They were all notified.”

Chairperson Handel – “ Okay.”

Ms. LaGrua – “Yes, ma’am. Okay the allegation in the case and it actually came in from Ms. Smith that the Butts County Election’s Superintendent where the three respondents voted twice. And actually it turns out that only two actually voted twice. And I’m going to leave Mr. Henderson out because he got a continuance. But as to Ms. Johnson and Ms. Varner, apparently – they did, in fact, vote twice. When we interviewed them, we found out that they were elderly, extremely elderly and apparently neither one remembers voting twice. The investigator that actually interviewed them is here and if you have any questions for Ms. Williams and need for her to elaborate on that, but it was the feeling of our investigator after the interviews and after talking to the witnesses and reviewing the documents that they truly were at an age where that they didn’t remember voting twice. That raises the issue with the Election’s Superintendent of how they were allowed to vote twice here which would be -- I hesitate on my recommendation, as would relates to the two elections, clearly they’re in violation, how knowing a violation is, I can’t tell you. I can tell you what our investigator senses in speaking with them, and obviously the Election’s Superintendent for allowing it to happen.”

Ms. Smith – “I’m Avery Smith, Election’s Superintendent for Butts County. I’ve been doing elections for close to 33 years and I’ve never here for this reason -- I just want to say, you know, we were really overwhelmed, which y’all know, which I love, probably both. ‘Not complaining at all, but we were overwhelmed with the number of people that came to our office, thousands and we’re not used to that. So of course we had to bring in help to -- may be poll workers but had not actually done office work. But this girl that was working the desk at that time, is very, very competent. She’s a lawyer’s secretary. But he had died and so she had come in to help us some. And she assured me, and I trained them very well to check, Screen 16 to make sure that person had not voted. She assured me on both of those people, it did not show they had voted and I know she checked them off. And, you know, I’m not saying – she’s very fast and I told her, maybe you went through it too fast, you know, and it didn’t have time to load the screen or whatever. But I did go back and check to make sure that we had put them back in and we had put them in on the first day that they had voted. So, you know, I’m not – I don’t

know if that was a glitch in the system at that time or what – I’m not accusing the State. I know we did have some computer issues during that time, but other than that, I can’t tell you what happened. Except I did call and ask them, do you know that you voted twice and they had no clue. One of them told me that they thought -- actually both of them told me that they thought they would end up doing a runoff -- they didn’t know because it was 45 days and it was a pretty good span between the two they times they came. They were just like she said, they’re very elderly and I think – I will tell you that we had a lot of people, elderly people who came back to vote a second time, but we’d check Screen 16 and catch them there. ”

Chairperson Handel – “Sounds like though, it was an absentee the first time somehow it wasn’t entered in?”

Ms. Smith – “Right.

Chairperson Handel – “It wasn’t entered in.”

Ms. Smith – “ It was on our report the first day they came in. It was on our report. I can’t explain that.”

Mr. Worley – “ Well, I think that this is the only case that I’ve had in my time on the Board where the Complainants and Respondents are the same people. I complement you for being honest”

[ Audience outburst laughter .]

Ms. Smith – “ I mean, I wasn’t really complaining. If I had know it would have gone this far to be honest I don’t know if I would have told you. My report that day and my machines did not balance. I’m very thorough, 33 years has taught me a lot. My people are very well trained. The state investigator who comes around during elections told me I have one of the best trained personnel they’ve ever seen and I’m proud of that.

Chairperson Handel – “You should be.”

Ms. Smith – “But you know, I mean, I wanted you to know why my papers didn’t balance – So I sent for another. I want to be honest at whatever costs.”

Chairperson Handel – “We’re glad that you did. From my perspective I’d like for Wes you get with Avery to double check just a little bit more that it was just human error. Because it does sound like it was just human error somewhere along the way and we just want to make sure. All right. Thank you.”

Ms. Smith – “All right.”

Chairperson Handel – “Colleagues?”



Mr. Evans – “I don’t know that we have any discretion on the voting twice in the General Election violation 21-2-572. That pretty much if you vote more than once you violate the Statue. So I would vote to that particular piece we bind it over.”

Chairperson Handel – “ Second with a motion on the second for discussion any comments?”

Mr. McIver – “ What do we expect the HE to do with these poor folks who don’t remember the second time. I’m wondering is it a more expeditious way of handling?

Chairperson Handel – “ I mean for me speaking as one, they would get a letter saying, you need to be more diligent, I mean, and I think it goes to other people in the household , clearly.

Mr. McIver – “I can more than likely like to resolve it today than burden the AG with what’s really going to be a cumbersome matter trying to interview people and all their voracity.”

Mr. Evans – “We don’t on Varner or Johnson case, unlike the other case, we can get to the agreement of resolution. We don’t have that option on the.”

Ms. Smith – “ I’m not sure either of them were capable of coming.”

Chairperson Handel – “ I rule the HG’s Office can have a conversations with them then we’ll know make sure we’ve have done – for me we will have done our due diligence to make sure that there wasn’t something else going on here.”

Mr. McIver – “That’s the only question I have.”

Chairperson Handel – “ Motion and a second? Is there any other questions or comments? All in favor.”

The Board – “Aye.”

Chairperson Handel – “Questions or comments.”

The Board – [ No response.]

Chairperson Handel – “Any opposed.”

The Board – [ No response.]

Chairperson Handel – “ All right, the next case is 2008 Number 95, Thomas County, Golden Living Nursing Home.”

Mr. Harvey – “ Chair, Board, the complainant in this case was Mr. Fred Heivilin was the GOP Interim Chair of Thomas County. The allegation was residents of the Golden Living Center had voted by absentee ballots and the absentee ballots had been intercepted and then were shredded.

Our investigator met with the complainant who wouldn't disclose the name of the supposed victim in this case. So the investigator then went out, got a list of all the absentee ballots that was sent there, did an audit, found out of all the – I believe the 26 ballots that were sent to the Golden Living Center all but three of them came back. He identified the three who didn't return them and all three had reasons why they didn't return them. There were no allegations that any ballots were shredded and the allegations appeared to be unsubstantiated and there doesn't appear to be any violations. I recommend that this case be closed. It's unknown why the allegation was made in the first place."

Chairperson Handel – "Is there anyone here to speak on this matter?"

The Audience - [ No response. ]

Chairperson Handel – "Is Mr. Heivilin here?"

[ No response. ]

Chairperson Handel – "Anyone else. All righty, there being no others. Questions or comments colleagues?"

The Board – [ No response.]

Chairperson Handel – "I'll entertain a motion, a recommendation to close."

Mr. McIver – "I so move."

Mr. Worley – "I'll second that."

Chairperson Handel – "Motion and a second, any other questions?"

The Board – [ No response.]

Chairperson Handel – "All in favor please say, aye."

The Board – "Aye."

Chairperson Handel – "Any opposed?"

The Board – [ No response.]

Chairperson Handel – "The next case is 2007 Number 97."

Mr. Harvey – "This is Cook County. The complainant in this case is Probation Officer Coleman J. Lynn reported to her office six felony probationers that Officer Lynn supervised and registered to vote and one or two had, in fact, completed voting. If you look at the summary, I think on the third page there's a chart it's got the listing of the six convicted felons and notice the

first is on the first offenders status. He registered and was eligible to vote and he did, in fact, vote in the election. You'll notice that (inaudible) the distinction between the Henry registration and the registration between D.D.S that's significant, but if you'll look down to the Joshua Everette Guthrie, he was registered through D.D.S., however, the D.D. S. paperwork indicated that he did not request to be registered. He was apparently inadvertently registered and he did not vote. The other three individuals indicated that they did want to be registered voters and or hand completed a voter registration application. Only one of them Jerome Jennings voted provisionally but his vote was not counted after the election. It's recommended that Jerome Jennings, Clifton Inman and James David Luke and Kendrick Shamon McCormick be bound over on the violation of 21-2-561 and that they registered to vote after a convicted felony and Jerome Jennings, is also in violation of 21-2-571 that he attempted to vote via provisional ballot in a runoff election while he was serving a felony sentence."

Chairperson Handel – "And you're recommending Wooten be closed."

Mr. Harvey – "Yes, ma'am and also recommended that he be considered for referral to the District Attorney's Office for criminal prosecution as well."

Chairperson Handel – "The other cases not Wooten?"

Mr. Harvey – "Correct."

Chairperson Handel – "All right. Get one off the table recommend or make a motion to close case on Reginald Wooten, since there is no violation there?"

Mr. Harvey – "Correction -- yes, that's correct."

Mr. McIver – "So moved."

Mr. Evans – "Second."

Chairperson Handel – "Got second, all in favor."

The Board – "Aye."

Chairperson Handel – "That's one's closed. That leaves us Jerome Jennings, Inman, McCormick and Luke."

Mr. Worley – "Well can we move to dismiss Guthrie as well?"

Chairperson Handel – "Yeah. Hang on, you just read my mind, Guthrie we can –"

Mr. Harvey – "Correct."

Chairperson Handel – "You've got a motion, Mr. Worley?"

Mr. Worley – “Yes. I move to dismiss that because the evidence indicates that he did not request to register to vote.”

Chairperson Handel – “Second?”

Mr. McIver – “Second.”

Chairperson Handel – “Got a second, all in favor.”

The Board – “Aye.”

Chairperson Handel – “So now that leaves us Jennings, McCormick and Luke?”

Mr. Worley – “Make a motion that these cases be bound over to the Attorney General’s Office.”

Chairperson Handel – “All right.”

Mr. Evans – “Second.”

Chairperson Handel – “Motion and a second.”

Mr. McIver – “I have a question.”

Chairperson Handel – “Yes, sir, Mr. McIver?”

Mr. McIver- “Worley you specifically –“

Mr. Worley – “-- And the bind over also to the appropriate District Attorney.”

Mr. McIver – “I’ll withdraw my question.”

Mr. Worley – “Thank you, sir.”

Chairperson Handel – “Does the seconder accept that change? Randy?”

Mr. Evans – “Yes.”

Chairperson Handel – “Mr. Evans?”

Mr. Evans – “Yes.”

Chairperson Handel – “Motion and second to bind over to the AG’s Office and to the Cook County DA, all in favor, please say aye?”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [ No response.]

Chairperson Handel – “All right, the next case is 2008, Number 93 Pulaski County?”

Mr. McIver – “98”

Chairperson Handel – “What did I say.”

Mr. McIver – ‘93.”

Chairperson Handel – “Oh, 2008 Number 93 Pulaski.

Ms. LaGrua – I’ve got ‘98, that’s a typo on yours.

Chairperson Handel – “ Okay ‘93, sorry. “

Mr. Harvey – “The complainant in this case is the Secretary of State’s Office, the Office of Inspector General. We received a notice on October 23<sup>rd</sup>, that Pulaski County Chief Registrar, Carolyn Nesmith was allowing voters to register and vote on the same day which would not have allowed for verifying citizenship, possibly a violation of 21-2-226.” Our investigators went to Pulaski County and found out that the original allegation was for 50 or 60 people that possibly registered and voted. They actually identified 12 who were registered and voted on the same day. Some of the original ones were determined to have transferred registration in or had some other issue. So all in all, twelve people were allowed to register and vote on the same day possible violation of 21-2-226 (a). The only additional information is as it turned out that the voters did pass the citizenship verification process.

Chairperson Handel – “Okay, questions?”

The Board – [No response.]

Chairperson Handel – “Anybody here to speak on that?”

Ms. LaGrua – “Ms. Nesmith just called me, Madam Chair, and because of the funding involved -  
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Chairperson Handel – “Yes?”

Ms. LaGrua – “ – she was afraid she would not be reimbursed but wanted the Board to know this was her first election. (inaudible)”

Chairperson Handel – “The point is we don’t have the same day voter registration in Georgia, the law doesn’t provide for that.

Mr. Worley – “Can I follow up with Mr. Harvey and if he could just explain.”

Chairperson Handel- “ That’s probably a Wes question.”

Mr. Worley – “Or Wes.”

Mr. Harvey – “Why we don’t have same-day registration?

Mr. Taylor – In fact, since 1994 there have been statutes that talk about the duties of the registrars to determine the eligibility of each individual that applies to register to vote. One of the processes at the time was to verify the information provided on the application. Until that was done it was taken that the person wasn’t registered in time. Now, I don’t – So that’s the reason everybody. ”

Mr. Worley-“ I know there was some discussion before the election.”

Mr. Taylor – “By virtue of the election provided people with the opportunity to register prior or to vote within the same period as they could register, it’s legally possible for someone to register to vote and then vote on the same day an absentee.”

Mr. Worley – “What the authority of requiring for the state – the Secretary of States Office requiring these verification checks to be done with a day’s delay, basically?”

Mr. Taylor – “It’s the actual just process of the system. Under HAVA, there’s the verification process and the way that works is the information is entered into the system that is then transmitted by a batch process each night to the Department of Driver Services and the Social Security Administration that information is then reported back the next morning so the Registrars physically wouldn’t have that information and so until the next morning.”

Mr. Evans –“What if someone walks in to register to vote and presents their birth certificate when they’re registering to vote why shouldn’t that person be – why wouldn’t that person be allowed to vote that day?”

Mr. Taylor – “Well if the Registrar has done all that they can to determine eligibility of the individual to vote, I guess there’s the verification process that was mandated by HAVA in place, then you would have to go through that process and so even if you had the birth certificate at the time, I don’t know if you would have actually complied with federal and state law.”

Mr. Evans – So is there any relationship between the citizenship verification that is the subject of the DOD, DOJ decision?

Mr. Taylor – “Yes, sir, I believe that there is. In fact, the DOJ’s decision, I believe would necessitate the Board probably to dismiss this it would implement the process – or implement the system.”

Mr. Evans – “ I move to close Case Number 2008-098.”

Mr. Worley - “And I second that.”

Chairperson Handel – “ Can I ask just a legal question? – Why would we not table this since obviously the path to -- what ultimately happens to the process that the State is using is by no means concluded?”

Mr. Worley – “Well, I think that the issue here is the State might be able to challenge the Justice Department’s determination and use this process in the future by – as of today and from today back until the date the process was implemented there was no legal basis for it”

Chairperson Handel – “ Well that’s actually not true Mr. Worley. I’m under direct order from the Federal Courts to do it. And I’ve not gotten any order yet from the court so I’m kind of in limbo and I mean – again for this one SEB Member, I’m not going to vote to dismiss it. I’ll be absolutely amenable to tabling it until we sort through it. In fact I know that we don’t know the ultimate outcome of this today. Because I can assure you that for – without the verification process then early voting would not be something that would make any sense and the two – I mean, you can’t really do one without the other. So I would be amenable to table, but I’m not going to – this is one person that is not going to vote to dismiss this at this point.

Mr. McIver – “ Madam Chair?”

Chairperson Handel – “Yes?”

Mr. McIver – “To what extent – and I cast this question to the Members of the Board – does the current Supreme Court case of which Georgia has filed an brief stating it’s position. Anybody want to venture an opinion – ”

Mr. Evans – “I can highlight – Until that decision is handed down, I actually think if we don’t dismiss it we would be in violation of the Voting Rights Act. I think if we took any step forward further it’s a verification process that we are put on notice by the Department of Justice that it is unenforceable. We would ourselves be in the violation of the Voter’s Rights Acts.”

Mr. McIver – “I don’t see the harm in tabling myself. Letting the law develop and give us guidance so we can move forward. But anyway, that’s – I’m just one person’s opinion here.”

Chairperson Handel – “We have a motion and a second to dismiss. All in favor.”

The Board – “Aye.”

Chairperson Handel – “Opposed?”

Mr. Evans – “No.”

Chairperson Handel – “All right. I guess we’ll have no action on unless there’s a second motion. We can try and table that motion to hold this impending outcome of the various litigation and DOJ actions.

Mr. McIver – “I’ll make that motion, I agree its much like the argument of – how many angels can dance on the head of a pin – but this from a standpoint of lawyer, I’d be more comfortable if we officially table it but I guess if this motion doesn’t pass – it’s not going to at any rate – so, I assume that we’ll table this matter until another meeting when we have much better guidance from the prosecutor. ”

Chairperson Handel – “All right, second. All in favor.”

The Board – “Aye”

Chairperson Handel – “Opposed?”

The Board – “No.”

Chairperson Handel – “All right.”

Mr. Evans – “I think that actually has the effect of dismissal because I think it’s presented to us and we did not bind it over having been other occasions and motions and had it gotten – we’ll leave that up to the Complainants or the Respondents– ”

Mr. Evans – “Or Respondents, yes.”

Chairperson Handel – “ Next case is 2008 Number 122, Paulding County.

Mr. Harvey – “The complainant in this case is Ms. Linda Evans. The allegation is that a Mr. Detscher went to vote in the November 4<sup>th</sup>, 2008 General Election and he was told that he already voted by absentee ballot. He, however, was allowed to cast a provisional ballot. What was ultimately determined was his son, who had the same name although he was Mr. Detscher, II had voted early. He just would come up wrong in the system, allowed to cast a provisional vote and his provisional vote was counted and it is recommended that this case be closed. ”

Mr. Evans – “So move.”

Mr. Worley – “Second. ”

Chairperson Handel – “Second. All in favor.”

The Board – “Aye.”

Chairperson Handel – “All right, the next item is 2008, Number 127, City of Arlington.



Mr. Harvey – “The claimant in this case was the voter, Gay Williams. It’s almost a carbon copy of the previous case. Again, Gay Williams went to vote and was told they had already voted absentee. She said she had not. She was allowed to vote provisional ballot. It was accepted and she received credit. So, it’s recommended this case be closed also.”

Chairperson Handel – “All right, a motion on this one.”

Mr. Worley- “All right, before we deal with this one, Mr. Harvey, can you explain why the City of Arlington is the Respondent and this is the November General Election?”

Mr. Harvey – “It was – No, sir, I can’t. I think that one was the title it was given. The Respondent was the poll manager. ”

Mr. Worley – Okay. All right.

Chairperson Handel – “It was an Arlington precinct too that’s how they gave it that case title.

Mr. Worley – “I make a motion to close the case.”

Mr. McIver - “Second.”

Chairperson Handel – “Motion and a second, any questions?”

The Board – [No response.]

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed.”

The Board – [No response.]

Chairperson Handel – “The next case is Number 2008-133 Lowndes County.”

Mr. Harvey- “The complainant was Jeff Cox the Elections Superintendent. The allegation were that an employee with the Department of Elections had not done mandatory L&A testing of the DRE’s and also that same employee had possibly purged a file from a touch screen computer. What happened is when Laura Gallegos, Respondent, was doing the L&A testing, she did L&A as she had been instructed which was not necessarily the step-by-step form which was mandated and she didn’t complete all the steps. Touch Screen Unit Number 17 was found to have a printing defect. It’s card was removed and the machine was sent back to Premier for corrections, repairs, it was never used in the Elections. The card for that machine had 947 votes on it, test votes. It had not been deleted. When the memory cards were gathered together for the election, Card Number 17 ended up with the memory card that bore the result from the election that there 947 more votes cast than should have been. They immediately called KSU. They got a

technician down there who diagnosed the problem. In speaking with Ms. Gallegos and going with her through steps, she completed a process at his direction and did purge a file and however there was no – there didn't appear to be any intent for her to try destroy any kind of evidence. The facts are it appears that she violated 21-2-379 for failing to thoroughly test each 32 DRE units on the absentee ballots precinct and that she violated State Board Rule for – and again failing to follow the mandated State procedures and that was 183-112.02.3(b)1ii and then the last one is the following code 183-112.023(b)1iii but failing to make certification stating which DRE unit system counter DRA unit and elections counter and each vote register set at zero. The other possible violation is that on the form that she used to show custodian certification form for the touch screen units – she put somebody else's initials – Gena Lofton, as having done it with her. Ms. Lofton did not, in fact, initial that page and therefore, Ms. Gallegos possibly provided false information in violation of that code section. And again, there was no evidence according to KSU there was any type of intentional purging of any records. Ms. Gallegos is no longer working for Lowndes County and it is recommended this case --that she be bound over to the Attorney General's Office for appropriate sanctions.

Mr. Evans – “So moved.”

Mr. Worley – “Second.”

Chairperson Handel – “I have a motion seconded. Now, I saw Deb. Did you want to add anything? Anyone else here to speak on this, if so you need to come on up.

Ms. Cox – “I'm here only to answer questions as instructed by my Board. The one Board Member that did attend, just got appointed yesterday, so?”

Chairperson Handel – “Welcome.”

Ms. Cox – “She's in shock right now. So I'll answer questions.”

[ Audience erupts in laughter. ]

Chairperson Handel – “ Don't run, we need good people, don't run away, it's all good. Yes, ma'am.”

Ms. Gallegos – “Hi, my name is Laura Gallegos, 2435 Rock (inaudible) Road Valdosta, Georgia. In testing the machine as I was told and taught. I found that the printer had been malfunctioned [sic], I did it twice, I ran it by my supervisor, I did as I was told. I was told to put that card in the (inaudible) with a note and that Susan Malham, the Assistant Supervisor will run it through Kennesaw on election night. Election night I was not in the office when those cards were transmitted into the computer. I was nowhere near the office. I was actually held up at a precinct but yet when all this came through, all of a sudden all the fault got put on me. In testing, testings are done by Gena and myself and that election path also. And actually what had happened was the paperwork had not been filled out the day the investigators came, nor was the absentee paperwork when the state investigators came, which none of this was mentioned. When testing the machine, I was not in the office when those cards was put in the machines and eight

years I had been with the office. We had never had a problem. That card should have been recognized that there were results on it because it had been left with the test results in the memory but yet the one who was put in charge was Susan Malham that – when she came to our office, she couldn't even turn on a computer. So on election night, I was not in the office, number one, but all – everything was put on me when the results was coming up 947 votes off – over, -- which was not even caught by our office when after T-Certification was done, it was sent by the state. So I mean in eight years, I've been in the office, I have witnessed a lot of things in our office where things were very hostile between Deb and myself, which I told her to her face. I did not agree with things she did in that office – which will later come out in court but –

Chairperson Handel – “That's not for this venue. So we're not going to be interested in your personnel disputes.”

Ms. Gallegos – “Well, the paperwork that was in question, nothing was filled out when the state investigated, the absentee paperwork nor that paperwork. I mean there was more into it than just that, yet I'm the one being violated, yet I followed the chain of command but I'm the one being charged.

Chairperson Handel – “Okay, any questions.”

Mr. Evans – “So what will happen is you'll actually get a chance to make all those points and then it will come back to us. So if you're right, this is the opportunity to do that.”

Chairperson Handel – “Do you want to add anything?”

Ms. Cox – “Yes, please. What I have left here at the desk for all the Board Members, is a list of remedial actions we took in Lowndes County (inaudible) and a list with documentation provided why the situation occurred. We probably don't want to go into that in public.”

Mr. Worley – “Why not?”

Ms. Cox – “It's already been threatened as a court case.

Mr. Worley – “All right never mind.”

Ms. Cox – “Investigator McBrayer did a very thorough job. He's more than competent and he has all the documentation, to back up the report that he filed. If you have any questions of me, I'll be more than happy to answer them.”

Chairperson Handel – “What's this stacked up. This big stack?”

Ms. Cox – “That the background information on why the situation was allowed to occur.”

Chairperson Handel – “Okay, all right. Is there anyone else?”

The Audience:[ No response. ]

Chairperson Handel – “ All right. Thank you.”

[Whereupon, a report was submitted to the Board.”

Mr. McIver – “Madam Chair,?”

Chairperson Handel – “Mr. McIver?”

Mr. McIver – “It appears to be a classic case for bind over and the process is well-designed to resolve issues such as this and for that reason, I intend to vote for the motion.”

Chairperson Handel – “Is that your motion?”

Mr. McIver – “Motion seconded.”

Chairperson Handel – “Oh we did it. I’m sorry, I missed that. Motion seconded, any other questions?”

The Board – [No response.]

Chairperson Handel – “All right, all in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [No response.]

Chairperson Handel – “All right, very good. Next is 2009, Number 11, City of Columbus.”

Ms. LaGrua – “Yes, ma’am. I believe Nancy Boren’s here as well her county attorney’s here from Muscogee County. This involves the November 8, 2008 General Election. Complainant was Tommy Frye and the Respondent is Lynn Pollock, the Operations Manager, of the Muscogee County Board of Elections and Registration. The allegations were Michael Frye requested an absentee ballot and never received one. Essentially what happened was on October 7<sup>th</sup>, 2008 Tommy Frye , Michael Frye’s father voted early and turned in his son’s absentee ballot application. His son was in school in Athens. A few weeks later having not received the ballot, the son, the father called back and was told the application was still being processed and it should be received in the next few days. The night before the election, they still had not received the absentee ballot. Mr. Frye, Sr., the father of Michael, called again and was told by Ms. Pollock he should have received the application, they had been busy and only assumed it got lost in the shuffle. I’ve spoken to Nancy Boren, who’s the Director there and apparently – it was very hectic there potentially on the same day, last day of registration – I’ll let – I don’t want to speak for them since they’re here and they can speak. It appears that this should be forwarded to

the Attorney General's Office for fine and reprimand or other words what's appropriate." And as I understand it from speaking to Ms. Boren, they have reviewed the situation and already instituted procedures to help ensure that it doesn't happen in the future.

Chairperson Handel – "Come on up."

Ms. DeLoach - "Hi, I'm Jamie DeLoach. I'm the Assistant City Attorney for Columbus, Georgia. Ms. Boren is ready to answer your questions. The November election had an exceedingly large absentee turnout. We got a notice from the State's office that we needed to prepare for this large turn out and Ms. Boren took the proper steps and brought in additional employees. On the first day of absentee balloting we, in fact, experienced an even greater absentee turn out than was expected. Ms. Boren immediately took assessment and brought in additional employees. She also took steps -- we have a 311 Citizens Service Call Number – I think you call it 311 and this center participated in answering the phones because the phones at our Elections Office was overwhelmed with phone calls. The evidence in the investigation that we received indicated that the father voted by absentee ballot on October 7<sup>th</sup>, at which time he alleged submission of an absentee ballot application on behalf of his son and that he made a call to the 311 enter and was told that the applications were still being processed and the balance would be sent out in three days. At this point, the voter did have notice of an unusual situation and was given a timetable by the government in which time he could check to make sure the application had been received and appropriately handled. However, Mr. Tommy Frye waited until Elections Day to check. Mr. Frye was unable to identify anybody at our Elections Office as the Registrar or clerk that waited upon him. Ms. Boren undertook an exhausting search for the ballot's application. She interviewed both the temporary and permanent employees. She did e-mail searches, an office search reviewing all the documents that they had obviously reviewed the voters registration database as well as all absentee ballot applications and she was unable to determine if there was any record of all of this absentee ballot application. There is testimony in that investigators report, [ reading ] Lynn Pollock had application by Mr. Frye. I have an affidavit from her in which she states, she is essentially a customer service person and she would never contradict the word of a citizen or a voter because her job is to deliver quality service but she acknowledges that she has no information or access to any records that in fact the office ever actually received the application. The statute with which Ms. Boren is charged with violated speaks in terms of a clerk or Registrar receiving a ballot and they have to act accordingly with that. There is absolutely no evidence in this case this particular Registrar, Ms. Boren or Ms. Pollock received the actual ballot application and when you look at the statute, it does not appear to be creating supervisory liability. Ms. Boren is a supervisor but she is not a Chief Registrar. She is just a Registrar. Now, if our county were charged with multiple violations, y'all could easily believe there was a systemic problem and the supervisory liability would be appropriate under the circumstances. But we have an unusual situation and only a single allegation and although every vote is absolutely vital in this situation, it does not indicate a systemic problem where we should impose liability on an individual where there's absolutely no evidence that this individual did anything wrong. Finally, Ms. Boren stands ready to and indicate to you the investigation that she undertook as well as the additional procedures she has identified that will further improve the absentee balloting process in Muscogee County.

Ms. Boren – “Good afternoon. Would you like to hear it or?”

Chairperson Handel – “Do y’all have a login system?”

Mr. Evans – “What is the protocol, how are applications is treated?”

Ms. Boren – How an application is treated when a person walks in with their absentee ballot application, is that what you’re saying? First we ensure that they’re the proper person to make an application for that absentee ballot. In this case it was the father of a son, or he alleges he made application for an absentee ballot for his son who was away at the University of Georgia. The day that he was in our office was October the 7<sup>th</sup>. While he had no specific memory of the date that he submitted that application we have to assume that it is the day of October 7<sup>th</sup> which is the day he cast his absentee ballot in person. So we’re going with the October 7<sup>th</sup> date. So when he walked in – It also coincided with the voter registration deadline for the November General Election. So obviously we’re handling a number of pieces of paper. We have established boxes, one for absentee ballot applications and one for voter registration applications and when the person would come in with their form, we would put it in the appropriate box. And once we received those applications then they were sent to our Registrars for processing and verified that they should receive the ballot.

Mr. McIver – “Was it logged in anyway? How do you track this?”

Ms. Boren – “We don’t log each individual application. The applications are logged once they’re entered into the State Voter Registration System.” Our process is we received an application – until you verify that that person is a voter in your county and is eligible to receive an absentee ballot, it’s just an application at that point. So once we made the verification that that person was indeed a registered voter, and they have made an application for an absentee ballot. Then we complete that application and yes they are a voter, yes they can receive an absentee ballot and here’s the precinct in which they’re registered and here’s the district combination for the ballot they should receive and then Registrar who approves that, initials it. That form is then entered into Screen 16 which is our (inaudible) sub system which says that we’ve received an application. That information is then forwarded to the Secretary of State’s Website on the Poll Locator where that person can actually track how their application is proceeding through the process. When a person makes application and wants to check to make sure that we have received the application, they can go to Poll Locator to review it. But then once that application is approved, and the information is put into the system then we segregate each application by precinct. We have boxes in which we put the applications in for each precinct. And then once they’re segregated, by precinct they’re issued a ballot and then that ballot number is then added to the absentee sub system again and the ballot is processed to be mailed out.

Mr. McIver – “Now, is that consistent with the training you have received?”

Ms. Boren – “They’re not specific with how we should handle the process. The only thing we do we have to the process the application within a certain amount of time and then once they are processed, we have to mail the ballots out within a certain period of time. There are no specific

guidelines as to how to best handle these procedures in each individual office. We do have practice procedures that we just do share with one another. But as far as specific guideline, there aren't."

Mr. Worley – "I have a question, do you have an absentee ballot clerk?"

Ms. Boren – "I have several absentee ballot clerks."

Mr. Worley – "And were they the person you would argue should be responsible for this? Your lawyer's response is you're really not responsible."

Ms. Boren – "I'm the Director of the department. My chief Registrar is a collective five-member Board of Elections and Registration. We have a combined Board of Elections and Registration. The Chief Registrar would be that collected five-member board. In essence it would be that five-member board who ultimately would face, I guess, the fine or the charges or whatever. I don't think it would be individually each Registrar or absentee ballot clerk, Because ultimately the Board does handle those issues."

Chairperson Handel – "We have, colleagues, the affidavit from Lynn Pollock , I'm passing down and we should probably go ahead admit that into the record if I can get a motion on that?"

Mr. McIver – "I move to admit."

Mr. Worley – "Second."

Chairperson Handel – "All in favor."

The Board – "Aye."

Chairperson Handel – "All right, any opposed?"

The Board – [No response.]

Chairperson Handel – "And is there anyone else here to speak, is Mr. Frye or his family here?"

[ No response.]

Ms. LaGrua – "May I make a comment?"

Chairperson Handel – "Yes, sure."

Ms. Boren – "Our 311System was answering our telephone calls during the absentee voting period. As such they made a record of the voters who called in with issues of not receiving a ballot, or can you tell me when my ballot will be mailed out. We did an extensive search of those 311 Call Center Records and while there was no knowledge of the fact that they did not put every call in the system, we do have one call from Mr. Frye and it was on Election morning at

7:39 a.m. And at time he was advised that the only way his son would be able to cast a ballot on that day was if someone was to drive from Athens to vote in his precinct,” We have no other record of Mr. Frye contacting our 311 Center but I certainly acknowledge the fact of perhaps that he could have. In looking at the seriousness of this and hoping we can improve our process with this, we have looked at ways that we can probably tighten down the process a bit. One of those ways is to certainly advertise the Secretary of State’s Website, The Poll Locator, where the voter can actually track twenty-four seven their application, when their ballot was mailed and when their ballot was received in our office. That is not something that we did in November and December and had we done that Mr. Frye, Michael and Tommy both could have tracked those absentee ballots and would have known prior to election eve that Mr. Frye’s application had not been processed. So as part of our ongoing PR service to our county, we are going to advertise that and say if you want to know what the status of your ballot is, please look at this website. Secondly, a long-term goal for us for the next presidential election, we will be in a larger site. We do have a different building it’s going to be a Citizens Service Center that will better accommodate voters and our process. As you know sometimes we’re kind of small other times we beef up to each process and we have not had the space, the physical space to accommodate this for quite some time. So for the next presidential, we will have that space. And then the third thing will be all applications that are processed in our office, and again this is Registrar’s discretion or our director’s discretion, everything will be color-coded. So absentee ballot applications that come into our office by fax, by delivery or the ones that we mail out will be a color and we’re looking at yellow. So that even a trained temporary who’s only been there a week will know if a person comes in with a voter registration form, if it is a deadline. If they come in with a voter registration form and it’s white and they come in with a yellow form, even that temporary employee will be able to say, this goes in the yellow box, this goes in the white box. And again, we did go through all 3,000 of our absentee ballot applications to determine whether or not Mr. Frye’s application had been attached to another one of our absentee ballots by mistake and painstakingly went through all 30,000 of those ballots because we wanted to identify what had happened so that we can fix it and we were not able to find that application.”

Chairperson Handel – “If I can ask from Shawn, so we don’t know, there’s nothing in your office and nothing from the investigation to even say, I’m not disputing that it was sent in, but we don’t know even know if it was or it wasn’t?”

Ms. LaGrua – “We cannot confirm or deny based on from our investigation.”

Chairperson Handel – “I am, however, particularly impressed that also with the volume that you received that – and now this hasn’t always happened with us but sometimes with individuals before the SEB but here you had one incident and you immediately went into action to do remedial work and to improve the process even more and – ladies and gentlemen, this is why I don’t necessarily always speak out about certain election structures, but this is why Ms. Nancy Boren is one of our best. So I appreciate your quick action and addressing this because you are right that we don’t ever want to see even one vote or one individual feel that their vote was not able to be cast.”

Ms. Boren – “Is that it?”



Chairperson Handel – “Anything else? Colleagues any questions?”

Ms. Boren – “So the outcome -- did we hear?”

[ Audience erupts in laughter.]

Chairperson Handel – “I don’t know if we have anything one way or the other to specifically refer –”

Mr. Worley - “Well,-- ”

Chairperson Handel – “ I think I’ll hear from my colleagues.”

Mr. Worley – “Okay. I think when we have a dispute here. We have evidence, testimony to the investigator for Mr. Frye it was turned in. So there appears to be a potential violation . It doesn’t appear that the Respondent is the correct Respondent, however, the Board of Elections and Registration should have been Respondent. So -- I don’t know that we should refer it with the wrong Respondent. We can ask the County Attorney on behalf of the Board of Elections to agree to waive notice of or to basically agree with if they had gotten proper notice with this so that we then could refer it on.”

Ms. DeLoach – “I’m so sorry but I haven’t spoken with the Board, I’ve only spoken with Ms. Malone, so I can’t waive anything without speaking to my client. ”

Mr. Worley – “ All right.”

Ms. DeLoach – “ I think the statute still speaks in terms of the duty of a person --”

Mr. Worley – “I don’t buy that argument at all, frankly, I will tell you what my view of the case is. The office is responsible, the Board is responsible for what happened and we have plenty of cases brought before us everyday where the Board is responsible even though it wasn’t the actually Members of the Board that actually did something. So this supervisory liability issue that your raise, I don’t agree with that at all. With that being said, my view is this is a one-time thing. It certainly appears to be a violation it ought to be sent to the Attorney General’s Office where we ought to do no more than send a letter pointing out that it was a violation and knowing that you won’t do this again. So my view would be that if you would agree to waive that, that we can get this resolved pretty quickly if not -- ”

Ms. DeLoach – “Yes, sir – I will waive.”

Mr. Worley – “You can come back for another meeting -- ”

Ms. DeLoach – “No, sir, I will waive. ”

Chairperson Handel – “Until we can send the letter?”

Mr. Worley – “Right.

Mr. McIver – “Then I move we panel this matter by means of the Letter of Instruction consistent with my earlier motion today.”

Chairperson Handel – “Second. And I would hope that we would also in the letter acknowledge also the steps that have been taken and the things to be done—”

Mr. Worley – “And certainly we would acknowledge in the letter that you’ve really gone above and beyond to try to rectify this in the future.”

Chairperson Handel – “Motion and a second. All in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed.”

Ms. DeLoach – “Thank you.”

Chairperson Handel – “Okay. Our next 2009, Number 19, White County.”

Ms. LaGrua – “Ma’am this involved the 2008 General Election, the complainant was Matthew Wooten, the Respondents would be Garrison Baker White County Probate Court, Lisa Manning the White County Chief Deputy Registrar. The allegation was from Mr. Wooten was who lives Argentina, temporarily was in Argentina. The absentee ballot that he received had been tampered with, that he received an absentee ballot that had the office of the president, one U.S Senate seat, and one PSC Candidate had already been voted when he received it. When the Probate Court Judge, Judge Baker got this allegation, he initially launched his own investigation. He went through the process made sure everything was done correctly, interviewed all of his personnel within the Registrar’s Office, found that everything had been handled appropriately. We went in behind and did our own investigation, did the interviews individually and we found that all the procedures had been properly handled. This office is in the courthouse and there’s a number of other offices with it. The ballots were taped when they were sent out. There was a piece of tape placed across the back of the envelope that did not appear to be tampered with but easily could have – something could have happened between when it was sent out and when it came back. I’m in no way disputing Mr. Wooten’s representation that when he received the ballot, there were a number of candidates that had been marked. Through our investigation, however, we cannot substantiate that anyone in the White County Registrar’s Office, Probate Court had anything to do with any of the problems. He was offered a new ballot and never responded to Judge Baker when he was offered a new ballot. Based on all of that, we would recommend that this case be closed. ”

Chairperson Handel – “Anyone here to speak on this, come on up?”

Judge Baker – “I’m Judge Baker --”

Chairperson Handel – “Hey there.”

Judge Baker – “—and Lisa our Chief Registrar. We didn’t come with a prepared statement. We came to make ourselves available to the Board if you have any questions in terms of the investigation we conducted. We certainly, it’s an unfortunate situation --”

Chairperson Handel – “—Anything that you want to add to what Ms. LaGrua presented?”

Judge Baker – “We stand – We stand by the investigation --”

Chairperson Handel – “Okay. All right. Mr. Worley.”

Mr. Worley – “I have a question. The investigator reports that Mr. Wooten was offered a substitute ballot but he never responded to the offer. This was five days before the election that he contacted you all? How was – What was proposed as to how to get him a ballot in Argentina?”

Judge Baker – “We were in communication with Mr. Wooten. When the complaint come in by e-mail so we were e-mailing almost immediately back and forth and contacting the County Attorney. We offered through the Federal Elections assistance with a ballot to be sent to Mr. Wooten and we explained that process procedure to him and we didn’t get very far.”

Chairperson Handel – “Any questions?”

Mr. Worley – “Okay. Did we talk to Mr. Wooten?”

Ms. LaGrua – “Yes.”

Judge Baker – “Yes, sir.”

Mr. Worley – “So what is he saying?”

Mr. Harvey – “I spoke with Mr. Wooten about the same time and he said that he had gotten his envelope and it had the presidential, senator and PSC Candidate filled out in blue ink. He said that his ballot didn’t appear to be tampered with when he received it. There wasn’t any indication that it had been opened or anything like that and he didn’t have any – He was obviously not happy about it -- ”

Mr. Evans-“Do we have that ballot?”

Mr. Harvey – “Yes, sir.”

Mr. Worley – “Was it marked?”

Mr. Harvey – “It was.”

Mr. Worley – “So how could that have happened?”

Mr. Harvey –[ No response --]

Mr. Evans – No, I’m just saying, logically, there’s a point where you have a ballot and it’s in somebody’s hand and it then it leaves. So part of what we always want our investigators to do is to track where that happened because premarked ballots are serious business -- and you know, I can’t state for anybody else but that’s not the kind of thing I can just let go. And if it means we turn over every rock and playground to make sure that we know where it didn’t happen that’s something but premarked ballots are -- we just -- you know, we either have to have eventually conclude that Mr. Wooten, who sounds like a generally reliable person and not a reason to indicate otherwise who is producing a ballot that has been marked is telling us the truth and then we know that we have a culprit somewhere and we have to figure out who it is. You can’t just say, gee the bank is missing money but we don’t know who took it.”

Mr. Harvey – “We identified the actual clerk who handled it, she remembered handling it and sending it to Argentina. She denied marking it herself and denied seeing that it was marked. And then he reported that it was marked when he received it.”

Ms. Manning – “I was the clerk – I mean I was the person that handled the ballot and I assure you, I did not mark it. And at the time – my office is inside the Tax Commissioner’s Office – My office is right inside the Tax Commissioner Office. My desk is right there in the middle of the office. You know, I have tag clerks around me, people coming into the counter, I have my temporary help there and if I was marking a ballot I think somebody would have seen it. And I assure you, I did not mark a ballot. I remember -- he got his -- we got his application late and I remember I said, I need to get this done and to the Post Office before a certain time so that we can get it to him. I prepared it and then one of my temporary workers she took it to the mailbox. And she was interviewed and I was interviewed with a couple of other ladies in my office, interviewed. So we did tape it. It was not stuck. It wasn’t sealed, so you know if anything happened between the time that it left my office and the time he got it, I don’t know. ”

Mr. Evans – “Well, do we think he’s telling the truth?”

Mr. Harvey – “I don’t have any reason to believe he’s not telling the truth, it’s interesting he was a fullback scholar from the University of Georgia he was doing studies in election corruption.”

Mr. Evans – “The University of Georgia? Well, that takes care of that?”

[Audience erupts into laughter.]

Mr. Harvey – “I believe it’s the University of Georgia, I’d have to go back and check but that he was a fullback (inaudible)”scholar and he pointed out to me that he was down in Central South America – actually, studying election corruption and his next e-mail replies back to me were going to be sent to the AJC and the New York Times. So, I can’t question his integrity but that’s another part of the puzzle.”

Mr. Evans – “So when the ballot left you, it was unmarked and it was in a taped envelope, you gave it to an assistant, who took it to the post office.”

The Clerk – “Yes, with another ballot I wanted to get in the mail that day because when you’re a college student, we make sure it’s got in the mail so it can get there in time and get back.”

Ms. LaGrua – “And according to Mr. Wooten when he received it in the mail, it did not appear to be tampered with or anything happened to the tape. I just don’t know if there’s any answer unfortunately here. I don’t know where else to go and investigate.”

Mr. Evans – “Well these are the kinds of things that Tex and Dave and I deal with regularly which are twofold. Somebody’s probably not telling the truth and the question is, how do you resolve it. And we don’t have them both in front of us. We can’t tell.”

Mr. Worley – “Well, we don’t know who the other person is other than Mr. Wooten to be fair. I don’t expect that Judge Baker or --”

Mr. Evans – “No, I agree.”

Judge Baker – “Believe it or not, I coached the young man in little league baseball for 12 years before he went off to school and graduated with one of my sons. So as far as it goes, he was an upstanding young man. I don’t have any reason to doubt his statement and I’m not sure when his ballot arrived. It arrived in a room or dorm where he was at and someone could have gotten a hold of it trying to play a joke with him. I’m not sure. I just know from our end of conducting the investigation we followed all the procedures and everything that we uncovered in our investigation showed we followed the proper procedures throughout the absentee process and that’s as far as I can tell you.”

Mr. Worley – “Did you receive any other complaints from other voters during the election they had problems with their ballots --”

Judge Baker – “No, sir”

Chairperson Handel – “Did it appear -- You have the actual ballot, did it appear it was untaped and retaped?”

Judge Baker – “I don’t believe so.”

Mr. Harvey - “I do believe he said it was delivered to a friend’s house or where he was staying, apparently he was in and out he was in different locations. It was harder to keep contact with him. I don’t know that he was always in one place or that it would have come directly to him. He didn’t make any allegation that anybody else would have handled it but in the conversations both by phone and e-mail he would talk about -- he’d go out for three or four days and then come back and the mail was sent to a friend’s house.”

Chairperson Handel – “ And he was doing a study, you said? On?”

Mr. Harvey – “On some kind of --He pointed out to me how ironic it was that he was down in Central or South America studying corruption and election fraud. And this happened to him.”

Chairperson Handel – “And then what was the thing about the New York Times?”

Mr. Harvey – “He said he was going to send a copy of his complaint to the New York Times and the AJC. And I also got with the Elections Division and tried to e-mail him all the -- and this was – I believe on the Friday before the election, tried to e-mail him information on writing ballots and tried to get him as much information as possible to allow him to send the ballot in.”

Chairperson Handel – “Do you think there’s anything further that you could investigate?”

Mr. Harvey – “Probably not without going to Argentina.”

[Audience erupts in laughter.]

Ms. LaGrua – “I’d be happy to take him.”

Chairperson Handel – “I’m sure. All the investigators stood up on that one. Calandra , anything that the AG’s Office would have more access to than investigators?”

Ms. Almond– “No, we probably have less.”

Chairperson Handel – “So if we referred it to you, you wouldn’t be able to do anything anyway?”

Ms. Almond – “No.”

Chairperson Handel – “All right, y’all want to try a motion?”

Mr. Worley – “Well, I’ll make a motion that we close the case, while there may have been a violation, there’s no indication whatsoever of who the violator may have been.”

Chairperson Handel – “Motioned seconded, questions or comments?”

The Board – [ No response.]

Chairperson Handel – “ All in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

Randy Evans – “ No.”

Chairperson Handel – “The next case is --”

Mr. McIver – “May I interrupt? “

Chairperson Handel – “Yes, absolutely.”

Mr. McIver – “I’d like the record to reflect, I’ll like to abstain from that case – most of it.”

Chairperson Handel – “Case Number – 080002.”

Ms. LaGrua – “This is a Memo Case. Henry County. Madam Chair, it’s Henry County. The complainants were Richard and Michele Law. The Respondent is Ms. Frances Jackson, the Elections Coordinator. The allegations were they were issued two different ballot styles, even though they live at the same address. What we found out was Mrs. Law voted in advanced voting and said there were four Board Members on her ballot and when Mr. Law voted on election day, he did not have that option. The only thing that we were able to determine that potentially happened though we cannot prove this is that during early voting the voter access card that was created by one of the poll workers and if they put the wrong combo in, there could have been the wrong combination which would have shown the School Board on the advanced voting that Mr. Law would not have seen on Election Day. Unfortunately, there was no way for us to simply show whether or not that happened – as I understand it. My recommendations generally aren’t this being a Letter of Instruction issued directing some training around the need for accuracy during the looking up of these folks during the advanced voting period.”

Chairperson Handel – “Is there anyone here to speak on this?”

The Audience – [ No response. ]

Chairperson Handel – “Anyone here from Henry County?”

The Audience – [No response.]

Ms. LaGrua – “ I’m sorry, that doesn’t --”

Chairperson Handel – “Okay, so is there anyone here from Henry?”

The Audience – [ No response.]

Chairperson Handel – “Did they get notice that this was coming?”

Ms. LaGrua – “They did. Apparently, I’m sorry. Mr. Brown is saying that” Ms. Shellnutt -- the director -- Go ahead Mr. Brown, if you could.”

Mr. Brown – “ Ms. Janet Shellnutt knew about the meeting and wanted to come but she was sick. She wanted to come this morning. She called me and this morning.”

Chairperson Handel – “Well, if that’s the case, if she wanted to be here to comment on it, probably want to go ahead and give it the obligatory continuance.”

Mr. Evans – “I so move.”

Mr. McIver – “Second.”

Chairperson Handel – “All in favor.”

The Board – “Aye.”

Chairperson Handel – “Any opposed?”

The Board – [ No response.]

Chairperson Handel – “This is another Memo Case Number 0806.”

Ms. LaGrua – “This was the November 2008 General Election and in Pierce County. Early on, we got a complaint from Sandra Boatwright Pierce County Registrar against a Bridgett Jacobs that she had been paid to vote for a particular presidential candidate. We had a good deal of trouble initially to locating her. We finally did. What happened was – When Ms. Jacobs came into vote, initially her identity her residence and all could not be verified. She became upset when the Registrar could not allow her to vote at that time and now and upset and said she wasn’t going to get her 25 dollars for voting. Subsequently, DFACS, I believe it was sent over verification of her address the Identification Card was issued, she was registered to vote. We tracked her down. She denied completely making that statement. She did not vote in that election and in fact has never voted in Georgia. Candidly, there’s no doubt in my mind -- I shouldn’t say no doubt – There’s no reason for Ms. Boatwright to have called us and told us about this. It was the only allegation of the kind made that we have this election. However, based on the fact that she didn’t vote, there’s no way to show that she was offered any payment for voting and she denied making the statement. So it is recommended that this be closed at this time.”

Mr. Evans – “So moved.”

Mr. McIver – “Second.”

Chairperson Handel – “Are there any questions?”

The Board – [‘No response.]

Chairperson Handel – “ All in favor.”



The Board – “Aye.”

Chairperson Handel – “Any opposed.”

The Board – [‘No response.]

Chairperson Handel – “AG’s Report, update from Mr. Taylor.”

Mr. Taylor – “ Good afternoon to the Board. Before you I gave you earlier in meeting the list of the Special Elections that we had of the Elections Division that you are aware for the upcoming June 16, 2009 about the Special Elections. So I wanted to let everybody know what is coming up. Also at the last meeting I gave each of the Board Members and e-mailed a copy to Board Members who were not present at the last meeting. The several rules for your consideration, the process would be if you would like to consider those and proposed those as rules. The process would be essentially that the Board would vote on each one and decide whether you would want to post those for 30 days at which point, we make sure we get the notice out and those posted for comments and then the next scheduled Board Meeting you would consider those comments and decide whether to adopt those rules. If you have any questions about them individually, I can certainly go through them or very briefly or I can answer any questions you may have about them.”

Chairperson Handel – “If I might, what would be helpful would be if everyone would take a look at them and get Wes to comment on them so that we can go ahead because I think, Mr. Evans, as you pointed out, at our last meeting it is a rather lengthy process. We want to make sure that we have ample time for public input, so. Like it maybe is another two weeks sufficient for everybody to get Wes any additional comments? ”

Mr. Evans – “That’s fine with me.”

Chairperson Handel – “ That would be great. And if there’s anything in particular then he can coordinate with each of you try to get some action and be ready to go by our next meeting.”

Mr. McIver – “Madam Chair, a question for Mr. Taylor?”

Chairperson Handel – “Yes.”

Mr. McIver – “Have these rules been properly admitted to the various folks at the SEC before they come to us?”

Mr. Taylor – “Well actually that would be the first step in the process would be number one these -- Number one these have gone to the Attorney General’s Office. I have sent them over to Stephen and he sent them back already.”

Mr. McIver – “And he’s sent them back?”

Mr. Taylor – “He’s looked at these.”

Mr. McIver – “And he hasn’t had an issue with these?”

Mr. Taylor – “ The aspect of the first step in the process is the floor to vote whether they want to post them for public comment –“

Chairperson Handel – “But Wes, you did also get input from the county as well?”

Mr. Taylor- “ Oh, yes, ma’am these are all the issues, I’m sorry. ”

Mr. McIver –“The guys from DEOA?”

Mr. Taylor – I had talked with a number of election officials, yes sir, about all of these. A number of them you’ll see– are similar to what was in the Cleanup Bill. They’re are also appropriate of the rules to be considered by this Board. So yes, these all are issues that all the counties that I’ve heard from have been fined, yes, sir.

Chairperson Handel – “All right, any other items for me?”

Mr. Evans – “Sir, are you going to walk us through the Department of Justice Letter?”

Mr. Taylor – “I’m unsure what it is you’re asking, Mr. Evans.”

Mr. Evans – “Well you’ve had a pretty significant development. I would tend to thing making the Board on what the letter said what it’s basis is.”

Mr. Taylor – “Yes, sir. I’d be happy to. The Secretary of States Office received – well the Attorney General received at 7:30 Friday evening a letter from the Department of Justice denying preclearance for the Voter Verification Process that was established under HAVA –I’m sorry – that was established under HAVA to verify certain information on the Voter Registration Application. That information included first name, last name, date of birth, social security number – well the last four digits, driver’s license number, and whether the individual was a citizen on the Department of Driver Services database. And the Department of Justice denied preclearance of that process.”

Mr. Evans – “ I’m confused. So is it –Confused – So one troubling statement that’s in the letter – I just wanted to get – Did you participate in preparing our information to the Department of Justice?”

Mr. Taylor – “Yes.”

Mr. Evans – “So you could be the best person to help here. Is this idea that there’s a statistical significant discriminatory effect and if you have approximately -- although African Americans and white voters represent approximately equal shares of voter registrants, more than 60 percent more African Americans voters who registered during this period were flagged. So, is that right?”

Mr. Taylor – “Well, there’s two issues here. One is – I’m happy to go into whatever questions you have on this. We do have litigation that is still pending and is still in the discovery phase, so I’ve been informed by the Attorney General’s Office – I probably get into too much of the details, but I’m happy to talk about it with you. ”

Mr. Evans – “I’m going to interrupt you because this is -- in all fairness, I raised this in Executive Session and I was told it was more appropriate to talk about it in Open Meeting and now we’re in an Open Meeting I’m being told, it’s more appropriate to talk about it in the context of litigation. I’ll I want to know is --”

Mr. Taylor – “Yes, sir, it’s not the SEC’s litigation, it’s the litigation of the Secretary of State. So therefore it wouldn’t matter if it was in Executive Session or here.”

Mr. Evans – “Oh, it would.”

Mr. Taylor – “It’s pending litigation involving SEC.”

Mr. Evans – “The bottom line is, is this a true statement or not – That African American are disproportionately impacted by the – by the Voter Verification Program?”

Mr. Taylor – “ The was the Voter Verification Process was implemented, Mr. Evans, is that we take the information that’s provided on the Voter Registration Application and match it to the Department of Driver Services database that’s it. That’s the some total of it. Now, we provided all of the individuals who actually came back and said their information didn’t match exactly between those two databases. What the specific percentages and numbers are and all that, I don’t know but I can tell you that, that portion of the Department of Driver Services Letter is referencing the overall –“

Chairperson Handel –“DOJJ letter.”

Mr. Taylor – “Yes, ma’am.”

Chairperson Handel –“You said Driver Services.”

Mr. Taylor – “I’m sorry, DOJ letter -- is that portion of the process that deals with the first name, last name, date of birth, social security number and driver’s license number. And that is the same process that almost all states in the Union are having to do currently under HAVA.”

Mr. Evans – “The confusing part for me on this is this, if this is merely the result of errors of transposition, numbers get inverted, data gets inputted, there shouldn’t be a statistical variation based on race. It should spread evenly amongst whoever the registrants or applicants are and yet, what we’re told here that is, in fact, it does vary by race, that in fact African Americans are disproportionately impacted. And the question I have for you is, is that true? Because if it is true it is an indefensible program –”

Mr. Simms – “Mr. Evans, if I may, Rob Simms Deputy Secretary of State. In response to your questions we can’t really comment as to what the DOJ says the statistics analysis shows because they did not share with us the statistical analysis.”

Mr. Worley – “Well, do we know? ”

Mr. Simms – “Have you done your own statistics? Excuse me for interrupting you.”

Mr. Evans – “No, you asked the question that I was going to ask. We bear the burden of proof, right? ”

Mr. Simms– “I mean we submitted it for preclearance, sure.”

Mr. Evans – “Okay. And did we prepare it for statistical analysis in order to fulfill our burden of proof?”

Mr. Simms – “Did we fulfill a third-party statistical analysis or other evaluation of the data, no. We just simply provided the data.”

Mr. Evans – “Then how could be sustain our burden of proof – to show that we --”

Mr. Simms – “I can’t speak to that Mr. Evans, that’s a legal question that frankly might be best left to the Attorney General’s Office since the Attorney General’s Office is ultimately responsible for the preclearance submission.”

Mr. Evans – “It’s not a legal question.”

Mr. Simms – “Well, we just disagree on that. I can’t answer that.”

Mr. Evans – “We don’t just disagree on that.”

Mr. Simms – “I still can’t answer the question.”

Mr. Evans – “So for the minutes of this Board, today, your staff can’t even provide to the Board a defense that this a statistically neutral application of a verification process?”

Chairperson Handel –“ Mr. Evans, if I might, the process is completely neutral in that it matches data to data. That is it, data to data. We have no idea how it’s going to come out. We simply take names, address, the last four digits of a social or the driver’s license number and match it. If they do not match, then it comes back as a non-match. And I think any reasonable person would say, Gosh we have a name that does not match a driver’s license, that needs to be followed up on and in fact it is more than what a reasonable person would call for, it is what the federal Help America Vote Act requires us to do which was how we got to this place in the first place, if I can remind everyone, with a letter that was sent to the state some three months after I came into office informing the state that it was not in compliance with HAVA and we had better get into compliance with HAVA and so we did. And this process has been in place for well over eight or nine months and before then we went to court – in Federal District Court and Mr. Dunn, if

you could help us from the Attorney General's Office, because I realize I've got litigation going on and I need to do what my attorney tells me. We went into court – and I want to remind this body that the process that was developed, it was laid out in the court before the three-judge panel. DOJ was in the room and in fact went into a private room with the plaintiffs in the case to review in detail the process and came back out and we left that day with a directive from the three-judge panel to indeed continue doing the process because of the state's inherent and deep interest in ensuring that individuals' registering to vote or A) who they say they are, and B) citizens of this country."

Mr. Evans – "So I take it from that, that we did not do a statistical analysis in support of our application to determine whether or not the Voter Verification Program did or did not have a disproportionate impact?"

Mr. Simms – "Mr. Evans, if I may, the questions you are raising are a part of something that was not originally submitted in preclearance. We were asked to submit for preclearance the citizenship verification not the R-1 Report."

Mr. Evans – "But listen, I've been on this Board a long time. I know that disparate impact is a critical part of sustaining your burden. And I know that statistically that in order for us to pass Section 5 preclearance we have to show that -- if ten people go through a door, five are white and five are black but the system inevitably African Americans are stopped, it is a defective program. We know that. We've dealt with this before and as a result, statistically we do those in order to sustain our burden. And what I hear you saying is, that wasn't done here. That's troubling -- and what's also troubling is that this may be true. You can't tell me that what the Department of Justice is saying isn't true, that would be troubling in and of itself. And those are the parts that we as the State Election Board -- and I'll be candid, this is really no different then when we had a Democratic Secretary of State who ran a program which was artificially rigid and resulted in 600,000 mismatches which I then -- Mr. Worley will remember, challenged saying, you can't do that. And I'm not going to be any different just because we have a different party as the Secretary of State. We have to abide by the law. And so what I'm worried about is we now heard the statement by the Department of Justice that we have a disparate impact on African Americans and we don't have any statistical data to rebut that statement. Is that true?"

Mr. Simms – "Is what true?"

Mr. Evans – "Notice --"

Mr. Dunn – "I just simply say this to keep from going round and round --"

Mr. Evans – "No, I -- Do we have an statistical data?"

Mr. Simms – "Let me just simply say this, we completely disagree with the Department of Justice's statement that this has some disparity and impact on minority voters and I will say again that the statements that which you are referring --"

Mr. Evans – "How can you say that if you don't have statistical --"

Chairperson Handel – “Please don’t interrupt.”

Mr. Simms – “You are correct in a sense that we don’t have statistical data analysis for the R-1 Report, because frankly we were not asked for it. We did not submit that part of the citizenship or the Registration Verification Program for preclearance. That was not what the litigation involved last fall. That was not what any of the communication involved with the Department of Justice. That was not what our preclearance submission involved.”

Mr. Evans – “And I take it – you didn’t anticipate or it didn’t occur to you that a disparate impact on --”

Mr. Simms – “If I may, Mr. Evans --”

Mr. Evans – “Please don’t interrupt me.”

Mr. Simms– “ Absolutely, Mr. Evans – I will appreciate the same consideration.”

Mr. Evans – “I will. This is – This is serious business.”

Mr. Simms– “No question.”

Mr. Evans – “And the impact for us as a state is serious business – and so did we not anticipate the disparate impact would be a factor that would be considered by the Department of Justice in the evaluation of this program?”

Mr. Simms– “We did not anticipate that this part of the verification process which is mandated by HAVA, which as you are well aware federal legislation is not required to go through preclearance as it was passed by Congress. That this part of the process which is going – and I believe you’re referring to page 4 in the section that refers to an R-1 Report is which is directly mandated by Congress. We did not submit that for preclearance. How the Department of Justice came to the conclusions they came to regarding data for that part of the program, we cannot speak to.”

Mr. Evans – “Well, let me make a couple of suggestions for future, just in the interest of the State of Election Board, the interesting thing about this – of course we went through this with a different Secretary of State, is that if you exclude the Board then you own the results. This was not a Board project, this was not a Board policy even though we are charged with the responsibility for elections. Hold on –now you own it. Now as the owner of it, if you look back you will find the disparate impact has always been a factor and that if you have two systems, R-1 and R-2 that are interrelated in any way, if one is raised, the other is raised. So if you submit R-2 for preclearance and it is in any way interconnected with R-1, R-1 is at play as well. Now this isn’t just about – this isn’t just you. I don’t want you to think it is just about you, the Attorney General’s Office should have known. This Attorney General has submitted a number of preclearances and he is fully aware that the statistical comparison showing the absence or impact is a necessary prerequisite to sustaining the Burden of Proof. Now, all of that about who didn’t

do what and when is irrelevant to me. What is very relevant is, we need to find out if this statement is true because I will tell you if it is true this has a disparate impact on African American voters, I will make a motion that this Board reject and disapprove of the use by the Secretary of States Office of this program because we cannot sustain – we cannot sustain a disparately impacted program that affects African Americans unfairly in Georgia.”

Mr. Simms – “I’ll say this Mr. Evans and I want to make it clear on the record that obviously the Secretary of State and office and staff would never in any way engage in any activity that would have – I guess, a known disproportionate impact on any group of voters and to suggest, imply, or even allege otherwise is extraordinarily troubling. Now we can continue to debate between the R-1 and the R-2 and continue to go in these circles. I’ve provided the explanation as best we can again on an issue which again is not what the litigation involved last fall, or frankly, what our submission to what preclearance was and if these are the questions that need to be asked, then I suggest that maybe we need to address them to the Department of Justice as well because we can’t speak on their behalf, but again to be clear and the Attorney General’s Office made this clear in every court filing and appearance in federal court and single district court and before Judge Camp and before the three-judge panel, that the state of Georgia, the Secretary of State and the Attorney General’s Office was acting in good faith and not having submitted this for preclearance previously under the argument and the impression and understanding that as the requirements for HAVA dictate the match in those five areas, this was not subject to preclearance. We immediately submitted the verification program for citizenship for preclearance and were ordered by two courts, two federal courts to continue with this verification process. Now, after the fact, some eight or nine months later, the Justice Department is not only raising issue with the citizenship match but now the data that was contained in the R-1 report that frankly we can’t address at this time. But again to be clear, the Secretary of States Office is in no way intending to do anything that would have a negative impact on any group of voters.”

Mr. Evans – “Do you believe that the application of the program is neutral but the impact is disparate but it’s acceptable?”

Mr. Simms – “I think I just covered that, Mr. Evans.”

Chairperson Handel – “I think we’re gonna – do you have any other questions –look Mr. Evans, I’m not gonna, I realize that you can certainly have your say but you’re not going to interrogate a Member of my team. So I would appreciate it, if you would like to ask some further questions, that’s fine, I’ll be more than happy to address them but this is not a place where you get to interrogate my team.”

Mr. Evans – “I think that this is part of the problem. I think that we have a situation where this process as it was with Secretary Cox has become so insolent, it has become so narrow that it is without checks and balances --”

Chairperson Handel – “Well, we can agree to disagree, Mr. Evans, but as we stated earlier, this is a process that is being done in every other state that was not grandfathered into be able match socials. So if you would like to pursue this further, I would be more than happy to talk with you

but we're not going to debate the whole thing as we just told you we have live litigation on it and I'm not going to get into it further and you know --"

Mr. Evans -- "If you're cutting off debate then --"

Chairperson Handel -- "I said you can go forward and say anything you'd like. But you're not going to browbeat and interrogate my team."

Mr. Evans -- "All I want to know is that which the basis for our submission?"

And I don't know where else to get that information. We weren't provided that information at a Board Meeting. We were not provided a copy of the submission. We were not brought in or to adopt or accept the policies and procedures that were being accepted. So other than asking staff, whose job it is to provide the data, and honestly, these are questions are no different that were asked to Secretary Cox when she was the Secretary of State. These are no different that the questions that were asked to the staff now. Now if the answer is, we don't want to talk about it, that kind of speaks volumes."

Chairperson Handel -- "I don't think that was the answer. I think that staff gave you the response that they were going to give and you didn't like the answer and you wanted to continue browbeating and that is not what I'm going to subject my team to."

Mr. Evans -- "If I'm browbeating, I apologize. I think the browbeating here is where is the data? Do we have data?"

Mr. Simms -- "I'm sorry?"

Mr. Evans -- "Do we have any data on the impact?"

Mr. Simms -- "Yeah, we have the data that -- yeah, we have the election."

Mr. Evans -- "Can we get the data? Can you give us the State Elections Board, the people who are charged in supervising this, can you let us see the data?"

Mr. Simms -- "I'm sure we can provide you with that information, sure."

Mr. Evans -- "That would be great so if we can get the data reflecting the net impact of the application of this program by race as outlined, that would be great."

Mr. Simms -- "Okay."

Chairperson Handel -- "Mr. Worley."

Mr. Worley -- "Yes, I had some questions on this general topic and I'm not sure whether this is appropriately directed at Mr. Taylor or Mr. Sims or the Secretary, I appreciate the Secretary position that she was required to do this matching by HAVA but I had a question and in part of the Department of Justice's letter it says that, "" As of March 13<sup>th</sup>, 2009 a total of 199,606



individuals are flagged as a non-match based on end criteria on the R-1 Report.”” What happens to those people when they’re non-matched on the R-1 report .”

Mr. Tailor – “Yes, sir, I’ll be happy to address that. Yes, actually I believe that I had sent out an e-mail about this to the county’s election officials prior to the election but basically it is to take that information and treat it the same as they would any other information that they have about an individual’s eligibility to register and vote under preexisting statutes and laws which have been in place since 1994, since the Voter’s Registration Act was enacted and all those statutes have been precleared for years. So that’s what the Registrars are supposed to do. You’re supposed to take that and look at that and think in the first instance, of course, and think this is what brought this all on, is the first instance is to say, hey, is there a data entry issue? From the very beginning it allows the Registrars the opportunity to determine have I entered the information incorrectly. And if they figure out, no that I haven’t, they put in a nine and it should have been an eight, they’re able to determine that from this verification process and clear that up right there and it’s you’re done. Otherwise they would have to follow up with the individual to determine is the information that they have correct. ”

Mr. Worley – “So it’s entirely up to the local Registrar to decide whether or not to do anything with that information?”

Mr. Tailor – “When you say, entirely, yes and no, I believe is the right answer? What they’re supposed to do is what they have done with issues that they’ve seen on Registration Forms in the past and they’re supposed to follow the same process that they have been following --”

Chairperson Handel – “Required to follow – it’s not discretionary.”

Mr. Tailor – “It’s a requirement to do something with it but what they have done, they need to make sure they are doing what they have been doing since 1994.”

Mr. Worley – “Okay. Do you have any idea of how many of those nearly 200,000 individuals were flagged, you know, how those issues are resolved by the local Registrar?”

Mr. Tailor – “No, sir, I do not.”

Mr. Worley – “There are two reports, the letter says that of the 7,007 individuals who have been flagged on the R-2 Report as potential non-citizens more than half were in fact citizens. Could you describe for us what efforts are – those people that were flagged as non-citizens, have been required to undergo, to prove that they were citizens?”

Mr. Tailor – “Well, I can’t speak to each and every one of them, but what they’ve been, what the county Registrar’s request, in fact, on a number of them, the 4700 to which the Secretary of State herself sent a letter, it was to ask for information to prove that they are citizens of the United States because they have told the Department of Driver Services that they are not. So then the Registrar then follows up with the individual to say, hey are you a citizen of the United States and would you provide me with some information to show that.”

Mr. Worley – “Does the Secretary of States’ Office considered any other methods of checking on citizenship other than this R-2 Report since more than half of it’s findings are inaccurate? ”

Mr. Tailor – “Well, when you say they’re inaccurate, I know that, that is the term that has been used. But it is accurate information as to what is in the Department of Driver Service’s database and that’s all that this process has been to compare those two databases that HAVA has said – that’s what you’re supposed to do, compare information in one database to the data information in another database and that’s all that’s what’s happening.”

Mr. Simms – “If I may, Mr. Worley, I think part that goes with your question is this, in some of these circumstances we had an individual that was illegally a non-resident alien maybe had some similar nonpermanent status that was here by every definition of the word, illegally in this state. But they had become naturalized over a period of time since they had received a driver’s license from DDS. At that point, the state is not, the Federal Government does not trigger for the state that they have become naturalized, nor is there any requirement or avenue, if you will, to let the Secretary of State or the local Registrar to know that they have become naturalized. But if you’ll recall from the litigation in the fall, we had a process for everyone to follow which was the one codified in both court orders in federal court in which these individual were able to provide the information to their local Registrar’s Office to say, yes, in fact, I have been naturalized. Mr. Moralis, the lead plaintiff in the litigation in the fall, is a perfect example of this and I think it should be also a worth noting that Mr. Moralis voted in the fall. The process afforded him the ability to reconcile his information and vote in the fall. That’s what our process put in place was to make sure that everyone who came up with this criteria had the ability to go and rectify and questions that may be there.”

Mr. Worley – “Well, I appreciate that but I think that you can also appreciate that there are some people, including myself, who’ll wonder why someone should be put to that burden, when a system that identifies them is going to be wrong more than half the time?”

Mr. Simms – “Well, I don’t know that the system was wrong more than half the time. I think the issue is --”

Mr. Worley – “I’m sorry --”

Mr. Simms – “Wait, if I may --”

Mr. Worley – “More than half were -- ”

Mr. Simms – “You asked the question. I don’t think the system was wrong and I don’t even think the data was wrong. What we had was an issue in which some of these individuals were contacted and said, the information provided by the Department of Driver services indicates that you may not be a citizen of the United States. Therefore, can you provide further information. That’s what the system – I don’t know --”

Mr. Worley – “ Well the system identified them as non-citizens --”

Mr. Simms – “Because they had identified themselves as non-citizens somewhere in the process.”

Mr. Worley – “And for whatever reason the system to check --”

Mr. Simms – “I can tell you what the reason was, they have identified themselves as a non-citizen. It is not for whatever reason – It is because they went to DDS – for a driver’s license.”

Mr. Worley – “I understand that --”

Mr. Simms – “Received a driver’s license –

Mr. Worley – “So but you’ve got to admit that this process of relying on the DDS database is inherently flawed when more than half the people it flagged were U.S. citizens.”

Mr. Simms – “Mr. Worley, I don’t think the process is inherently flawed when by your own estimation and more than half of the individuals were able to come forward and say that they are in fact citizens after they had contacted – after they had been involved with DDS, received identification and they were able to vote.”

Mr. Worley – “Mr. Simms, so you’re essentially saying, if we have system that charges a hundred people with a crime, five of them are able to come forward and prove that their innocent – that this system works.”

Mr. Simms – “Mr. Worley.”

Mr. Worley – “That this system that charges them with a crime, works.”

Mr. Simms – “I don’t.”

Mr. Worley – “The system of identifying them, isn’t working --”

Mr. Simms – “Well, Mr. Worley, I would hazard against comparing the charging somebody with a crime to the notion at some point they received a driver’s license when they were not a citizen, tried to register to vote and were asked to provide documentation to reconcile their status. I think those are grossly disproportionate comparisons to between the two. I’ll just point this out also, not a single person as of right now to this very day has come forward to the Secretary of State, to the local office, to the Justice Department or before any court and said they were not able to vote under this program. Not one.”

Mr. Worley – “That is not the issue Mr. Simms.

Mr. Simms - “I believe that is the issue.”

Mr. Worley – “The issue is what burden you’re going to place on voters. That’s the issue. People have a right to vote and it shouldn’t be burdened -- ”

Mr. Simms— “I agree. I agree.”

Mr. Worley – “—Burdened by a system that that’s inherently flawed and that is the issue here.”

Mr. Simms— “Mr. Worley, no one’s right to vote was burdened by the system as evidenced by the fact of what I just said. Not a single person has come forward to say they were not able to exercise that right to vote.”

Mr. Evans – “but quite a few didn’t come back, right.”

Chairperson Handel –“We’re going can agree to disagree and it is --”

Mr. Worley – “If I could just follow up with one more questions?”

Chairperson Handel –“Okay.”

Mr. Worley – “There’s a section in the Department of Justice’s letter that says, ““ Although the State has not provided data on the racial and language minority characteristics of all registrants whose applications went through the verification process.”” I take it that is the information that you could produce. You know the 199,000 people who showed up on the R-1 report, could you provide the characteristics of those registrants?”

Mr. Tailor – “ I think I can provide the answer to that, the answer is no. We did provide the racial makeup of all those 199,000 that they’re referring to. What the Department of Justice is referring to is the fact that the verification process has been in place since April 2007, it is a and has always been a continuing process, so as those verifications or those individuals were dealt with between say April, I think, of 2007—and I can’t remember exactly how far back we went, I think it was May of 2008, we couldn’t provide all of that information because the system didn’t have it, didn’t store it, it didn’t contain all that information.”

Mr. Worley – “Are you saying that 199,000 people that were flagged as a non-matched, we don’t have records of who those people are?”

Mr. Tailor – “No, we do have records of those. We don’t have any that might be additional to that. Well, let me go back --”

Mr. Worley – “That’s fine.”

Mr. Tailor – “No we could provide those -- any that are additional. We did provide all that. It was in our submission.”

Chairperson Handel –“Okay, Mr. Worley.”

Mr. Worley – “Thank you, that’s all I have.”

Chairperson Handel – “Anything else.”

Mr. McIver – “I have a question, I think that’s Mr. Dunn in the room, hiding behind –”

Mr. Dunn – “I’ve never seen you before in my life.”

[Audience erupts into laughter.]

Mr. Evans – “Was the period of time taken for preclearance taken by DOJ normal or abnormal?”

Mr. Dunn – “The federal law provides that when you do a submission administratively, the Justice Department has 60 days from when they received it to act on it or ask for more information. In this instance they asked for more information at the end of the 60-day period. We provided everything they asked for and then they have by law a second 60-day period in which to make a decision. Most of our submissions never get to the second 60-day period because most of our submissions are here’s the old statute, here’s the new statute, here’s the change. So, in the sense that this was an unusual submission because that of the nature of this submission, that was – that’s different. The fact that they took the second 60 days on a big submission is not necessarily unusual. I mean they’ve done that, for example preapportionate submissions, too. And part of it is just – you just have to sort of understand the Justice Department, of course is getting Section 5 Submissions from all the coveragature. They have this 60-day window in which to do things and sometimes they just can’t get things done in that 60 days. Now across the board across the nation, we have no idea how many times they ask for additional information but they have done it past, when we initially switched from Motor-Voter or implemented Motor-Voter that was something they did. When we get the reapportionment submissions, that’s something that they’ve done.”

Mr. Tailor – “If I may, Mr. McIver, briefly, the original submissions, I believe on October 16, it was requested that we expedite the review and we received the letter for the Department of Justice May 29<sup>th</sup>.”

Mr. McIver-“If I could in fairness here, the request was on October 16<sup>th</sup> within 60 days on December 15<sup>th</sup>, they requested additional information is what statutorily provided. It then took us a hundred five days to provide them the additional requested information, far more than the 60-days that they took. And then we provided an additional supplemented information on April 2<sup>nd</sup>, and then within that 60-day period, they provided their final answer –”

Mr. Worley – “And I was going to follow up with Mr. Dunn, is it some reason why it took a hundred and five days to respond to their request?”

Mr. Dunn – “Well, you’d have to see their request for additional information. A lot of it was statistical information that the Secretary of States Office gathered. And the second thing, when you mentioned April 2<sup>nd</sup>, addition or whatever, I think that was the revised Voter Registration Application, which really the only change in the Voter Registration Application was the addition of the blocks on the Voter Registration Application to add a driver’s license number which was not there on the previous precleared version form. So that’s what they considered sort of

interrelated because it had to do with Voter Registration. So that was an additional substantive on the citizenship verification. That was on the form itself, I believe.

Mr. Evans – “So, if I do the math, I think they took a total of about looks about a hundred and seventeen days we took about a hundred and seven days. So before we get too far down the beaten path of who’s responsible for what amount of delay, I think we have to be sensitive to what the actual calendar shows.”

Mr. Simms – “Mr. Evans, I think part of the issue is also, you’ll recall that we had a General Election in November and we had a run-off election for the United States Senate as well as some Liberal seats in December, all of which were moving pieces for our data, which obviously had to be resolved in an election certified and set forth before you. We can provide some of that information.”

Mr. Evans – “I’m not suggesting delay on the other parties side was inordinate before we get too far down the path of saying, they delayed, we have to be very careful at throwing a rock when you live in a glass house. On Page 5 of their letter, they talk about the alternatives, and it just struck me that at the end of the day that this will come down to whether or not primary purpose is to make sure that only citizens vote or whether the purpose is to impose a burden on people who, you know, in terms of voting. Now, if we draw that distinction are there, are there alternatives available that are automated that would permit us to verify citizenship without imposing a burden on individual voters?”

Mr. Simms – “Mr. Evans, just to state again obviously the State’s intention of this was never to impose a “burden” on anyone and their ability to vote. With reference to the belief there’re alternatives available, I’ll just simply say this: speaking on behalf of myself, and I think for the Secretary of State, the Department of Justice never discussed any alternative approach to any of this with this office during the run-off, preclearance, the official submission of preclearance or until the day that we received this letter. I can’t speak to the Attorney General’s Office for them, but I can say that the Attorney General’s Office never suggested that they had a conversation to say, we will if you just went and did it this way. As far as some automated alternatives, first, this is an automated process, the one in which we use currently today. It’s an automated process between our office and the Department of Driver Services – ”

Mr. Evans – “I may be just confused – I thought the process was automated to flag a voter but not automated that the voter has to show up and prove their citizenship. There’s no automation to that and the question that I have is every employer in Georgia can verify the citizenship of an employee. Is there an automated system?”

Mr. Simms – “You’re referring to the same program in E-Verify both of which we utilized the same program in our licensing division. The E-Verify program is used for private employers both of which are very strictly governed by Federal Statute and there is no provision anywhere to allow for in the way of election administration to utilize those databases for any of those types of purposes.”

Mr. Evans – “So is one effective answer is to go back to the Department of Justice and say, there’s a real easy answer here, all you have to do is to give us permission to use E-Verify?”

Mr. Simms – “The federal statute does not allow for E-Verify to be used for purposes other than employment.”

Mr. Evans – “You and I disagree on that but if it doesn’t a real easy answer is to say, President Obama with control of a Democratic Congress all you need do is let us use E-Verify.”

Mr. Simms – “Sure, I guess we can request the Congress change the governing statutes for the implementation and utilization of E-Verify, it’s safe right now.”

Mr. Evans – “Or we could say we want an automated program, right?”

Mr. Simms – “We can ask for a lot of things, I’m sure.”

Chairperson Handel – “But if I might, that still doesn’t change that HAVA says specifically that in running the match, you are to use – and I think I’m understanding this properly, you are to use DDS and Social Security. The federal laws specifically directs where the matching occurs. There is no discretion on that at this point in time. ”

Mr. Evans – “Well it’s kind of that they either have to provide their driver’s license or they have to provide the last four digits of their social security number or they provide designated numbers and the number provides as cross match. That’s how the system works. It’s largely automated. Where the problem has happened is that somehow in the application or the implementation of our program, unlike other states that use a similar program -- ”

Chairperson Handel – “But, but Mr. Evans, I completely disagree with that. The other states, the vast majority of them have not had to go through preclearance and all of the others were indeed precleared without having to provide such data. So that is not a correct statement. We don’t know what anyone else’s verification program shows.”

Mr. Evans – “Now, we know disparate impact, it’s just that, for whatever reason, we don’t have, nobody in this room, nobody on this Board has the data other than the Justice Department and the Justice Department concluded that the data overwhelmingly penalizes and flags African American voters. That’s unacceptable. ”

Chairperson Handel – “All right, a conclusion that we flatly disagree with and again we can go around and around with this all day, Mr. Evans. We are going to agree to disagree. It is inherently appropriate to ensure that when we receive new voter registration that we ensure that the individual submitting that information is indeed who they say they are and that they are citizens. And if we get back the report that shows they’re potential non-citizens – non-citizenship or if the information for the individual doesn’t marry up with the person on the piece of paper, then I have a responsibility to follow up and the counties have a responsibility to follow up with that and the program as worked through the court before the three-judge panel with DOJ in the room sets up a very strong safety net to ensure that for any individual that they

have ample opportunity to provide any additional information to answer any questions and clarify the information and no voter has been turned away from voting because of the process and further, no voter has come forward to say to us, no a single individual has come forward to say that he or she was denied the ability to vote. So we're just simple going to have to agree to disagree."

Mr. Evans – "And all I'm asking as a Member of this Board is that you give me the data --"

Chairperson Handel – "And I think that Mr. Simms has already concurred to do that and you continue with your browbeating and I'm simply not going to take it. So if there are any other questions that people would like to ask in a civil manner, then as Chair, I would be delighted to entertain them."

Mr. Evans – "And as to whether anybody has been turned away, there's a number here that's reflected in our own submission of people who didn't come back. And I'm sorry, but the idea is, the idea that somehow because they didn't come back then you infer that they're automatically non-citizens is an improper inference."

Mr. Simms – "Mr. Evans, I'm a little bit perplexed. The State has argued a case that is before the Supreme Court for a review on photo I.D. that a citizen's not returning to the Registrar's Office is not indicating --"

Mr. Evans – "That's because on Page 5 the Department of Justice noted, and I'm hoping to make sure that this is in our Supreme Court materials, "That the decision of both Crawford and (inaudible) resulted in a record totally devoid of evidence of a discriminatory effect. The absence of disparate racial effect permitted Georgia to require voters to present appropriate photographic identification as a prerequisite to voting. Those predicates don't exist here."

Mr. Simms – "I would disagree the state has argued that there is no evidence of a disparate impact with this program."

Mr. Evans – "Would you then agree that if the evidence is then of a disparate impact you will then --"

Chairperson Handel – "Mr. Evans, he is not your witness and you will stop interrogating him, for heaven sakes. All right, we'll be happy to entertain more comment but we're just asking the same exact questions over and over again and I don't think you're going to get a different answer."

Mr. Evans – "No, this is -- well, first of all, I don't agree with you and I don't think-- "

Chairperson Handel – "I know you don't --"

Mr. Evans – "And if you would be please stop interrupting me. I've tried very hard not to interrupt you. This is an extremely important issue. This isn't one that we can just skim over



and pretend like it doesn't exist. And my question is, if the data in fact confirms a disparate impact, will the Secretary of State agree to abandon the program? ”

Chairperson Handel – “Mr. Evans, we will go through the process and see where things end up. I can assure everyone that I'm going to do, as I have always done from day one in this office what is in the best interest of the integrity of the process and the best interest of the individual voters.

Mr. Evans – “Well, I will say this, if the data in fact confirms disparate impact I will move the Board to overrule you.”

Chairperson Handel – “Okay, anything else, colleagues?”

The Board – [ No response.]

Chairperson Handel – “I will entertain a motion to adjourn.”

Mr. Worley – “Second.”

Chairperson Handel – “All in favor.”

The Board – “ Aye.”

Chairperson Handel – “Any opposed.”

The Board – No.

Chairperson Handel – “The meeting is adjourned.”

Whereupon the motion to adjourn concluded the SEB meeting at approximately 3:25 p.m.

**Chairperson Handel:** All right. We will go ahead and call our meeting to order. We do have a forum Jeff Boudreaux and myself Karen Handle. I am expecting David Worley here momentarily. He had a conflict. We will start the invocation and the pledge of allegiance.

(whereupon the invocation was given).

**Chairperson Handel:** Let the record show we have Mr. Worley. He's joined us.

(whereupon the pledge of allegiance was recited).

**Chairperson Handel:** I want to also say it is a personal privilege to say congratulations to the (Susan: unclear) 25 years of marriage. We will have to get you out early, so you can celebrate. One thing that I would like to do before we get started with public comments is -- oh, you did rearrange it. Never mind. Forget I brought that up. All right we do have public comment. I've got four individuals who want to speak on public comment. We have Garland Favorito, followed by Gloria Tatum, then John Fortune, then Susan Conley\*, if you guys want to come forward. Do you yield? Okay so that means 4 minutes Mr. Favorito. Ready? You can leave it that way.

**Mr. Garland Favorito:** Okay. Thank you madam chairman, Board, for letting me address you once again. My name is Garland Favorito. I live at 220 Marks Trail, in Roswell. During the last meeting I think most of y'all know that the claim fee is, came in before the electronic writing systems were implemented, that they are subject to a potential errors. I mentioned to you in a recent court case we did before the Georgia Supreme Court that (unclear) potentially admitted that when he said that the machine itself was reporting inaccurately. He also explained that to continue present service, which is another area I wanted to point out to the Board that the 2002 federal standards changes were underwent and certified and they must present that. I will give a couple of quotes (unclear: read quotes) so just to explain what we were led to believe that the stance on testing can apprise. I have submitted over a dozen state commission and reports to Mr. Tatum and to his legal affairs counsel that show that that may not be, but perhaps I think you would be most interested in the conclusions from the Election Assistance Commission, the actual community says that the national institute of (unclear) testing subcommittee do not know how requirements to put the software and D. R E. is correct. And that is concurrent with that. So with everything I think I wanted to clarify the Board you has heard the lack of (unclear) we talked about that. All so-called trails from which the machines are produced internally from the machines after the vote can be corrupted and therefore they are not being sent from the machine from the machine as the law requires at the time. So again I would simply urge you to will let's correct this problem before the 2010 election and we are in an area where we have many Secretaries running for Governor and you have the decision (unclear) elections held in the State that creates a conflict of interest in some capacity in and every other state of the union. Again that is of national importance and if successful the election could affect us forever. So I would urge you to take the appropriate action that you need to take in order to get this resolved prior to the 2010 election.

**Chairperson Handel:** All right. Anything from Gloria Tatum?

**Ms. Gloria Tatum:** Good morning.

**Chairperson Handel:** Morning.

**Ms. Gloria Tatum:** Thank you for this opportunity to speak my name is Gloria Tatum of the Georgia Peace And Justice Coalition I like the way the gentleman opened the meeting, asking God to the give us wisdom to do what's right for the people of Georgia. With that in mind I would like to say we have no confidence in a voting system in which there is no way to (unclear) verify votes. Georgia is the only state in the nation with a statewide electronic voting system. We cannot verify fully that it's going to count because of the way we push the button. Many states have stopped using diebold equipment because of the errors caused and the responsibility (unclear). I understand that there is fraud, but there is that possibility and so it doesn't give this confidence that people are being elected that we actually vote for, although they may be, but it doesn't give us confidence. And with Ms. Handle running for Governor it's like they send a bill over again with Kathy Cox. When you oversee an election system which can't be verified, there is a conflict of interest. And we can't be sure that the people we are voting are actually winning. They may be, but we can't be totally confident because if there is an error in the system or flaw, that it is just going to spit back the same results again so I'm asking you to correct this before the 2010 election.

**Chairperson Handel:** Next speaker is Susan Somach.

**Susan Somach:** I'm with the Coalition For The People's Agenda and many other groups. And I want to thank you for the opportunity to speak here today. There are two issues that are a set of questions I want to throw to the elections board and hopefully to the Secretary of State's Office. First I'd like to discuss my deep disappointment in both the Secretary of State's Office as well as the Governor for signing what I believe to be an unconstitutional proof of citizenship bill. I know that a Arizona has some experience with this but I don't believe that in our state where we have enough non-voting people, non-unregistered people that we should be putting any extra burden there. And I really throw to this group the question of how will this be implemented in the unlikely event that the department of justice precludes it. How will it be implemented in terms of not having extra time, money burdens, and potential risks to causing debting theft that (unclear) registration form such as OLA (unclear). The second quick point I will just Mike, which I guess is a theme here is just my concern and question about perhaps when the Secretary of State might choose to recuse herself in election duties to make sure that there is no appearance of impropriety or unfair advantage given to her and her candidacy, not to recuse herself from all duties necessarily, but that would be her choice, but I just would suggest that we as a state should try and make sure we have fair elections and also that these do not actually get implemented at all in a way that would cause (unclear) voting rights with the citizen of Georgia. Thank you.

**Chairperson Handel:** Mr. Quarterman, we will have time for during the day for Douglas County for you to speak or do you have a case today before us or do you want --

**Mr. James Quarterman:** Yes.

**Chairperson Handel:** Okay then, come on up. James Quarterman. I'm sorry I thought you

were from the elections division.

**Mr. James Quarterman:** Good morning ladies and gentlemen of the Board my name is James Quarterman. I'm a candidate for the county commission chairperson in Douglas County. And I'm here today to discuss my outrage, why I've got to spend \$20,000 of my own personal money to get the Board of Elections to do its job. The Board of Elections certified elections from Douglas County when Douglas County has a five member board. On one significant from a five-member board, and that's the only signature the chairperson requires all board members or consensus of the board to sign. People here have been sworn and talking about the voting machines are inaccurate. His is your GEM server report, 55,410 people voted. The GEM server only counted 30,000 votes. 25,000 people vote for disenfranchised in Douglas County. We don't know where those votes went, who they gave them to or whatever. Had this is from your GEM server. We had had a recount on February -- November 14th. The votes from the recount changed the results from every candidate in every race. Those results were never certified. I have a letter here from Douglas County that went to the Secretary of State Ann Hicks. I will read it real quick. It has come to our attention that you do not have the correct version of all certified results or mere inadvertently left off some of the card cash numbers of the unit that had to be manually entered. I don't need to be spend ping \$20,000 of my money to get the State, which we pay taxes to do their job. Now you certified an election on one signature. You have a GEM server that state spent a hundred million dollars on a voting system that only counted 30,000 votes, 25,000 votes out of 55 thousand were given to whomever. Something needs to be done. This was 6 months ago. I addressed that Bobbie Conway has investigated. I have talked to Mr. Redding, Ms. LaGrua, you guys are aware because it was (unclear) contest and you got a copy of to contest petition and nobody has addressed 25,000 people's votes, not one person has picked up the phone and said hey, James we even appreciate you filing a complaint. This is flat out wrong. They can talk about the machines not counting the machines, but I can prove to you your GEM server only counted 30,000 votes. It's on your paper right here and it says 55,000 people voted.

Chairperson Handel: Thank you. All righty. Now we will vote to approve minutes. The minutes are typed in behind tab No. 1. Any changes or anything to the minutes. All right do I have a motion.

**SPEAKER:** So moved.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and second. All in favor?

(Whereupon there was a chorus of ayes)

**Chairperson Handel:** Any opposed?

(no response).

**Chairperson Handel:** All right. I want to also introduce Ann Brumbaugh, who is joining us

from the Attorney General's Office. She is going to be coming on full time to support the elections board, starting in August; is that right, Ann?

**Ms. Ann Brumbaugh:** Yes.

**Chairperson Handel:** Thank you. Welcome and look forward to working with you. All right. First case is case No. 2007, No. 36 City of Douglas. Before we get started the laying in process, what we will do is after the investigator's division has presented the results of their investigations, then individuals who want to speak from the jurisdiction, either the complainant or the respondent, if y'all can just go ahead and come forward so I know who wants to speak on a particular case, that would be great. Chris.

**Mr. Chris Harvey:** Good morning. Chris Harvey, Deputy Inspector General, reporting on the City of Douglas. It was a municipal election that was held on November 6th of 2007. It was run by the Coffee County Board of Elections. We've received a complaint from Tamala Paulk with several allegations. First was that voters were turned away at the polls. We were able to identify at least three voters who were turned away and not allowed to vote provisionally. According to Carlos Bailey, one person, although they had requested not to be validated and returned, they were not allowed to cancel their absentee ballot and vote and were not allowed to vote at all. We also found Riccardo Curtis who had gone to two precincts attempting to vote and he was not provided a an opportunity to vote provisionally when he expressed his belief that he was properly registered. And in those case Dorian Paulk was a manager at City Hall Precinct with Carlos and Corey Bailey. And LaWanda Strozier was the manager at the Roundtree precinct where Riccardo Curtis was turned away. The second allegation regarded a large number of absentee ballots that appeared to be rejected or not counted. The original allegation is that over a hundred absentee ballots were denied and not counted or returned a day before the election. That was found not to be accurate; however, we did find that there were numerous problems with the way the absentee ballots were done. One of the biggest problems was that there were no notices mailed to anybody when their application, when their ballot was rejected upon receipt by the Board of Registrations and Elections. There were nine absentee ballot applications that were rejected and nobody was notified and there were, I believe, 32 total absentee ballot that's were rejected, and none of those folks were notified in writing as is required by the statute. The other problem we had was that when with we asked; we provided a list of people who complained about mailing in their absentee votes well in time in order to be counted. We submit that list to the Coffee County Board of Elections and they responded. And that's what I was just reading to you that says the Election County office replied to the affidavits. And what they provided was their version of what happened to those ballots. And the other spread sheet you have is one that I produced. It says absentee ballot results. What we found is that in several cases ballots were returned to the elections offices. They weren't marked as being received. Sub system wasn't updated. Voters names didn't appear on any ledger's list and it was unknown whether or not their vote was counted as an absentee vote. We found 18 where people submitted affidavits saying that they had returned their absentee ballot well in advance and they claimed it was not received by the elections. Now, we don't know what happened to those the ballots, but they didn't show up. They didn't show up as being accepted or rejected. We had had about 5 folks who were in the condition where I said before where they delivered their ballots, either by hand or by mail. They were received by the elections offices; however, they were not marked and they were not tallied. As a matter of fact -- I don't want to say they weren't tallied. They weren't indicated as

being received. And the sub system was not updated and showing that they had voted until earlier this year when they were presented to the elections board.

**Chairperson Handel:** When you say earlier this year, you mean that for an election that occurred in –

**Mr. Chris Harvey:** '07.

**Chairperson Handel:** And then it was done again?

**Mr. Chris Harvey:** Yes, after we contacted them.

**Chairperson Handel:** Thank you.

**Mr. Chris Harvey:** This is after we contacted them.

**Chairperson Handel:** I understand.

**Mr. Chris Harvey:** So those are the -- that's the summary of the violations. And again to summarize. They were notified of the absentee ballot application being rejected. Electors weren't notified that their absentee ballots were rejected. They failed to update the State sub system. They failed to cancel the absentee ballots of Corey and Carlos Bailey. And they improperly failed to validate the absentee ballot envelope so that at least seven people would be identified. The reason this case is so old is that after repeated attempts to go down there we kept getting different results. So we had to when we got this first result from the county act what happened, we did some independent checking and found out that, well, they are saying that an absentee ballot wasn't returned and we actually turned up the absentee ballot, so we had to request all the absentee ballots, go through them by hand.

**Chairperson Handel:** It turned out in the course of your investigation it was found in their offices.

**Mr. Chris Harvey:** Yes, ma'am. It was found in their offices. So it is recommended that this case be bound over to the attorney general's office for sanctions.

**Mr. Anthony Roehl:** I'm an attorney in the State of Georgia, licensed, and I'm also a licensed attorney in Coffee County. I have with me Chairman Mr. C.T. Pete, who is chairman of the elections board in Coffee County. The reason we are here is the elections board of coffee county has sparked an initiative to contact legislation by way of history as how the County Board of Elections became the judicial managers of the (unclear) of this election, which is at issue. I will speak. The report's been made available to everyone. There also is attachments and information that we have now been presented. And we even had a chance to the look at some of the findings. What I would like to do. As I prepared, first of all a written response that I would like to read with the board for its review. What we have done, Mr. Pete and I, in the face of the investigative report, is to -- we first of all came behind the report, and ewe took the approach that -- we assumed that everything in the that report is ADT. And we took an audit view of our

responsibility as a lawyer to determine whether there was validity to any of the allegation and any of the findings of the investigator. And to straight forward and candidly admit or address those problems if they did so exist. And on those issues that either they were unsubstantiated factually or we have different interpretations of what the legal requirements are, as a board we also raised those issues in a written response that I will provide. By way of background the -- just a minute.

**Chairperson Handel:** We need 4, 5, 6.

**Mr. Anthony Roehl:** This is an original that was prepared as part of the minutes.

**Chairperson Handel:** Let the record show that I am handed a written response from a Coffee County Attorney. I probably need a motion to accept this into the minutes.

**Chairperson Handel:** These were part of the investigative report. So we can include those.

**SPEAKER:** I'll make a motion.

**SPEAKER:** I'll second.

**Chairperson Handel:** Okay we have a motion to second. All in favor.

(Whereupon, there was a chorus of ayes.) .

**Chairperson Handel:** Any opposed?  
(no response).

**Chairperson Handel:** Okay.

**Mr. Anthony Roehl:** To follow the history and I don't want to over extend my time limit. If I move too slowly please redirect me. But by way of history.

**Chairperson Handel:** 10 minutes.

**Mr. Anthony Roehl:** I will be done in 10 minutes. The Board that oversaw this particular election has been has been since the creation of that Board, which I think was four years ago, since its conception has had as its mission the goal to show openness and transparency at every county meeting. They try to pull a staff of volunteers that they educate and train to do with better to better compliance without waiving laws. And they have done a very good job. And I commend them. Had they are honorable people. And there, Mr. Pete is here as the representative for that Board. Would you like to ask any questions?

**Mr. C.T. Pete:** No.

**Mr. Anthony Roehl:** With that in mind (unclear) the board and him we took the time to do this. In our report, we went through and identified allegation by allegation. We tried to verify the

facts that were available to us and we also tried to identify if there was a violation, and we so stated. That's in the report we provided. We will do a summary of that in a minute. And we also looked at a remedial proposal that we think that we would need irrespective if this was bound over to the AG's office and include here the steps that we found taking unchanged unless otherwise directed which are to redone our training efforts, we've done thing already, but the short comings that have been identified in the investigation makes it clear that additional work needs to be done. And it is at the training level that we can cure this and we have to cure this. That is generally speaking the remedial steps we need the to take is the specifics of how we are going to manage that from our outline and if it's necessary. And we have are already talked to the county government about having provisions made to do a full-scale audit of the overall management of our office and to make determination beyond just the allegations in the investigative report, but also broadly I would like to make sure that the overall management and delivery of the services in to the voters and to the people in our community that they can be assured that our office is running as softly and as smoothly as anyone in the State. We want to be a model for others to look at, not to be criticized. So with that backdrop, I will, specifically, address some of the issues. If you look at your report we took down additions and somehow note that as far as I can tell the investigative report is accurate. They were turned away from the polls were not allowed to vote. Should have been allowed to vote provisionally. There was a clear violation and there is nothing that can be said short of that. That's just what happened. It's regrettable but that is the fact. I have talked to coworkers. Nobody has an independent recollection of the information. The conclusions that I draw are based solely on the review of the records and documents that are available afterwards and I can draw no other conclusion other than that they were not given an opportunity to vote and they should have been given, given the circumstances that appear. I have not spoken directly to the Baileys and I do reserve the right if information that was available to the investigators that wasn't available to us or otherwise is bound over to change that opinion, but based on the information that we have now, I think that is in fact what happened. I have talked to the poll manager at this particular poll, Ms. Paulk, who apparently was, as best I can tell, misunderstanding there. In the system it appeared that they had voted absentee. My understanding is when you see that designation in the system, that means that they sent an absentee ballot but it is not necessarily approved it has been received of course. And that is the misunderstanding that led to this decision. They understood however had they returned their ballot, they could condition sell the ballot at the poll. And we want to say how this presented itself back. It was just not addressed apparently. The next allegation, in terms of the specifications were Carter Curtis. In our estimation, Mr. Curtis has not been registered to that county elections. He never registered to vote in the City. He was not properly registered to vote. From what I talked to the coworker and comanager who was involved in the decision not to allow Mr. Curtis to vote provisionally and it appears that he was aware he had not changed his address. Thank you under the rules, as I read it, that this is a violation that he couldn't have voted. If he had voted the vote would have been canceled. So I take issue on that particular charge.

**Chairperson Handel:** Do you understand that when a voter comes to a voting place that they are legally required to offer them an a provisional ballot, regardless.

**Mr. Anthony Roehl:** I understand that that is not the view as I read the law. Now, I will be happy to be schooled on that, but as you will see, in my response --



**Chairperson Handel:** Turning voting voters away is not acceptable in any stance.

**Mr. Anthony Roehl:** If you will look at my reading of the response, that's what I said. That's exactly what I said. There is a difference between a legal violation and I don't try to mix words, but the (unclear) will be in the manner in which you described. Attorneys Smith, we had an issue, but I think that that matter was handled appropriately. I will move on to the other issues. The allegations are that they were not properly kept. A rejection law and tort (unclear) and applications is accurate. Was not properly maintains. That will be addressed. That should have been done and it was not. The allegations that the notices were not sent out with respect to rejection applications and/or ballots. The verbal response that I got from both board members who assisted in the election and the supervisor, was that they had sent notices out. They certainly did not maintain the record of those notices as provided by law. And they are required to maintain a written notice that and he did not so certainly there can be no written evidence or proof other than what they would say or testify to. Lastly, as to some of the voters who had claims that were discussed, there was some specific (unclear) not signed properly, incidents of that, verified as accurate. (unclear). That will be addressed. I need to review the steps entirely. As to whether or not some of those folks in fact voted we were able to determine that they all did vote. The selection of people that appear in the investigative reports they were the two individuals who were in fault (unclear).

**Chairperson Handel:** So you are saying that the State that brought these that were on a rejected absentee ballot list and you are saying that even though they were rejected and didn't get the notice of rejection you are maintaining that they did vote?

**Mr. Anthony Roehl:** No, ma'am. I don't have -- that spread sheet was given to me this morning. So, I have limited ability. So, I responded to it in part. And I will be glad to provide a subsequent response if necessary. If necessary. We appreciate the indulgence in your time. We hope that the information we provided in the original response was helpful in making the determination necessary. Be glad to entertain any questions.

**SPEAKER:** Mr. Ritter, do we have any guidance from the (unclear) program on this matter before we consider it further.

**Mr. Ritter:** I'm not sure which plaintiff questions you are asking, I agree with the Chair, but the provision should have been handed out this morning. (inaudible)

**SPEAKER:** Therefore your advice would be that we bind this over.

Mr. Chris Harvey: Correct. And we can through and appropriate the (unclear).

Chairperson Handel: One question I want to make sure that I understand that when we got this report, in the course we had the original complaint that had some individual's named in the complaint. But during the course of the investigation additional names came to light is that the correct.

**Mr. Chris Harvey:** Not exactly. We originally had 56 names and we were able to dwindle some of those down, not -- they ended up going in person or something like that. We also didn't

find anybody who got any written response from their use. None of these folks said they got anything in writing from the elections office.

**Chairperson Handel:** Okay.

**SPEAKER:** Mr. Roehl, by the way, I very, very much admire your candor and your presentation. (clear) giving facts and I will leave out some clichés we learned in law school about stuff like that, but I will tell you that Tifton is one of my favorite places in Georgia. Our Chair the Secretary of State flailing the fields to let people know about the absentee ballot and the early voting and the absentee voting and how emined it would be. I think your estimate was almost 30 percent. So when I read written response to Ms. Evans nor the Board expected such an unusual and unprecedented amount of absentee ballots, you can understand my disappointment, knowing how hard not only this Board worked, but our Chair and the ambassador, they worked very hard to get this done. It's disappointing to see this.

Mr. Anthony Roehl: The only response is that that is, what's stated is, in fact, proof irrespective of the (unclear) made.

**Chairperson Handel:** Please use the microphone.

**Mr. Anthony Roehl:** Part of the challenges that -- No. 1. The city election historically, the use of absentee ballots when it be in (unclear) percent basis even today no other use we have those numbers were extraordinary. That's no excuse. It's just a fact. But I thought in terms of -- I don't believe in excuses. I think there is little value in that. I think in terms of clarity, good, bad, or indifferent, I thought it made -- it provided for us recognition of the work that we needed to be done and it was a very candid statement. And our approach to this hearing. And what we are going to do in the future is we have never been here. If somebody can point this out and say there is things you can do better and you should do better, that is what we want to do. And you can't be better if you don't recognize and identify where you have shortcomings. And so that was the manner in which we chose to approach this and we think it's the appropriate manner. This is not adversarial. This is about delivery of the most important service that we can have. And we recognize that. It's the cornerstone of what we do. If we don't do it right, then shame on us, we need to do better.

**SPEAKER:** You indicated you don't need any more time, right? I guess I would like for you to say that again. Do you need any additional time to respond to what you have heard today in regards to the law department or to supplement your written response in any way?

Mr. Anthony Roehl: I would like to look a at the spread sheets that we have been provided in and the manner which I will do that is the way we have done this is. Our spreadsheet provides additional proofs to show additional fault, we will take that on. If they provide guidance from the inside as to things we are doing well which we think we should apply after this point I would like to do that as well. I would like to have some period of time to respond. One way or the other we think it stands it is. We will stand on what's presented. We think over a period of time we will get it done.

**Chairperson Handel:** That's fine with me as well. And that can be submitted over. Any other questions? Do we are have a recommendation to send this over to the AG's office? Is there a motion.

**SPEAKER:** I make a motion that (unclear).

**Chairperson Handel:** Any seconds? All in favor?

(Whereupon, there was a chorus of ayes.) .

**Chairperson Handel:** All right thank you and I do appreciate your candor if coming forward and would like to encourage you to perhaps take advantage of some of the row bust training that is available in that west Taylor's group that is here to interact with you if you so choose. Very quickly. Good morning.

**SPEAKER:** I would like to say that the Presidential election (unclear) as this one was.

**Chairperson Handel:** I would agree with that. I do. I would agree with that. Much improvement.

**Mr. Anthony Roehl:** We learned by it and we did a much better job with the Presidential election.

**Chairperson Handel:** I would agree with that. I would agree with that. Thank you, very much. I appreciate it.

**Mr. Anthony Roehl:** Shall we excuse ourselves at this time.

**Chairperson Handel:** That's fine. The next case is 2008. 28, city of Richmond County.

**SPEAKER:** Madam Chairman of the Board, this is a case that ordered that last time after supplemental investigation as to whether or not Valerie Mays properly completed her voter certificate and her address after she had moved began subsequent investigation. On her voter certificate she stated that she lived at 1102 Nicholson Street, Stewart County until then February 2008. Then she moved to Webster County. We have gotten statements from a next-door neighbor, who is also a Board member, city counsel person who states that he saw her and her children through mid-February 2008 at the residence of 1102 Nicholson Street, conducting household tasks and going in and out of the property and the Mayor stated that her letter of resignation was January 30th. It does appear that she was, in fact, and she did state that she intended to be domiciled at that address when she completed her voters certificate on February 5th 2008 in the Presidential primary. And it doesn't appear that there is a violation.

**Chairperson Handel:** And your recommendation then?

**Mr. Chris Harvey:** That it be closed.

**Chairperson Handel:** All right. Any questions colleagues? All right. Do I have a motion?

**SPEAKER:** Motion to close the matter.

**SPEAKER:** Second.

**Chairperson Handel:** The motion is second. Any other questions. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any oppose?

(no response)

**Chairperson Handel:** Okay. Next case is 2008 No. 29, Newton County .

**SPEAKER:** This case involves the respondent Horace Gresham. In 1988 he pled guilty to a felony charge and was sentenced to 12 years, one to serve in prison and 11 on probation. On April 2nd of -- I'm sorry on April 28th of 2008 he filed a declaration of candidacy and affidavit in which he state that he had never been convicted or sentenced in any court of competent jurisdiction, a fraudulent violation of primary election laws and malfeasance and office where felony involving moral turpitude or if so convicted that civil rights have been restored and at least 10 years have elapsed from the date of the completion of the sentence without subsequent conviction of another felony involving moral turpitude. It was determined that his sentence ending date would have been May of 2000 which would require it to be 2010 before he was eligible to apply or submit a (unclear) by date of the affidavit. The department of corrections was contacted. They indicated that there had been no clemency or no sure penance. Also the DeKalb County Probation Office was contacted. And they stated their record shows that his probation ended on May 15th of 2000, which, again, would give had him another two years before he would be eligible to file such an affidavit. He was interviewed and he admitted to filing the affidavit. He claimed that his sentence had been shortened. And he didn't have another good explanation. The evidence suggests that he is in violation of 21-2 -- 565 for making a false statement. And it has been indicated to me that he has already been indicted by Newton County for this violation by the District Attorney's office.

**Chairperson Handel:** Okay.

**Mr. Chris Harvey:** So, as far as a recommendation goes, he is already facing criminal charges.

**Chairperson Handel:** All right. Is anyone here to speak on this before we move on? So Newton County did already indict this individual.

**Mr. Chris Harvey:** Yes, ma'am.

**Chairperson Handel:** I believe the past practice of the Board was to refer this over, pending the criminal things being taken care of, then the AG's office receives something.

**SPEAKER:** (inaudible).

**Chairperson Handel:** We have a motion. And a second. Any other questions? All in favor,

please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** The next case is 2008, No. 46, Wilkinson County.

**Mr. Chris Harvey:** Wilkinson County filed two complaints. The first complaint was from a sheriff candidate, Jerry Crockett, who made numerous allegations that the sheriff was campaigning within 150 feet of the polling places on election day, that people were pulling up his signs, that the election superintendent, who reportedly displayed hand signals during the election night, thumbs up or thumbs down to the sheriff, that people that were with tallying the votes were supporters of the incoming sheriff, that poll watchers were denied the right to observe the polling precincts and that registered voters were turned away and not allowed to cast their votes. Each allegation was investigated. There is no evidence that the sheriff the incumbent sheriff campaigned within a hundred feet of a polling location. He did say that he rode in a van that was unmarked. The transported electors of various precincts, although the driver of the van was questioned and said that he didn't campaign. He didn't give anything. He didn't campaign while he was there. He didn't get out of the van. So there was no other evidence to substantiate that allegation. And that proof is unfounded. There are no witnesses who can say that anybody from the incumbent sheriff did pull up any signs or challenge the allegation that the election superintendent, Tracey Strange, had shown favoritism or had used hand signals, there were four witnesses who were interviewed who saw this process. None of them saw anything improper or out of the ordinary that Ms. Strange did. And the complainant wasn't able to provide any evidence to dispute that. There was no evidence that anything was improperly done by anybody tallying votes and that, in fact, one poll worker who normally worked there was not allowed to work due to her relationship with the candidate. There is no evidence to support that allegation and poll workers do not have the right to observe the polling precincts. The requests for poll workers were not received until the night prior to the election. All requests for all poll workers were denied in accordance with 21-2-408(A)1. Registered voters turned away and not allowed to cast their vote, the only voter that was identified by the complainant was his brother, whose registration was not received until two days after the closing of the election, registration for the election. We attempted many times by telephone and mail to communicate to Mr. (Gopin) to get his side of the story, whether or not he had appeared and whether or not he had been turned away. He didn't return any phone calls or letters. So there is no evidence that he, we don't know that he was turned away. But last was that the wife of Mr. Crockett was intimidated by the sheriff. That proved to be unsubstantiated. She heard through a third-party source that it would be wise for her to support her husband. Again, there was no evidence that anybody made those comments. The second complaint came regarding the same election, was that an elector was improperly assisted. There was an older elector, John Thomas Smith, who was working the voting machines and the two candidates had in this case were Chapman and Crockett, and he inadvertently hit Crockett when he wanted to hit Chapman. He asked the pole worker hey, how do I change this. And she told him you have to hit Crockett again to unselect it. And then you can vote for who you want. He did it. He selected and voted for the candidate he wanted to. It happened that the cousin of the candidate was waiting for him to vote and heard her say that and misinterpreted her as telling him you have to vote for this candidate. He was interviewed afterwards and said that was just a complete misunderstanding. He got to vote for who he

wanted to and he had no complaints. It doesn't appear that there are any substantiate allegations of violation of election law I recommend that this case be closed.

**Chairperson Handel:** Is there anyone here to speak on this matter? Mr. Chatter, Mr. Crockett, Ms. Barfield? Anyone here to speak on this. All right. Let the record show that there is no one.

**SPEAKER:** Mr. Harvey in this description under allegation No. 2 --

**Mr. Chris Harvey:** Yes.

**Speaker:** Says Smith said he made his first selection Chapman and was satisfied with the vote. On exiting the polling place, Smith said he was approached by Rod Chapman regarding the conversation he overheard between Elector Smith and Barfield. So does that indicate that Chapman was in the polling place.

**Mr. Chris Harvey:** That's not the candidate Chapman. That's his cousin. He was in line to vote. He witnessed this encounter. He was the original complainant on this complaint.

**SPEAKER:** Okay. Then I don't have any other questions.

**SPEAKER:** I move we close the case.

**SPEAKER:** Second.

**Chairperson Handel:** The motion is second. Any questions? All in favor please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** All right that matter is closed. Thank you. Next case is 2008, No. 56 Seminole County.

**Mr. Chris Harvey:** Madam Chairman of the Board, we received a letter yesterday from Amy Bagwell who is a probate judge in Seminole County, saying that please accept this letter of notification. We will be unable to attend the State election Board (reading fast and unclear). This case involved a complaint that the sister-in-law of a candidate who is on the ballot was allowed to work as a poll worker during the election on July 15th, 2008. Norma McCloud is the sister-in-law of the incumbent Seminole County Coroner, Terry Bachelor. Our investigation revealed that that was the case. She did work. The probate Judge, at the time, Judge (unclear) when asked about it was very indignant and said that he knew that she was a sister-in-law, but she was a good poll worker and they didn't think that there was any reason why she shouldn't be allowed to work. Ms. McCloud acknowledges that she worked and that she was his sister-in-law and that it appears that Norma McCloud and John Earnest were in violation of 21-2-\*72(A).

**Chairperson Handel:** Do we have anyone here from Seminole? I know we had the letter from Judge Bagwell. Is anyone else here?

**Mr. Chris Harvey:** I'm not sure. We also had had a letter from the complainant that it just . Essentially restating her complaint, it doesn't make any whether or not (unclear).

**Chairperson Handel:** Let the record show that we're accepting a letter from Judge Bagwell and a letter from Ms. Elijah. Do I have a motion to accept these.

**SPEAKER:** Motion.

**SPEAKER:** Second.

**Chairperson Handel:** All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** I want to make sure I'm clear. The one letter is from Judge Bagwell.

**Mr. Chris Harvey:** Yes, ma'am.

**Chairperson Handel:** But the respondent is Judge Earnest.

**Mr. Chris Harvey:** Correct. He resigned madam.

**Chairperson Handel:** He did. But Judge Earnest is the one who appointed Ms. McCloud as the poll worker.

**Mr. Chris Harvey:** Yes, ma'am.

**Chairperson Handel:** So Ms. Bagwell is not a party to this action.

**Mr. Harvey:** Correct.

**Chairperson Handel:** Thank you. Any motion folks.

**SPEAKER:** I move we bind it over.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and a second. Any other questions? All in favor, please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed?

(no response).

**Chairperson Handel:** All righty. Next case is 2008 No. 68, also Seminole county.

**Mr. Harvey:** The complainant in this case is a Mr. Timothy Duggin who complained that he went to vote and he was asked by the poll manager if he had any help with the voting machine as had he approached the machine. Mr. Duggin said that this angered him and thought that it was intimidating and thought he was being insulted by the poll manager. He is also complaining that the poll manager was walking around while the voting was going on. And they thought that compromised his privacy. Mr. Duggin was interviewed by our investigator. And essentially relay that complaint. He didn't have any specific objection other than they thought it was essentially impolite and rude for him to ask him if he knew how to use the machine. He didn't make any specific allegation that the poll manager was looking over his shoulder or trying to see his votes, specifically, and then Mr. Duggin went on to talk about other issue that's are unrelated the election or the campaign. The other poll workers were interviewed. They both said that they you saw nothing unusual that the poll manager did. The poll manager said that he always asked everybody if they needed any help with working the machine. He didn't do anything wrong. There is no evidence that we can find that there is a violation of the election law in the case and it is recommended that this case be closed.

**Chairperson Handel:** All right have Mr. Duggin or Mr. Garcoft here? Anyone here to speak on this case? Anyone here on this case. All right let the record show that there was no response. Motion.

**SPEAKER:** Motion to close.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and second to close. Any other questions or comments?

(no response).

**Chairperson Handel:** All in favor please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed?

(no response).

**Chairperson Handel:** Our next case is No. 2008, No. 57, DeKalb County.

**Mr. Harvey:** The complainant in this case was Stan Watson who was the candidate for DeKalb County CEO in the last election. The allegation was that somebody had called and said that somebody from the Burrell Ellis campaign had told her that she could complete an absentee ballot application over the phone. They didn't have a number for Ms. Smith. Essentially Ms. Dolores Smith couldn't be identified. The person who supposedly spoke to her couldn't be identified. And the Ellis campaign responded by providing scripts of their phone bank operators. Ms. Dolores Smith was not on the list of voters that they called. There is no indication that



anybody from the Ellis campaign called a Ms. Dolores Smith and there is no evidence that there is a violation of the election code. We recommend that this case be closed also.

**Chairperson Handel:** All right is there anyone here to speak on this case? Come forward. Right over here. Give us your name and address.

**Mr. Kevin Ross:** My name is Kevin Ross. 1201 West Peachtree Street, 14th floor, Atlanta, Georgia. And just a quick response. The complaint was completely unfounded and we would encourage the recommendation that it be closed.

**Chairperson Handel:** All right. Questions colleagues?

**SPEAKER:** Make a motion to close the case.

**SPEAKER:** Second.

**Chairperson Handel:** A motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed. All right. Thank you. Next case is 2008 No. 67, Lanier County.

**SPEAKER:** Madam chair, this involved a July 15th, 2008 primary election complaint Judy . Mullis, a probate judge election superintendent, as well as numerous electors from Lanier County. The respondent and direction of the complaint is Charles Norton, the incumbent sheriff. The allegations were that Sheriff Norton was campaigning within her polling location and that voters were turned away because not allowed to vote. All of the witnesses. All nine witnesses who alleged that Sheriff Norton was campaigning inside the location were interviewed. No one heard the sheriff actually solicit any votes. He was seen greeting voters, shaking hands. He did tell one voter he collected over \$80,000 in drug money during the previous tenure. Apparently, the sheriff, according to him, he cited O.C.G.A. 15-15-10, as his duty. And in fact 15-15-10(A) indicates, which is a separate statute, obviously, from the elections code, but outlines the duties of the sheriff. That the sheriff is to attend by himself or had his deputy act the place or places of polling an election or county site on the date of election from the opening to the closing of the polls and to take under his charge all subordinate officers present as police to preserve order. I think this Board has come up with against or discussed this allegation before. I think it is a certain reading to the letter of the law of O.C.G.A. 15-15-10 we can't substantiate a violation of the elections code as I guess (unclear) is up for interpretation that since no one heard him solicit votes or identifying himself, we do not feel there was evidence to support that allegation. There were 6 people that said they were turned away. 5 of the 6 were actually allowed to vote and the 6th could not be located to ascertain whether or not he was offered a provisional ballot. So at this point my division cannot substantiate any violations. I believe the sheriff, at least when I spoke with him last week, was intending to be here had. I don't know. I thought that there might be sheriff Norton in the back. He is here this morning.

**Sheriff Norton:** Good morning.

Chairperson Handel: Good morning. Thanks for coming. Everybody who wants to speak on this case. If you could go ahead and come on up for me, that would be great.

**Sheriff Norton:** We with are a small sheriff's office and we have 4 or 5 voting precincts. We only have a couple of deputy on duty at any given time. If those deputies are out taking calls or checking on other polling places that only leaves me to check on the polling place which is next door to my sheriff's office within 10 or 15 steps. And I do frequently go outside my sheriff's office for privacy to the make cell phone calls etc. and smoke because I can't smoke in this office. But as far as ever asking anyone to vote for me. I've never done that..

**Chairperson Handel:** Okay. Thank you. I'm G.B. Mullis, I'm the elections superintendent and I filed this complaint. And we had a lot of complaints that day about the sheriff being within 150 foot. I felt like you know if everybody couldn't be within 150 foot, he shouldn't be allowed to be there too, as a candidate. And when I did approach him I called on the telephone I seen him out there and I seen him out there and I asked him to please move, go back into his office. We are have voted in this place for 30 years or better, ever since that courthouse has been there. That grand jury room's always been like the sheriff's office and we have used this as a voting location by (unclear). And I have never had any problems with this before, as far as the sheriff being on the outside of the polling place or within that 150 foot. It's probably not but 25 or 30 foot from the front door of the grand jury room from the front door from sheriff's office. But he does have access to his sheriff's office from the back. There is a back door. And my old sheriff used to use the back door from time to time to come in and out the door because I've asked him not to stand outside and he didn't, because I asked him to he did do that. And when I approached him and asked him to do that he refused to do it. So I felt like you know it's a close election it's only 26 votes difference now my folks in Lanier county a lot of them feel like it was a tainted vote count, you know, and that makes us question our integrity. And I didn't do my job on election day. I was covering my but really when I filed the complaint that this happened on election day. All my poll workers said he did go out there. Now he had has done that before in the past. They told me that he had gone by checking on them. But we have got two outlying precincts around the county. And they kind of are buy themselves. They said that he did go in and he checked on them that he did go in that day and they said that he didn't talk to anybody. So I can't say that he did. But I think that is what they said but he did show the duties of a sheriff and one of them was the 16 or whatever code it was about as a sheriff stands in for his deputies at the polls on election day. And we feel like, you know that needs to be addressed. And you know threw the sheriff's association or somebody needs to address that particular code section (unclear) on election day. And we are looking -- we might be relocating that polling place. And also you know, there were several things that occurred that the didn't cooperate very well. I just am covering myself and my constituents at home. I'm not here to represent him or the losing candidate. I'm here as election, superintendent, trying to do my job to the best of my ability. I've been doing this for 20 years and I feel like I do a good job, you know. And that's why I'm here. I'm not here to get in any trouble. I don't know a thing about it. It was the fact that that issue needs to be addressed by the Board or something other.

**Sheriff Norton:** I am going to leave with you photographs that shows both my sheriff's office and the door as well as the vehicles of the sheriff's office in our parking lot and submit two letters from coworkers that say I do go by the polling places. And I will ask them if they need

drinks or if they need anything for lunch. My officers were from the furthest polling place away (unclear) maybe from the county seat, we were requested to follow them from the polling place back to the courthouse and we would be balanced. And we do all that stuff.

**Chairperson Handel:** Let me if I might. One of the things before and we have talked about this and what would be helpful first of all is, I mean you guys have sort of a symbiotic relationship. And so it's important for everybody to try to work together for the elections office. This is something that we can work with you and get some input from you on maybe how to clarify this for elections officials. Because I don't think anybody wants to have anybody feeling like they're in a bad spot. I don't want to you feel like you're in a bad spot about anything. If we can do a better job of clarifying things for you maybe that will help.

**Sheriff Norton:** We're in perfect understanding of everything. We really are. We have a 32 year old courthouse that the U.S. Marshal's office when they did the courthouse assessment said we need to replace because we can't secure it. (unclear).

**Chairperson Handel:** All right. Do you have something that you would like us to put into the record.

**Sheriff Norton:** Yes, ma'am I do. How would you like me to do it.

**Chairperson Handel:** If you would just give them to -- tell me what they are again so we will see what our motion's going to be.

**Sheriff Norton:** I'm sorry. There is going to be several photographs of the sheriff's office, vehicles that are outside the sheriff's office which is next door to the polling place, and there is also a couple of letters from poll workers saying that I was requested to come in once because they had an unruly voter and once I went in and calmed things down, everything was fine. I talked to the poll worker and then went ahead and left and returned back to my office. I do my campaigning. I put my signs out or run ads in the newspaper and I have yet to ask anybody to vote for me. And they are confusing me with someone that really needs this headache.

**SPEAKER:** Sheriff, thanks for coming today sir. Appreciate that very much. I noticed that on your lapel pin you have the indicia of the fact that you're the sheriff. On that day in question, were you in uniform.

**Sheriff Norton:** I don't wear a uniform.

**SPEAKER:** You were plain clothed.

Sheriff Norton: Plain clothed khaki pants and colored shirts most of the time (unclear).

**SPEAKER:** Were you wearing any indicia of your status as the sheriff?

Sheriff Norton: I wear it all day.

**SPEAKER:** And that would have been in full view of whomever might have seen you within 150 feet of the polling location.

Sheriff Norton: Absolutely.

**SPEAKER:** Do you think you are commonly known in the county or could somebody simply not have known who you are.

**Sheriff Norton:** We're a small caught. It's estimated between 7200 and 13,000 people. My grandmother taught and was on the PTA and my father cared the first basketball team to state. We are a very well-known family.

**SPEAKER:** So you think you would be commonly known to be in any public gathering. Would you be known as the sheriff.

**Sheriff Norton:** Yes, sir.

**SPEAKER:** I have no other questions.

**Chairperson Handel:** Any other questions.

**SPEAKER:** Had the attorney general's office ever come across this issue of (unclear).

**Mr. Chris Harvey:** I was afraid you were going to ask that. Not to my knowledge. I have never looked at the statute. I would be interested to see what it has to say. It is a concern to me that the statute could be used as a means for a sheriff to come into a polling place, even if the sheriff in this case did not campaign, you question whether people feel intimidated by the sheriff being there. You are reminded of the sheriff by his presence. It is a concern to me. And I have never seen that.

**Sheriff Norton:** If I may. We have dressed this at the Georgia Sheriff's Association at numerous functions and it is more difficult reasons that we discuss it where we do not poll at polling places (unclear) outside the door of the voting precinct. (unclear) office one come in or walk in, Or inside the courthouse.

**SPEAKER:** Is there any evidence whatsoever campaigning the report seems to be clear, but with all this discussion could I just go back and hear about the sheriff as activities was 150 feet. Do you think that would suggest him (unclear) conflict with the statute. I'll remind you that you we're here to enforce the rules of the code and not 15-15.

**Attorney:** From the lawyer side of me I would say an argument could be made that talking about the accomplishments of the office to potential voters when with they go to vote would be campaigning. In my own experience elected officials talk about their accomplishments when they vote. The flip side is elected officials talk about their accomplishments while they do their job in telling people about their job. As a lawyer I could make an argument on either side of his comments about the seizure of the government during his tenure of sheriff. To campaign or not campaign. I don't know this sheriff so I don't know if he routinely stands outside the courthouse and tells folks what he's done as the sheriff. If that's an anomaly, I would say an argument would be made that that's campaigning. If every other day of the year he stands outside at the same place and smokes and talks to people coming into the building and talks about his accomplishments in the office, I would say the argument goes a little bit the other way.

**SPEAKER:** And that's supposed to be helpful to me? Never mind I withdraw that.

**SPEAKER:** But none of the witnesses said that they had been solicited for a vote.

**SPEAKER:** That's correct.

**Chairperson Handel:** Okay.

**SPEAKER:** I think the code talked about mannerisms and what is the shaking of the hand and a had hugging a baby. That's mannerism. That was my take on it. And that's why I felt like I had to as election superintendent get this cleared and brought before the bothered so it can be addressed throughout the State because I'm sure I'm not the only candidate that this has happened to. I'm just probably the only -- nobody else probably filed a complaint on it. You know if they file a complaint on me, then I would have to answer why I didn't make him move. But that's not the case.

**Chairperson Handel:** All right. The thank you. To Mr. McGiver's point, we don't really have jurisdiction over the 15-15. It's whether or not there was actual campaigning and we don't have anyone who is willing to be on the record saying that they have been solicited to vote. I don't know that there is anything here. I will say, sheriff, and maybe you aren't interested but I will let you know how I would do things as Secretary of State when I'm on the ballot. I have every authority to be inside of a precinct on any election as Secretary of State. I would not do that, however, under -- I can't even think of a circumstance write would go to a precinct where my name was on the ballot and talk the to anyone for the mere sake of perception around that. So no one wants to inhibit you from doing your job, but, I mean I would hope that there seems to be tension there. And in elections we need to depend on one another. So I would hope that you could kind of work that out between the two of you. But from this one member I don't see how there is any evidence whatsoever to suggest that you were soliciting votes. And maybe someone perceived it that way. And you know as elected officials, we all have to be mindful of perception.

**Sheriff Norton:** Ma'am, once you see the photographs you will fully understand.

**Chairperson Handel:** (unclear).

**Sheriff Norton:** It ought to be mind boggling how you can move that place (unclear).

**Chairperson Handel:** Can you send those around the photos. Thank you.

**SPEAKER:** Maybe I take more of a militaristic view of this than others, but in my judgment. Somebody has to be in command of the scene. I come down, contrary to the report of our investigators here, and that is that in this instance the election code says that Judge Mullis is in command of the scene. And she makes the call she had the subjective judgment as to whether or not the conduct that she is observing is interfering in violation code and I side with the probate Judge on this matter. And in my judgment this should be bound over. And I'm sure the law

department not only has an opinion but is likely work something out that is amicable here. But I would want it to be clear that it is, in this case, in Lanier County, it's the probate Judge but it may also be a member of their Board of elections in another county but on that site and at that moment in time, given the election process for which you are completely responsible in that county, then this is the lady that should.

**Chairperson Handel:** I'm sorry. Hold on. We will come back to you. But sometimes that doesn't help.

**SPEAKER:** Obviously, if the matter involves the public peace and things of that nature, the sheriff, obviously, is very acquainted with what his responsibilities and duties are. There is a conflict here, perhaps the (unclear) but the only thing that we're responsible for and the oath that we have taken is to enforce the election code so I'm going to encourage my members here in this particular matter to bind this one over, no offense to the sheriff, but we had a commander on the scene and she made a judgment call and I support that.

Chairperson Handel: Mr. (unclear)

**SPEAKER:** Well, I'm not sure how you want me to respond.

**Chairperson Handel:** Can I just ask him a question so we know what with we're looking at.

**SPEAKER:** Sure.

**Chairperson Handel:** Will you tell me what we're looking at, Sheriff, so I can -- is this the entrance to what?

**Sheriff Norton:** That's the entrance into the foyer. You would take a right to go into the superior courtroom. You take a left to go into the courthouse.

**Chairperson Handel:** Okay. Where is voting happening in relation to this.

**Sheriff Norton:** Right where your thumb is at.

**Chairperson Handel:** Over here.

**Sheriff Norton:** This is where you walk up to the room. Where you see the officer walking in to the next door is the Sheriff's Office.

**Chairperson Handel:** All right any other questions.

**SPEAKER:** I had a question. Well, it's not a question. It's a statement. I'm going to take a different view that Mr. McGiver on this. I don't think that Ms. Mullis is the commander on the scene. I think we're the interpreters of the law. Although I think it would have been wise of the sheriff to agree to Ms. Mullis's recommendation, the problem here is that there is no evidence of campaigning. And the other problem here, to me, is that if the sheriff is -- apparently your office, itself, is within a hundred feet of the polling place.

**Sheriff Norton:** Absolutely.

**SPEAKER:** So if the sheriff is sitting at his desk in had his office, talking to someone, he is not acting in any different way than he is if he is standing outside his office talking to someone. They are both within 150 feet. To accept Mr. McGiver's interpretation says when he is sitting in his office talking to someone, doing his job is a violation of the code. The problem here, is that his office is within 150 feet. And he has got to do his job and therefore, as long as there is no allegation from anyone that he was actually campaigning, I don't think that there is an issue.

**Chairperson Handel:** I'm conflicted on this one for that reason. Again, if I'm saying hello and shaking hands to the people going to vote or whether I'm saying vote for me or not vote for me, that's getting my name in front of them and. I think I am going to have a hard time voting to bind this over since up don't have anyone who is saying that yes, it was campaigning, but I really would suggest, on those days, you need to try to avoid doing that. I mean it's just not proper to say hello to people in line when your name is on the ballot unless there is just a legitimate reason that there is something going on in that precinct and again we, as elected officials, as you well know, we are just -- perception we have to worry with about and be cognizant of. But I don't know that I could, absent a person saying, yes, the Sheriff campaigned and asked me for a vote, I'm going to have a hard time binding it over.

**SPEAKER:** Just to close out, the code, I know I think Mr. Ritter will support me in this as a representative of the law department, the code bestows upon, in this instance, Judge Mullis to make these calls, and that's the call which she made, and the law supports that and that's the reason that I think that this should be bound over. I'm sure (unclear) by the law department. I think it's important that we send a message to the directors of our election, particularly judges in smaller counties that says we are going to support your efforts. We want you to be aggressive. We want you to enforce the code and not tolerate any (unclear) in any way. That's the reason that I will object to voting against the recommendation of our investigator. In this instance I will vote to bind over the matter to the law department.

**SPEAKER:** Brief comment. If you were to probable cause in this case we would still want to look at the law and see whether -- what the enter play was between the statute 15-15-10(A) and the other sub parts of that and the election code. If we were to look at those and find that that was not actually a violation, we would still recommend close this case after you found probable cause. On the other hand, if we think that that is a violation, I don't think that it's actually going to be a person thing from the law department is that going to people saying vote for me the be all and end all of campaigning can be more than that. In this case, it may be appropriate even so to have a minimal consent order or something like she says (unclear). We will be a able to look at it once (unclear).

**Chairperson Handel:** I know I had asked you to take a looks at whether or not this has ever come up before in our elections record. Did you find anything on that.

**SPEAKER:** Yes, ma'am, I did. And there is actually a Supreme Court decision, a 1942 Supreme Court case, Georgia Supreme Court. It's L. Bert versus Cann, 193 Georgia 320. And

there is also a 1977 attorney general opinion on this subject. It's 151. And both of them, or the attorney general's opinion references that a sheriff's powers to be at a polling place are not conditioned upon request by the superintendent. So it's a little at odds with -- in other words, the superintendent doesn't have to ask the sheriff to be there. The sheriff has that duty to make sure the polling places are safe; however, the Supreme Court decision does actually put parameters around the sheriff's, what a sheriff can do at a polling place. And the sheriff can be within the enclosed space. Peace officers can but only when necessary to preserve order. A sheriff or deputy sheriff in a polling place can't engage in conduct which would constitute elicit intimidation of other persons in relation to the electoral process, and a sheriff or deputy is prohibited from engaging in soliciting votes and distributing campaign literature and other material the same as anyone else. So that is the enter play that the Supreme Court and the attorney general have looked at. This has been the case for a long period of time.

**Chairperson Handel:** I'm going to try a motion and certainly Judge Mullis, you know how strongly I want to be supportive of a probate court judge. And one of the first things that you said was that we really need some clarity on this. So in light of what Russ has just told us and some of the case law I'm going to try a motion that says we will close this matter. However the elections director is directed to develop some clarity language around the 150 foot rule. Hopefully we can do it by rule of the SED so that we can get some clarity and to do this in conjunction with the sheriff's association, as well so we don't lead over into an impact on 15-15 and your statutory responsibility. That's my motion.

**SPEAKER:** I second that motion.

**Chairperson Handel:** Questions and comments on that? (no response).

**Chairperson Handel:** And hopefully that will get you the clarity that you need to be able to do your job and I want to thank you for having the courage to bring it forward because Mr. Time we need someone like you to push us to address an issue that really needs some clarity. I have a motion and a second. All in favor please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed?

**SPEAKER:** Nay.

**Chairperson Handel:** We have three ayes and a Nay. We welcome input from both of you as Mr. Taylor works on that. He would be amenable to that. Super. Thank you, very much.

**Chairperson Handel:** Next is 2008 No. 69 Elbert County. Yes, ma'am.

**Attorney Shawn LaGrue:** The complainant in this case is Judge Susan Sexton, the probate judge. And the respondent is Maydel Davis and Marvin Stiff, who is the deputy registrar. The allegations were that the expressed polls do not contain current information but it steel was removed from a DRE after the election, prior to certification of the election. And the registrar



did not record the seal numbers from the DRE machine before elections and the (unclear) were not mailed before September 22nd, '08. The deadline for the November of '08 election. Our findings were that in fact the expressed polls were not updated prior to use in the primary. They examined the machines and confirmed this. Those (unclear) and therefore responsible and your SED Rule 1831-12-2007 Section 8, on Friday of August 8th, Judge Sexton observed Davis and stiff erect an ER machine seal removed. 10 days had not passed since the primary. To allegation 3 and 4, there is no requirement, believe it or not, to record to seal numbers after the election. So the fact that they didn't do it, may very well be true, but it's not a violation of the code and rules and the ballots were actually mailed within two days of receipt. Therefore it is recommended that there case -- allegations 1 and 2 be forwarded to the AGs office for appropriate sanctions and fines. I should note two things for the board if I could, before I finish. One is there is a previous Elbert County pays, 2,637 presented in February of last year respondent in this that case was May Davis. There is a -- a consent order was agreed to in June of last year, which included a C and D reprimand mandatory training, heightened monitoring, special training on (unclear) and absentee ballot process. It appears that maybe the training worked because that allegation was not substantiated. The other thing I should note. I have speaking to both bob Thomas, the County manager and bill Daughtry, the County Attorney who is here. As of July 1st Davis and Smith will no longer be elections officials in Elbert County. And if I could let the County Attorney explain that.

**SPEAKER:** May it please the Board, Madam Chair, General LaGrua. I'm Bill Daughtry. And I'm to County Attorney for Elbert County. I'm referencing May Davis and Marvin Stiff, who is our chief registrar and deputy registrar. As General LaGrua stated, the terms of Ms. Davis and Mr. Stiff were not renewed by the Elbert County grand jury. And so as of June 30th, their terms end. However, in spite of the fact that they are not going to be back, they wish to contest these allegations that are before you today. We contend that they have not violated any rule or code or statute as alleged. Also, as was correctly mentioned, Ms. Davis has a pending case that you all heard June of last year. That case was supposed of by partial admission and consent order that Ms. Davis did admit to those allegation. She is willing to admit whenever she is wrong, but she is not willing and able to do so today, because we believe that the allegations as stated today are not true. As with the first allegation, this that the (unclear) polls did not contain current voter information for the July 15th, primary election. On July 15th, early morning of July 15th a voter at the Elbert precinct was listed electronically as having voted by advanced voting when, in fact, he hadn't. That was reported to the registrar's office. The problem was quickly diagnosed that the electronic information was incorrect, however the printed master list was correct. And so decided between the registrar's office and our election superintendent poll workers would refer to the printed information as well as the electronic information. I believe the depth of the problem was over stated in the report on the investigator. It mentioned that information on 70 voters was incorrect. However there was only one voter during the entire election that he had previously voted when he had not. And he was not turned away a minute he stuck around until the problem was diagnosed and fixed. And so everybody was allowed to vote, but at this date 70 voters necessarily, there was only one voter in the entire county that was aware that there was a problem at all and he was told that he had previously voted, when, in fact, he had not. Rule (unclear 183 -- 12-.07 subsection 8 states in terms of delivery to the precinct registrar shall ensure that all persons who have been issued or cast absentee ballots are marked accordingly on expressed poll units. We contend this was the only way to end to problem by the respondents,

but some sort of computer glitch in the system. A list of advanced as absentee voters is uploaded, submitted electronically to the State servers at the close of every advanced voting period. Then prior to election day the electronic file is down loaded or obtained electronically from state servers at a KSU, I believe. And I'm not a computer expert so I may not be using the correct terminology. I ask that you all pardon me if that's the case. At the end of the advanced voting period in question, information was correctly entered and transmitted. The information was written on the printed master list of voters; however, the expressed poll data was incorrect, even though it didn't correct for the February (unclear) reference the primary. And the data was transmitted the same way. The following election, August 5th primary run off election Mr. Stiff discovered that the electronic file containing expressed poll about absentee and advanced voters was incomplete or even empty when he was down loading the file from the KSU server. He noticed that the size of that electronic file was much smaller than the size of the file he had uploaded to the state server and he did have the foresight to call KSU and report that problem to him. And they instructed had him to down load the electronic file from another server, thereby avoiding the same problem in the August 5th election. My clients have received information that a similar problem was experienced with other counties and municipalities during the August 5th primary runoff. And rule 183-1-12.07 subsection 10 anticipates the printed master list will be utilized under certain circumstances, which is exactly the resolution the that we reached on the day in question. And of course there was not a major problem with that. We contend the problem in retrieving electronic files from the KSU computer servers might be a problem with the servers themselves. Of course, that can't be proven without a computer forensic examination of the servers, which we don't have the authority or the resources to do, but it was running into a problem by my clients. The printed master list was correct. The electronic times that were uploaded previously, there were no problems with that and the very same procedure was followed on this election. We are very concerned with public confidence and the accuracy of voter information. We believe that that is of utmost importance and we share your concern with that. However, we simply contend that this was not a problem. That problem was not caused by my clients. It is unfortunate. It was quickly resolved, early on the morning of the election, but accurate information was compiled and transmitted. And for some reason the electronic file was incorrect. We respectfully request that this allegation be dismissed and not bound over for further action. And I know I'm running out of time. I will briefly address the second allegations. It is alleged that the seal was removed from the DRE machines after the election and prior to certification of the election during that (unclear) day period. On August 8th, which is 3 days after the primary runoff election, one of your investigators, Steve McDower was doing routine certification in Elbert County. And he discussed a number of issues with her Office. One of those possibilities of a refuse DRE units on the legs that come from the manufacturer due to the configuration of the room, to see if more machines can be set up and more votes cast simultaneous justly to keep lines down in future elections. The office refused the DRE machine units on table tops as instructed by our election superintendent, and as ordered by Mr. McDower, Ms. Davis and Mr. Stiff stood one of the DRE machines up to see the if it would work well in that space, you know, considering the amount of wall space and various other factors. They had to remove the seal to record the number of the broken seal on the recap sheet and To record the seal number that was used to replace it as part of that process. Election superintendent, Susan Sexton, whose office was across the haul you saw all this pass by here and she came over to do so what was going on, and she did instruct my clients that the machines would be used on table the tops in spite of what Mr. McDower said. Of course, my clients were just following the

instruction of your investigator to set a unit up to see if it would work. And the relevant code section is O.C.G.A. 21-2-457, voting machines shall remain locked against voting for the period 10 days next following each primary and election. We contend that the machine impact was locked against voting at the time. And this was three days after the election. Memory card, supervisor card, voter access cards or ballots help been locked, stored under seal by the election superintendent; there, was not possible to cast a vote. The machine had not been plugged into a pour outlet. It had not been powered up with battery or whatever. It was essentially set up to see how many machines would fit in that space for the next election cycle. As a matter of fact, memory cards were moved on election night as required by rule 180-20-2.202. Of course, the statute states that the machine shall be locked against voting. There is no case law on the issue. The appellate court's have not addressed this issue, but I'm sure the legislature included the words against voting for a reason. And if the machine is stood up, then of course, you know if it's not plugged in, there is no pour sources -- the unit was still in the registrar's office 3 days after the election. And, of course, your rule required the election superintendent remove the units to a place of storage. Of course, that was not done for whatever reason but that's the superintendent's responsibility, who is actually the complainant in this action. And of course, my clients could not have moved this can computed source because they don't have a key to the storage facility. Storage area. And so you know that machine was still there. Your investigator was there just a few minutes before all of this transpired and he didn't find a problem with that. Most importantly my clients were simply following the instructions of your investigator. And we respectfully request that this the allegation be dismissed and not bound over, as well. In closing, I just want to say I'm an Elbert County voter myself and I often use advanced voting. And I found that many and all my family members believe there is a smooth process in the registrar's office that even though their term are coming to an end, that Ms. Davis and Mr. Stiff have done an excellent job. They are some very friendly and helpful people there. This is a rule county. And everybody knows everybody in Elbert county and Ms. Davis is very well respected in the community as a retired educator. They are both very professional and of course they will be missed after July 1st. But we just respectfully request that you not bind either of these allegations over.

**Chairperson Handel:** Is there anyone else here?

**SPEAKER:** They are here. I don't think they wish to make a statement.

**Chairperson Handel:** All right. Thank you.

**SPEAKER:** Madam chair, if I could ask a question. The printed master list, what was that print from?

**SPEAKER:** I'm not sure. Mr. Stiff could probably answer that. Mr. Stiff, come on up.

**Chairperson Handel:** If he would just quickly give his name and address before you start answering.

**Mr. Stiff:** (unclear) arden Stiff 2505 Martin Turner Road, (unclear) Georgia. The master list was printed from the Second of State website. When we upload everyone who has voted we

download back from one (unclear) the document supports it. And we also fill out a red book which is sent down from the Secretary of State's Office (unclear). We mark off when they vote also. So we have two different things that we can use.

**SPEAKER:** And the expressed belief is that you attempted to update. Could you just explain how you attempted to the update it and your feel that it wasn't .

**Mr. Stiff:** Well, when I attempts to down load the file from KSU it was too small. It was only 58 kilobytes. The first one that I had ever used they were larger than that. The first time I got one, they was too small. I didn't know that it was too small. I learned that it was too small. I attempted to use it. I called -- I can't remember, but I remember it was Michael's name. I talked to Michael. Michael was busy and he referred me to someone else. And he could not see the file so had he could not tell me whether it was the right size or not so he didn't have any way or didn't use any other method of correcting the file at that time. The file showed up if same way, a month later. It showed up too small. But I knew it was not the one for me, because it was too small. He told me that that was everything that he got from the Secretary of State's office. I said well it's too small and it's not going to work for me. So he then said I can down load it to that file directly from the Secretary of State's office to you. That was the first time that had ever been done. And it came up much bigger and it worked fine.

**SPEAKER:** Thank you.

**Chairperson Handel:** Any questions? Okay a motion.

**SPEAKER:** Make a motion to close.

**SPEAKER:** Second.

**Chairperson Handel:** A motion and a second. Any questions from anyone? (response) All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed. Okay thank you. Next case is 2008 No. 73 Jasper Kelly.

**Ms. LaGrua:** Yes, ma'am, the complainant in this case involves the August 5th, 2008 run-off. The plaintiff was Juanita Gasway. The respondents were Ken Jackson, Magistrate Court Judge, Don Kelly, Dan Jordan, David Morrison and Linda G. The allegations were that David Morrison intimidated Carl Tyler by asking her to remove to yard sign. There were a number of folks that were upset that they were contacted prior to voting by folks telling them they hadn't voted and encouraging them to vote. There was also allegation that intimidating phone calls were made to persons that hadn't voted. That a sister of a candidate participated in telling those in this clerk of superior court and magistrate court intimidated them by visiting her at her business. Ms. Tyler was interviews and said she talked to the Ms. Morrison and he asked her could he put a sign in her yard, and she declined, but she never felt intimidated and didn't even know the complainant this case and didn't know how her name got involved. In terms of the intimidation and the voter

lift, when we interviewed folks and then found out that it was legal to obtain the list of folks that had not voted, and that that's how their names came up to be contacted to vote, they became unconcerned. Their initial concerns were that some personal illegal information had been obtained and that's why they were contacted. Linda Gatz is the sister of the same candidate for superior court, but he was not on the ballot because -- he was on the ballot. She did not participate in this elections process. Ms. Gray was the one that was visited by the clerk superior court magistrate Judge. She said she knew them, that she was surprised that they knew that she had not voted, but again when she found out it was public record, that was not a problem to her. She was friends with both of them, was not the complainant and did not give in to them. So we couldn't find any violations and we recommend that you close.

**Chairperson Handel:** Anyone to speak on this case? Come up. State your name and address. Speak up so she can hear you.

**SPEAKER:** (unclear) I write letters better than I speak.

**Chairperson Handel:** That's okay. Don't be nervous.

**SPEAKER:** Okay. I am a cochairman of the (unclear) in Jasper County. And the complaints came to me one right after the other as far as I feel intimidated. I feel like they are call me, developer calling me. I don't want to put a sign in my yard because it's for somebody that they didn't want in office. So that was the main thing, and the intimidation factor was the thing that I wrote the letter about, because with at that point in time it was no investigation. Everybody was saying, how do they know who I voted for? Or I did vote. Or can they find out if I voted for this person or that person? And the other part of the complaint was when early voting when you went in, the voting machine was facing out toward the room and people would walk behind you and the screen was visible and you could see the person vote, as they were voting. And it happened to me. And I feel like, you know, that that's a private thing, one of the private things that we have in our life now is getting to vote. So, that was one of the things that I had complained about. The investigator came down. In November the machines were turned around. There was no privacy. And the thing that I really wanted to express is the appreciation to you looking into something for a small caught like Jasper because everybody is everybody's cousin, everybody knows everybody. And that is how I think this campaign got a little out of hand. We had a woman running, first time ever, a woman running in Jasper County. (unclear) we have the first lady commissioner in Jasper County and I appreciate (unclear), just keeping an eye on things.

**Chairperson Handel:** Thank you, for taking time to come here. All right, colleagues, any other questions? All right. Is there a motion.

**SPEAKER:** Move to close.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.)

**Chairperson Handel:** Any opposed. (no response) all right. Thank you, very much for bringing this to our attention and just so has that you are aware and as part of the normal course of business for the investigative decision, they do go out and go to all of the county's leading up to election to take a look Atlanta what's going on and how things are set up and make sure that there doesn't need to be changes made leading up to that election. Thank you for bringing that to our attention and that will continue. Thank you. Next case is 2008, 119, Midway Baptist Church.

**Ms. LaGrua:** The complainant in this case was with Terrell Williams. The respondent's Dan Landingham of Midway Baptist Church, Sade Boyles, the Probation Judge, Earl S., candidate for sheriff. There were two allegations, one was that within the 150 feet there were signs saying vote Christian values as well as campaign signs for sheriff within the 150-foot mark. Michael Brown was the investigator on the case. And he is here. He was unable to find any evidence that this campaign signs were within the 150-foot mark or the other side. In fact, had he measured the distance for where the Christian value sign was supposed to be and found to be under 150 feet from the polls, so we recommend that this case be closed.

**Chairperson Handel:** Is there anyone here to speak on this days? Anyone here on 119 Midway Baptist Church. All right it doesn't appear that there is. Colleagues, any questions on this case? Is there a motion to close the case?

**SPEAKER:** Motion.

**SPEAKER:** Second.

**Chairperson Handel:** All right a motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? All righty. We have case 2008, 137, Henry County.

**Ms. LaGrua:** Yes, ma'am. This case involved multiple elections. The complainant is, actually, my division. We received correspondence from a Karen Horn. The respondents in this case are Henry County board of elections registrations, Janet (unclear) as chairperson and Karen Horn. Karen Horn is a legal permanent aren't and was not eligible to vote and had has voted in numerous elections. What we were able to determine was that Karen Horn registered in 2004 to vote 3 DDS. Interestingly, as best we can tell from the DDS printout, she did indicate she was not a U.S. Citizen, but also indicated she wanted to register to vote. That registration was sent on top Henry County. She was registered to vote and did vote in a number of nexts. And in September of '08, she changed her address on a handwritten voter registration application and she checked no to whether or not she was a U.S. citizen. Henry County, however did and register her to vote at that time and it came up on the system. She was sent a letter asking her to contact the registrar. She independently did some research, understood that she was not entitled to vote. She contacted the second of state's office asking her to remove -- asking us to remove her from the voter registrations. It appears that both Henry County is in regulation for having

registered her to vote after she checked that she was not a U.S. Citizen and clearly Horn is in violation of the law for having voted as a non-U.S. citizen. It is recommended in this case that the case, as it pertains to the Henry County board of elections and registrations be bound over to the attorney general's office for appropriate sanctions. It is also recommended that Ms. Horn's case be bound over to the AG's office because if that case in the AG's office being held and her case is reported in the District Attorney's office for contempt and criminal charges.

**Chairperson Handel:** Is there anyone here to speak on that? (no response).

**Chairperson Handel:** Is Ms. Horn here?

**SPEAKER:** She was here earlier.

**Chairperson Handel:** She was here earlier.

**SPEAKER:** I was told that she with be here.

**SPEAKER:** She said that she has to work so she didn't know that she was scheduled.

**Chairperson Handel:** Okay.

**SPEAKER:** (unclear) I first got a call letting us know that she had sent a later saying that she was out of school. The first registration was done in 2004 with the DDS..

**Chairperson Handel:** And that was before DDS had made it's changes.

**SPEAKER:** That's correct. And when they come to your office you take them like they are. You didn't did sign and extend there is no check marks on the DPS. It has to be written out I have a copy with me. She did later do a change of address in September of 2008. She voted in 2004 and 2006, not 2008. If you look at the screen, that is one reason the system is working. (unclear) That's how she got the letter in the first place. (unclear) one check mark on the second, not first, and it contains a fluctuation of around 20,000 applications. I thought I had a system in place where my older veteran employees were doing the new ones and the ones that I brought in part time were just making changes. If they were already in the system and had registration that needed to be checked at some point, you know the driver's license. And that is one reason it shows that it does work. We need something out there in place to back us up. The lady that does our mail stamped right over it with the date that we received it. And so when I'm looking at the copy now, all I see is our date stamped over it. I have put into place a different procedure for opening the mail. It has to be stamped on the back instead of the front. Certain handwritten procedures I have put in place also, that they will check each check mark from the ones that come to us with checks. I feel like we have that in place. Out of 20,000 registrations in one month, trying to get them in, moved out moved in county, change address, we missed this one spot. We were the highest voting County of early voting, in the State. We voted almost 70,000 people early. We did our satellites 2 weeks in advance, got approval from the justice the department to do a 2-week 77, channel 11 came down and talked about how we were running

well. And we did. It made our election day brief. I'm very much glad we have this system in place that helps catch this, so she would not have been able to vote and did not attempt to vote in November. So I would ask that the case be dismissed or at the very least let (unclear).

**Ms. LaGrua:** However, one thing I will say is first of all, (unclear) is truly one of our best in the State. Secondly, you know people are not perfect and that is why we do have the back-up system, for the verification, but that being a separate issue from the fact that this individual knew that she was a citizen and yet she voted. So, I would like to see us kind of take these issues separately. Questions? Comments?

**SPEAKER:** Any chance that this one vote may have made a difference on any of the elections.

**SPEAKER:** We had no votes that were that close.

**SPEAKER:** Were the chairperson in 2004?

**SPEAKER:** I was director of collections elections in 2004. We have a Board of Election and legislation by members. We meet once a month and are very much informed on what's going on. In 2004 the DDS driver's license, we didn't question that because you have nothing to question that when they sign and date. I have a copy if you want to see it. That is the way it comes back. That is no reason to question whether or not she is a citizen. There is anything saying that.

**Chairperson Handel:** Motion?

**Ms. LaGrua:** Can you take them separately?

**SPEAKER:** Make a motion that we close the case with (unclear).

**Chairperson Handel:** Is there a second?

**SPEAKER:** Second.

**Chairperson Handel:** Motion and second, all in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** All right the second case is on Ms. Horn, and I regret that she not here. I will tell you what I am troubled by here is that an individual knew that she was not a citizen of this country and yet willfully voted any way. While certainly I applaud that she took the time to send us a letter, when the issue became in the news. I'm going to make a motion that we refer this to the AG's office as well as simultaneous justly to the Henry County DA for criminal prosecution.

**SPEAKER:** Motion.

**SPEAKER:** Second.



**Chairperson Handel:** Motion and a second. Questions or comments?

**SPEAKER:** No.

**Chairperson Handel:** All in favor.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** All right. Thank you. And with that we are going to take a break in we with do need to go an executive session on (unclear) and call it back at 12:45. It might be a little bit of after that but 12:45 and we can get started straight away with the afternoon.

**SPEAKER:** Motion (unclear).

**SPEAKER:** Second.

**Chairperson Handel:** Motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

(BREAK).

**Chairperson Handel:** All in favor?

(Whereupon, there was a chorus of ayes.):

**Chairperson Handel:** Any opposed? And let the record reflect that litigation was discussed and there was no action taken. The next item is Gwinnett County. It's a memo, page 8007.

**SPEAKER:** This case was presented at the last board meeting and (unclear) (noise interference) he was notified of this meeting. To my knowledge he is not here. (unclear)Sorenstall, who attempted to vote in Gwinnett County, the records showed him not to be registered. He declined a provisional ballot, believing that he was registered and eventually did not vote and is still not registered to vote in Gwinnett County. And it is recommended that this case be closed.  
**Chairperson Handel:** Is Mr. Sorenstall here? Let the record show that Mr. Sorenstall was notified and has not appeared before the SEB. Colleagues, do you have a recommendation for closure? Any questions or comments?

**SPEAKER:** Make a motion that we close this case.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and a second, all in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? There being none that case is closed. All right. The next item that we will have before us is Fulton County, 2008 No. 84, No. 104, No. 134 and I think it might be in the front because I skipped over that one under tab 2 colleagues.

**Attorney Shawn LaGrue:** Madam chair if I could just for the Board's ease on this case because it's fairly long and fairly complicated I have a four point presentation to help assist as I go through the allegations and the findings in this case. Essentially, the Georgia Secretary of State's Office received in excess of 145 complaints on issues throughout the course --

**Chairperson Handel:** And you are?

**SPEAKER:** Respondent. Joseph (unclear).

**Chairperson Handel:** For what case, sir?

**SPEAKER:** 184.

**Chairperson Handel:** Okay. If you want to sit for one second, we're going to hear a report from our investigators and then I will be happy to hear from you.

**SPEAKER:** Excuse me. There were in excess of 145 complaints on issues throughout the course of voting that all (unclear) be general and runoff elections November and December 2008 this. Report is going to go over the series of complaints that we got during that time. Over 27 of all the complaints we received were issues in Fulton County. Early and advanced voting we with monitored both north, south, central, offices of advanced voting. The south annex we found no, in particular violation. The north annex there were long lines of voting in addition the election officials were not ensuring voters were returning the issued voter access cards. The respondent on that particular indication was Janet \*Cue, who is the north annex precinct manager. As we go through in the central office, again there were long lines of voters officials failed to note their reason for rejecting absentee ballot applications. Rejection letters were attached to the application, but never sent. And officials failed to post two voting instruction posters in the voting room outside. The respondent in that case is Beverly Walker, Shawn Kelly, Glenda Williams and April Todd. In terms of the unsecured voting machines at the north annex we got a complaint from Daniel Newfield. He stated that he was in the room at the north Fulton services center where voters were waiting in line and there were a number of unsecured voting machines with memory cards hanging from them. What we found was the machines had been used for poll worker training the week prior to the election. They did not have skills on them and prior to October 20th when we did the inspection they had been kept in another location. The County delivered additional voting machines and they were all moved into the auditorium. Unfortunately, once we got there and realized that they were in the auditorium, we found that the seal even the DRE units was the only security for the unit and that the annex building where the machines were kept, did building itself was locked in the evening, but the auditorium where the machine was kept was not locked. So you have a government annex building and the outside doors are being locked but other than that the voting machines are not being secured. So there are a number of violations, and again Janet (unclear) who is the north annex precinct manager at that location. There are violations of O.C.G.A. 21-2-379.9 as well as a number of rules

violations. As we continue to do our early advanced voting monitoring we had had allegations of disorder at the Adamsville Recreation Center. When our investigator responded to that location she observed someone fitting the description of candidate Ralph Long, who was running for office at the time. Long was there with a group of Senior citizens and was overheard telling people it was a important election. He also was identifying himself to the voters as Ralph Long, a candidate on the ballot, running for state representative in the 63rd District. He told the investigator that he wasn't aware that this was had his district and he was just dropping off his Seniors. Clearly, however, he was with campaigning at that location and would be in violation of 21-2-414(F). There were also allegations of disorder at the advanced vote and the central office precinct and the government office building on Pryor Street. Eric Pettaway had been there and voted and said it was very loud and he was unable the hear the instructions. If you remember we were able the substantiate this. There were copies of applications on the table that had been left unattended. Voter access cards were being put in workers pockets, left on the board and left on the tables. So Beverly Walker was that precinct manager and there were rules violations for not ensuring that voters were returning the issued voter access cards. Also at the central government office building, there were allegation of poll workers not requesting proper voter identification. We got a complaint from Joe B. stating that had he voted there during early advancing, he completed his application and attempted to show the worker his photo ID. He was told by the poll worker we don't need that here. While he waited head observed at least 20 other people attempt to show ID and the response remained the same. When he was called he attempted to show the poll worker again, his ID, and got the response never mind. He was at the precinct approximately 1 hour and never saw anyone check the voters' identification. We did not see this going on when our investigators were there; however, Mr. Burger, I should let the board know, is at this point familiar with the election law. He was involved in the prosecuting attorney's counsel on our Chattooga County case. And so unlike many folks was intimately familiar with the requirements of voting and candidly told (unclear) Sims that his ID was not looked at and had been told that was not a necessary part of the voting process. And Beverly Walker, again, was that precinct manager. There was also an allegation, Ms. Brown on the next one, there was an allegation that Fulton County was using the wrong application for absentee balloting. And what had happened was for in person absentee balloting they were using the mailed forms. So the form that they were using did not contain the proper oath. And it's hard to tell at this point how many voters were allowed to vote without signing the proper oath. When that was brought to their attention, they admitted. The application was changed. Brenda Williams was the registration chief. She indicated she knew there was another application but didn't know the content of it. Again that would be Shawn Kelly, the absentee ballot clerk is respondent. Brenda Williams, the Registration Chief, and April Tyler, the Interim Director, violation being rule 183114.0210.

**Chairperson Handel:** Do you know for approximately how long the wrong forms were used?

**Ms. LaGrua:** We found out on October 15th of 2008 so well into the early voting period. We could calculate the number of days, but we also received numerous allegations throughout this election process that voters did not receive credit for voting during the early and advanced voting period. We had six complaints early on. Five of those eventually received credit for proper voting. One individual, is her daughter, which we had found in the improper location with expressed poll voters, votes being given credit for a different family member because they are

right next to each other on the express poll. When we went to the inspection of the absent ballot, the central office, and found out about absentee ballot problems, they are numerous. So I will start --

**Chairperson Handel:** Just for clarity, you are talking about mail in ballots.

**Ms. LaGrua:** Now, I am talking about mail in absentee ballots. Thank you, madam chair. Investigator Marlo, who is the lead investigator on this case, and she is here, handles specific qualifications. Denise Williams, I sent them over there to investigate the allegations because we were continuing to get calls on a daily basis into our office that people had applied for absentee ballots and they weren't receiving them. When we first made a visit on October 30th there were approximately 2500 applications in the office being processed. Approximately a hundred of those 2500 had been received more than a week prior to October 30th so some time prior to Oct 23rd. Approximately a hundred of the 2500 had not been processed because the voter was newly registered and we had no scanned signature in the system. Approximately, a quarter of those were received between October 4th and October 10th, so 20 days, 20 plus days after the receipt of the application the applications had not been processed and no ballot had been mailed to the voter. Approximately, 300 of the 2500 applications that we reviewed had not been processed because there was no scanned signature and the applications had to be verified with the original voter registration card. Again, a problem, because they have to be able to get those within a certain amount of time and they were not able to retrieve them. The application in the office, indicated that the ballots had been mailed to the voter. So we find a number of applications that haven't been verified, but the records in Fulton County show that those ballots had actually been sent to the voter, even though they haven't been verified, but in fact the ballots had not been sent at all.

**Chairperson Handel:** So they said they were sent but they weren't.

**Ms. LaGrua:** Correct. They weren't verified, so they shouldn't have been sent. They said they were sent, but they weren't sent. As of October 30th. There were approximately 35 applications. Prior to October 19th, it indicated on the application that the ballot had been mailed. The ballots had never been mailed for these 35 applications. There were 50 of the applications that we reviewed out of the 2500, so 2 percent had been rejected and the voter had never been notified. So the voter is waiting for an absentee ballot. They have not been notified. Their application's been rejected, but no ballot's been sent. 78 of the 2500 applications were selected and copies were made. All of the application that's we copied and kept note of were received on or before October 21st, so over 10 days before. The date that the ballot was mailed was written on all of the applications and reported in the Fulton County absentee ballot sub-system. None of these ballots that Fulton County reflected had been mailed had ever left the Fulton County absentee ballot room. The voters of those application that's we took were later looked up in the State wide voter system. 22 of the 78 never voted during the November 4, 2008 election. Again, we had the absentee ballot registration chief April Fry (unclear), I don't think responded. We went back to the absentee ballot office on October 31st and there was a stack of 300 unprocessed application on the desk of Shawn Kelly the absentee ballot clerk. These applications -- October 31st, y'all may recall, was Friday before the election. So on Friday before the election, there is a stack of 300 unprocessed applications on the absentee ballot clerk's desk and they had not been

processed because the original voter registration card could not be pulled at that time and they hadn't been pulled and thus the application was still there. I believe it was either on the 30 or 31st that Secretary Handle sent a letter to the Fulton County board of election and registrations indicating that any application that's had not been processed needed to be processed in a timely manner so that the people requesting absentee ballots would receive their absentee ballots in time to vote in the November 4th election. We went back on Monday to inspect the absentee ballot issue again. What investigator Marlo found was that they had determined the eligibility for all applicants and all the voters eligible to receive an absentee ballot had been mailed one or a note that it was being mailed on November 3rd for a November 4th election. Now, Fulton County did mail a number of ballots by Federal Express. The total of 4,033 ballots were mailed by Federal Express. The statistics on that mailing are as follows: Of the 4,033 ballots mailed, 79 were mailed on Friday. 358 were mailed on Saturday. 2,202 were Fed Exed on Sunday and 1394 ballots were Fed Exed on the day before the election November 3rd. Total cost of the mailing was 287,620.17. Now, of the 4,033 ballots mailed by Federal Express, 2,015 were returned unaccepted. So approximately half of the ballots that were sent by Fed Ex actually were returned and processed. 812 of those 4,033 voters voted in person. 1,077 of those ballots were never returned or -- now follow me on this. 4 of the ballots were returned but rejected because the application for the ballot was rejected. They rejected the application but mailed the ballot, and four of those were returned. 7 returned and rejected because the oath was not signed or signed incorrectly, which would be normal procedure. One was returned and rejected because the person who assisted did not sign as assisting. 117 were returned and rejected because they were returned too late. The big statistic on this is of the 4,033 ballots mailed by Fed Ex, 1206, 30 percent of those voters did not vote in the November 4th, 2008 election. So 30 percent of the votes that requested absentee ballots did not vote for whatever reason.

**SPEAKER:** Quick procedural question. If you receive the ballot by Fed Ex and you returned it, what was the means by which you returned it.

**Ms. LaGrua:** Mail or in person.

**SPEAKER:** They didn't have a prepaid Fed Ex or anything like that.

**Ms. LaGrua:** Not that we're aware of, no.

**SPEAKER:** All right.

**Ms. LaGrua:** Now a 10 percent sampling, 401 we took the 10 percent sampling of the 4,000 Fed Ex ballots to go through this and compare to the absentee ballot sub-system. The date that was mailed, as indicated on the Fed Ex list that we got, was compared to the absentee ballot sub-system, indicating when the ballot was mailed. For four percent of the 10 percent sampling the system as accurate. For 12 percent of the 10 percent of Fed Ex the system did not indicate at all the ballots had been mailed. And for 84 percent the system was inaccurate as to when the ballot was mailed.

**SPEAKER:** Is that because the system indicate that the ballot had been mailed before it had actually come in.

**Ms. LaGrua:** I assume that's the reason, correct, and that nothing was done to update the system. Mind you, going back we found all kinds of ballots sitting in Fulton County absentee ballot clerk's office that indicated both on the application and in the system that they had been mailed and the ballots were still sitting there in the office and had never been mailed. We also received a number of 52 actions complaints. The voters did not received absentee ballots as requested. We followed up on as many of these as we could find. 16 of the 52 actually when we did the follow up did receive aspect absentee ballot. Three of the 52 received an ballot after the election was over. One received it on election day but was out of town. 19 were contacted and maintained that they never received an absentee ballot. 10 of those 19 that claimed that they never received it did not vote during the November 4th election. We made attempts to contact the remaining 13, but were unable to get in touch with those. Voter information, again we check the State wide system. Up to 52 complaints 27 actually voted, so barely more than half of those that request an absentee ballot to be done that claim that they the didn't get their absentee ballots voted, 8 by returning an absentee ballot, only 8 of the 52 claimed they didn't get it actually (unclear) voting absentee. And 19 voted during advance voting on election day. We received again a number of complaints that voters received an absentee ballot too late to vote, didn't return it. 7 of the 12 complaints (noise interference) absentee ballot on election day. Those voters those 7 submitted their requests between October 9th and October 28th. So well in time should have received an absentee ballot. One voter received an absentee ballot on November 3rd, however, he was out of town and therefore couldn't vote it. Two received their ballots between November the 3rd and the 8th. Those two requested their ballots on October 22nd. One voter was unable to be contacted. We had a number of allegations that voters received more than one absentee ballot. One was, we actually investigate for McBrayer with our office was at the north annex when someone came in. The two absentee ballots, the absentee ballot manager at that time did take one of the ballots to process it to void it. The other was received by our licensing director. Received two absentee ballots in the mail and again brought that to our attention, that he had received actually two absentee ballots. We also received a number of complaints that voters did not received credit for voting by absentee ballot. After we checked into it after the election was over, 7 of those 8 actually did indicate that they received credit for voting. We had allegations of absentee ballot fraud. We received a complaint from Melissa Berray, alleging that someone had used her information to obtain an absentee ballot. We found no indication that an application was made in her name. It looks like the absentee ballot information may have been entered in the wrong electors record. We could find no reason to believe that this was anything more than an data entry or clerical error. We did also receive a complaint from a Ryan Mahey stating he was given credit for voting but did not vote or request an absentee ballot. We could not locate an absentee ballot application. We tried to contact him for additional information. We could not get a hold of had him, but again, again it appears, giving any benefit of the doubt, that that may have been a clerical error also. We received an allegation from Judge Forester in federal court, that had his mother-in-law and two other voters who lived in the Lindberg assisted living home received absentee ballots but did not request one. We did follow up with these voters and it appears that because of their age they were eligible to request a series of ballots and they did so and they were sent absentee ballots that they didn't remember they had had requested because they had checked the box asking, because of their age for them to receive the ballot. So there did not appear to be substantiated allegations in regard to that. We did receive a complaint of -- can we go back one? We got an allegation from

Washington DC or Virginia from Amid Abanafoster that she had received 7 voters' absentee ballots. And we thought the initially that there was some kind of error or clerical but we were able to contact her and ultimately she actually sent us back in a box on election day at her residence in DC she received a box of seven absentee ballots. None of the other ballots were addressed to her address. They were supposed to be sent to seven other people, three in Washington DC -- I'm sorry three in Washington DC, three in Maryland and one in Virginia, none of them she knew. We don't know how that happened. I apologize for my expression. We cannot figure out how this could happen. The only thing that is interesting and looked like. So, I don't know whether to use intentional but at least thought out processes, they were all in the Washington DC northern Virginia area, all of the ballots that were sent were to persons living in the DC northern Virginia area but not to this woman and she didn't know these people. And she did sent us these ballots back. There was allegation that an absentee ballot was mailed to the incorrect address. Ultimately it may not have been supposed to have been mailed to a different address but there was nothing on the application that indicated whether -- the application actually indicated it was rejected because there was not enough information with the address. It did not indicate whether the voter was eligible to receive an absentee ballot and it was not marked as to when the application was received or when the ballot was even mailed. We have an allegation, as well.

**Chairperson Handel:** How much further do we have.

**Ms. LaGrua:** I'm on page 12 of the summary. We go to page 16.

**Chairperson Handel:** Okay.

**Ms. LaGrua:** I can try to move it along.

**Chairperson Handel:** No no no. I'm just curious.

**Ms. LaGrua:** If I need to speed up, let me know.

**Chairperson Handel:** No no.

**Ms. LaGrua:** We had an allegation from Sally Fitzgerald, who is here, as indicated, she doesn't need to speak, but she let us know she was a poll manager on election day at the (unclear) Tower. She did not receive a password for the express poll. And a password was needed in order to allow electors to go to the precinct that did not get their absentee ballot so that she could go ahead and cancel the absentee ballot. She could not get anyone to answer to phone at the main office so that she could report the voters that came in with an absentee ballot. Follow up was done and apparently there was an inner office memo that came out later on how to do it properly for the runoff and the instructions changed from what they were given for the original election which apparently were wrong and changed for the runoff. The new instructions were that voters did not have to have their absentee ballots with them and the application could be completed by the deputy registrar and we did get ultimately a copy of the inner office memo. But, originally, the poll manager was not provided the appropriate tools to be able to sell an absentee ballot when someone came in and had not received their absentee ballot. There was

allegation that more votes were cast than the number of registered voters. Apparently we got Earl Ferguson stated that there were more votes cast than there were registered voters in a (unclear) precinct, which is in the Presbyterian Education Building. We actually went ahead and looked at that. Ultimately what we were able to tell is there were some clerical errors. The registered voters were entered manually in the GEM circle. And when they went there were some data entry errors that were identified and corrected subsequent to the initial publication's unofficial results, but when the official results came out they were correct. This was not a machine error. This was a human clerical error and it was corrected and the official stated that (unclear, voice trailed off) we received an application an allegation for a voter application registration was completed actually on Election Day. Linda Goodman stated she had had to complete her voter registration on Election Day before she voted. She did submit her registration by mail before the October 6th deadline. She stated her name did not show up on the web site for registered voters. So she called Fulton County, was told she did not sign her application and that she had to come to the office and sign the application. The voter application registration indicated that the application was made on October 1st, that registration was active on October 1st, but there was nothing in this system, nothing to indicate it hadn't been signed and she was never sent any notification that there had had been any problem with her registration. There was an allegation that voters did not receive credit for the voting by traditional ballot. When they contacted us they had not received credit. So by the time we were able to review, all those five voters had been given credit for the provisional ballot. After the election we had allegations from numerous sources that at the warehouse where the Fulton County was tabulating the votes, that there were problems. I had investigators, as soon as we learned of problems, we had investigators there whenever the tabulation center was manned around the clock, through the night, 24 hours a day while they were open. What we were able to find was that poll workers were allowed to leave the tabulation center prior to transmission of the unofficial results to the Secretary of State's office. Duplication teams were not verifying the ballots once they were duplicated. Poll workers were observed duplicating the ballots by themselves and not having them checked by anyone else. Poll workers performing the duplication process were allowed to enter and exit the duplication process, at will. There was no security check. There was no oversight. There were poll workers that left and did not return from a lunch break. They weren't supposed to leave the confined area during a lunch break. One poll worker was told he couldn't do ballots by himself so he left and never came back. The absentee ballots were left on tables unattended with no security or calculation of what can happen to them or what was being done. The poll workers were not being supervised efficiently to make sure they were doing what they were supposed to be doing. We found a basket of unsecured ones on shelves just sitting there with no security. Nobody knew what to do with them. Investigators asked the poll workers if they knew what the ballots were. No one could answer them, where they came from, why they were there. There was an allegation that that proper photo identification was not requested at a precinct, and this was from Gayle Troyer the complaint came from a pole watcher at Sylvan Mills middle school, stating the voters were being allowed to vote without proper identification. The poll manager (unclear) Smith was interviewed and he said he allowed three voters to vote without proper ID because they were regular voters and he knew them. We had an allegation that the Fulton County board of elections did not properly publish the absentee ballots tabulation procedures. We were not able to establish from the Fulton Daily Report. We have asked for a copy of their posting. We have not received it. And we also received an allegation that proper poll procedures were not followed at the North Menster Presbyterian church. And actually, just



so the board knows, Matthew Barrett was one of the complain complainants I believe was here earlier. He had to leave. Just wanted to let you know he had had been here this morning. We received word that that precinct was not allowing voters to cast ballots on the DRE machines. When we got up there we found that Chris Boudine, an assistant manager, had arrived at the precinct about 6:30 and the poll manager did not arrive until 7, a Joseph Mayer. The extension and (unclear) units could not be found, and so the DRE units were not opened. The voters were allowed into the precinct about 10 after 7:00. And we're told there were technical difficulties and were offered provisional ballots. Most of the voters left. At approximately 7:30 the DRE units were open, using battery power. The oaths for the managers and clerks had not been completed. We sent in an investigator when our investigator arrived he observed that both the poll manager and the assistant poll manager appeared to be impaired and high or on drugs. At approximately a quarter to 10:00 the election coordinator Marsha Rigly arrived and relieved both of their duties. We also received another allegation that in the runoff that electors did not receive an absentee ballot, as requested. We attempted to get in touch with some of those folks and were not able. Of the three that we with were able the talk to. Fulton County claims they did not receive the absentee ballot request for the three individuals that complained of that, so we were not able to substantiate whether there was a problem with that or not. We did have an allegation that electors went to the proper precinct and were not allowed to vote. We got a complaint from Linda Marsh stating she went to the precinct listed on the poll locator. When she got there she was told that was not the polling place. She and her husband went initially to the (unclear) elementary school to vote. Apparently, this is a weird thing where there were two precincts at different locations within a school. And initially they were told they weren't on the list and left. Mr. Marsh went back later in the day and was allowed to vote. Mrs. Marsh never went back. We tried to get in touch with her to see if we could figure out if it was possibly the wrong precinct she went to. We have not been able to get a hold of her or have her respond to any of our inquiries. That's, as best we can tell, the allegations we have for the board. Obviously my recommendation would be that they be referred to the Attorney General's Office. And I believe Mr. Parks is here on behalf of Fulton County, as are a number of other folks.

**Chairperson Handel:** Mr. Parks, do you want to address and are any of the individuals who submitted complaints here who wants to speak. Anyone else who submitted a complaint who wants to speak? Did you submit a complaint?

**SPEAKER:** No, ma'am I'm a respondent.

**Chairperson Handel:** Okay.

**SPEAKER:** Afternoon. What I would post to the board is because of the lent of this and . Mr. (unclear) who is not able to (unclear) me about it yet presentation by inspector general.

**Chairperson Handel:** Can you speak into the Mike.

**SPEAKER:** Is this better?

**Chairperson Handel:** Yes .

**SPEAKER:** I think the best way for us to respond is for us would be to try the provide a written response because of the numerosity of the complaints, rather than going through this verbally it reaches a point of just retention. I did make a note in report and for presentation today of the individuals that are my responsibility would be at least based upon the alleged responsible dent you might want to verify this Shawn Kelly who is a terminated employee, I don't know if you will recall, prior sessions we had he (unclear) on duty. So I don't have you here to represent him but will endeavor to obtain that because he is trying to make it in. Brenda weighed, Beverly Walker, Dwight Roud, April Pie, those are the five current or foreign Fulton County board of registration election employees that I would respond on their behalf. I understood there was four poll workers mentioned. I might have missed a name but Ms. Ajanaku, A-j-a-n-a-k-u, Christopher Boden, Joseph Magner, and Jabray Smith. Again, since they are not employees I did not try to contact them to represent them in this. (unclear).

**Chairperson Handel:** I think (unclear) here today.

**SPEAKER:** They may choose to represent themselves, but we'll make an effort to do that. I'm concerned with a copy of that response (unclear) circumstances amongst the board members in the hopes that that could provide a predicate that we could discuss (unclear) and try to resolve this short of litigation. That's the board's directive on behalf of the employees.

**Chairperson Handel:** Did anyone else want to speak on this. Any of the pole workers that were named, anyone who submitted a complaint. I wanted to make sure that anybody who wanted to speak had had an opportunity to speak. Do you want to speak? Come on up if you would like to speak.

**SPEAKER:** Madam chairman --

**Chairperson Handel:** Will you tell me your name and address and how you fit into all of this .

**SPEAKER:** Yes, ma'am.

**Chairperson Handel:** Thank you.

**SPEAKER:** Yes, ma'am. My name is (unclear) Disrayl Smith. I'm to poll manager for precinct 12-C, Sylvan Hills. My address is 300 Fox Trail Drive, College Park. I have been the poll manager at that precinct for about 8 years. It's a small precinct. I think we have about 1300 poll voters. And it is an (elderly) precinct. And it is really not handicapped accessible. You have to walk up a long flight of stairs and then students in the cafeteria (cell phone interruption). The charge is they let people vote without ID. Mr. (unclear) had been there a couple of weeks earlier and they just forgot to bring their ID. I was not about to send these folks home to get ID when I knew them. They had voted consistently. The folks who vote do vote. And, you know, given list of other offenses that this was just a situation where I knew these people. I was comfortable with who they were. My staff is well familiar with the machines. They voted before. So it is a simple matter of letting them go ahead and vote. And I think this is something that really should just be, not bound over, but dismissed or whatever way y'all do it.

**Chairperson Handel:** We would also make a notation that we have a poll manager who says one of Fulton's precinct is not handicapped accessible. And I would like that precinct checked out. With that said, you realize that requiring photo ID is the law.

**SPEAKER:** Yes, ma'am.

Chairperson Handel: Did you want to speak ma'am? A couple of things. I do think there were some question from Mr. C (unclear).

**SPEAKER:** (unclear) very complex matter. That means a lot to me in terms of what Fulton County is trying to do to rectify this issue. I understand that if we are to bind this over, which I rather assume that we do, your intention is to resolve this through a consent order to not go before an administrative Judge.

**SPEAKER:** That would be my hope. And I just thought the most constructive way to begin that dialogue, one so there will be transparency between what was going on between me and Mr. R. (unclear) initial report I understand we did have conversations just given the number of people that need to be interviewed, talked to, before I can (unclear) we have already begun our own dialogue. It just seemed to me that and we are not opposing that the issues the charges that the inspector general at least deemed (unclear) charge before the (unclear) that's the predicate for our dialogue. And that's the predicate for our rapport. To answer your question directly. That's our hope. We have come a long way with the last consent order. And we don't want that progress to be stopped with a dispute over these issues.

**SPEAKER:** Thank you.

**Chairperson Handel:** I don't really have a question but I do have a comment. I certainly appreciate that Mr. Clark thinks that we have come a long way but frankly my concern is not around come argue long way on a consent order. My concern is around Fulton County coming along way in getting the election provision in shape. And we just sat here for well over a year dealing with the 2007 complaints, colleagues, and I would like to ensure that if this process goes forward that Mr. Rivers we're not going to take over a year again to deal with this because the next thing you know we are going to be back in a another election, Fulton County, there has been no progress in dealing with the staffing issues there in terms of the individuals in that office. I mean, I am absolutely appalled that here we are again, knowing how bad things were back in '07 folks and yet it appears that virtually nothing was done to get ready and to do what needed to be done for '08. And I that was not for any lack of effort or trying on the part of the state elections office, because members of the county elections office will tell you that not only did Mr. Taylor and I personally take the time to sit down and try to urge and coach and do everything we could to encourage Fulton County to be ready for November for this Presidential election, to have this number of things come forward and our office was inundated with complaints, and I mean inundated with complaints about what was happening in Fulton County and that is just an absolute disgrace and we have to figure out a way folks for Fulton County to move forward and I say we, because we are going to have to monitor it and that monitor will be appointed. But ultimately it is Fulton County's responsibility to have a professional elections division. I'm going the make a motion to turn this over to the attorney general's office with a request that Fulton County's written response be received within two weeks from today. Okay 30 days from today

that at our whatever is the next public sitting and we have a report and that we will take no longer than three months to negotiate a consent order before it comes back to this body. And that includes -- I'm talking 3 months total, not a month plus three, but a month for the written report and then two more months after that. That's my motion.

**SPEAKER:** Motion.

**Chairperson Handel:** Let's see if I get a second. Is there a second.

**SPEAKER:** Second.

**Chairperson Handel:** Yes.

**SPEAKER:** First of all, let me just say I share your concerns about the time frames of this case. And I think at the AG's office they are basically ready to go (unclear) right now. I look forward to the report.

**Chairperson Handel:** We need to say for the report Smiles --

**SPEAKER:** Statement of matters asserted. And that's the initiating document in the office of state administrative hearings and starts the administrative hearing on behalf of the Board before it can be factored. You said 30 days for Fulton County to submit the report which will be after June 2nd. And then after that it will be about two months left for negotiation. Are you envisioning at the end of those two months if we are not able to resolve this, if the Court does vote for probable cause, I would also like to sound is board for its sense of what it thinks the appropriate sanction might be, because I think that the sanction issue in the last case and probably in this case (unclear) resolution of the case. I really do not want to fool around with that. (unclear).

**Chairperson Handel:** I would be open, colleagues, to once we have the written response back having a meeting on that. There is a lot to digest and I'm interested in Fulton's response. And I'm sure everyone else is as well. So if my colleagues are amenable I'm find withholding a meeting when we get back with the reports. And then we can give the guidance then.

**SPEAKER:** That's fine with me.

**Chairperson Handel:** Motion.

**SPEAKER:** I have a question.

**Chairperson Handel:** I do have Mr. Worley waiting -- and then we will -- did we get everything for you.

**SPEAKER:** Yeah I think the one thing in the meeting, having the subsequent meeting would resolve my concerns. On the 3-month deadline, I perfectly understand that. Did I understand that correctly 3 months tells (unclear) what to do.

**Chairperson Handel:** That's my understanding. Okay Mr. Worley.

**SPEAKER:** I'm fine with that. (unclear) move as quickly I don't know what sanction we could impose.

**SPEAKER:** (unclear).

**SPEAKER:** There is a serious problem. There is obviously a very serious problem here in Fulton County. Frankly, we hear lots of other problems that aren't relate Ed to this. I have one concern, though and I realize that the Secretary of State's office is very busy in terms of (unclear) inspector general's office is very busy. On behalf of the six months ago and this is really the first time, in a an organized way, that they have been presented to the election board. And I realize the deadlines on other matters that no one is subject to, but the real problem is six months after the election, if this was brought to the public's attention 3 days after the election or 2 months after the election, there would with have been a lot more attention, a lot more publicity about it, a lot more reported on it. I don't know if there are reporters with the AJC here.

**Chairperson Handel:** With all do respect, there has been a great deal of press attention around all of this.

**SPEAKER:** Well I don't think there has been enough.

**SPEAKER:** Well, I think there is going to be more.

**SPEAKER:** The extent, all I'm saying is the quicker that things can be brought to the public's attention the better. I certainly understand --

**Chairperson Handel:** We would want a thorough investigation.

**SPEAKER:** I agree we want a thorough investigation, but some of these things are so outrageous that they really need to be -- well some of them. They are not really complicated.

**Chairperson Handel:** I want to remind the board that a specific decision was taken by (unclear) '07 and I believe that was at a motion from Mr. Worley to resolve '07 first and then come to '08, so frankly that is attempting to follow the direction around all this, but these are all very serious.

**SPEAKER:** All I'm saying is these are very serious allegations.

**Chairperson Handel:** Absolutely.

**SPEAKER:** And they deserve a lot of public attention. And I hope that that public attention will help correct the matter. Again, I don't know if a specific sanction is going to do that. (unclear) specifically Fulton County needs to do to correct the problem.

**Chairperson Handel:** One question on that would be what is the status? I guess we can ask. The board would be interested in knowing. What is the status of the search for a new elections record.

**SPEAKER:** The professional search (unclear) candidate nationwide. Just recently a candidate (unclear) was advanced with one of the commissioners for approval and that was rejected. (unclear).

(court reporter repeatedly asked speakers to speak into the microphone) .

**SPEAKER:** I'm sorry I keep forgetting the speak into the mic. The comment was what was is -- you're right. It's not -- you might be able to ensure that poll workers do a better job with their reprimands or with a small fine. The problem that I think you want to talk to me about is a management issue. That starts with the hiring of an executive director. And hopefully that person that will be approved will be in place. It was a strong sense of our board the Fulton County board of registration and elections that the person that was willing to sit in that chair needed to be to person that made the staffing decisions, as opposed to a Fulton County board of registration and elections below the executive director position. That's the way the local legislation intended it. Our board doesn't have hiring and firing authority. We have to have it approved by the board, but we don't even have the ability to get approval for positions below that. And that has been a slow process that has been very very frustrating by our own Board, the fact that initial candidate was rejected, extremely frustrating.

**SPEAKER:** How long has the search been going on. I think it kind of somewhat is disingenuous, frankly to try to attempt to throw the Board of commissioners under the bus on this one.

**SPEAKER:** No. I'm not at all. I'm just saying that that was the first time that we have been able to get -- there have been plenty of offers made. The first time we have been able to get a candidate to accept and the approval. So not at all. I don't even know why the Board rejected.

**SPEAKER:** Are you saying the Board of Elections approved your candidate but the county commissioners did not.

**SPEAKER:** Yes. We don't have the power to fill a position without the commissioner's approval. But another candidate is going forward, and expect that candidate to be approved and we will have a new executive director, which will hopefully be the catalyst to addressing some of the management issues that you are speaking of here today. The other issue I would raise and I have no problems where we talked about, I want to get the report done as to whether or not we had a chance to find out what the facts are. If there is a going to be another dialogue with the board a about appropriate sanctions as opposed to meeting and negotiating with Mr. Withers, I would like to have an audiences in that, only to speak with you about what we would propose. In other words, if Mr. Withers, (unclear) to negotiate, that's fine, but he simply wanted to get an, you know, what the sanction should be. Then after we plenty our report and I may open -- after we present our report and Mr. Withers and I may have opened either way we are (unclear) always good to talk about sanctions because to the extent we can stipulate on the fact at least we agree on a whole bunch of facts, and we are only talking about sanctions. It seems to me that that would be the productive discussion to have. The sanctions before the 2-month period of your meeting if it is going to be a meeting like this and not the negotiation with Mr. Withers I

would like to have an opportunity to discuss that meeting. Did I make any sense?  
(no response) .

**SPEAKER:** I was sensing that you all were saying that you all would decide. (unclear).

**Chairperson Handel:** Once you give a written report what I'm saying or what the motion on the table is that we are going to hold another meeting. All of our meetings are public so you will have an opportunity to hear what our question is. This Board has a always open to (unclear) your response back to what our discussion is. So I see no reason that that would be something separate. Let me be clear. It's not going to be a negotiation with you around the sanctions. I mean we are not going to negotiate necessarily with you. This Boyd is going to make a determination of what we think and get back to Mr. Wither and it will be with or without our guidance to negotiate further. And I'm not going to speak for the whole SEB, so we'll see what their pleasure will be, but it's on the facts that come back.

**SPEAKER:** Mind which was not to negotiate. If there was going to be a meeting where sanctions were going to be discussed I would give you my thoughts on that.

Chairperson Handel: Absolutely. Absolutely.

**SPEAKER:** Mr. Parks this may all be clear, but I want to make sure that I'm clear to this. In your written response you will make some proposals with respect to sanctions. Do we have guidance from you on what you think is appropriate?

**SPEAKER:** Ultimately, yes. I think the first goal is to try find out what the facts are, just if we disagree on the facts, whether we disagree or why. Shortly thereafter I fully intend to, at least, give you what we have to propose on that which would include on the memorial update, on the personnel issues, which I think are the driver of this. And we understand that. The more that we can do on that promise then, hopefully, the more you will understand how serious our Board is in trying rectify what we admit to be shortcomings in our staff.

**SPEAKER:** I want to be clear that suggestions about sanctions in the past. I didn't agree with any of those and objected to all of them, but nonetheless it is a great impact on this Board. I said you will have me as a friend, but the reality is I think that would with be helpful (unclear).

**SPEAKER:** Thank you.

**Chairperson Handel:** Any other questions or comments colleagues?

**SPEAKER:** Motion .

**SPEAKER:** Second.

**Chairperson Handel:** There is a motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed.  
(no response).

**Chairperson Handel:** All right. Thank you. Okay. Our next case will be part of the Attorney General's report with Stefan Gritter and Ann Brumbough, case 2004, No. 21 Macon. That's under tab 16.

**SPEAKER:** Thank you, Madam Chair. Of course, I am Stefan Ritter with the Georgia Attorney General's Office. Let me begin by way of making a small apology. The fact that you are having to hear me on this rather than (unclear) Almon and I will try to not try to fill her shoes by presenting this material. Ms. Almon's mother, unfortunately, passed away last week. She is in Alabama with her family. She is very close to her mother. This is a tragic loss for her. Each one of these matters is one of her matters and so I will do my best to try the present what we have. However, I will probably be relying on some of the respondents and occasionally -- in my ignorance, I didn't want put anything off, so I we could move everything forward if at all possible.

**Chairperson Handel:** And if there is one that you feel like you do need to, just let us know and we can table that because we have got a meeting coming up any way.

**Mr. Ritter:** Absolutely. So let me just take them in order and you will start with task 16 which is Macon County with respondents of Edward Lee and Eugene Hill. This case was previously presented to Ms. Almon to the following the hearing in which her witnesses who were subpoenaed did not appear. She had five witnesses she had subpoenaed. I have the returns of service in our file. But none of those witnesses appeared and she did not present her case at that time. She shows to dismiss the case without prejudice at that time. Briefly, this is a case involving two individuals Ed Lee and Eugene Hill, who assisted other voters in voting. First Mr. Lee assisted Mr. Hill under the belief or asserting that Mr. Hill was illiterate, but then Mr. Hill assisted other voters suggesting quite strongly that Mr. Hill is not illiterate. In fact, quite a number of voters that assisted by these individuals, those are the witnesses who are not here. So the case was dismissed. My feeling is that the sanction in this case this is a 2004 primary case from Macon county. Given the date, it could be difficult to prove the case; however, my recommendation would be that we refile this and seek the proceed if we can't get a consent order with an appropriate sanction. Ms. Almon notes that the content of the response this case Mr. Lee and Mr. Hill, did not affect the outcome of the election and there is no evidence of intentional wrongdoing by them. In fact after meeting with Mr. Hill, Ms. Almon believes that there is evidence that he is in fact functionally illiterate at best. For that reason, she would recommend that we seek a cease and desist-type consent order with the respondents to resolve this case.

**Chairperson Handel:** Questions colleagues?

**SPEAKER:** How much have you sagged for (unclear) 2004.

**Mr. Ritter:** We sagged some of these cases off given the number of case that's were inherited by us from a prior group. And so the sag didn't start in 2004 but we did sag out old cases like the



2004 case. This is one of them. Sag did a good job, but she is not able to resolve this case.

**SPEAKER:** The first sag of this type.

**Chairperson Handel:** We had a couple of other cases that presented about a year ago that the sag also did.

**Chairperson Handel:** Do we have a recommendation so seek to C and D if a consent order is entered. (unclear).

**SPEAKER:** I'll make a motion.

**SPEAKER:** I'll second it.

**Chairperson Handel:** All right. Motion and second. Any other questions? A all in favor.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed .

(no response).

**Chairperson Handel:** Okay. Wong County item 423.

**SPEAKER:** Thank you, Madam Chair. This is a case involving a companion to our action dissolving Atkinson County and Jerry Metz. They went to trial (unclear) had a very substantial find levied against Mr. Metz. In fact, this is a case that received national attention. What happened in the situation is that there was a, across the board challenge to the qualifications of 45 individual voters because they had Hispanic sir names. The theory, I guess, under the challenge, was that if they had Hispanic sir names then they might not be United States citizens. And while I agree to citizenship is an important criteria and to be able to vote is not only a one, but one that we need to check. There is no basis just on one sir name to challenge someone for their improperly of voting. In fact, correctly so, and when our cooperation I would just say that DOJ certainly wasn't (unclear) they proceeded and filed a lawsuit against log county, and attaching are the materials judgment order and consent decree of resolving that matter against Long County. In this case the consent decree goes beyond anything that I think that we can hope to achieve in our case. These cases are in the nature of a quasi-punitive type cases. It could be double jeopardy issues with us continuing to prosecute a claim after having this type of resolution. Based on the DOJ resolution and the consent order that's been entered at the federal level, I believe that's a resolution of this matter, and therefore, further pending SEB matters should be dismissed.

**Chairperson Handel:** Questions colleagues?

**SPEAKER:** Mr. Ritter, are you confident that we could have been (unclear).

**SPEAKER:** Yes, I am.

**SPEAKER:** They had had extensive materials in terms of (unclear) sent up by the individual registrars, which is something that this board might have ordered, a fine, and basically what would amount to an extensive cease and desist reprimand type resolution against the respondents.

**SPEAKER:** Do you have (unclear).

**Mr. Ritter:** I have personally not spoken to (unclear) about this. I do not know the settlement of this either.

**SPEAKER:** (unclear).

**Mr. Ritter:** No I have not. They haven't. We spoke early in the beginning of this case about pursuing this case. We were happy to have their support in pursuing this case but since the DOJ was involved we have had no contact with them about it. With we are actually involved with them on other things. We are pending a case against them now.

**SPEAKER:** (unclear).

**Mr. Ritter:** Yes.

**SPEAKER:** I would make a motion to close this one .

**SPEAKER:** Second.

**Chairperson Handel:** A motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response).

**Chairperson Handel:** Mr. Ritter, one question on this, who in DOJ or the AG's office who is on top of the enforcement of some of the things that are in here, in the consent order that have actually been done.

**Mr. Ritter:** Truly speaking, that would be DOJ's responsibility, though, I'm happy to see that we can make an effort to try to monitor that that is done. And if it's not done, we might consider filing or proceeding with additional SEB action.

**Chairperson Handel:** I would think that at a minimum there should be some sort of reporting. I mean I know that this was entered some time ago but at the same time how do we know that they have done any of this and that brings me to my second question. I have a fill that Mr. Metz is following fairly significantly by this body and you don't have to tell me today but at the next meeting I sure would like an update on that. And if he has not paid it, what the body's option

would be .

**Mr. Ritter:** I will check on that. I believe that that case is in fact under appeal by him. It was upheld by the superior court and is now in a higher court. I will check that. And let me remind you that Mr. Metz was find a substantial amount for attempting to let people vote who are not citizens.

**Chairperson Handel:** Exactly.

**Mr. Ritter:** Any way if I may move on to the next one.

**Chairperson Handel:** Yes.

**Mr. Ritter:** Tab 18. This is also Pierce County. This had is also 2004 case. This case was held by us, given that the claims in the case involve political the advertisements that do not list the names of the three highest officials in the organization that ran the advertisements. There is in fact a federal case on point from the U.S. Supreme Court. I'm sorry I can't give you the name of that case as I sit here. There is one on point and we have long ago -- the statute in question, O.C.G.A. Section 21-2-415 to the extent it required the revealing of the names of the donor would be unconstitutional as a violation of the first amendment. I should note that for our office, the attorney general's office suggests that the State statute is unconstitutional and extraordinary. I don't know of another case where that's ever happened, though, I'm sure there is one. In any regard that statute has now been repealed by the general assembly and is no longer on the books. For the reason I will recommend that the case be closed.

**Chairperson Handel:** Is there a motion.

**SPEAKER:** So move.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response) all right.

**Mr. Ritter:** Thank you. The next matter was in your tab 19. Involved Allison Ballard as the respondent in the City of College Park. And this is a case that involves failure to remove stubs from the ballots and placing them in the ballot box and improperly transporting ballot box without being accompanied in violation of the Georgia statute. I should note regarding the second one that is a serious offense because that type of offense is the type of offense that invites fraud. That is the type of situation where someone could, in fact, try to modify what's this the ballot box by adding to it and so forth. No one is supposed to open it and change it but nonetheless, it's a serious offense. Ms. Almon took this to a hearing and Ms. Ballard did not appear. She was therefore found in default. And as you will see, an initial decision with

findings of facts was entered by the Administrative Law Judge, Amanda C. Backster. That becomes a recommendation to you. On page two of that order Mr. Backster suggests a \$200 fine a public reprimand, investigation and \$587 and a cease and desist order. (unclear) You are, as discussed in the past, free to modify that sanction and you can modify the findings of facts. If you disagree with us we have a record we can do that. Your choice here is (A) whether you want to adopt the initial decision as a final decision in full with those sanctions or modify it either as to the facts, or non-sanctions.

**SPEAKER:** I make a motion that we adopt the administrative law judge's decision and accept the ruling.

**Chairperson Handel:** Second?

**SPEAKER:** Okay. I would like to discuss that before we entertain a second. We don't have our absent colleague Mr. (Aaron) here who is the keeper of all knowledge about fines and sanctions and things of that nature. How about you Mr. Ritter, do you know of any precedent that exists with respect to the amount of fines for matters such as this.

**Mr. Ritter:** Well, first as the President let me point to the end of your materials today. Have you a lengthy table, but Ms. Almon has prepared outcomes of cases. Historically what we see is that the prior administration.

Chairperson Handel: Tab 27, I believe.

**Mr. Ritter:** This is correct yes. Fine much smaller amounts. I think a \$500 fine is consistent with the way the board has recently been issuing fines. I did not go through and find amounts of fines for those specific statutes that were find by her. But I will tell that you the taking of a ballot box is serious and not something that we have seen much of. So I don't have good precedent to go on that specific offense.

**SPEAKER:** In which case I second.

**SPEAKER:** (unclear) violations of two of the statutes. First of which are two significant. Transported (unclear).

**Chairperson Handel:** All righty. A motion and a second for a \$500 fine versus the 200 along with the 587.33 and the rest of the Judge's recommendation. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response. All right. Thank you.

**Mr. Ritter:** All right the next matter is at tab 20 respondent being Robert Yeomans and Mr. Stiff, 2005 election from City of Forest Park. Although I think it's clear about what happened in this case. Mr. Yeomans, who initially filed the complaint was discovered now taking a picture of the workings of a DRE machine while it was in process which is a violation of the statute. Nonetheless, Mr. Yeomans passed away. Therefore, this matter is now moot. We

have no surviving or state that we can do anything against. And therefore we recommend that it be dismissed.

**SPEAKER:** Motion.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and second all in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed (no response) All right next case.

**Mr. Ritter:** The next case involves Usher Jackson as the respondent and City of (unclear). This is in fact the case in which a consent order was previously presented to the Court and approved by it. But there were typographical errors in that order. The wrong order was included in the materials. I don't know whose responsibility that was. I (unclear) am happy to say it was our office's mistake. But in any regard the corrected order is now included. It is precisely what the Board previously approved, which was a reprimand cease and desist order. And that she would not assume elections positions in the future, which my understanding is, in fact, she had no intent to do that any way. And what had happened, just to remind you in this case was, a case where there was (unclear) place in the law voting district. She had received the correct map. It had a brief description. And she you allowed the voters to vote provisional ballots. Once discovered they were corrected. But I believe the order in this case essentially has already proven. The administrative changes once the chair (unclear) Ms. Almon did present that to you. And we present that to you.

**Chairperson Handel:** 2005, make sure you have those records straight.

**Mr. Ritter:** Yes.

**Chairperson Handel:** Is there a motion.

**SPEAKER:** Move.

**SPEAKER:** Second.

**Chairperson Handel:** All in favor.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response).

**Mr. Ritter:** The next case involved the City of Greenville. I will need some help on this one. With us is Mr. Tim Meeker. And he will be up here for the next two cases that both involve the City of Greenville. I will briefly tell you what it involves, and we have consent orders on the

case. This involves assistance to elderly voters and personally delivering a absentee ballots to City Hall in violation of several statutes. There was a consent order. And I'm taking the first case, which is a 2006 case. It says propose for a \$100 fine and a cease and desist order. The Board has previously considered this matter and recommended that cease and desist order be increased to \$200. And I believe that is correctly reflected on the consent order you have in your material. As you can see on page 3.

**Mr. Meeker:** My name is Ted meeker and I'm here on behalf of Mr. Robert Moran. He has signed the consent order in anticipation of submitting it to the Board this afternoon.

Chairperson Handel: Any questions or comments? Okay. I move we accept the revised consent order for the September 26, '07.

**SPEAKER:** Second.

Chairperson Handel: All in favor.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any owe opposed. (no response) let the record show that Mr. Worley (unclear) this case.

**Mr. Ritter:** Okay. Thank you. The medication matter which is at tab 23 also involved the City of Greenville. In this case we were talking about the November 06, 2007 the general election. And this involved complaints against not only the City itself but also Johnny Owens who was separately represented but is not represented by Mr. Meeker. (unclear). These are serious charges in this case. This case involved allowing individuals to vote who were residing outside of the city. Proper handling ballots. Improper certifying of ballots and illegal campaigning. In the consent orders that are in front of you I have one from the City of Greenville in which they agreed to pay a fine of \$500 and for training of Ms. Moreland (unclear) cease and desist. Owens resigned from her position. There is a proposed consent order in the material that I have. She is given numerous violations which is the same violation as the City. And has, essentially, a cease and desist reprimand against her, but there is no fine specifically entered against her. I do not have Ms. Moreland's consent order. I believe it's consistent with Ms. Owens's consent order.

**SPEAKER:** Again, Meeker on behalf of Ann Moreland and the City of Greenville. The Board will remember this matter. Unfortunately, it appeared on a number of agendas ultimately leading to it being referred to the attorney general's office as of January of this year. At that meeting I believe Ms. Almon heard the Board's direction. They were looking for a significant penalty. I'm not here to discourage my client in any way shape or form, but I believe all these violations could have been avoided simply by making sure that the people that who contacted the elections received the appropriate training. I represent other municipalities and I have never seen, and fortunately, have never had had to appear before this Board on behalf of other clients and I know the training that is provided by the Secretary of State's office is adequate. I also know that the City of Greenville takes this matter very seriously and is, in fact, pursuing and close to resolving a contract with Merriweather County for it to conduct this next election. The City has, of course, signed off on the consent order. Ms. Ann Moreland has also signed off. My understanding was that Ms. Owens had, but again that is based on communication between her attorney and

Ms. Almon which I was a party to.

**SPEAKER:** I believe Ms. Owens has signed off on the consent order. I do not have a copy of that signed consent order in my possession. The fine, as I understand it is being paid by the city rather than being paid by the individual.

**SPEAKER:** That's correct.

**Chairperson Handel:** Are you asking us to approve two with consent orders?

**SPEAKER:** Three the.

**Chairperson Handel:** Three.

**SPEAKER:** Mr. Meeker just brought by the Ann fuller consent order. That was the third. The first two are the City of Greenville and then we have got Ms. Owens's.

**SPEAKER:** I actually have additional copies of Ms. Moreland's if the Board would like copies.

**Chairperson Handel:** So for Ms. Owens it would be a penalty of 500 for each violation. And we have showing how many total.

**SPEAKER:** Let me be clear. I am presenting these but I have concerns about the amount of sanctions for each individual in this case. I will be quite candid with the Board. As I understand it. If individuals are not paying any sanctions and it's a total of \$500 sanctions being paid by the city.

**Chairperson Handel:** Okay. That's not what the City of Greenville's consent order says is. That's why I was confused.

**SPEAKER:** Page 4 of the consent order is the agreement.

**SPEAKER:** I have the correct version I received from Ms. Almon that I have signed off on, on behalf of the city says \$500.

**SPEAKER:** (unclear).

**Chairperson Handel:** This one is different from –

**SPEAKER:** Yes, it is. This is the City of Greenville consent order.

**SPEAKER:** Mr. Ritter what is your best judgment (unclear) normal fines (unclear).

**Mr. Ritter:** To be fair, given the lawyerly caveat I was beginning to say two things, first of all, I think that the status of the way the Board has been fining for the last two years is difficulty from the past. Also, Mr. Meeker negotiated this with Ms. Almon. I wasn't part of that. If you look at

page 2 and page 3 of the consent order, you will see a listing of violations which are, in my mind, very serious and numerous and that \$500 is too low based on the other sanctions that we have in similar cases.

**SPEAKER:** Mr. Meeker, (unclear) what is the 500 first stated by my count that's 10 (unclear).

**SPEAKER:** Again this is all subject to the Board's approval. What Ms. al and I had talked about was a \$500 fine total for the States violations. In other words if I understood the language it was \$500 total that would include the officer.

**SPEAKER:** With all the violations it is certainly a applause building reading .

**SPEAKER:** Right. Ms. Almon and I also recognize that we are at the Board's discretion.

**Chairperson Handel:** Make sure that I'm reading this correctly. And it might be that we have to follow up on this. But what I recall from the case was that in the course of certifying the election, that during that, Ms. Moreland and I guess Ms. Owens went somewhere privately and changed and altered the consolidated return after the certification.

**SPEAKER:** Madam chair, if I may respond to that from reading the inspector general's report, in general that is correct. There was a count the night of the election. They then went to Ms. Owens's office the next morning and did somewhat of a recount and then changed the numbers. And I believe then looked and changed them a third time and ultimately never sent anything up to the Secretary of State's office of last year, which would have been two months after, two and a half months after election time.

**SPEAKER:** Did any of the recounts change the outcome of the election?

**SPEAKER:** No, sir. It narrowed the margin of victory, but it did not change the outcome.

**SPEAKER:** Was any litigation coming out of the results of the litigation .

**SPEAKER:** There was no litigation regarding the election itself or how it was conducted. There was litigation concerning the Mayor, the current Mayor's ability to run and whether he was a resident of Greenville.

**SPEAKER:** That would be a code violation.

**SPEAKER:** Yes, sir.

**SPEAKER:** And the Board, should you decide to sanction the individuals with a monetary civil penalty let me just note that Ms. Moreland's violation looks like it consists of participating in altering the votes cast (unclear) returns. Ms. Owens has a very lengthy list of violations that she was involved with. After the orders were there --

**Chairperson Handel:** My concern was getting into anybody going into a room and changing an



election outcome is where I have incredible difficulty. My recollection, colleagues is that we have been in a place of, apparently, standard of at least a hundred dollars per violation and these are fairly egregious, and I appreciate the intent to negotiate something but for the seriousness of these I think 500 is on the very low end, compared to what we have done with other jurisdictions around these types of violations and I do think it's important for us to be fair. (unclear) position?

**SPEAKER:** No, ma'am.

**Chairperson Handel:** Neither. Okay. 10 broad violations which given what we have done in the past would be at least at thousand. A hundred for each.

**SPEAKER:** Even if these are still egregious, I would still say 500. I would change page 4 consent order to \$500 had fine, state it violation, singular, for the State election code. I am prepared to make a motion unless there is other discussion.

**Chairperson Handel:** Motion do we have a second.

**SPEAKER:** Sorry I know there is a motion on the floor.

**Chairperson Handel:** Wait hold on just a moment.

**SPEAKER:** I had, like any other lawyer, to get certain authority to come out and actually sign and do a consent order that. Amount is in excess of what I have the authority to sign off as consenting to. And I don't want to get into a let's make a deal I understand the Board doesn't do that, but I would need the get my client to bless where I can sign this consent order.

**SPEAKER:** We have the power to sanction and fine.

**SPEAKER:** Yes. In this situation you would. And the reason for that is this is a consent order with enclosed stipulations of fact, which stipulated facts outside of this consent order.

**SPEAKER:** (unclear).

**SPEAKER:** If they are willing to stipulate the facts outside of the consent order then I think yes you can impose a fine, whether they consent to it or not. But the stipulation and the consent order, right now is by it's terms, it's not effective unless it's approved by the Board, so the stipulations would have to be separately approved by the Board.

**SPEAKER:** I would amend my motion then that we adopt the stipulated fact that appear on the proposed consent order. And then the order section amended it appears (unclear).

**SPEAKER:** I'm going to about (unclear) just as a general matter of law we know as it has come to us before, doesn't the respondent always have the ability to have a hearing?

**SPEAKER:** Let me answer these questions.

**SPEAKER:** Assuming he is a not stipulating to these facts --

**SPEAKER:** The answer is -- well, I'm going to give you the detailed answer in response to that. It's this. First of all, the respondent has a right to a hearing. Whether has hearing is in front of an ALJ or in front of the Board is another question. An ALJ would like to findings of facts and conclusion of law on the sanction. We still need (unclear) frankly my view. Case law. Conclusion of law in that order as long as they railroad supported by something of record. The law is for you to find. Having said that they are entitled a hearing. We have several different ways that we can present the consent order. One is like we had recently in a Fulton County matter. (skip in sound) we do not needed a hearing in that instance and I suggest that they have no right to a hearing in that instance. In an order like this.

**SPEAKER:** But they have to stipulate.

**SPEAKER:** They have to stipulate to the facts and that with be one when we have several stipulation of facts in a separate order. So we have got a stipulation of facts that's signed off on and that can be accepted by the board and then we can have a separate order if it were approved.

**SPEAKER:** What if they didn't stipulate to the fine.

**SPEAKER:** (unclear).

**SPEAKER:** There is another answer, but go ahead.

**SPEAKER:** In this case the stipulation of facts is embedded in the consent order, and arguably is one document. I don't know that the facts are in any way disputed in this case. And in fact there are three proposed consent orders. You can accept them and still change the City of Greenville one so you have got to facts and the sanctions. There are a lot of different ways that this can be spliced. What we suggest to our attorneys, in my section at least is that we try to take the most pragmatic approach to each case. We have a case where we think that it is straight forward approval of stipulated facts in the consent order and we include it in one document. But on a difficult case like the Fulton County case, I would recommend that they be provided. I do not think in this case it would be difficult to stipulate the facts. If that is the case. Then I (unclear) order and I think you can also find today that should they want to stipulate the facts then you state to them the order you would impose and it would be "X" amount. And we can go directly to a consent order signed by the Secretary of State that being the case. I don't think you can force them to stipulate the facts. The short answer to your question is no.

**Chairperson Handel:** (unclear).

**SPEAKER:** No. I'm about to say Mr. Meeker has done a fine job for his client so far. We have a history, when they ask for time as Mr. (unclear) has done. I think we personally grant those requests. So if you would like to come back and request an extension from us and approach your client about what your understand our position to be and whether or not you would be prepared to stipulate to the facts and so on, I certainly would vote for such a motion to give you time to do so. We don't want to put you in harm's way as counsel and we don't want to City in harm's way.

And if you bring back something that they weren't quite suspecting, I would certainly view that favorably if you think you need the time.

**SPEAKER:** Right. And understand I am limited by the authority that my client gives me and that's why I'm at right now. I'm not trying to show any disrespect towards the board in any way shape or form. I can tell you that -- could you give me one second. I do have authority up to \$200 per violation. I know that the Board's expressed so far an indication of \$500 that I will have to take back to my client and we would have to ask for more time or until the next Board meeting. I think I told the Board last time. I am just an appointed City attorney as of July of last year. Four of the five council members are new. I think everybody showed one view. It is probably consistent with the inspector general. People who ran the last election in a way were set up to fail. They weren't trained. And there were a lot of other circumstances. Moving forward, at least as long as I have represented, this just shouldn't go on. No one here disagrees. I can go up like I said to the \$200 per violation today I have that authority. If the Board would like to consider that or otherwise I would ask that it be continued until the next Board meeting and I will have time to talk to my client.

**SPEAKER:** Madam chair, I consider the precedent always send messages. I don't have an aspect tight for \$200 per violation. It might be wise to ask for some time, Mr. Meeker.

**SPEAKER:** That's what I ask then.

**Chairperson Handel:** Then do we have a motion to table it?

**SPEAKER:** That's fine.

**Chairperson Handel:** I move we table this until our next meeting. Until June 2nd. You will have enough time to talk to your clients and get us the word back.

**SPEAKER:** Actually we have a council meeting that night. I will do everything we can to have a specially called meeting.

**Chairperson Handel:** Okay and let us know. Just communicate to us.

**SPEAKER:** Motion to table it.

**SPEAKER:** Second.

**Chairperson Handel:** We have a motion and second to table it. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** And the Board moves it.

**SPEAKER:** And that was for all three matters that were pending out of that election, both Mrs. Moreland.

**Chairperson Handel:** We will take them all at the same time.

**Ms. LaGrua:** We need to renote his clients on this. He is accepting notice. We, obviously, did not send out notice on this matter.

**SPEAKER:** You don't have to send out a notice. I believe be glad to accept notice.

**Chairperson Handel:** All right next case.

**Mr. Ritter:** The next case is 2006 Margaret Harris. This involves an election in Coffee County where we had two respondents, Faye Stewart and Sharon Hicks. Ms. Stewart admits to assisting at least 8 voters in preparing their absentee ballot applications. And then signing the application indicating her assistance. She also assisted (unclear) not physically sick or illiterate and, therefore, was not authorized to assist anyone in those regards. Ms. Hicks assisted one voter and didn't sign the ballot application. We have two proposed consent orders for the Board. First. Ms. Stewart the consent order is for an \$800 fine and a cease and desist to reprimand. The one for Ms. Hicks, which (unclear) to assist one voter, a \$100 fine, a cease and desist of reprimand. I believe those are consistent with prior points.

**Chairperson Handel:** Motion colleagues?

All right do we have a motion to accept both consent orders?

**SPEAKER:** So moved.

**Chairperson Handel:** For both.

**SPEAKER:** For both.

**Chairperson Handel:** A second.

**SPEAKER:** Second.

**Chairperson Handel:** A motion and a second. Any questions? Any questions? All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response). All right.

**Mr. Ritter:** Thank you. Looking to tab 25 which involves the elections of City of Gwinnett. This is 2007. And this is charges that were brought by share lot Murray against Roman Royal, election superintendent. And they actually involve, not so much the election, but conduct of the Board. Ms. Murray asserts that Mr. Royal is notifies registrars when meetings were held. Held meetings in which she was the only participant and discussed his compensation, failed to notify her that she had been dismissed from her position which she was, was not given adequate contact information and allegations a about a about cents of minutes for meetings. Ms. Almon looked at this and was not able to substantiate most of Ms. Murray's allegations. Nonetheless, none of

these allegations are allegations involving violations of state election code. These are primarily open meeting violation if they were proved. This Board does not have the authority to enforce open meetings acts. Therefore the recommendation is to close.

**SPEAKER:** So moved.

**SPEAKER:** Second.

**Chairperson Handel:** Motion and a second. Any questions. All in favor, please say aye.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Any opposed? (no response. All right.

**Mr. Ritter:** Finally, this is another case where we have an incorrect consent order that had been provided to the Board. This case involved a respondent and a Scott Hobbs. He is represented by Judge (unclear) who I have spoken to and could not be here today. On two different elections on the birth certificates that Mr. Hobbs filled out, he indicated that he lived at a certain address 1523 Oak Moore place in Marietta, when actually he was residing at a temporary locations while he was gathering the money to purchase a house. Previously this board approved a consent order with a \$100 fine, cease and desist and reprimand. The wrong draft was provided and so a corrected draft is provided in this case. Again, the bottom line is to correctly state the facts as I have just stated them to you in this instance. A \$100 fine, as previously approved, cease and desisted and reprimand is what I recommend.

**SPEAKER:** (unclear) here.

**SPEAKER:** I think that by giving the time and difficulty coming here and paying a \$100 fine that had already been approved, he did not think that he (unclear).

**SPEAKER:** I personally consider it a motion of contempt.

**SPEAKER:** I will tell him sir.

**SPEAKER:** I move that we accept the recommendation and accept the consent order.

**SPEAKER:** Second.

**Chairperson Handel:** May I ask a question before we go. I noticed that this consent order is somewhat different from that with which we have had before, in which there is -- this is agreed to only as a compromise and without admitting to any of the alleged facts. That is rather unusual as to what we have done at least not in my time here. I don't recall that that --

**SPEAKER:** That is unusual. Thank you Mr. (unclear) puts it in writing. (unclear.)

**SPEAKER:** Reprimand.

**SPEAKER:** That's correct. And I do not recommend that language.

**SPEAKER:** I just want to make sure because in previous discussions the Board has been pretty adamant that when we have consent orders that there has to be an agreement and acknowledgment as to what they are consenting to.

**SPEAKER:** That is the very reason I would like to talk to (unclear). And I don't want to hold up the process.

**Chairperson Handel:** We have a motion and a second. All in favor?

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** (unclear).

**Mr. Ritter:** Lastly. In your materials a most recent update of where the cases are that have been referred to our office in some detail those have been assigned to a number of different attorneys at this point. (unclear) absolutely current. Thank you, very much for your time.

**SPEAKER:** May I ask Mr. Ritter a question.

**Chairperson Handel:** Yeah, please. Go ahead.

**SPEAKER:** Do you think we are meeting frequently enough to continue to move these cases forward.

**Mr. Ritter:** Yes, I do.

**SPEAKER:** We are not battle necking .

**Mr. Ritter:** I don't think so. I think the bottle next, to the extent there is one, our office has a tremendous amount of work. Our staff and our section (unclear) five years. And our case load has almost doubled. But these cases take time.

**SPEAKER:** Thank you.

**Chairperson Handel:** All righty. Next item is legislative update.

**SPEAKER:** Madam chair, members the State election Board, we are probably the briefest legislative update in our ten your here. The only thing is since our last Board meeting (unclear) proof of citizenship and voter registration, legislation last Wednesday (unclear) comes along July 1st. Of course, we will start working on preparing guidance and direction for county and local elections officials for the implementation of the law. The law itself goes into the provisions of the law itself become affective January 1st, 2010.

**SPEAKER:** I have a question..

**Chairperson Handel:** Go right ahead.

**SPEAKER:** Mr. Sims I was very impressed with your marks on Ms. Somac who spoke earlier for the Coalition of the People's Agenda, if I wrote that down correctly, she asserted that she considered that statute to be unconstitutional. Do you have any reason to believe it can be challenged?

**SPEAKER:** I can't speak as to what individuals organizations may do in the way of bringing litigation. I will say simply however that this bill, and this now, law was models very closely after the Arizona statute, which has been attacked now for two election cycles. It had withstood state and federal litigation and scrutiny is in fact the law of the land code in Arizona. So there is legal precedent. There is practical precedent. The head of state implemented the law, so I suspect that if this matter does come to litigation, and we certainly hope it would not, that the State would be able to put forward a fairly compelling case.

**Chairperson Handel:** Anything else? All righty. Mr. Taylor do you have anything you need to enlighten us on today?

**Mr. Taylor:** Just a very you couple of things very quickly. The GEOA convention was held last week. I thought it was a very good meeting. There were a number of things discussed in a number of teaching elements. We went through the code. We talk to elections officials about how to actually research elections related legal precedent. We talked about preparing contingency plans, emergency plans for elections, for election day, and for the offices. We talked about reapportionment and that is turning out to be the (unclear) record reapportionment office spoke about that. The ethics commission was down there talking about candidate filings as well as we had some excellent presentations, best practices by various elections officials that were pretty incredible. They were some excellent ideas on using tools that are available to elections officials at almost no cost what with so ever, but they had a big impact to the voters in helping them on election day or early voting figure out where to be how they need to vote. And that is, in a nutshell. The other thing that I wanted to hand out to you is there are some possible rules for the State Election Board to consider, as well as just a brief rundown of the process. The reason I'm handing these to you today is for possible consideration at the next SEB meeting and if you have any suggestions or any comments, I'm happy to take them. And incorporate those into rules that may be proposed by the board, or considered by the Board at its next meeting. (unclear) the first page essentially breaks it down for your consideration.

**Chairperson Handel:** Basically, you want us to review which, at our June 2nd meeting, to tell you which of the rules we would like to go forward with. And that would give you the proper notification. The Board at that meeting would post any of these. If you have any suggestions or since that you see that you would like to get before today I would be more than happy to take them.

**Chairperson Handel:** Anything else? (no response) All right. Thank you. (unclear). That concludes our agenda. If there are no other items I will entertain a motion to adjourn.

**SPEAKER:** Motion to adjourn.

**SPEAKER:** Second.

**Chairperson Handel:** All in favor.

(Whereupon, there was a chorus of ayes.).

**Chairperson Handel:** Thank you, very much, everyone.

(end of meeting).



STATE ELECTION BOARD MEETING  
2 Martin Luther King Jr., Dr., Ste. 512  
Atlanta, Georgia 30334  
Wednesday, April 1, 2009  
10:00 a.m.

(Whereupon, the meeting started at 10:00 a.m.)

**Chairperson Handel** - "I'm going to call the meeting to order. And we do have a quorum. I'll just call the roll. Tex McIver."

**Mr. Tex McIver** - "Here."

**Chairperson Handel** - "Randy Evans."

**Mr. Randy Evans** - "Here."

**Chairperson Handel** - "Jeff Israel."

**Mr. Jeff Israel** - "Here."

**Chairperson Handel** - "And I know David Worley is on his way. He did let us know he would be a few minutes late. We will have some public comment once we get through our Invocation and Pledge of Allegiance. If I could ask everyone to please stand."

(Whereupon, the Pledge of Allegiance was recited by all)

**Chairperson Handel** - "We have four public comments. The first is Garland Favorito and John Fortune has given his time to Garland, so that will be four minutes. And then we'll have Gunther for two, and Gloria Tatum for two minutes. And if you would do me a favor and state your name and address for the record that will be great."

**Mr. Garland Favorito** - "Thank you, Madam Chair. My name is Garland Favorito. My address is 220 Tallow Box Drive in Roswell."

**Chairperson Handel** - "Can you talk a little bit louder for us?"

**Mr. Favorito** - "Yes."

**Chairperson Handel** - "That will be great. I think you just needed to get a little closer to the microphone."

**Mr. Favorito** - "My name is Garland Favorito. My address is 220 Tallow Box Drive in Roswell, Georgia. I'm a life-long computer analyst, and a member of VoterGA, which is -- it stands for Voters Organized for Trusted Election Results in Georgia. That's a nonpartisan, all volunteer, technology-neutral organization. We simply seek to restore voting that can be verified, audited and recounted properly. Our position is best,

I think, described by, Madam Secretary's 2006 Basics report, which states that voters should have the ability to review their ballot, procedures must be established for audit in an election to verify that the electronic vote totals are accurate, and that paper audit trail should be determined as accurate and discrepancies in the vote, and show a valid record. That sums it up better I think than anything I would say. Currently, as most of you here know, in Georgia, voters can only verify the selections that disappear from the screen. We don't know if they are actually on the ballot. Election officials simply are certifying results that whatever the machine tells them, without knowing actually that those results are in fact correct. And there's no direct physical evidence that voter intent retained for recount purposes, so the machine simply reprints previous unverifiable results. As a result of all this, in 2004, Free Congress Foundation rated Georgia as the worst in the nation in system reliability and recount preparedness. In fact, the Secretary's report concluded in 2006 that the electronic voting machines currently used in Georgia are already obsolete, which we certainly agree with. We have claimed for years that fraud and errors are undetectable statewide in these machines. We believe that now the evidence is on record that in fact that is true. Professor Williams mentioned in our recent deposition that's going before the Supreme Court in Georgia that if a machine itself was reporting inaccurately in a given election, nobody would know it. He also admitted under oath in regards to tabulation servers that the equipment should not prevent fraudulent manipulation of vote recording count, and I'm quoting there. That is -- It conflicts with both 1990 and 2002 voting systems security standards which states that all types of equipment shall incorporate appropriate physical provisions to prevent fraudulent manipulation of the vote recorded, counted and reporting processes. The State has historically relied on certification and testing. The certifications have -- voting certification testing has failed us. Certifications, there's nothing on record for the machines that were piloted in 2001, and nothing on record for the equipment that was purchased in 2002. No certifications exist in those time periods, and in accordance with court documents. Professor Williams also has admitted that the machines were patched in 2002, before the election. The 0808 patch required recertification. He admits that the recertification was not performed, and that the failure to recertify that patch is a violation of law. In December of 2002, a letter from the Secretary of State's Office to Diebold's President, Bob Urosevich, stated that they were still waiting for a verifiable analysis of the overall impact of that patch to the voting system. Confirmation of the statewide voting system

is appropriately certified, and confirmation that the 0808 patch was not grounds for requiring systems be recertified at the national and state level. All of this was one month after the election from 2002 was conducted. The State relies on (Blackberry interference). Federal tests that we use are independent, and that they are funded by the voting machine and factories so as a result (Blackberry interference)."

**Chairperson Handel** - "All right. Thank you. The next speaker is Gunther. Is it pronounced, Ruckl?"

**Mr. Gunther Ruckl** - "That's correct."

**Chairperson Handel** - "Thank you."

**Mr. Ruckl** - "My name is Gunther Ruckl. I am a pediatrician, and I live at 1445 Midlong Drive, Decatur, Georgia, 30032. Madam Secretary of State, members of the Board, in a report dated March 23rd, 2009, the Federal Computer Week reports that people admits voting system flaws. It says in the first paragraph, 30 percent of electronic voting systems have had their warnings vindicated by two recent announcements. An official with -- election system formerly known as Diebold, admitted that its audit log system was flawed enough that it could be possible to delete votes undetected. And several election officials in Kentucky were arrested on charges related to election fraud including changing electronic recorded votes. I'm in full support of Mr. Favorito's arguments. And I want to only say one thing, until the issue is fixed, Georgia does not meet the criteria of a true democracy."

**Chairperson Handel** - "Thank you. Thank you so much. Ms. Gloria Tatum. And if we could also have Ms. Jesse Bickel ready to go after Ms. Tatum."

**Mr. Gloria Tatum** - "Good morning. Can you hear me?"

**Chairperson Handel** - "Yes. If you just speak right in it, we can."

**Ms. Tatum** - "Thank you for this opportunity to speak. I'm not a lawyer. I'm not a computer expert. I'm a Georgia voter. And I take that very seriously. And I don't have confidence in the current system. Most of the people I know don't have confidence in the current voting system, because we can't verify our votes. And if you have no way of verifying how you voted, this undermines democracy, and this really frightens me. It

frightens a lot of other voters. In Georgia, our votes sometimes get flipped. Doris Bennett who lives in Cobb County and couldn't be here today, on one election her vote flipped four times. She had to punch it five times before it showed the right person. And still we don't know -- and I can give you Doris' phone number, she wanted me to tell you that. I also databases can be manipulated without detection. The voting system was improperly certified, and more importantly illegally patched. Diebold admits a programming error that allow votes to be dropped. My friends in other states, they laugh and they call Georgia the poster child for voter fraud. That embarrasses me because Georgia deserves better. Our voters deserve better. I think we're the only state in the nation now that has unverifiable voting. And as I said before, this undermines democracy. My father always told me that there was no shame in making a mistake, but there was if you didn't learn from that mistake, and you didn't correct that mistake. Georgia has made a mistake with this unverifiable voter system. And like I said, there's no shame in making a mistake. But when you don't learn from it, when you don't correct it, there is shame."

**Chairperson Handel** - "All right thank you very much."

**Ms. Tatum** - "Georgia has made a mistake, they need to correct it."

**Chairperson Handel** - "Thank you very much. Is it Bickel?"

**Mr. Jesse Bickel** - "Yes. I'm Jesse Bickel. I'm a citizen of Georgia. I don't have the same -- necessarily the same value for democracy, but I do have a value for republican government. The Constitution in Article 4, Section 4 says that every state should be guaranteed a republican government. And I don't think there's any one thing that's more important for a republic to spend its time and effort on than free and fair elections. While I haven't seen personally the fraud that's been alleged or the unverifiable -- I understand it's unverifiable elections we have right now. I'm not confident that there's all kind of fraud going on at the moment, but a system that's unverifiable is open to future abuse from some other administration. So I would encourage the Board to make sure that there's a verifiable voting system, a paper trail and anything else, no matter what the cost, to make sure that we have free and fair elections or else it undermines our republic. Thanks."

**Chairperson Handel** - "Thank you very much. Our first order of business, colleagues, is approval of minutes. You have two sets

of minutes. Under Tab 1, our January 21st meeting. And under Tab 2, the minutes from the March 17th meeting. I always look at Mr. Evans, because he --."

**Mr. Evans** - "Under -- If I may?"

**Chairperson Handel** - "Yes."

**Mr. Evans** - "On page 3."

**Chairperson Handel** - "Are we on January 21?"

**Mr. Evans** - "Yes, Tab 1."

**Chairperson Handel** - "Yes."

**Mr. Evans** - "The reference to a blanket motion."

**Chairperson Handel** - "Under which? Under D or E?"

**Mr. Evans** - "E."

**Chairperson Handel** - "E, okay."

**Mr. Evans** - "Yeah. I don't think that's right."

**Chairperson Handel** - "Yes. I had that circled. I wasn't sure what that meant, as well. Wes, do you?"

**Mr. Wesley Taylor** - "No, ma'am. I'm not sure."

**Chairperson Handel** - "All right."

**Mr. Evans** - "I would just -- Madam Chair, if you would accept a suggestion."

**Chairperson Handel** - "Uh-huh (affirmative)."

**Mr. Evans** - "I would just say Chairperson Handel made a motion, that going forward."

**Chairperson Handel** - "Got it."

**Mr. Evans** - "And subject to that one revision, I would move for the adoption of the minutes."

**Chairperson Handel** - "All right. Is there a second?"

**Mr. McIver** - "Second."

**Chairperson Handel** - "A motion and a second for the minutes as adopted. Any other questions? Or as amended, rather. Any other questions? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? All right. How about our March 17 minutes? Any changes to that?"

**Mr. Evans** - "There was one change here. On page two."

**Chairperson Handel** - "Uh-huh (affirmative)."

**Mr. Evans** - "The paragraph beginning, Randy Evans wanted the record to reflect. I think I actually said, It was the worst case I had seen since serving on the Board. Maybe appalled was designed to capture that."

**Chairperson Handel** - "Yes. Okay."

**Mr. Evans** - "And the reason that's important, Madam Chair, is because I think it would then merit the most significant penalty that we have ever proposed."

**Chairperson Handel** - "The most serious or spirited, did you say? Serious?"

**Mr. Evans** - "Serious violation that I have seen in my service on the Board. And subject to that revision, I would move for the adoption of those minutes."

**Chairperson Handel** - "I'll second. Any other questions or comments, guys? I have a motion and a second for the minutes as amended. All in favor."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? All right. Those are approved. All right. The next order of business we have from the AG's Office, Stefan Ritter. We will take back up SEB Case 2007-00004 and 2007-00041. Fulton County. If I can ask, when we have long Consent Orders like this between, Mr. Ritter, your office and Rhonda, it would really be helpful for us to get these ahead of time so that we have time to actually read through them."

**Mr. Ritter** - "I apologize for that, and I agree completely."

**Chairperson Handel** - "Okay. Super. Thank you."

**Mr. Ritter** - "In fact, that was the first thing that I was going to address. Let me just remind the Board where we left this matter. When we last spoke, we went through the facts of the case, and the Stipulation of Facts was approved by the Board. We presented a proposed Consent Order. This is a negotiated Consent Order. I don't think either party was completely happy with it. Certainly, I would have liked greater sanctions. But we went through the Consent Order, and Mr. Evans made some very careful and detailed and, frankly, I think thoughtful suggestions to that Order. And we went back and made those corrections. And I went through the transcript of the meeting, which I've received late Wednesday, and then I actually had hearings on Wednesday and Thursday of last week and made the changes on Friday. But we continued to go back-and-forth on the language that would be added until this morning."

**Chairperson Handel** - "Okay."

**Mr. Ritter** - "That is why you didn't receive an advanced copy of these. I apologize for that. However, I will go through point-by-point...."

**Chairperson Handel** - "Great."

**Mr. Ritter** - "...as to every change that's been made. I have a red line that I prepared for myself."

**Chairperson Handel** - "Super."

**Mr. Ritter** - "And I will touch on each one of those. So if I could, and, of course, and other thoughts that you have are welcomed. But let me tell you where we are. Beginning on page 5, this is a minor change. But just to let you know, I've added a little language at the end of the sentence that begins with: Based on the above, the Board finds the following violations. That's a change from what it said. And then, instead of a bulleted list, it's a numbered list. The only reason for that change, is to make it easier to refer to those specific violations later in the Order. Let me move on then to page 7, we have several changes. On page 7, under paragraph one numbered Cease and Desist. Mr. Evans suggested that we put a reference into the Authority of the Board Statute, which is 21-



2-30, 3.1. So I've added that the beginning of that paragraph, under number 1. Then in number 2, we discussed at the meeting of the nature of the audits that would be conducted by FCBRE, that's the Fulton County Board of Registration and Elections. And the rule of the Remedial Fund in conducting some of those audits by a third-party auditor monitoring those. What we propose is a sentence at the end, what you see begins -- and this is -- begins the fifth line down: In addition, a third party auditor as designated by the SOS and is paid for out of the remedial fund, shall review these audits and shall be permitted to conduct periodic reviews of these during the 12-month term of the remedial fund. Make sure that's reflected correctly in what you've got. Again, we've been making changes to it this morning: To ensure FCBRE's compliance with the laws that are the subject of this Consent Order. And that reflects what the Board discussed on pages 54-55, and then 56-57 of the minutes that I received from your office. Mr. Evans also suggested in the next paragraph, which begins with: By consenting to this Order. That we change the word affirms to confirms and certifies. So the FCBRE is not just affirming that it has fully implemented all the measures but it's, in fact, affirming and certifying that, and that change has been made. Moving on to page 8. In paragraph B, Mr. Evans suggested regarding a written documentation of FCBRE's efforts to contact voters and to obtain a voter registration card voted for those voters that include contact by the Fulton County Sheriff's Office, which could occur in some instances. This is not ordering that office to make those contacts, but it just reflects the fact that it could. And, in fact, he dictated the language, and I've included that, and including but not limited to in-person contact by the Fulton County Sheriff's Office, which is the language that was suggested by Mr. Evans at the last meeting. In paragraph C, of page 8 of 12, we have added in the fourth line down and rewritten that sentence so that it begins: At the date of execution of this Order, FCBRE has either a voter registration card application or scanned on file -- excuse me -- that should be: A scanned signature on file. I apologize for the typo: For all active voters except for 316 voters, 316 out of 5,500 -- excuse me -- 552,559 voters, equals .057188 percent of the active voters. And what that reflects is a request by the Board, Mr. Evans, that we re-examine the numbers that were in this paragraph before, which were high, to not be correct as to the actual number. They did go back and check that and found 316 only remaining. So there's been a substantial clear-up on that. But we have reflected that specifically in this Order. Again, that was from page 44 of the prior transcript. Paragraph D, we've added the phrase:

Including retention periods required by law. So the first sentence now says: FCBRE will report -- excuse me -- or will self report any incident where election documents carry either statutory retention period are found to be missing, including retention periods required by law. We had discussed trying to list all of the retention periods in the Election Code. But, in fact, that has been an unmanageable task. I went through and tried to search all those periods. There are periods that we knew were there that didn't come in the search, and also there are some outside of it. Frankly, I think it unfairly ties our hands as the Election Board to say that we're only limited to certain periods listed. I think it's all periods required by law and that Fulton County is obligated by law to follow those. I'm moving onto page 9, paragraph E, subpart A. The request was made that Secretary of State, rather than the State Election Board be the director under the fund. And so throughout I have changed SEB to reflect Secretary of State or SOS through part E, which is the remedial fund provisions. It then specifically provides in part A: Part of the fund shall be used for third-party audits of FCBRE. And that was specifically requested by this Board. I think that's an excellent idea and use of the fund. Let me address here for a moment and mention something that I think is important that I learned really at the last meeting, and then followed up on. It turns out that a prior consultant was hired, and in fact did develop a list of things that Fulton County can do. I think, therefore, we're somewhat down the road on what it should be doing."

**Chairperson Handel** - "Yes."

**Mr. Ritter** - "And that provides some guidance on that. If I could then move to page 10. All of the changes until we get to paragraph three, the reprimand, are simply a typographic to reflect Secretary of State. In reprimand, Mr. Evans suggested that we delete some of the language which is general in nature, describing what the reprimand was for and be specific as to the violations. And so now those are enumerated above, and lists specific statutes that apply to each one of those violations. As you can see, 21-2-73, 21-2-13B, 21-2-15A, to which I will note there are numerous violations of that statute. 21-2-36A, 21-2-390, 21-2-500A, and our regulations at 183-1-6-.03, subpart 301. Investigative costs, Mr. Evans requested that we list in addition to the investigative costs, which will be paid by them of the Secretary of State's Office, which is the 19-thousand-and-some dollars. But we also list the amount that was paid by Fulton County itself in this case. And I think the point here being that this enormous amount, \$468 thousand --."

**Chairperson Handel** - "Except, Mr. Ritter, wasn't the 468, I thought that was inclusive of attorney's fees?"

**Mr. Ritter** - "It was. And the transcript showed that we were to include the attorney's fees in that amount, so I did."

**Chairperson Handel** - "Well, then the language isn't right, because attorney's fees have nothing to do with remediating the conditions that led to the complaint."

**Mr. Ritter** - "Frankly, I agree with that."

**Chairperson Handel** - "Okay."

**Mr. Ritter** - "But I have tried to reflect what was said at the last meeting. And the meeting said to include attorney's fees, the whole amount, so I include --."

**Chairperson Handel** - "What were the attorney's fees again? How much were they?"

**Mr. Ritter** - "I'd have to have Mr. Parks speak on that. But I believe they were about \$150 thousand."

**Chairperson Handel** - "All right."

**Mr. Ritter** - "And that amount is listed in the Stipulation of Facts. I can get that if necessary."

**Chairperson Handel** - "That's fine."

**Mr. Ritter** - "All right. On page 11, in civil penalty, Mr. Evans requested that we break down the amount of civil penalty by violation. So if we turn to the enumeration of the different violations by number, that are previously listed on page 5. And, specifically, as pointed out by Mr. Evans: Such a penalty would consist of 5,000 for a violation of paragraph one of five. And 5,000 for violation, paragraph two. But paragraph one has several different statutes. But all together, those involved the deputization issues. Paragraph two, \$5,000 maximum applied per violator for the violations for some of the destruction of the cards. Paragraph three, \$5,000 for the violations. Paragraph four, \$5,000 for the violations, paragraph five. \$2,000 for the violation in paragraph 7 -- or excuse me, 6. And 1,000 for the violation in paragraph 7. And just so that you know what those, I'll remind you. Six and 7, which are the

lower ones, are the failure to retain the absentee ballot application for 24 months and then to destroy it. And number 7, was the failure to retain a voter certificate for 24 months. And then we had 99 thousand, roughly, or 92 thousand different applications that were thrown away. I think that fine is entirely merited. I will note just for the record here, that we disagree about that fine. They think that fine is too much. That's their right. This isn't negotiated. I will say for my part on behalf of the Board, I think we could seek a much higher fine. For one thing, this fine does not break it out by individual violator. But I want that to be noted. I agree with the overall amount of this fine, as I previously said. Other respondents, we continue to reserve our rights regarding other respondents. That reflects the changes as I understood them, and went through the transcripts as carefully as I could. Of course, it's a lengthy transcript. We tried to pick up everything that was there. May I answer any questions?"

**Chairperson Handel** - "Questions, colleagues?"

**Mr. McIver** - "Please."

**Chairperson Handel** - "Yes, Mr. McIver."

**Mr. McIver** - "Please. Paragraph two."

**Chairperson Handel** - "What page?"

**Mr. McIver** - "On page 7. I'm sorry. Yes, page 7 of 12, Mr. Ritter. Paragraph two, the last sentence. Read that again, because somewhere I had picked up 12 months. And I don't see that reflected."

**Mr. Ritter** - "I'm sorry. I think that was discussed this morning. I don't think that's a critical change. Let me just -- what you have and what I think is fair, Mr. Parks can speak: In addition, a third-party auditor is designated by the SOS and is paid for out of the remedial fund -- there's a B in there, I think: Shall review these audits and shall be permitted to conduct periodic reviews of these to ensure FCBRE's compliance with the laws that are the subject -- are the subject of this Consent Order. There's a typo there. In my copy, one of the drafts I think is not tracking, because I was reading off of a red line. It says: Shall be permitted to conduct periodic reviews of these during the 12-month term of the remedial fund to ensure FCRBE's compliance with the laws that are the subject of this Consent Order. The periodic reviews of these during a

12-month term under remedial fund is something that was discussed and negotiated by the parties. Frankly, I think it's understood that we're paying out of the remedial fund for a third party to look at these, than we're looking at it for a 12-month period, whether we put that in the Consent Order or not. I'm sorry that my red line didn't track exactly what you have there. But that's I think what I just --."

**Mr. McIver** - "Well, the question is, your spoken words were different than these printed words. So what is it that you want us to consider approving?"

**Mr. Ritter** - "I would suggest this. I would suggest: In addition, a third-party auditor is designated by the SOS and is paid for out of the remedial fund, shall review these audits and shall be permitted to conduct periodic reviews of these during the 12-month term of the remedial fund to ensure FCBRE's compliance with the laws that are the subject of this Consent Order. That just puts a more specific timeframe on it to make it clear what we're doing. But I think, regardless, it's understood. I think it's at a minor change. But -- And I do apologize for the miscommunication. And I have that written down and I can make sure that that is given to you. If you'd like that in writing, I can give that to you."

**Chairperson Handel** - "All right."

**Mr. McIver** - "Page 8, sub C."

**Mr. Ritter** - "Sure."

**Mr. McIver** - "Line 6 -- no. Line 5. I'm sorry. Near the end of the line you have: Applications are scanned. Do you intend to add the word, signature?"

**Mr. Ritter** - "Yes. I'm sorry. The word, signature, has been deleted there apparently. In addition, the next phrase was an added phrase, I think. The word, signature was inadvertently deleted."

**Mr. McIver** - "All right. So the adverb, scanned, stays and then the --."

**Mr. Ritter** - "Scanned signature; correct."

**Mr. Parks** - "If I might, Mr. Ritter. We had it's the image of the application. I don't want to be misled, it's not just the

signature."

**Mr. Ritter** - "So it should say, scanned signature and application?"

**Mr. Parks** - "Mine says, image. So -- And mine is correct. But I know we've had several drafts. Mine says: Scanned image. But you might want to say: Scanned image of the application, just to be correct. I think that's a little better than just a pure signature. I don't want --."

**Chairperson Handel** - "Really. And we need to say: Scanned application with the signature."

**Mr. Parks** - "That will be fine."

**Chairperson Handel** - "Because -- Okay."

**Mr. Parks** - "It's more than just a signature, that was my point."

**Chairperson Handel** - "Great."

**Mr. Ritter** - "Okay. Scanned application with the signature."

**Chairperson Handel** - "Got it."

**Mr. McIver** - "Just one second."

**Chairperson Handel** - "You're fine. I've been writing, too."

**Mr. McIver** - "Page 10, paragraph four, line two. I think this is a typo. But the sentence beginning in the second line: In addition FCBRE -- Isn't that certifies?"

**Mr. Ritter** - "Yes. That typo has been picked up and corrected on my red one. I'm sorry. That was not changed on your printout."

**Mr. McIver** - "Does anybody on the Board have an appetite for including the phrase in that sentence, that it includes attorney fees?"

**Chairperson Handel** - "Yes. I was going to ask that to say -- if we could say: It's already paid out in excess of \$318 thousand in remediating some of the conditions leading to the Complainant in the present case, as well, as approximately \$150 thousand in

attorney's fees. Just so it's broken out, so it's clear."

**Mr. Parks** - "That's not right."

**Chairperson Handel** - "Well, what ever the number -- Tell us what the correct numbers are then."

**Mr. Parks** - "I didn't -- We remainder over 350, includes consultants, over-time help, new employees, temporary employees. It includes a whole number of different things, which we were originally called to delete because the State did not want that in there. It only wanted the money that we spent on actual improvement of the process. So I can give you a whole breakdown, if you'd want."

**Chairperson Handel** - "But the 468 includes attorney's fees?"

**Mr. Parks** - "Yes. But the difference between the --."

**Chairperson Handel** - "Okay. Approximately how much were the attorney's fees in this?"

**Mr. Parks** - "I have to go get them. I don't know."

**Chairperson Handel** - "I think -- For me, that is an important figure, because I've been at Fulton County, so I know what Mr. Parks' legal bills look like. And I think that it's a significant amount. And it's not appropriate to imply that attorney's fees are remedial actions, because they're not. The attorney's fees were by and large for this. And wouldn't have been incurred if there weren't any violations in the first place. So maybe, could we leave a blank and have it filled in?"

**Mr. Ritter** - "Well, I'd be happy to do that and you approve it with those corrections. The actual amount of the remediation, less the attorney's fees, consultant fees, and so forth, is listed in the Stipulation of Facts."

**Chairperson Handel** - "Okay."

**Mr. Ritter** - "If I may say."

**Chairperson Handel** - "Yes."

**Mr. Ritter** - "I'm respectful, and, of course, the Order will reflect it however the Board wants it to be. I can say for my own part, I do not think this second sentence in the

investigative cost is necessary, because that's not an actual sanction against them. And we already have that amount listed in the Stipulated Facts."

**Chairperson Handel** - "Where is it?"

**Mr. Ritter** - "We're looking at page 10."

**Chairperson Handel** - "No, no, no. Where -- I'm asking again if it's in the Stipulated Facts, where is the amount that was spent on attorney's fees? It troubles me --."

**Mr. Ritter** - "It's not listed in the Stipulated -- The Stipulated Facts were left out --."

**Chairperson Handel** - "The other document."

**Mr. Ritter** - "Yes."

**Chairperson Handel** - "It troubles me to have a Consent Order that includes -- Because it specifically says that 468 was spent in remediating the conditions."

**Mr. Ritter** - "Right."

**Chairperson Handel** - "And that troubles me since legal fees don't remediate anything."

**Mr. Ritter** - "I completely agree with you. And frankly, my own personal view is that that entire sentence should be struck, not just the amount. The actual amount, not including attorney's fees and so forth, is listed in the Stipulated Facts. If we needed a reference as to what someone actually incurred in having to deal with this, we could go to the Stipulated Facts. I reflected this because of the Board's wishes, but --."

**Chairperson Handel** - "Right."

**Mr. Ritter** - "But I agree with you."

**Mr. Parks** - "Ms. Handel."

**Chairperson Handel** - "Again -- Hang on a second. We're discussing here. We'll ask you if we have a question. Again, this document, colleagues, is going to be taken separately. And so when it is reviewed by people of Fulton County, the citizens, who want to know what has Fulton County done in terms of total



dollars for corrective actions, they did not spend \$468 thousand to correct the problem. It's some amount less than that. And I think it is important to reflect a difference between what was actually done to remediate, and what it cost the County in legal fees, because the elections division didn't do their job correctly in the first place. That is a very relevant piece of information if you are a citizen in the County. So I would like to see that broken out."

**Mr. Evans** - "Madam Chair, could I --."

**Chairperson Handel** - "I'm sorry. Did you have any more corrections?"

**Mr. McIver** - "I'll yield to Mr. Evans. I just have another typo."

**Chairperson Handel** - "Okay."

**Mr. Evans** - "Well, first, I'm not sure I agree on the attorney's fee issue, because based on what I've heard it sounds like a lot of what Mr. Parks did was remedial in developing --."

**Mr. Parks** - "It was. That's the point."

**Mr. Evans** - "Now, let me finish."

**Mr. Parks** - "Okay."

**Mr. Evans** - "Once when I was a young lawyer, a Judge was trying to be helpful to me and I interrupted him and he said, Never stop somebody who's being helpful. But it struck me, Mr. Parks, that a large part of what you and your firm did was the creation of the remedial plan, the complete and full investigation. And I can't say that representing County in front of us would be part of a remedial plan. But I do believe that a large part of all of the getting your arms around refining this down so it's a manageable problem, and then defining remedies and working toward creating a plan that solves those problems would be the kind of numbers that I would spend or I would recommend that a client spend on an consultant or an att -- which could be an attorney to help create those. So my narrow purpose, Madam Chair, on that paragraph four was to create a framework for future respondents to understand the full array of monies that it could cost them. And in a moment when we come to that part I have some suggested revisions to make that clearer. And I think probably some breakout of the 468 is appropriate to say. And,

Mr. Parks, it doesn't have to be exact. But if we could say 400, you know, was spent on remedial, and 68 was spent -- and throw the word, approximately or in the range of, I think you'd probably find, and I think we'd be fine. Because we really do want to capture the idea that a large part, as I understand here from what you've said, a large of what you did was more in the range of helping figure out what the solution was, and not defend. I haven't heard you try to defend what I consider to be the indefensible, which is, you know, just throwing away cards. We know that was a problem. We all figured that out. So I'll make a suggestion when we get to those kind of changes, but I just wanted to weigh in just on the fee issue."

**Chairperson Handel** - "If you've got a change, go ahead."

**Mr. Evans** - "I was just going to walk through my document."

**Chairperson Handel** - "Oh. You've got a whole bunch more."

**Mr. Evans** - "Yes."

**Chairperson Handel** - "Okay. Because I was trying to keep Tex --."

**Mr. Evans** - "I didn't want to interfere with Tex finishing up."

**Chairperson Handel** - "No."

**Mr. McIver** - "If I can have the floor back. It is important, I think, that this document, Mr. Ritter, also acts as guidance for other counties, which there are 158. So it makes a lot of sense to me that we adopt, not the exact, some form of the Secretary's suggestion, so that when they see a situation like this, and they delve into it, they go: Oh, my god, the attorney fees are outrageous, the consultant fees are outrageous, the remediation is outrageous. And breaking it down I think makes it a better deterrent document, in my view. And that's the reason for bringing it up and asking if any of the Board members had an appetite for making that change. Because I really think that this will be -- We know GEOA has their convention, I believe in May or June, and then VREG comes along. And no doubt this is going to be circulated. And I sincerely hope so. I hope somebody stands up and talks about it. I know that the Secretary is a speaker at those meetings, and perhaps she'll devote some of her time to it. But this should be guidance for others. And that's part of our role here, and that's the reason for the suggestion. Perhaps Mr. Evans has more specific support

for that. But that's where, I think, a number of us are coming from."

**Mr. Ritter** - "I understand. Thank you very much for explaining."

**Chairperson Handel** - "Any other changes?"

**Mr. McIver** - "No. I'm through. Thank you."

**Chairperson Handel** - "Okay. Mr. Evans, did you want to walk through your changes?"

**Mr. Evans** - "Sure."

**Chairperson Handel** - "All right. I'm trying to keep a little notepad. And there wasn't any -- Did you objection to the page 7, 8 and other page 10?"

**Mr. Evans** - "The changes that were discussed before? No."

**Chairperson Handel** - "Uh-huh (affirmative). Okay. Great. All right. Mr. Israel, did you have any comments?"

**Mr. Israel** - "No, not yet."

**Chairperson Handel** - "Okay."

**Mr. Evans** - "Okay. And some of this, Madam Chair, may be a deal killer but it really is, I think, reflective of what I would feel comfortable with. On the first page, and I've written on my draft very legibly, clearly as I can so that I can hand this to you."

**Mr. Ritter** - "Thank you."

**Mr. Evans** - "But I'll go over these just for the record and so that Mr. Parks and his clients can follow along. The first paragraph, where it says: Hereby, enters into the following Consent Order. I would delete the rest of that sentence: For purpose of resolving the matter without further litigation. The last sentence: Should the State Election Board not approve, I would delete, since we're going to act on this one way or the other and it's recognized that in the event we don't impose an order then the matter is revived and the litigation is ongoing. Under Stipulation of Fact, I think you actually have to attach and incorporate by reference what you've done with other

documents."

**Mr. Ritter** - "I'm happy to attach that."

**Mr. Evans** - "So we just need to basically -- here it say: As attached and incorporated by reference as Exhibit A."

**Mr. Ritter** - "Yes."

**Mr. Evans** - "The next paragraph, I just think we need to clean it up a little bit. I would include at the end of the first sentence, the citation to 21-2-33.1. And then in the next sentence, there's just an error. It's sanctioned sanctioning. But a matter of great dispute, I think under the law, is whether we have the authority to impose a civil penalty as opposed to sanction. And in order to steer wide and clear of the issue of sanctioning, I propose the following language: The Board may issue such orders as necessary to assure compliance with applicable laws. And then in the next page, where it says: To require an election superintendent to undertake. I would just delete an election superintendent to undertake. I think we have the authority to require remedial action, period. On page four, it's just a spacing between the last -- right before 2 -- 21-2-500. On page 5, at the very bottom there."

**Mr. Ritter** - "Yes."

**Mr. Evans** - "On the sentence: In light of the Stipulated Facts and by the agreement of the parties, the Board finds that -- I would delete, certain provisions and regulations were violated. And just say: The Board finds that violations of these laws occurred. And then in the next sentence: Based on the above, the Board finds and the respondents have admitted the following violations. In paragraph two on that page, there is a sentence that says: Respondents assert. See where it says, on paragraph two, the last sentence: Respondents assert?"

**Mr. Ritter** - "Yes."

**Mr. Evans** - "Yes. That has no meaning to me, so I delete that."

**Mr. Ritter** - "Yes, sir."

**Mr. Evans** - " If they want to put that in the record, that's fine. It doesn't need to be in the Order. This is our Order."

**Mr. Ritter** - "Fair enough."

**Mr. Evans** - "On page --."

**Mr. Ritter** - "I'm sorry to interrupt you, Mr. Evans. The same is true for paragraph one, the same assertion?"

**Mr. Evans** - "That's correct. Yes."

**Chairperson Handel** - "Okay."

**Mr. Evans** - "On page 7. Under the Cease and Desist paragraph, after the word, supra, I would insert: And shall fully comply with all provisions of this Consent Order. Only because I want to bring to bear the contempt power in the event we have a violation of the order, as opposed to another proceeding. I did not understand why, and maybe I misread, but why only the FCBRE was subject to the Cease and Desist in the next sentence? Should that be FCBRE, April Pye, John Sullivan and Ira Turnipseed? In the second sentence of the Cease and Desist paragraph. I think it should be all of the respondents."

**Mr. Ritter** - "Okay."

**Mr. Evans** - "And I think I heard this was caught. Paragraph two, at the end of the very first paragraph, there's a period before the word, Consent Order."

**Mr. Ritter** - "Correct."

**Mr. Evans** - "Okay. Got that one. And the very last line: All measures identified in the FCBRE remedial plan attached hereto. And then insert: Incorporated by this reference, attached is Exhibit B. On page 8, under C, what was the word we agreed on after the word, scanned? Because I heard Mr. McIver, and then you, and Mr. Parks all had different -- And so, what did you say it was, Mr. Parks, image?"

**Mr. Parks** - "I put scanned applications with the signature."

**Mr. Evans** - "Yes, I had scanned application but I just didn't know what the right word was. Under C?"

**Mr. Parks** - "Right."

**Mr. Evans** - "One, two, three, four, fifth line down, the word, scanned."

**Mr. Ritter** - "So after scanned, it would say, application with this signature. So the whole sentence reads: At the date of execution of this Order, FCBRE has either a voter registration card application or scanned application with the signature on file for all active voters except for 316 voters, period."

**Mr. Evans** - "That's fine. On D, there's a big difference under the law between shall and will in Georgia, no good reason but there is. And so indeed, where it says, will, it needs to be change to shall. Did we decide not to include a list of document retention laws?"

**Mr. Ritter** - "I'm requesting that, and the reason is because it's unmanageable to do that. It's going to tie our hands to do that. There are numerous different retention periods. And frankly, if I say that they have a certain list of document retention periods, and we miss one...."

**Chairperson Handel** - "Right."

**Mr. Ritter** - "...which is likely to happen, because, frankly, these change all of the time. And in addition, there are regulatory provisions, there are federal provisions. My suggestion is to simply say, all applicable laws as we have here because, I think they're on notice of the law, and they have to comply with all of those. I think the specificity is not going to help us in this instance."

**Mr. Evans** - "Well, the reason I worry about that is because if you have a specific list of statutes, then you can get away with a non-time limited self-reporting requirement. If you have an unspecified list of statutes, then you have to have a time limitation, which is the self-reporting obligation exists for a year or two years. And so as to the enforceability of the Order, we have to figure out which one we want to go with. If we want to go with an unspecified list, then I think we'll have to put in a 12 month, 24 month. We might be able to get away with a 36-month self-reporting limitation. If we go with a specified list of statutes, we can leave it without duration, as I understand the law. And so that was the only reason that was particularly important to me under D, is that we're imposing a self-reporting limitation, which I assume is in addition to what the law requires. The law doesn't require self reporting. And so the question is how do we deal with that. And I'm not worried about the problem as it exists today or tomorrow. I worry about it when we have a new Fulton County Commission, a new Chairman who doesn't want to follow this anymore, and he

comes along and he says, well, you know, that's not enforceable because you've got a non-time limit duration requirement on an unspecified statute. So I don't know what the solution is. We just have to pick -- I think we have to make a pick there or we have to make a selection, or we can leave it and just understand it's probably, you know, it's one that there will be a little bit of a risk for."

**Mr. McIver** - "Madam Chair. Mr. Evans, is it specific enough to simply refer to the Election Code?"

**Mr. Evans** - "I think we can refer to the chapter. I think that would get us where we need to go."

**Mr. Ritter** - "That's fine, but I want to also make sure we're also including federal provisions. And we'll have to make sure that we are covering everything under the NVRA and the HAVA, to make sure that we've covered those as well. Albeit, their retention requirements are not extensive. But nonetheless, we have to make sure that they do exist, and we have to make sure that they are complied with. So if you would -- chapter 2, and National Voter Registration Act and Help America Vote Act?"

**Mr. Evans** - "Yes. Those three citations will be fine. I just think you have to --."

**Mr. McIver** - "In your view that makes it specific enough, so we don't have to time limit?"

**Mr. Evans** - "I think so. I think that will get you where you need to go. Although, you know, Tex, you and I both know, there are no guarantees when it comes to litigation."

**Mr. McIver** - "Especially with somebody who is so outstanding as Mr. Parks on the other side. I'm sure we'd have that issue."

**Mr. Evans** - "On page 9."

**Chairperson Handel** - "Mr. Evans, can I ask you real quick?"

**Mr. Evans** - "Sure."

**Chairperson Handel** - "At the bottom, are you going to change both wills?"

**Mr. Evans** - "Yes. Every -- I changed -- I tried to change every will to shall."

**Chairperson Handel** - "Great. Super."

**Mr. Ritter** - "All wills to shalls."

**Chairperson Handel** - "Great. Thank you. Just to clarify."

**Mr. Evans** - "On page 9, at the very top, where it says: Take corrective measures. I would change that to: Submit for approval by the Secretary of State corrective measures. It's just I don't have enough confidence to allow them to decide what the corrective measures are to be taken. And then at the end of that paragraph, after the word, review, I would insert: And shall commence training as approved by the Secretary of State as soon as possible. I had a question under E, A."

**Chairperson Handel** - "I'm sorry. Can I just say one more thing under D?"

**Mr. Evans** - "Uh-huh (affirmative)."

**Chairperson Handel** - "The second line at the top there, it says, form, that should be, from. All right."

**Mr. Ritter** - "Thank you. We missed that one. Sorry."

**Mr. Evans** - "This is just a stylistic thing. I probably would change those numbered paragraphs under E to numbers, because it's a little confusing to go E, A, instead of B-1."

**Mr. Ritter** - "Yes. I agree."

**Mr. Evans** - "And then under E, what is E-1, just a phrase that didn't quite follow with me is the phrase, ordinary expenses and expenses necessary to comply with the legal obligation shall not be paid from the remedial fund. If we say that only -- that the only funds that can be spent are funds directed by the Secretary of State, wouldn't that be a sufficient protection? Because she could then make sure that they're not going to spend ordinary expenses. To me, the protection is to say they can't spend the money. And I just -- that phrase is just a little confusing to me. I'm not sure that it adds anything."

**Mr. Ritter** - "Well, it is the applicative of the obligation already to spend only as directed."

**Mr. Evans** - "I would actually delete that sentence."



**Mr. Ritter** - "Okay."

**Mr. Evans** - "And then in the next sentence I would say: The Secretary of State in her discretion. So that -- to be candid with you, so that there could never be a claim against the Secretary of State, because we will have vested in her, you know, discretion, means that unless she took the money, that there's no basis for any suit. I would put: The Secretary of State in her discretion shall direct the expenditure of the remedial fund, provided expenditures are for election training, equipment and/or administration of elections in Fulton County. So under three, as I understand it, if the Secretary of State decided to spend no money, the full 100 would go to the general fund?"

**Mr. Ritter** - "I think so."

**Mr. Evans** - "Under four, should be the word, shall."

**Mr. Parks** - "Mr. Evans."

**Mr. Evans** - "Uh-huh (affirmative)."

**Mr. Parks** - "That's not correct."

**Mr. Evans** - "Okay. Maybe I misread that."

**Mr. Parks** - "If there's no C of D, if there's no -- If you don't tell us to spend it, it doesn't become a sanction. It becomes a sanction if you tell us to spend it and we don't."

**Mr. Evans** - "The question is, what happens is you fund the fund. And at the end of the 12 months, the money isn't spent. What happens to the balance?"

**Mr. Parks** - "It would go back to Fulton County."

**Mr. Evans** - "No."

**Mr. Parks** - "Because otherwise it's not -- we don't have our guarantee that it's going to be used for stuff that is -- That's the whole action of the deal, because, otherwise, you could just say we're not going to spend a penny of it and it become a sanction."

**Mr. Evans** - "Right. And I think --."

**Mr. Parks** - "Because I know --."

**Mr. Evans** - "No. I hear you. I understand your concern, and I don't think -- We already know we'll have an independent auditor. So we know that it won't be completely unspent, because we're going to have this independent auditor whose job it is to verify compliance, and otherwise assist with self-reporting. I have to tell you as a fiscal conservative, I just have a real problem with anything that requires me to spend government money. The use-it-or-lose-it idea just never appeals to me. But that's something I guess we'll have to get to the end and see. But that's how it's currently worded; isn't it? Do you disagree on --."

**Mr. Parks** - "If it is, it's a mistake."

**Mr. Evans** - "Well look at -- I'm going to continue on."

**Mr. Parks** - "Okay."

**Mr. Evans** - "You may want to look at three on page 9. And we'll come back to that."

**Mr. Ritter** - "Mr. Parks, can I ask that you come up here when you speak, because it's recorded and --."

**Mr. Evans** - "Under paragraph four, Madam Chair, I changed that to shall. And paragraph five, again, to avoid this sanction issue, I would change the word sanctions to civil penalty. And then the work -- Let me ask this question, just a math question. If we added up all these numbers, the 19624, the 468, and the 120, was does that number total? Does anyone have a calculator? You would think as a lawyer I would be very proficient at adding up numbers getting paid, but it's not my strong suit."

**Mr. Ritter** - "It's roughly \$608 thousand."

**Chairperson Handel** - "It's 607,624, I believe."

**Mr. Ritter** - "The 468, of course, is a rounded number anyway."

**Mr. Evans** - "That's fine. I just need to know what is the 19624, plus the 468, plus 120."

**Chairperson Handel** - "607,624."

**Mr. Evans** - "So I would add an introductory paragraph to paragraph -- I would re-label paragraph four to say: Civil Penalty."

**Mr. Ritter** - "Well, then you're combining four and five?"

**Mr. Evans** - "Yes. You'll see in a moment. And, then, so four is Civil Penalty and the introductory paragraph, Madam Chair, would be the following: The total amount of \$607,624, which respondents shall pay or shall have paid as a result of its violations include the following. And then sub-A would be investigative cost. Or as my Dad would say, investigative cost. And then under investigative cost, it would be: Respondents shall pay the expenses incurred by the office of the Secretary of State in its investigations in the matter of 19,624,076. And then B would be, Costs for Remedial Plan and Attorney's Fees. And that paragraph would be FBRE shall -- or FCBRE has paid in excess of 468 thousand in remediating some of the conditions leading to the complaint of which approximately 68 thousand were attorney's fees associated with representing the respondent before the SEB. C would be: Further Civil Penalties. And then I would have the following, because there is no -- this is what we contend and this is what they contend. This is what we're willing to enter. It should say: The SEB herewith imposes the following additional penalties and remedies for -- and then it would say the violations acknowledged, delete would support a Civil Penalty in an amount. So the first sentence would read the following under C: The SEB herewith imposes the following additional penalties and remedies for the violations acknowledged by FCBRE in the amount of 120 thousand as follows. So it goes all the way down to, with a total penalty. See, are you with me?"

**Mr. Ritter** - "Yes."

**Mr. Evans** - "Totaling 92 thousand, for a total penalty, strike, that would be supported being at least. With a total penalty of 120 thousand to be payable as provided herein as follows: 20 thousand to the State Revenue Fund; 100 thousand into a segregated account, the Remedial Fund to be used as provided herein."

**Mr. Ritter** - "Can I comment about it?"

**Mr. Evans** - "Yes."

**Mr. Ritter** - "The problem with drafting it that way and the reason we did not draft it that way, we considered that, and I'm talking about the last part, where: The penalties imposed and partially going into one fund. That is, in the view of the Attorney General's Office and prior case law, an earmark of the penalty as opposed to staying the penalty and keeping the account in their control. If we earmark it, and say this penalty has to be paid in this account, then it's not going to be a valid penalty under Georgia Law."

**Mr. Evans** - "Well, then --."

**Mr. Ritter** - "The effect may be the same, but we have drafted it so that it doesn't say that the penalty is going into the account. But we're staying the penalty, but they're going to fund an account. And that's -- It may seem like an inconsequential difference, but asking them the ones who are funding the account rather than having the penalty going into the account, does make a difference in the view of our office of the law. The AG's Office would not be of the view of doing it the way you suggested would be valid."

**Mr. Evans** - "So the 468 thousand, is that an earmark?"

**Mr. Ritter** - "That amount, no. That amount was paid by them. That wasn't imposed as a penalty at all."

**Mr. Evans** - "But we're requiring that they confirm and have paid that as part of the remedial plan."

**Mr. Ritter** - "We'll, we're requiring that they did in fact extend that amount. But that's not meaning that we're imposing it as a penalty. We just want them to know that, that doesn't mean that -- and that they have -- that their amounts that they represent that they said they spent, which we, frankly, have contended in the case are irrelevant because, first, those amounts didn't remediate the problem. And they weren't spent as an amount as a penalty in the case. But we still want to know that those amounts are correct, and they're affirming to them -- us that they are. Other than that, we can conduct an audit --."

**Mr. Evans** - "You and I just have different goals in that regard. My goal is for, as Mr. McIver pointed out, is that for the next respondent to come along to understand that the bar is about a half-million dollars if you want to do this."

**Mr. Ritter** - "I understand."

**Mr. Evans** - "So in that regard, I want to make sure that we send that signal, and that that is kind of the price tag. Second, is so if they have already paid the 100 into a segregated fund, and we confirm that the 100 is there, that would make it the same as confirming that they spent the 468?"

**Mr. Ritter** - "I think so."

**Mr. Evans** - "So maybe the solution is that we get the order done, make as a condition of the entry of the order, or confirmation that the 100 is in a segregated fund, and we just have a confirmation that that's been done."

**Mr. Ritter** - "That's fine. I have no problem with that. My concern is with --."

**Mr. Evans** - "No. I'm fine. I'm just trying to -- I know what I want to get done."

**Mr. Ritter** - "I understand."

**Mr. Evans** - "And I'm trying to work within the boundaries of what you're giving very good legal advice of how to get it done."

**Mr. Ritter** - "Right."

**Mr. Evans** - "And I'm hoping that if we can both get what we want, it will be fine."

**Mr. Ritter** - "I agree with that. And I'm really just looking for the exact language to put down in here to reflect what you want. And that's why I expressed that one concern about -- that one phrase about, we impose a penalty of 120 thousand, of which, 100 thousand is paid into the fund. I think that could be --."

**Mr. Evans** - "So what we could do is to say: The total amount being 120, 20 of which will be payable to the State Revenue Fund, and 100 of which has been paid by them into a segregated fund."

**Chairperson Handel** - "Uh-uh (negative)."

**Mr. Ritter** - "No. That doesn't work, because if you say that 100 of it has been paid, then that's the penalty itself that's been paid into the segregated account, and then it's an earmark."

That's a difference than what we have here. And that's different than the 468. We didn't take -- The 468 was never received by the State and then paid into the account, even indirectly by them paying it by our direction as a penalty. They paid that previous to this Board meeting, as opposed to the 100 thousand. If we formally would have that as a sanction that the State would essentially would take ownership of that money, but we're directing it to be paid into an account, then it's an earmark. If we don't take ownership of the money, that is to say, we're not saying it's a penalty. We're going to say that that amount is -- that we're agreeing to stay a certain amount in the penalty, but put the 100 -- they have put \$100 thousand into the account themselves, then we have a different situation. They maintain ownership and control over that money the whole time, and then we don't have an earmark."

**Chairperson Handel** - "Could we maybe do it by saying that the total amount of the sanction is 120 thousand, with 20 thousand payable to the State General Revenue Fund, and 100 thousand being stayed if the FCBRE does X,Y and Z with the fund? So that you get your total amount, then we get the word, stay, in to address Mr. Ritter's issues."

**Mr. Evans** - "Candidly, that doesn't make any sense to me."

**Chairperson Handel** - "Okay."

**Mr. Evans** - "And, Madam Chair, no -- it's not what you're saying that doesn't make sense."

**Chairperson Handel** - "Oh, over here, what Mr. Ritter's put out."

**Mr. Evans** - "What Mr. Ritter is saying doesn't make sense. Because if the issue is control, then the key is that we never come into possession of the 100. If the segregated fund is funded and established pre-Consent Order effectively and we simply confirm it. Because I got to be honest with you, if there is the slightest hint, which is what makes me very nervous about this, and I think we're working very hard to try to get to a solution, that the remedy for this is that Fulton County effectively got away with it for \$20 thousand, and then got to have basically its cake and eat it too, and then spend money on equipment it would otherwise need, that would be a travesty of justice."

**Chairperson Handel** - "Which has been my challenge with this from the beginning."

**Mr. Evans** - "Yes. And I am willing to work toward trying to do that. But I am very nervous about this spinning of what -- you know, what's reflected in the minutes is just a serious problem. And I'm willing to work, because I do think it's important for Fulton County, and I do think it's important for us to get this put behind us, but there is a line beyond which I can't go, and that would be that line. And I don't quite follow if the operative issue turns on control, then I'm fine with a pre-inception date, pre-effective date funding of the segregated fund with the proviso being that pre-effective date payments included attorney's fees, remedial plan, a segregated fund to fund the remedial plan as directed by the Secretary of State, and a post-order payment of 20 thousand, which is made to the State Treasury. I can live with that. What I can't live with is if you do what you're told to do the fine will have only been \$20 thousand."

**Mr. Ritter** - "Understood. And we came to this conclusion to try to work as we discussed last week with the idea that some of this money could be used for the benefit of the victims of this misconduct by Fulton County, which are the Fulton County taxpayers. And if they just pay this money to the general revenue fund. It hurts them twice. That being the case, though, we need to do it within the framework of what our office thinks is going to be legal. And we can't just say that we're going to have them pay a penalty and half or a 100 thousand of it is going into an account. So we carefully tried to structure this in a way that made it crystal-clear that this penalty of \$120 thousand was warranted, in fact a minimum amount that I think is warranted in this view -- or at this moment, and we stated repeatedly what this penalties is for, broke down the amounts in an Order per your suggestion, and so forth. And so I think it's crystal-clear from the Order in my view that this is a penalty. I'm not saying, as you pointed out to Mr. McIver earlier, that people can file suits, and argue all sorts of things. I've seen it all the time, and you have too. But I think it's clear that this is a civil penalty in the effect of 120 thousand, but we're not going to take it in a way as a penalty in ourselves and have it ordered into the account. Perhaps, and I don't know whether this is factually something that Fulton County can support. But in that final sentence, on what would be subpart C, if I could suggest this revision: In keeping with the Authority the State Election Board's Remedial Election Law's Violations, SEB stays the assessment of \$100 thousand of the civil penalty if FCBRE/FCBOC certifies that it has established a segregated account into which it has paid \$100

thousand to be used as directed above. And the remaining \$20 thousand to be paid forthwith as a civil penalty in the General Fund of the State of Georgia. I'll just add this. We have a common goal of wanting this to be crystal-clear as much as we can within the framework of the Law to future violators, or potential violators, of what their violation is going to cost them. And I'll just say for our purposes of the record, this is a one-time type of deal, creating such a segregated account. I think there's no question that we would expect civil penalties to be paid by vote. We don't expect this segregated account idea to be followed in the future. But we also don't expect these types of violations to, you know, damage the citizens in the way Fulton County citizens have been damaged by the conduct here."

**Mr. Evans** - "What if we change 4-B to say: They have paid in excess of 468 thousand in remediating some of the conditions leading to the complaint in the present case of which 68 thousand were attorney's fees, and have paid 100 thousand into a segregated fund to be directed by the Secretary of State?"

**Mr. Ritter** - "That suits me fine."

**Mr. Evans** - "And then C would be: As an additional penalty --."

**Chairperson Handel** - "And if I recall, our previous discussions were that if the fund was not established --."

**Mr. Ritter** - "They're going to pay it and I think the Order is clear on that."

**Chairperson Handel** - "And I would --."

**Mr. Ritter** - "And I would like to leave that last sentence that's -- or a part of that last sentence -- I'm sorry to interrupt you."

**Chairperson Handel** - "No. That's fine."

**Mr. Ritter** - "Part C, to make that clearer."

**Chairperson Handel** - "Yes. And I think there needs to be a timeframe in which the fund needs to be set. And the Consent Order needs to be -- remain open, and not final until such fund is set."

**Mr. Parks** - "It is in the Order. It's at 40 days."



**Mr. Ritter** - "Yes, it's correct. It would be in what would be E-5, on page 10, currently labeled -- fund."

**Mr. McIver** - "That's clear."

**Chairperson Handel** - "Are you taking a crack at some language?"

**Mr. Evans** - "Yes, I am."

**Chairperson Handel** - "Then while you're doing that, would you mind if I make one more comment? The only other issue in this for me is that the way this is set up, Mr. Ritter, there needs to be some line between the Secretary of State's Office and the Fulton County Elections Board and Fulton County Elections Office. Because irrespective of what this agency at the State level may or may not direct Fulton County to do out of the \$100 thousand, does not and can not in any way relieve them of their responsibility to follow the law. And I am gravely concerned that the way this is structured, that six months from now if, and I'm going to be optimistic that it will be if there instead of when, if there are additional violations in no way can Fulton County come back and point the finger at the Secretary of State's Office for not ordering them and directing them properly to do their jobs. Because when all is said and done, Fulton County has a legal obligation, regardless of this fund, regardless of what I may or may not want them to do to follow the law. And that must be crystal-clear in here."

**Mr. Ritter** - "Okay."

**Chairperson Handel** - "And I couldn't find any such language that dealt with that."

**Mr. Ritter** - "Okay. Can I suggest that on page 10?"

**Chairperson Handel** - "Uh-huh (affirmative)."

**Mr. Ritter** - "After E, which is now would be five."

**Chairperson Handel** - "Right."

**Mr. Ritter** - "We add a part six."

**Chairperson Handel** - "Okay."

**Mr. Ritter** - "That says the establishment of the remedial fund

and the authority of the Secretary of State, SOS, to direct the expenditures under the remedial fund in no way absolves Fulton County or Registration and Elections or its officials from their duty to fully comply with Georgia Law."

**Chairperson Handel** - "Great. All right. I believe that covers it. Mr. McIver."

**Mr. McIver** - "Are you still writing, Randy?"

**Mr. Evans** - "Yes."

**Mr. McIver** - "If I might have the floor."

**Chairperson Handel** - "Yes. Please, yes."

**Mr. McIver** - "As just one Board member, Mr. Ritter, I want to know that the Law Department is confident that this document does two things. It would not impair our ability to act against this or any other party with respect to contempt. If there are other violations, clearly contempt I think is the road which we would pursue. So that's the first question I have for you. Does anything here impair us once it's recast as we best need to do, would impair us from moving towards Fulton County or any other parties to this agreement in terms of contempt?"

**Mr. Ritter** - "Let me answer that question. I think the answer is no, it does not impair us. Let me talk about what our contempt remedies are, and what the remedies are for violations of this. Other than, we believe that the penalty automatically becomes due, but what happens when any violator doesn't pay a penalty or comply with an Order of this Board? The Board itself, of course, can issue a resolution finding them in contempt. But where the rubber really hits the road is that you would direct our office, or the Secretary of State would direct our office to file an action for the Fulton County Superior Court in this case, to enforce the Order and to essentially require them to comply with their obligations under it. The actual enforcement Order would be something that we can go forward in terms of remedies would be something we need from Superior Court. Once they've done that, then we have the full contempt powers of equitable court, the Superior Court. We also could lien them, if we needed to, or whatever else we needed to do, should we have to go to Court. And our goal in cases like this is to get to a place where that doesn't have to happen. But we have filed several actions for several agencies, my clients, where we have done that, and we would do that if

necessary. In no way does this Order impair our ability to do that. In fact, I think our attempts to be clear about it increase the likelihood that we could do that."

**Mr. McIver** - "That's the statement I'm waiting to hear."

**Mr. Ritter** - "Right. And our goal is to make our case, should we go to Superior Court, an easy case, a direct case, one that the Judge can immediately grant judgment for us."

**Mr. McIver** - "The second part of that has to do with, first of all, you know my concern about this fund."

**Mr. Ritter** - "Yes, sir."

**Mr. McIver** - "It places us into a role that I'm troubled about. I would rather us sit here as the SEB in a rather pristine position and be able to deal with these issues as they come before us, instead of becoming, if you will, a partner or an ally or collaborator with Fulton County. Nonetheless, as Mr. Evans has already said, I am very much for moving this matter forward, bringing it to conclusion. We have a lot of other work to do. Fulton County has a lot of other work to do on their own. So I don't intend to pursue further my objections about this fund. But I want assurances from the law department that whatever we have and end up with in this document, which is approved, does not impair the ability of the SEB, and I'll speak on behalf of the Secretary, or the SOS, to function in our role. Now, I know she's addressed the SOS, but it's broader than that really."

**Mr. Ritter** - "I don't think it impairs you at all. I think if anything this is a power-granting document to this Board, but also primarily to the SOS. I don't think it limits what the SOS and the Board can do. And that's my understanding and what my advice and belief is about this document. And I can tell you that on behalf of the Attorney General's Office."

**Mr. McIver** - "Well, just so that we're clear, the law that created this Board was for a very specific purpose. And I don't want this document to impugn or impair our purpose in any way whatsoever. And that's the assurance that I really want from the law department before I cast my vote."

**Mr. Ritter** - "I don't think it impairs your purpose whatsoever. Of course, Mr. McIver, I can't give you guarantees that someone won't sue, that they won't make claims, because people can make

all sorts of crazy calls. I don't think this impairs the authority of this Board or the Secretary of State whatsoever."

**Mr. McIver** - "So if those challenges come as you describe --."

**Mr. Ritter** - "We'll defend them and we will --."

**Mr. McIver** - "And as lawyers, we know that this is what our fabric of our society is to be able to challenge one another in a civil manner."

**Mr. Ritter** - "We will aggressively defend the authority of this Board."

**Mr. McIver** - "We would expect Mr. Baker to come to our side."

**Mr. Ritter** - "Yes. You can expect the Attorney General's Office. I don't know about him personally being there. It could be, but I don't understand you to mean that."

**Mr. McIver** - "Well, look, he's a friend of mine, but I have been disappointed in his lack of stepping forward in some instances where I thought it was really called for, and in a couple of instances involving this Board. And I'm not asking you to speak for the Attorney General here, I know that would be inappropriate. But I just want to feel comfortable with that whatever we're doing doesn't in any way limit our purpose in being, which was the statute which brought this Board into existence."

**Mr. Ritter** - "I don't think it does. I'm telling you that my opinion is that it does not. In fact, I was careful to make sure that the Order recites the authority of this Board. And I will tell you that as far as I'm concerned, and as far as our office is concerned, we plan to aggressively defend the authority of this Board to act."

**Mr. McIver** - "Thank you. I've just been handed a note. I don't have any idea how accurate it is. No offense to you, Mr. Taylor, but that the Attorney General Baker just announced that he's a candidate for Governor. It's starting to get crowded in here."

**Chairperson Handel** - "It is."

**Mr. McIver** - "And that's the reason I'm looking to say that if this is true, and, again, who knows at this point. But if this

is accurate, again, I only use his name from the standpoint that we are friends, but I want to know the Law Department will be standing with us if this fight starts, instead of saying, well, this is an impediment and the State Election Board is not going to be able to function in the way that the Legislature and the Governor years ago intended."

**Mr. Ritter** - "Well, let me ask you a question. A caveat, what I have to say first by saying that you know lawyers never want to make guarantees. We will never use this Consent Order to argue that the State Election Board is limited in its authority."

**Mr. McIver** - "Or concede an argument by the other side that we're limited."

**Mr. Ritter** - "You mean, related to this Consent Order or in some other case?"

**Mr. McIver** - "Yes."

**Mr. Ritter** - "Consider it, no. I don't think it limits the State Election Board's authority whatsoever, nor the Secretary of State's."

**Mr. McIver** - "Madam Secretary, I think I've beat this horse enough, but those are my concerns."

**Chairperson Handel** - "Do you want -- In that paragraph that Stefan read out about, does not absolve Fulton County -- have it be the SEB and the SOS?"

**Mr. McIver** - "Well, I think Mr. Evans may get to that. I would expand the new 6 to include that."

**Chairperson Handel** - "Great."

**Mr. McIver** - "But those are my concerns."

**Chairperson Handel** - "So it's SOS and SEB, Mr. Ritter."

**Mr. McIver** - "Yes, ma'am."

**Chairperson Handel** - "Great."

**Mr. McIver** - "I don't think we, as a Board, by virtue of an action like this can really restrict the authority of this Board and what our obligations are. We're here to do the people's

work."

**Mr. Ritter** - "I full agree with that, and I, you know, that you issue an order today does not mean you're bound by the terms of this Order, or any other condition you put in there in a future case. I don't think that this Board is bound -- except the courts are bound by stare decisis of the trial orders."

**Chairperson Handel** - "All right."

**Mr. McIver** - "Those will conclude my concerns. Thank you."

**Chairperson Handel** - "All right. Thank you. Mr. Israel, are you still good?"

**Mr. Israel** - "Yes."

**Chairperson Handel** - "All right."

**Mr. Evans** - "All right. I think I have here -- so what I have is 4, which is entitled Civil Penalties, A, which is investigative costs. B, which are cause for remedial plan and attorney's fees. C, which is funding of remedial plan, and D, which is further civil penalties. So does that meet your -- your -- the boundaries? And under C it says they shall pay 100 thousand into a segregated account. The remedial fund is provided herein."

**Mr. Ritter** - "I -- Can I look at your language?"

**Mr. Evans** - "Sure."

**Chairperson Handel** - "Do you want to -- how about if we take a quick break and let you digest that and make sure we get it exactly right, because I would really like to be able to move forward today on it?"

**Mr. Evans** - "I completely agree."

**Mr. Ritter** - "Absolutely."

**Chairperson Handel** - "I'll make a motion that we take a ten-minute break."

**Mr. Ritter** - "Thank you."

**Mr. Evans** - "And Madam Chair, I'm fine with him sharing my notes

with Mr. Parks just to speed it up."

**Chairperson Handel** - "Absolutely."

**Mr. McIver** - "I would hope Mr. Parks would be involved."

**Chairperson Handel** - "All right. So we're going to take a break for about ten minutes, folks. Do I need a motion? I probably need a motion."

**Mr. Evans** - "So move."

**Mr. Worley** - "Second."

**Chairperson Handel** - "All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Thank you."

(Whereupon, a short break was taken)

**Chairperson Handel** - "All righty. I think we're going to come back in session, and please let the record show that David Worley is now with us as well."

**Mr. Worley** - "Madam Secretary, if I could just note for the record that I was required attend a hearing on motions for summary judgment on a case in Henry County Superior Court this morning that had been scheduled prior to this meeting."

**Chairperson Handel** - "Yes. Yes. You had let us know that, and I did say at the beginning that I knew you were going to be late. So thank you. It was an excused absence. And you have been able to talk with Wes and get caught up on where we are?"

**Mr. Worley** - "Yes."

**Chairperson Handel** - "Super. Awesome. Okay, Mr. Ritter."

**Mr. Ritter** - "Okay. And I thank you for the recess. I've reviewed Mr. Evans suggested language, which creates a new subparagraph C regarding the remedial fund where Fulton County is required to pay into the remedial fund, and that has the sanctions as -- of paragraph D. I've got -- and he also had an -- clause, and so forth. I'm fine with all of his proposed suggestions. I went through it, I think they're excellent, and

so I can say, on our part, we agree to those. I understand that Mr. Parks does not agree to those and I'll let Mr. Parks have his say about that. I do, however, want to make my view of the procedural posture of this case clear. This case has been in front of the ALJ for many months. We've negotiated this case carefully, we have Stipulated Facts in this case. In my opinion, the Board has the authority to issue an Order based on the facts. And I think that the changes that Mr. Evans has proposed fully reflect the understanding of the parties and what the underlying facts are. And I'll let Mr. Parks' note of disagreement reflect that. I have no problem with that. I don't think we need to proceed further in front of the ALJ. And if the Board approves this Order, unless you direct me to go back to the ALJ for an argument on sanctions or civil penalties and so forth, I think this Board fully has the authority to issue civil penalties and sanctions. In fact, there was a period when those issues were not even referred to ALJs, and we can fully withdraw that referral as well. The purpose of the ALJ, which is a very important purpose, is to hold a hearing to determine the facts of the case. If the ALJ issues an order on sanctions, it can be completely revised by this Board. Completely, in my opinion. And because of that, the ALJ's determination on that is not necessary, and for the purposes of finality moving this forward I would encourage us to reach an Order today and -- That's my opinion on it, and I will let Mr. Parks present his say. Thank you."

**Mr. Parks** - "Thank you. This is the reality of how we see it. We have negotiated this Consent Order, which requires both parties consent, with the help of the ALJ. The hearing is scheduled for April 15th and 16th. We reserve the right to -- we continue that hearing with the hope that we can reach a Consent Order here. That Consent Order -- the changes that we now are confronted with are just simply too substantial for me to be able to represent either the Board of Commissioners' opinion, or my own Board's opinion because -- and I hope that we would not be expected to do that at this point and time. I mean, these are not minor changes. But let me -- let me try to go over some of the issues that I think are sort of driving the changes that have been suggested here. First, I would -- I would ask this Board to consider a procedural terrain to the way these things are handled. Mr. Ritter and I spent a substantial amount of time dealing with language, which I ran by my constituencies. But apparently Mr. Ritter feels like he can't run by that you all in an ongoing basis, so what we're doing is we reach here without you all thinking, and maybe not even seeing the orders, which creates a tremendous inefficiency in



this process. Because I've spent a substantial amount of time on our side convincing people to accept what Mr. Ritter has proposed. So I don't know what the legalities are in terms of the Attorney General's interface with you all, but if you all could see these orders well in advance of your meetings so we could get back just the kind of detailed comment that we've gotten here today, we would be so much further along because I would have shared that with the other side, my clients, and with the Board of Commissioners and Mr. Alexander here today representing the County."

**Mr. Evans** - "Madam Chair, may I respond to that briefly?"

**Chairperson Handel** - "Absolutely."

**Mr. Evans** - "It reminds me of litigating a case in a class action where opposing counsel and I will have spent many hours working together, and then I appear in front of a judge whose job it is to protect the interest of the class without regard to what we lawyers think. And he says, this is what I can approve, and this is what I can't. And I remember once a colleague of mine saying to the judge, you know, Judge, if there was some way that we could get your buy-in before we showed up for Court here, that would really be great. And the Judge said, only if you would like to spend the night in jail because it would be an ex parte proceeding to ask for an advisory opinion in an adjudicatory proceeding. I appreciate the situation you're in, but I do also appreciate the role that we have which is a little different than a typical plaintiff and defendant in a lawsuit. We have a very important role to serve. This is an adjudicatory role, and as a result in an adjudicatory role we really don't have the -- anymore than a judge would have the ability to signal buy-in in advance of an opportunity for a full and fair hearing. So I appreciate your suggestion. I appreciate that it is a very inefficient process, and I know that I'm as frustrated as I'm sure you are. However, and I know the Chair shares this, as well as my colleagues, it is extremely important that we get this right. And I will tell you this, I mentioned to it earlier, I appreciate the political dynamics of trying to reach an accommodation, and we would like to get this resolved as well, however there aren't circumstances where we're going -- or I will vote for a proposal which is capable of being spun for anything other than this is going to be a serious penalty for a serious violation."

**Mr. Parks** - "And Mr. Evans, I take it -- as I said, there may be, as you said, legal impediments to that dialogue. I'm just

-- to the extent that there can be it moves the process along, move executive sessions, and whatever. Secondly, I want to speak to this attorney's fee issue. I got the impression that the Board thought that the attorney's fees being incurred by Fulton County was somehow high or expensive, or unnecessary. Let me just say for the record, that I charge Fulton County half an hourly rate. I do much of this work pro bono. The total attorney's fees -- I've had this client check in this case of \$114 thousand, over 70 percent of that was my firm conducting extensive training classes, reorganizing the way this County keeps its document, creating retention policies, drafting the remedial plan, and putting my people, lawyers and paralegals, onsite at the Fulton County Board of Registration and Elections to accomplish that goal over a six-month period. So maybe I misread it, but certainly, the vast minority of the money spent has been spent in this process, because from day-one we have been on the Consent Order track. We have never -- other than we're resolving the facts for stipulation and trying to come up with this with the help of the ALJ, I can't think of a whole lot of time where Mr. Ritter and I spent time arguing over the facts. Where we have argued is over the remedy. The posture of the case, right now, is one where I hope that this Board would not expect -- because I can't do that as a lawyer, just as you all couldn't comment on this Consent Order until you gathered as a body, commit the Board of Commissioners or the Board of Registration and Elections to all of these changes. Secondly, Mr. Ritter, I do have a very different view of where this case stands. The ALJ -- what -- a separate ALJ, mediated this case and it was largely, at least the font of the idea of this solution, which we then worked through the earmarked issues, worked into a document. It was never not the expectation that if we couldn't resolve this by a Consent Order, the very difficult legal issues over what can and can't be done in terms of remedy in this case would be argued to the ALJ. We have not argued those issues to this Board. We have not argued the law to this Board, and the reason that we didn't is that we were on the Consent Order track. So the kinds of things that can and can't be done, at least in our view, in terms of a remedy, we do think and we are set for April 15th and 16th to have the Administrative Law Judge review that. That, in my opinion, is in this Board's interest, although I -- we understand that it is not something that you are bound by. Certainly, we do not want to be in a situation or we have not made our record on those legal issues. This is a case, and whether this Board has a problem with the way 33.1 is written in terms of the civil penalty statute is written, is that you've got to have a concrete act tied to a \$5,000 civil penalty. That's the way it

worked. It may not seem like a lot, but at this point and time, the maximum fine this case could result in is \$40 thousand. That's it. There is no precedent, either in the revelations or the law, that allows a per-page fine on top of the \$5,000 fine. The Supreme Court has dealt with it, that's a punitive award. That's a punitive award. But whether it's --."

**Mr. Evans** - "Mr. Parks."

**Chairperson Handel** - "Can I just -- I mean, we're not going to argue this -- the facts here today."

**Mr. Parks** - "Exactly. My point is --."

**Mr. Evans** - "Well, what I was going to say --."

**Chairperson Handel** - "And please, go ahead, Mr. Evans."

**Mr. Evans** - "All I was going to say is --."

**Chairperson Handel** - "Because we have the Stipulation of Facts."

**Mr. Evans** - "No. If we're going to argue the law, then my reaction will be we'll have a briefing on it."

**Chairperson Handel** - "Exactly."

**Mr. Evans** - "We're not going to do that today."

**Mr. Parks** - "Exactly."

**Mr. Evans** - "All I need to know is do you -- if I may?"

**Chairperson Handel** - "Yes, please. I think you're going to ask --."

**Mr. Evans** - "If I'm stepping out of line --."

**Chairperson Handel** - "No. I think you're going to ask the same thing I was going to ask."

**Mr. Evans** - "Do you, or do you not, consent to the Order? If the answer is no, that's fine. We have Stipulated Facts. We'll have the Stipulated Facts, and then you can make your arguments to the Superior Court Judge. If the answer is we do consent, then we need to get a clean copy so that we're all on the same page, and we deal with the Consent Order as a drafted. But honestly, in all due respect to you and to my colleagues, I have

never seen the Board bend over backwards more to try to work toward reaching an accommodation in a case where the Respondent, in fact, deserved less accommodation. We have violations here that are the most serious in all of my years, and I am the senior member of this Board. I have been on this Board longer than anybody. I have seen unbelievable things. I have never seen a violation this bad, and the idea -- the mere idea that somehow, after devoting two full Board Meetings of trying to get to an accommodation that permitted us to move forward, is met with anything other than either we are very grateful and we agree, or we respectfully disagree because we're on different pages as far as the law, is just not going to work, I don't think. But I am only one. And I will tell you I was here when we revised the statute to deal with each violation. I remember the specific case that Secretary Cathy Cox came before us on that dealt with what was a violation. And I think you may be well served to go do a little legislative history background to check on the proposals submitted by this Board to seek clarification on that precise narrow issue that you're focused on. But that is no consequence to us today."

**Mr. Parks** - "No. It isn't."

**Mr. Evans** - "We need one thing, yes or no. If the answer is no, just say no."

**Mr. Parks** - "The answer is, I don't have the ability because the Boards that have to approve it haven't seen it yet."

**Chairperson Handel** - "Well --."

**Mr. Parks** - "I don't think it's unreasonable --."

**Chairperson Handel** - "If I could just ask a question, Mr. Parks, because yes, there's been changes made to the Order. But the overall parameters of the Consent Order in terms of the dollar amounts, the scope of the Consent Order remain exactly the same as they were when you came before us two weeks ago."

**Mr. Parks** - "I don't --."

**Chairperson Handel** - "There's no -- The dollar amounts haven't changed. I mean, the scope of it, the remedial fund, paying the investigative fees, it's all the same."

**Mr. Parks** - "I haven't even read --."

**Chairperson Handel** - "Mr. McIver."

**Mr. Parks** - "I --."

**Chairperson Handel** - "Hang on, because this is still -- we're not in a give and take back on this at this point, and that's per Mr. Evans' comment. So, Mr. McIver."

**Mr. McIver** - "Perhaps, we, the lawyers are more sympathetic, Mr. Parks, but it occurs to me you simply lack authority to make the decisions."

**Mr. Parks** - "Yes. I haven't even read these changes."

**Mr. McIver** - "And we're burning through some pretty valuable time here, so if you don't have the authority, you simply don't have it. And of course, that's requisite to you being able to make any pronouncement on behalf of your client."

**Mr. Parks** - "Yeah. Well, we went -- we went through all of the changes that were announced last time we were here as dispositive changes that if accepted would work. We got approval on that and submitted an Order. These are substantial changes."

**Mr. McIver** - "Well, we may differ on that, but the point is either you have authority or you don't."

**Mr. Parks** - "But -- you hit on it. What I perceive as something that -- you know, I can't tell a client this is not something we should look at. They would need to see it. It may well be that the client approves it. The Board of Commissioners may look at it, but they have to be able to see it. But I don't -- I think it would be -- I don't think, as a lawyer, I can just say it's fine."

**Mr. McIver** - "But we're not asking you to."

**Mr. Parks** - "Okay."

**Mr. McIver** - "Just stand in the well, as they say, and tell us what your authority is. And if you don't have the authority to agree to it, then we need to move on."

**Mr. Parks** - "Certainly. I would have to take the language back to let them look at it. I don't think it would be a lengthy

process, a couple of days. I mean, but they have to see the language."

**Mr. McIver** - "That clarifies it for me because -- I just -- If he doesn't have the authority then, again, we need to move forward with the language we have. Have you -- Take a look at it and see if you can have authority to go forward. You know that we're going to act. I hope there's no doubt in your mind about what we're going to do."

**Mr. Parks** - "Well, our position is that the Administrative Law Judge is -- Because we have not briefed that issue. We believe that it should be first briefed with the ALJ. You should have a recommendation from him before you act."

**Mr. McIver** - "Fine."

**Mr. Parks** - "That's where the case is pending. And if the Board says no to that, then I think that -- then that's something that -- the ALJ has a hearing scheduled. We have to go back to in. Mr. Ritter would make his arguments as to whether we shouldn't go forward or not. I mean, the judge may agree with you, but I don't think you just skip that step. And you certainly don't make this decision without at least letting the issues that would be argued on sanctions be briefed or heard because we've never argued those to you. I would be shocked. We're -- the Order has materially changed, and it's a yes or no, today, when I haven't even discussed it with my clients."

**Chairperson Handel** - "All right. If I might, since -- if I could -- I'm actually -- It's a little perplexing that the County Attorney is not here given --."

**Mr. Parks** - "Mr. Alexander --."

**Chairperson Handel** - "Well then, why don't y'all go take a look at it, then we'll table it for two hours and let y'all go look at it and see. I mean --."

**Mr. Parks** - "The actual people -- I mean, my Board has to see this. I can't -- Mr. Strickland, Mr. McDougal, the people that are on the Board would need to see these changes. I don't think that's unreasonable."

**Mr. Worley** - "Madam Chair."

**Chairman Eaves** - "All right. Mr. Worley."

**Mr. Worley** - "Is there anything, and Mr. Evans has an opinion on this, is there anything to prevent us from voting to approve the Consent Order with the changes that were made this morning, and saying that Fulton County will have 48 hours to take it or leave it?"

**Chairperson Handel** - "Mr. Ritter, can we do that?"

**Mr. Ritter** - "I think not. I think not."

**Chairperson Handel** - "Can we do that?"

**Mr. Ritter** - "And, yes, I think you can vote to do that. First of all, the referral to the ALJ, let's just get this clear."

**Chairperson Handel** - "Why don't you come over there so we can make sure we get everything."

**Mr. Ritter** - "With great respect to counsel, the ALJ serves the benefit and discretion of this Board. The ALJ's role is to assist the Board in issuing an order on the facts, which is not necessary in this case. This Board does not require ALJ to tell it what the law is. In fact, the legal determinations of the ALJ are completely reviewable, not only by this Board de novo, but should someone wish to appeal an order if they haven't consented to it, they can appeal it to a Superior Court and the legal issues are de novo reviewed by the Superior Court as well. And if there weren't an appealed from that, the Appellate Court beyond that would review it de novo. In short, we don't need an ALJ, and I could, at any time, withdraw the referral to the ALJ, unilaterally. That could happen. Not an issue, Mr. Parks' client may not like that, but it doesn't matter. This Board has the authority to issue an Order based on the facts, and I think it's appropriate. There is no need for preservation after the legal arguments regarding that, and I will state, for my part, that they have arguments they feel like they haven't made and preserve, and they feel like they would lose them under the George Case -- *George vs. Natural Resource of Flint River Mills*. Constitutional claims, for instance, we would waive that because the fact of the matter is, I think that we will win those arguments if we had to go there, but I don't really want to have to fight those arguments. I think it's a waste of attorney time and resources. As I understand, Mr. Evans' change, and I welcome their, again, review of those, which we have reviewed them. They make some linguistic changes on some of the structure, but the bottom line is the same. We cannot be here

meeting after meeting, as I have been I should note, month after month waiting for the Fulton County Board of Registration and Elections, and the Fulton County Board, itself, to look at these things and decide whether they like them and come back with nitpicking changes, or no, we want to change it this way or that way. And we will be here forever as, in fact, we largely have been trying to go back and forth on this. I think it's entirely appropriate for this Board to issue an order to say if they -- they have 48 hours to approve it. But the reality is, if they don't approve it, the Order is still going to be in place and they can appeal it if they don't like it, and we can take up our issues there. But I think when they review the Order they will say, and should say, this is what we were seeking. We don't like all of it, but you know what? They don't get to like all of it. They are the Respondents, and these are very serious charges. Thank you very much."

**Chairperson Handel** - "All right. Anything else, colleagues? Did you have any questions, Mr. Worley, on it?"

**Mr. Parks** - "Could I respond?"

**Chairperson Handel** - "It's up to the Board's pleasure if they are interested in a response. Short though, please, so we can conclude."

**Mr. Parks** - "The ALJ referral was by the Attorney General. When we went there we've had multiple hearings with this Judge. That's why we have not raised any of those issues here. To come in and then say, well, we'll withdraw the referral when we haven't any of those issues because they were supposed to be made at the ALJ, that's unfair misdirection. It's just unfair. You can't -- You can't say, well, up until just five minutes ago this case was going to proceed before the ALJ, and now it's not. You have no form in which to make arguments which are substantive and important if, in fact, we don't have consent to resolve this. We may well have consent. That's the larger point I want to make. All I'm saying is, as a lawyer, with one body that I don't represent, and one body that I do represent, that reviews these things and tells me whether they agree with them or not, I'm without authority. And since they were only announced just minutes ago, and I've not even have a copy of them, it's unreasonable to not provide a reasonable opportunity for the Respondents to review it, consider it, and decide whether they can consent. So the order -- And if there is a willingness on this part of the Board, and we don't want to hear anything further and we'll either pursue it as a Consent Order,



or as not a Consent Order, but an Order imposed and waive the fact that we didn't listen to legal arguments that were scheduled to be presented to the ALJ, but now won't be because of withdrawal of the reference and there's a waiver of that, well then that's fine, because that was my concern. I don't want a Superior Court Judge, if we didn't have consent, saying why weren't these arguments raised below? I would urge you to hear them. But if that's what -- because of the need to expedite this and resolve it, which I can understand from an administrative point of view, and we have waiver, as Mr. Ritter has said, then all we would ask for is a reasonable amount of time to see if we can't resolve this by consent, because after all, that's the paramount goal. That is not something -- I don't want -- When I'm telling you my concern is about how we're proceeding procedurally, for you to mishear me. I'm not saying that my energy and my motivation is not to pursue what I think is a good solution, both for the taxpayers, for the enforcement of the Election Code, and for this Board. Everybody got something in this deal. But I don't have the ability to say yes when the people that I'm obligating, both financially and legally, where potential contempt files could be used based upon the language which I haven't even read, that would be beyond the scope of what I think a lawyer could or should do. So some reasonable time to consider it, and then, you know, this body's preference on whether it would like to hear the arguments, but only in the event we don't have consent. You don't have to hear a word if you have consent. Thank you."

**Chairperson Handel** - "All right. Do we want to try a motion? Mr. Evans, you had expressed a little concern, but if we were to adopt this with language at the end that said, gave 48 hours to Fulton to review and get back to us, per Mr. Worley's suggestion. I'm trying to see if we've got some consensus on that."

**Mr. Parks** - "Just -- if I might, I don't know where people are on it. These are -- you know, when I'm dealing with the Board of Commissioners it's like -- could it be till Monday?"

**Chairperson Handel** - "Well, we'll see what the body's pleasure is."

**Mr. Parks** - "Yeah. You just give me as much time as I have, but I don't want a not consent coming from not being able to contact someone."

**Chairperson Handel** - "Right. Well, hopefully, they're all well aware that today was taking place and are anxiously awaiting a resolution."

**Chairperson Handel** - "Mr. Worley."

**Mr. Worley** - "And I would think you would be able to get in touch with at least a majority of both of those Boards by 5:00 p.m. Friday?"

**Mr. McIver** - "I think that's restrictive. I really would give him more time. As a defense lawyer who has to run down his clients all the time, and they're never on the right continent or anywhere else, if -- unless there's some real high degree of urgency here, because we all do want this brought to a close, I would be inclined to ask Mr. Parks the day that he wants, and reach as far as we can get to him to give him that time. And then the burden's on him to find his client and get us a reply."

**Mr. Parks** - "I would appreciate that, and also I know the more time you give me, the more likely it is I can get consent."

**Chairperson Handel** - "Well, having been on the Fulton County Board of Commissioners and worked with the Board of Elections, the more time that is given, the more time there will be to nitpick and to dispute all of it, with all due respect to my former colleagues. Mr. Evans, did you have a comment?"

**Mr. Evans** - "No. My worry is that we're being gamed, to be honest with you."

**Chairperson Handel** - "That's my concern."

**Mr. Evans** - "I mean, I'm worried about being gamed on the spin, and I'm worried about being gamed on the time. And the only reason I say that is because I've done my fair share of gaming. And I know -- I know how it works."

**Mr. Parks** - "Can we make sure that we have that on the record?"

**Mr. Evans** - "I just need one more day. I need a little more time, and --."

**Mr. Parks** - "I'm not doing that, Mr. Evans. I don't even know these -- I don't even represent one of these bodies. I just don't want there to not be consent because I couldn't get consensus. That is not a game."

**Mr. Worley** - "And if I could just say, for the record, having been on the opposite side of a case for Mr. Parks, that's not been my experience with him. He's acting in good faith."

**Chairperson Handel** - "Well, again, as a former Commissioner, I can assure you that as on something as important as this they will want to be reached. I would be amenable to -- rather than Friday at noon, make it Monday at noon. It gives you -- you know, today is Wednesday. You know, plenty of time to try to reach folks. But I think we have to have an end to this, and we can't continue to keep extending it."

**Mr. McIver** - "Would you be comfortable with Monday at noon?"

**Mr. Parks** - "If that's the will of the Board, that's what I will try to do."

**Mr. McIver** - "That's not what I asked."

**Mr. Parks** - "Yes. We'll work with that."

**Mr. McIver** - "All right."

**Chairperson Handel** - "Mr. Evans."

**Mr. Evans** - "Yeah. My inclination is to say there -- there are two possibilities, because I don't think we -- I don't want us to spend more Board time on this. We've worked really hard."

**Chairperson Handel** - "We have."

**Mr. Evans** - "We've spent a lot of time here trying to help somebody who really is, you know, in a position of defending some pretty egregious conduct. My inclination is to say the draft that I shared with Mr. Ritter, I don't know if you gave it back in there or not, but if not, you can have it back, that I would be fine with until Monday. But in the event that that cannot be reached by agreement, that we will then impose what Mr. McIver requested originally, which is a very traditional remedy, which will be a Cease and Desist Order, a reprimand, and a civil penalty in the amount of \$750 thousand. And we will let Mr. Parks make his arguments about how many violations we have here, and we'll see how that fares. But I don't think we should spend one more minute trying to work on a solution that we didn't create, but that we are charged with a responsibility of addressing."

**Chairperson Handel** - "All right. Is that a motion?"

**Mr. Evans** - "That is my motion."

**Chairperson Handel** - "Second. Comment? And that will be -- let me just clarify, Monday at noon or end of day?"

**Mr. McIver** - "Well, let's ask Mr. Parks, again, what time Monday would you be happy with?"

**Chairperson Handel** - "And then I'll come right to you, Mr. Worley. I just want to make sure we have the motion right."

**Mr. McIver** - "Close of business?"

**Mr. Parks** - "Yeah."

**Chairperson Handel** - "All right. Well, let's, again, knowing my experience, let's have a specific time because we've tried the close-of-business route and things have been delivered at 7:00 p.m. So let's make it 5:00 p.m., if the motion maker would accept that."

**Mr. Evans** - "Yeah. And I --."

**Chairperson Handel** - "All right."

**Mr. Evans** - "Given what I'm proposing, I'd be fine letting him have until Wednesday, because, to me, we're not going to spend any more time on it. I mean, it is either, you know, it really is like a plea bargain in a federal court, which is you have, Mr. Defendant, until this time to accept the plea in which case the judgment of the court becomes final."

**Chairperson Handel** - "Can I ask, is Wednesday a Board of Commissioners' Meeting day?"

**Unidentified Speaker** - "Today is."

**Chairperson Handel** - "Today is, so -- Well, they can always do a quick special call by phone, so -- and Wednesdays are typically work days for the folks. So if the motion maker wants to do Wednesday at five, I'm fine with that."

**Mr. Evans** - "I think -- I think, given that, we shouldn't spend any more time on it, I'd be fine with the additional time."

**Chairperson Handel** - "Okay. That's a motion. Mr. Worley."

**Mr. Worley** - "Well, am I to understand then, that if we don't hear back from Fulton County, then by operation of law we are assessing a \$750 thousand penalty?"

**Mr. McIver** - "That's correct."

**Mr. Worley** - "Okay. Because I -- Look, I don't defer to anyone, in my belief, that this was a very, very bad situation...."

**Chairperson Handel** - "Do me a favor, just so she can make sure she gets a comment card."

**Mr. Worley** - "...a very bad situation, but I don't want to spend more legal fees after this \$750 thousand penalty is imposed -- either legal -- Well, I don't want Fulton County to have to spend legal fees, and I don't want Mr. Ritter to have to spend time appealing that issue, which would almost certainly be appealed, and then have that going on. I don't have a problem with us coming back, or having a telephone conference, if we don't hear back from Fulton County or they don't agree in assessing, you know, some appropriate penalty at that point. But I don't want to automatically assess a \$750-thousand penalty without any further consideration of the legal viability of a penalty like that."

**Chairperson Handel** - "Any other comment? Mr. Israel, still good?"

**Mr. Israel** - "Yep."

**Chairperson Handel** - "All right. If there's no other comments, we have a motion and second. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed?"

**Mr. Worley** - "No."

**Chairperson Handel** - "Okay. We have four ayes and one nay. Thank you very much. Our next item will be case reports. We've got three closure cases. The first one is 80005, Gwinnett County, Catherine Horton."

**Mr. Chris Harvey** - "Madam Secretary, members of the Board, these cases are being handled a little bit differently."

**Chairperson Handel** - "Oh. I'm sorry. It's under Tab 4, colleagues. Sorry."

**Mr. Harvey** - "These are being handled a little bit differently than the traditional cases we've had. In the 2008 Presidential Election we received a lot more complaints than normally. When got a complaint that merited some initial preliminary investigation, we would investigate that case. If it turned out there was nothing substantial or nothing that we could substantiate, we'd close it in this fashion in order to present it to you for your consideration for possible closure. This first case involves an elector in Gwinnett County named Catherine Horton who went to vote on Election Day. She was told she was not on the elector's list. She was allowed to vote a provisional ballot, since there was a dispute. The investigation revealed that Ms. Horton had been transferred -- her registration had been transferred to Fulton County in November of '08. And apparently, Fulton County got the wrong Catherine Horton. They got a Catherine Horton who had a different date of birth. So Gwinnett County accepted her provisional ballot and corrected her registration back to Gwinnett County. So the woman was allowed to vote and her voting status has been restored. So it's recommended that this case be closed."

**Chairperson Handel** - "Thank you very much. Any questions on this case?"

**Mr. Evans** - "So moved."

**Mr. Worley** - "Second."

**Chairperson Handel** - "All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? There being none, that one is closed. The next case is 80006. DeKalb County."

**Mr. Harvey** - "This case came in as an anonymous complaint from somebody in a printing or copying shop who said there had been a woman coming who had been making copies of Georgia identification cards, not voter identification cards, but the ID

cards that are issued by the Department of Driver's Services. They had been cutting and pasting names on top of other licenses. The complainant did not identify themselves either by name or by business. They did send in a copy of an ID card that had a name on it. The number on the card is not a legitimate number. It appears to be a completely counterfeit ID. The woman's name on it we were able to track the former location where she lived, it was a rental property. The person said I knew her name, I don't really know where she is. The woman was never registered. And there doesn't appear to be any connection to voting. So it's recommended that this case be closed."

**Mr. Evans** - "Is there any reason we would not ask the GBI or law enforcement to investigate? I mean, to me and Mr. McIver who's taken a great interest in this over the years I've been on the Board of these counterfeit IDs. It would seem to me that whatever the copying place, they may have credit card voucher, they may have other data. But if we got a trail to run, we need to run it."

**Mr. Harvey** - "Right. Well, I understand that, sir. And we can refer it to DeKalb County Police for furtherance. Just to make clear, we don't know where the shop was. We don't know who the complainant was in this case. So all we have is a name of a woman on an ID card that is a counterfeit ID card. There is an address. We spoke to the only person that knew a connection and said that she had lived there in the past and thought she had entered a facility since then. But I'll be happy to refer it to --."

**Mr. Evans** - "Yes, I think you should. There is, in fact, if I understand this correctly, and my wife serves on the DDS Board, and so I only know indirectly. But I think they actually have a dedicated person or unit whose job it is, and I would at least get them this ID, because this name may match up with another name that they have in their databases participating. So I would say at a minimum, Madam Chair, I would move that we refer it to the appropriate law enforcement entity and then close our file. Because I agree, we don't have any evidence of an election law issue. But I think we would be remiss if we didn't take the step of referral."

**Mr. Worley** - "I second that motion."

**Chairperson Handel** - "A motion and a second."

**Mr. McIver** - "Just by way of discussion, DDS does this exactly,

Mr. Evans."

**Chairperson Handel** - "Uh-huh (affirmative), they do."

**Mr. McIver** - "And that was going to be my suggestion is that we shoot it to them. Perhaps, they would defer to GBI, I'm not sure. But DDS really is very dogged about these kind of issues. I'd start it there."

**Chairperson Handel** - "And I'd like to ask as we go into GEOA, if we could have less one when the IG group does their presentations, can we talk about fraudulent ID cards and walk through that with folks? Because I think they need to start to be cognizant that that could be a potential issue out there. All right. Any other questions? Motion and a second. All in favor."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? All right. Next case is 80007, Gwinnett County."

**Mr. Harvey** - "This case involved an elector named Howard Sorsdahl, who attempted to vote on the last day of advanced voting in the November election. When he was looked up by the Gwinnett County election officials, they had no record of him ever being registered. Mr. Sorsdahl contended that he was registered. He had two formerly issued precinct cards, the last one issued in 2002. They offered him a provisional ballot, but he declined to take provisional ballot. He contacted me directly. I spoke with him. He was deleted as an active voter in 2003 for not having voted in the last two general elections. His name was purged from the system in 2003 by the Secretary of State's Office, which is why Gwinnett County didn't have any record of him voting. He declined the provisional ballot. He was told about reregistering. And up until the last day or so he has not reregistered. We recommend this case closed."

**Mr. Evans** - "Was he given notice of today's hearing?"

**Mr. Harvey** - "No, sir."

**Mr. Evans** - "I would generally prefer that they -- that before I dismiss someone's case, they be given a chance to explain why it shouldn't be dismissed. So I would move to table to give notice and then have this up on the next one. Although, it does sound to me like as if Gwinnett County did everything that you're



supposed to do, which is offer a provisional ballot, check it out, and then I don't see anything. But I'm a little remiss in if we didn't give notice."

**Mr. Harvey** - "Yes, sir."

**Mr. Evans** - "Second."

**Chairperson Handel** - "All right. I have a motion and a second. Any other questions? All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? All right. Thank you. The next item we just put on here if we need Executive Session. But in talking with both the Attorney General's Office and with outside SAGS, they said they do not have anything new to report. The next item is Elections Update and Legislative Update. Do you have the legislative stuff, Wes?"

**Mr. Tailor** - "No, ma'am. But Mr. Simms is on his way."

**Chairperson Handel** - "Oh, he's on his way. So you go ahead and get started. Great."

**Mr. Tailor** - "Madam Chair, members of the Board, I am quickly going to give you an update as to the activities of the Elections Division this year in 2009. We have a number of projects that we have undertaken and completed so far this year, and a number that are underway. At any point if you have any questions, obviously, please interrupt me, and ask and I'm happy to talk about any and all of it. What we've done so far this year is, initially, we responded to the election assistance commission's survey for the November, 2008, general election. We're under statutory obligation to respond to that survey. They did substantially alter the survey for this year, that took more than 200 hours to actually complete and to perform. But we did get that out into the EAC. We conducted -- We have already conducted a number of training sessions, one being from municipal clerks in Athens that we do, I think, almost every year. That was in February. We also conducted a training session for nursing home administrators on March 24th, which is the very first time that this office, that I'm aware of, has conducted training sessions for nursing home and assisted living facilities. That went very well. We have produced and provided a written material with guidelines as to how to assist throughout the entire process, as well as a power-point

presentation. We have three more scheduled that I will talk about later. We've also conducted regional meetings with local election officials. As you've heard me talk about before, we have done this a number of times around the State now. And we talk about a number of different issues. One, that I think or a couple that I think you'll be -- might be interested in is the DDS signature imaging and their voter registration project that they have underway. Mr. Evans, I'm sure you're aware, and Mr. McIver, the Department of Driver's Services is updating their database. They're updating their entire system. The delivery of voter registration information will be vastly improved. This should take place in August or September of this year. This process should begin. What that will mean for elections officials around the State is that they will get DDS information, including the signature. All of it will be electronically delivered, which is different than it is today. We should, if everything goes well, be able to eliminate the need for paper from the DDS to elections officials. The other aspect of this that should be a great benefit to voters, as well as elections officials, is applicants for driver's license will now get a paper receipt when they apply for a driver's license. It will show a picture of the driver's license once they are approved. On that paper receipt, there will also be a statement that will say one of two things. It will say you decided to register to vote, or you did not decide to register to vote for any of the number of reasons that there are, such as you're not eligible, you've already registered. But at that point in time, the individual will be able to say to themselves and to DDS, this is correct, this was my intention. And as I'm sure you have all heard over the years, a number of people have -- without that paper receipt, some people either don't remember correctly or that may not have been communicated as efficiently as it could have been before. During that we talked about this year is a year for voter list maintenance. Those activities are taking place, the national change of address form, our statutory responsibilities on updating changes of address. On voters, their status being changed to delete status if they haven't -- if they're on the inactive list and haven't voted in the last two general election cycles, as well as -- Well, those are the large ones that are taking place right now. As well as the no contact list. I'm sorry. Where people will be moving to the inactive list because they haven't had any contact with their elections officials in the last three years. We've also talked at length about the need for training of designated agencies, and their activities with respect to voter registration. We have a number of pieces of information that currently on the internet. We are constantly in contact with these different

designated agencies, such as librarians, Department of Labor. And we have talked also with the election officials about their responsibility to conduct training of educators, of folks in public schools, private schools, colleges within their counties. As you know, under the statutes, the principals or their designees are actually deputy registrars, and the registrars in the counties have the obligation to provide proper training in how you register students and employees. And so we have taken the affirmative step to make sure that folks are complying with their statutory obligations in this regard. The other is request for RFP for recommendations as to the statewide voter registration system. We are undergoing this project this year. We expect that to be completed this year, which is a complete holistic review of the voter registration system, along with recommendations for the future of where we go with it, either a new or improved voter registration system itself. That was scheduled to be actually out and in the system yesterday. DOAS informed us that they ran into some technical issues because it has to be all done electronically. It should be out today. And we were in close contact with DOAS the whole time. But it will go out today."

**Mr. Harvey Davis** - "It's out."

**Chairperson Handel** - "It went out? Oh, great. Awesome."

**Mr. Tailor** - "Perfect. So it's out. Ongoing projects, we have a number of things that we're dealing with. We are overhauling and creating a certification course materials in the certification courses for election officials. The reasoning behind that is what you all have talked about the entire time I've been here, which is if we improve the training, if we improve the knowledge and information, and the actual being able to digest that information by elections officials, we should see far less issues on election day than we do or have in the past. So we have in -- In keeping that in mind, we have created course manuals were there have not been any before. We have improved the delivery of the material, and that will only be evolving as we go forward. We are preparing continuing education training materials for nursing home administrators, as well as librarians. We have already talked with both of their licensing boards. We have talked with the continuing education folks that are actually in charge of that. We will be getting material that will allow them to actually get CE credits. And especially for -- What's interesting, the nursing home folks, it will help in all likelihood into their ethics requirements. And the lawyers on the Board will know that's the hardest one to

get. So we should see -- be a significant benefit for us in our communications with those folks that assist voters. The new elections supply ordering and inventory software, that is up and running. All counties now have a login and password to be able to order their elections supplies in time. The biggest issue for there is there have been sometimes supply ordering and delivery issues in the past. With this new system in place, that should be a thing of the past. We should not have any issues with the delivery of elections supplies. Implementation of the new online training system, that is going very well. We now have about 65 percent of the counties are now actually logged in to the new training system. That system, I think I talked about with you all in the past, it is a place where any of the training materials that our office produces will be available at the click of a button for any election official around the State. All right. The elections supplies, I think I mentioned this the last time. We are -- We have done a review of all elections supplies that we provide on Election Day. And we are in the process -- we should have all of the forms, with a holistic approach, taking a holistic view of all of the forms and supplies that are used throughout an election to make sure there's not redundancy, to make sure there's not confusion, either for the election official or for the voter, and to address all of the issues that we've all heard over the years in a holistic fashion, rather than a piecemeal form by form. We've already met. We've already reviewed it. We've already gotten input from election officials around the State. And that project should be completed by January -- I'm sorry -- by June, that is the project completion date, when we expect to send proposed forms to the Department of Justice for pre-clearance. The certification courses for municipalities, that is being created. We are creating the certification course for municipalities, that will be done and available and ready before the first municipal course that's taught in June. We already have four scheduled, training sessions and the certification sessions in June and July. Let me see. The credit for voting for absentee ballots by precinct, this is that one where the absentee ballots are loaded into one specific absentee precinct. There is now, we are working through the project of looking at the alternatives of how you move or how you are able to give credit for those absentee ballots for the voter's precinct, where the voter's actually -- where the voter's original precinct would be. And that project is underway and is moving forward very well. And the complete redraft of the GO Manual. If you're not familiar with this document, it's -- it is the document that voter registrars use in entering information in the voter registration system. We are doing a complete revision

of that manual in a how-to format, so that it will be easier for registrars in using the VR system, whether it's the current system as it is, whether it's a brand-new system so that we can see going forward less issues of keying entry errors or whatever it is. It should be a very simple, easy manual. I will tell you from the manuals our office has produced, since I've been in it should be a vast improvement over what they have right now."

**Chairperson Handel** - "Yes."

**Mr. Tailor** - "Okay. Scheduled events, I gave you both -- you all have two handouts. And I've just put the relevant election dates, registration deadlines there in the handouts if you want to look at any of those that are coming up. Also, we have, I wanted to let you know, the 15 different training sessions that we have already scheduled for this year for various different groups. And if you have any questions about that, I'm happy to talk about it."

**Chairperson Handel** - "Good. Mr. Evans, and then Mr. Worley."

**Mr. Evans** - "One of the items we talked about that we were going to follow up on after the dust settled from the last election was addressing expanded capacity for early voting. Which is, if you recall, the last time we experienced a surge in early voting. And in anticipation of that being kind of an ongoing issue, which is people take advantage of convenience. One of the things we talked about was expanding the number of facilities that could offer advance voting. And I was just curious as to where we were on that project."

**Chairperson Handel** - "That's in the legislation, which is perfect transition. So he'll get that on legislation. Did you have any other thing for Wes' report?"

**Mr. Worley** - "Well, maybe this relates to legislation, as well. Your mention of training for school officials?"

**Mr. Tailor** - "Yes, sir."

**Mr. Worley** - "And your list of scheduled training dates leads me to ask what preparations are being undertaken to train, particularly school officials who registering new voters or any of these people about the legislation that requires people to present birth certificates when they register, because that's obviously --."

**Mr. Tailor** - Yes, sir. And I'll let Mr. Simms address the legislative side of that. But from a training perspective, we will be putting that material together. They are deputy registrars, so the training material that we'll provide to the registrars and the information will also be equally as applicable to them. And of course, as you know, the amount and the types of IDs aren't just limited to birth certificate. But we'll make sure that folks understand what the law means to them and the obligations under the law. Yes, sir. Oh. And I'm sorry, just one last thing. We are addressing in training issues as well in preparing for early voting for future elections and how -- what worked and what didn't."

**Chairperson Handel** - "Mr. McIver."

**Mr. McIver** - "Before you finish, Mr. Tailor."

**Mr. Tailor** - "Oh. I'm sorry, Mr. McIver."

**Mr. McIver** - "I continue to be concerned about unauthorized groups involved in registration, ACORN being one. Let's just pick on one. Is there any thinking about an outreach to organizations like this to either have them do a far better job than perhaps even comes close to complying with Georgia Law? Or perhaps alerting them to the actions that might be brought against them if they continue in the way they've been doing? There are other organizations besides ACORN. I don't mean to single them out. But they clearly have a reputation for this kind of activity throughout the country."

**Mr. Tailor** - "Right. Yes, sir, there is. We've also been in contact with the attorney for ACORN about possibly possible rules, issues that could address some of those issues that we've seen that I'll bring before the board for your consideration."

**Mr. McIver** - "But that's an ongoing effort in your division?"

**Mr. Tailor** - "Yes, sir. Thank you."

**Chairperson Handel** - "Thanks, Wes'. As you can see, there's still a lot going on, even though it's not a presidential year, which is good."

**Mr. Robb Simms** - "Madam Chair, members of the Board, I'm Robb Simms, Deputy Secretary of State. I've got hopefully what will be a very brief update on the legislation, and legislative session, especially since we are on day 39 in the process."

Specifically, Mr. Worley, I think this touches on part of your question. We've had basically -- and I apologize, there's a duplication on HB 45. On the previous citizenship issue, there is one piece of legislation that is currently still in process, if you will, in the session, that is Senate Bill 86. It is pending in the House Rules Committee and is eligible for the supplemental calendar which will be contemplated this afternoon, which means if it comes out of Rules, it could be heard this evening or on day 40. We've discussed the specifics of the legislation at a previous meeting. But in brief, it requires proof of citizenship for voter registration purposes, that is not to say that a birth certificate would be required at the time of turning in a voter registration form. But simply, it would be required before the registration is fulfilled in the system, if you will. Other types of identification are included in the Law, include driver's licenses, passports. And there is a provision in the legislation specifically that states that the State Elections Board can promulgate rules to address questions in circumstances that may arise through the implementation of potential implementation of this law to create rules to give the Board some -- the ability to look into different types of documentation or application, if you will. Absentee ballot and early voting, this Bill is currently before the Senate, it's HB 86 representative Fran Millar. This really mirrors the pilot program that the Elections Division worked with Gwinnett County on in the 2008 elections in dealing with the tabulation and the reporting of absentee ballot results and having them specific to the precinct. For practical purposes, this really shouldn't have an impact on the counties or on the State as we've established through the pilot the way this can work, there shouldn't be any real cost associated. In fact, it may help lessen the burden just slightly for the counties in the production of absentee ballots and things of that nature. Address confidentiality, this is what we call Project Vote Safe. As we discussed at our last State Election Board meeting this legislation allowed an individual who had a protective order entered on their behalf, typically in spousal abuse situations, to have their information kept confidentially or for it not to be able to be released to the public through your voter registration list and things of that nature. All that practically means for election administration purposes is they register to vote like any other registered voter. They're in the system like any other registered voter. There would be a tag or identification as to their registration in the system that would indicate that when information requests are requested that this information is not to be made available to the public. Elections Clean-up, that's House Bill 540. Mr. Evans, this

touches specifically on the question you raised on accessibility for early voting in additional locations. That was a specific provision included in the Bill. Basically, that part said that the counties would have the ability to contract with private facilities to use the facility for election administration purposes for the conducting of elections, specially in the early voting process. There seemed to be differences in opinion in the last election cycle among several counties as to whether or not they could do this or they couldn't. So we were just trying to codify that in the law just to make it clear that counties could. Unfortunately, as of noon yesterday, this Bill did not -- this Bill is officially dead for the remainder of the 2009 Session. It died in Senate Rules. I don't -- I can't speak for any member of the Senator or for Senate Rules as to what their reasoning -- reasons were."

**Mr. Evans** - "It was because we addressed the campaign materials."

**Mr. Simms** - "I'm not sure. We --."

**Mr. Evans** - "Well, your sources are probably better than mine."

**Mr. Simms** - "Well, I don't want to venture off into speculation or political discussions. However, I will say there seems to be a question about early voting in and of itself, and that this was somehow going to some expansive effort to even have earlier early voting, and more early voting and things of that nature. As you all are aware, and as we try to make clear, both through the process and yesterday that that's just not the case. This was just allowing the counties to have the ability to contract for and have an additional location available if they thought it was necessary, considering the volume of early voting and the election. That was one thing that was brought to our attention. And I don't know if that was the reason for it. The question about the display of campaign materials had not been brought to our attention. And just for the Board's information, this Bill passed 170-0 in the House. To have any Bill pass unanimously in the House, let alone one dealing with elections is pretty remarkable. And it could pass out of Senate Committee without any real reservations being expressed either, so I just don't know."

**Mr. Worley** - "If I might. What was the issue about campaign activities?"

**Mr. Simms** - "There was a provision in the Bill -- and I don't



have the legislation specifically in front of me, that kind of addressed the location in which campaign -- or the restriction in which campaign materials can be displayed in proximity to a precinct, into a polling place. And there was also a provision to kind of clarify the exit polling process for media outlets. You all may recall that there was litigation. I think it was *NBC v. Cleland* from back in the late 80s, in which the media actually won an injunction and got relief for, I guess at that time there were restrictions even greater than what we had been putting in place in practice for where they could access voters as they were exiting. That's just part of the law. It never changed. It had never been updated since that ruling. So we're just trying to clean up -- basically, make the law say what had been the practical practice and application for the State for many, many years."

**Mr. Evans** - "It's a cruel part of legislative politics, that a single member of a Rules Committee in either chamber can bottle up a piece of legislation because their pollsters can't get access to exit polls."

**Mr. Simms** - "Mr. Evans, of all the things as even as election-oriented that we were working on this year and just things in general, our Elections Clean-up Bill was by far the least controversial of anything we were trying to --."

**Mr. Evans** - "No, no. Listen, I feel your pain. I completely agree with you. I'm in total agreement. However, I also know how Rules Committees work. My question, though, related to, and I think we talked about it at the January meeting, that by rule we could define government buildings."

**Mr. Simms** - "And I think that is something -- I don't necessarily -- I won't say the we disagree with that at all. I think our position was let's try and get it fixed into law."

**Mr. Evans** - "I have no complaints about the legislation, other than the ones that I voiced on publicly on one of the other Bills, which need not be revisited today. No. Mine is much more narrow, which is on putting aside -- assuming the Bill it is dead for this session, but in contemplation of building toward next year, it does strike me that we need to figure out ways to expand the availability, so that we don't have lines at advanced voting. One way the Board can do that without the Legislature, you know, having to be brought into the issue, is to use our rule-making power to address the definition of government buildings. That process takes a lot of time, because

we have to submit the notice, we have to permit public comment, we have to take public. We then have to adopt the rule, then we have to train on it. And in order to have all that ready by November 10, or preferably by, you know, July 10, when we start having the primaries, we would have to start that process relatively soon. What I would be hopeful is you and Wes, and whoever else you deem appropriate, would say here are some alternatives through the rule-making power for expanding the facilities that counties, if they so shall desire, can make available to increase the number of advanced voting facilities. And if we could get that by, say, the end of June. It's just a recommendation. You know, just say, here's what we would recommend within the boundaries of the law now that it hasn't been changed, that we can give some relief to expand the facilities that would be available, that would be great."

**Chairperson Handel** - "I think we can. One of the challenges that we ran into, which is why we wanted to see if we could get it changed in the law, was that county attorneys were saying that if it was a, quote, government building, the County had to physically own that building. Where we all interpreted, well, that could mean a lease. So what we need to sort through is can we by rule make a lease. And then I think as we do that, with or without the legislation, even if it passes, we probably need to put some criteria in place around some basic parameters that a facility must have in order to be a viable voting space, so that's definitely doable."

**Mr. Evans** - "I completely agree. And I wholeheartedly supported the Clean-up Bill. So there's no issue there. We gave it a whirl. It didn't fly. And so now we have to figure out the other ones. but I don't think people standing in line should ever be, you know, we've defaulted to. So I agree with the Secretary, I think there are many things that we can explore. My only point is we have to start exploring them really early because the lag time for the approval processes is so long."

**Chairperson Handel** - "Yes."

**Mr. Evans** - "And we have to get DOJ approval. I think once, Tex, you calculated that it took us about 180 days from the concept phase to the implementation phase."

**Chairperson Handel** - "The other thing we need to look at, too, is kind of that the DOJ approval part of it. Because for -- If you make a blanket rule that the counties have to have whatever a minimum of x-sites. But then it is an off-year election. I

mean, one of the issues that was expressed to us from the counties and that we observed was that the process currently doesn't give them any flexibility. So maybe one thing we need to think about is are there a set of criteria that would allow a county to, if they had five sites initially, bring on however many more. So we just have to sort through that if there is a way to do that to give them some flexibility. That would then still meet with Justice Department approval."

**Mr. McIver** - "I have a question."

**Chairperson Handel** - "Okay. Mr. McIver."

**Mr. McIver** - "Mr. Simms, as we all know there are two things you never want to see made are sausage and law. So my question really goes is this Bill really dead or is it still in a status that it could be resurrected very near the end and come back to life?"

**Mr. Simms** - "It's really dead in -- for the Senate consideration of the Bill, which was that original House version. As is always the case in these waning days of the session, you have a mad frenzy among all parties involved in all legislation to find relevant legislation and their title or at least subject area that they can tack language on that didn't make it through the process. We've looked and continue to look at bills that are still for consideration, particularly at the House, to see if there would be a way to offer amendments to include some of these provisions. The unfortunate thing is the elections legislation that was being done this year in large part was being driven by this office. So there wasn't a multitude of bills, you know, going back and forth on all these different issues. So our options are severely limited. But that's what we're trying to ascertain right now. Of course, referencing to the sounds-making analogy, it's been my experience, and I'm sure the Board's as well, that there's a lot of bad law that's made on the floor of the House and the Senate in the waning days of the legislation that ultimately has to be revisited in subsequent years, because there's just paper flying on the amendments and amendments. So I want to make sure that if we go down this route that we've got it very tightly written as to what we want to do. It's from the legislation, and it's not controversial where it brings on a whole new life of its own. So, in short, we're going to pursue those opportunities if they're there and see if we can get a lot of this stuff addressed."

**Chairperson Handel** - "All right. Anything else, colleagues?"

**Mr. Evans** - "Move to adjourn."

**Mr. McIver** - "Second."

**Chairperson Handel** - "All in favor."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Thank you very much, folks."

(Whereupon, the meeting adjourned at 12:55 p.m.)

**STATE ELECTION BOARD MEETING**  
**2 Martin Luther King Jr., Dr., Ste. 2066**  
**Atlanta, Georgia 30334**  
**Tuesday, March 17, 2009**  
**2:00 p.m.**

(Whereupon, the meeting started at 2:03 p.m.)

**Chairperson Handel** - "This is a special call State of Elections Board Meeting, and all of the required notifications for special call were completed. We'll go ahead and call roll. Tex McIver."

**Mr. Tex McIver** - "Here."

**Chairperson Handel** - "David Worley."

**Mr. David Worley** - "Here."

**Chairperson Handel** - "Randy Evans."

**Mr. Evans** - "Here."

**Chairperson Handel** - "And Karen Handel. This does constitute a quorum. I'm sure that Jeff will be here shortly. With that we'll go ahead, and if everyone will please stand so we can do the Pledge of Allegiance."

(Whereupon, the Pledge of Allegiance was recited by all)

**Chairperson Handel** - "We have two cases. Mr. Ritter, were you going to do both of them at the same time?"

**Mr. Stefan Ritter** - "Yes, ma'am."

**Chairperson Handel** - "Okay. So I'll go ahead and call them. What I thought what I would do, colleagues, is give Mr. Parks, representative for Fulton County, five minutes to make some comments once we hear from Mr. Ritter. Does that work, folks? Then, obviously, if there's questions -- Come on up, Jeff. Please let the record show that Jeff Israel is now with us, as well. All right. The actions before us today are SEB Case No. 07-000004 And SEB Case No. 07-000041, both Fulton County. Mr. Ritter."

**Mr. Ritter** - "Thank you, Madam Chair and members of the Board. Thank you for having us here today. As the Board is aware, these two matters have been hotly contested by the parties for many months. We have been in front of the Administrative Law Judge, which this case was referred, and to which the Office of the Attorney General prepared and filed a statement of matters asserted, initiating an action -- have met with the Court several times and ultimately were ordered by the ALJ, hearing

this, to enter into its mediation process, which is conducted by the Office of Administrative Hearings. Ultimately, I have two documents to present to you today for approval by the Board. The first is a stipulation of facts which addresses the relevant facts, and for all practical purposes tracks the initial investigative report done by the Office of Inspector General of the Office of the Secretary of State. And I will step to those facts in some detail. I would suggest that the Board take those up first and then after those are approved, if they are approved, that the Board then take up a proposed Consent Order resolving the legal issues in the case and establishing the appropriate sanctions, cease and desist, reprimand, remedial actions and so forth as the Board deems to be appropriate in the case. And again, I will go through that in detail, assuming the stipulations of facts is approved by the Board. With that understanding, let me proceed then to the stipulation of facts. Rather than just recite paragraph by paragraph what is in the stipulation, which I know has been transmitted to you and you've had the chance to become a little familiar with, I'm going to provide a narrative of what happened in this case moment by moment, and the things that were discovered by the Office of the Secretary of State, who investigated this matter. What happened is that the Office of the Secretary of State received a call from some concerned citizens who had been taking a stroll on the Atlanta Technical College in Atlanta, and they discovered towards the back of the school, outside of the dumpster some loose voter registration cards. These are applications that are completed by the voter to apply to become registered to vote. And once they are approved, they are then kept as the so-called voter registration card or the completed application of the voter, which documents that this voter has been approved and is entitled to vote. It contains, among other things, personal information of the voter, addresses, names. In many cases social security numbers, and it also contains the voter's signature. And that signature is important because that signature is used for a number of things. It's used to check absentee voting to make sure that the signature on an absentee ballot application is correct and valid, is correct, and ballot is correct, or on assisting application is correct. It's also used for the purposes of recall elections, to check the signatures on those recalls and that's done by the individual counties. These citizens who made the calls saw these cards outside of the dumpster, April 9th, 2007. And they looked in the dumpster and they saw that it looked like a lot there was a lot of other cards or boxes of cards that shouldn't have been in there. This was a matter of concern, so they called the Secretary of State's Office the next morning. And the Secretary

of State's Office then sent several investigators out to the scene. Starting with one, who called and said, no, this looks like a serious situation. And then a group of them went out, looked in the dumpster. Ultimately, they recovered 33 boxes of voter registration materials, mostly consisting of voter registration cards. And those were, by my account, in excess of 90 thousand cards, and also some other materials. As we discussed, there are requirements under Georgia Law that those be maintained. The Secretary of State's Office then began an investigation of what had happened. I won't go through every single detail back and forth of the investigation, but to cut to the chase, what they discovered was, on new and several eyes, not all of the voter registration materials that were supposed to be kept by Fulton County were kept in a method which they were easily retrievable. Which they were retrievable typically on 48-hours notice is the rule of thumb, and typically that's what the statute is viewed as requiring. They also learned in investigating this that we couldn't tell if this was the only instance in which voter registration cards and other election materials had been disposed of by putting them in a dumpster or any other means. They went out ultimately to a location called the Old Warehouse of Fulton County where they discovered in the dumpster that had been dumped, several other voter registration applications, also a completed and unopened absentee ballot, and a number of other documents, a total of about 1700 documents at that location. It appears that the warehouse manager, a man named Ira Turnipseed, had been instructed to move documents from this old warehouse to a new location. And in moving these documents, despite the fact that there is a dispute as to the amount of consultation amongst the respondents as to who consulted with who, there was some consultation about how to move the documents. And ultimately, they used two part-time workers that they use frequently, the two Harris brothers, who are not here today. And they were given the documents and instructed to take care of the documents, and they went to Atlanta Technical College. Varying stories have been told about why they went to Atlanta Technical College, but they went to that college and in the back they found that dumpster and they dumped these 33 boxes into the dumpster. Other documents obviously were not sent with them, but were put in the dumpster at the Old Warehouse because we recovered some of those documents as well. We don't know how many. So the audits were done by the Office of the Inspector General, Secretary of State's Office to find out. First, they did an audit of what they had in the boxes, and they discovered a large percentage of those voter registration cards or applications, completed applications were, in fact, those for active voters. And some



of them were not, but a large percentage of them were. They did do an audit, generally to see what could be produced by Fulton County within this 48-hour period that I spoke of. And that's referred to -- stipulation of facts, we're looking at page 7 and 8. Excuse me, 5 and 6, and what they discovered is that there were some difficulties on Fulton County's part producing all of the applications, or voter registration cards that were requested. Ultimately, in October, after doing some consultation and determining what they thought would be an appropriate statistically valid sample size, they did a much more thorough audit of the overall Fulton County system to see how many cards could be returned in a reasonable period so that they could have been checked for signatures or otherwise. And again, something less than 100 percent was capable of being returned, this is case No. 041. And so we found violations down the line on each one of these actions. After this, it was determined that Fulton County had a system where they kept their voter registration cards in a file cabinet at their main office, these huge Lectriever file cabinets. And what they tried to do was they tried to alphabetize those cabinets. And this was due to the vast number of voters in Fulton County, approximately 500 thousand, slightly less, of registered voters. It was impossible to keep up with that alphabetization of those cards, so many cards sat in postal boxes on the side. Some of them had been scanned in the past, some of them not. Some of them had a signature scan, some of them had an entire card scan. Depending on the period in which the scan was done, not all of them were scanned. And in response to the investigation that was done by the Secretary of State's Office, and also because of the problems that were inherited by the current Board, Justine Boyd, April Pye, who were not, as I understand it, the actual people in charge up until that time. They began an extensive overhaul of the way that they keep cards, the way that they scan cards. And they went and they scanned all of their cards through a new system, so that they had an electronic database where the cards could be much more actively and immediately retrieved. They also took action against the people they saw as responsible for the misconduct that existed in this case which was, in my few years, about five years of doing election work, by far -- candidly, by far, the most serious set of allegations I have ever seen. They began retraining their staff. Ultimately, they spent an excess, according to their numbers, \$300 thousand, not including attorney's fees and employment costs to redo their system. This all was prior to the November election. In fact, most of it was prior to the February primary election last year. Based on that, and based on that brief summary, we have gone through, and we went through the investigative report by the

Secretary of State's Office, which is very thorough, and ultimately Fulton County agreed to stipulate to essentially all of the facts in that investigative summary, which is presented to you now for approval. The stipulated facts that I present to you, these multiple paragraphs recite the facts as I've related them with extensive work by the attorneys to make sure that they're accurate. They also attached some of the remedial actions taken by Fulton County and attached, Fulton County's remedial plan. I don't see, as I stand before you today, a meaningful issue of fact that remains between the parties, meaning, this is really not one that's appropriate for a hearing at OSAH. We can stipulate the facts and ask for your approval of that. Once we get the facts approved, if this Board is willing to agree to the stipulation of facts, we can then move on to the Consent Order and talk about what the appropriate remedy is, base on the stipulated facts. Thank you very much."

**Chairperson Handel** - "Thank you. Mr. Parks, did you have anything that you wanted to add at this juncture?"

**Mr. Parks** - "Not unless the Board has questions."

**Chairperson Handel** - "Okay. All right. Thank you. All right, colleagues, the first order of business is the stipulation of facts. Questions or comments on that document, which is the first document?"

**Mr. Evans** - "So how did we solve the missing applications or documents that backup where we don't have a signature at all?"

**Mr. Ritter** - "I can tell you that I think that Fulton County is better to speak to this than I am, because that solution isn't really within the four corners of the case that I have. But I can tell you my understanding is they tried to contact those individuals that we could identify from the voter registration rolls that we didn't have a card or scanned signature for. I won't elaborate greatly on the law of stipulated facts, but I will say there is a statute, as well as case law, that says that if it's more than 10 years old there is a presumed valid registration by that voter, even if you don't have a card or a scan. And also, if you have a scan you can use that in lieu of a card. However, as we will discuss during the Consent Order portion, you are required to keep cards, and we'll discuss the law."

**Mr. Evans** - "Well, I was just running by page 12, paragraph 42.d."

**Chairperson Handel** - "D?"

**Mr. Evans** - "D, yes. And I was --."

**Mr. Ritter** - "Stipulation Factor?"

**Mr. Evans** - "Uh-huh (affirmative). I think that's where I'm at. And I was just trying to figure out -- that 3,574 of the mailings were returned as undeliverable. And so, if I read this correctly, and maybe I'm reading this wrong, we have 3,574 where we have -- we don't have a signature to compare in the event there's an absentee ballot."

**Mr. Ritter** - "If those individuals are still properly on the rolls. And maybe Fulton County can elaborate on that, but that's what my best understanding. Yes."

**Chairperson Handel** - "And if I might, and also, Randy, if I read this right as well, 5,946 did not respond at all."

**Mr. Evans** - "No. I agree. Now I'm just trying to figure out what happens."

**Mr. Parks** - "Would you like me to --.?"

**Mr. Evans** - "Yes, that would be great."

**Mr. Parks** - "First of all, that figure includes inactive voters. What we did when we obtained an undeliverable, inaccurate address, we did our own Googling, our own efforts to see if there was a more current address. The reality of it is, most likely most of those voters have, in fact, either located outside of the County or have not provided an address to us, so they would not be in our records. In the last two elections none of those people attempted to vote absentee. But our plan is that to the extent that someone came or sent in an absentee vote request, and we did not have their application on file, we would make physical contact with them to ensure that we obtained the application at the same time we accepted and approved their absentee ballot, even if that meant sending a patrol car to their home. We were that aggressive about it, so that there would not be a situation where simply due to the fact that when we went to our new system and pulled up and they were not there, that their ballot would be automatically rejected. We would make that affirmative effort to contact them. And we just haven't had that situation come up. That gave our Board some

confidence that the people that we were missing -- and realize that these people -- and don't jump to the conclusion that people were missing because the application went into the dumpster. Most Boards of Election will find that due to motor voter or due to all the external places that applications are taken, the reality of it is that some of those never got to us. That's just the real world of dislocating the registration process from the office. But that doesn't mean that we're not prepared to respond in the event we should receive a stray absentee ballot from someone that we don't have. We'll make that extra effort, at whatever cost, to ensure that ballot is properly cast in an absentee fashion."

**Mr. Evans** - "I know we're going to come to it, but so is that solution you just described in the Consent Order, which is the agreement that you will send a follow-up?"

**Mr. Parks** - "It's either in the Consent Order or the remedial plan."

**Mr. Evans** - "It is?"

**Mr. Parks** - "I would think, and if it's not, it's certainly something that, you know, that's what we recommended to Mr. Ritter that's something we're abiding by."

**Mr. Evans** - "All right. So could somebody -- if you could find it for me either in the remedial plan or in the Consent Order, that would be great."

**Mr. Ritter** - "I'll let him do that. Mr. Evans, I think your questions, of course, are fair ones."

**Mr. Evans** - "I only ask fair questions."

**Mr. Ritter** - "Of course, sir. I've never known you to do anything but that. Let me emphasize that I can only stipulate here and discuss, you know, what are the facts, as I understand it, for the purpose of the stipulation of facts. You know, when we get to the Consent Order portion we can talk about what they should be doing in addition, or have done. And I think that's a fair way to approach it."

**Mr. Evans** - "Was there any -- still me?"

**Chairperson Handel** - "Yes, absolutely."

**Mr. Evans** - "Okay. I just wanted to make sure. Was there -- Is there any question that any of this cast, at doubt, the integrity of any election given the numbers that exist here?"

**Mr. Ritter** - "The answer, to the best of my knowledge, at least from these -- the four corners of these facts, is no. I understand there may be other election cases, and that could be. Right now, I don't think there were any challenges, no challenges that were filed based on the facts that are in these stipulation of facts. So as serious as these violations were -- and we were fortunate that a citizen happened upon this, caught it, and some remedial steps were taken."

**Mr. Evans** - "So I guess my narrow question is, is anybody aware of -- And Mr. Parks, you may know the answer to this. Is anybody aware of a pending lawsuit challenging any election outcome in Fulton County?"

**Mr. Ritter** - "No."

**Mr. Evans** - "You're not aware of any?"

**Mr. Parks** - "And we have not had a challenge to any absentee ballots because of this problem."

**Mr. Evans** - "Would you have an objection if we added that to the stipulated facts, that there's no pending challenge?"

**Mr. Parks** - "Oh, not at all."

**Mr. Evans** - "Okay."

**Mr. Parks** - "We just didn't think to do it. We're happy to add that. And the answer to your question is on page 8-11 of the Consent Order."

**Mr. Evans** - "Okay. So we'll come to that."

**Mr. Ritter** - "Subpart B, is where we put in the representations of contacting a voter in the event one shows up, and if we don't have a signature on file."

**Mr. Evans** - "All right. What was the -- still me?"

**Chairperson Handel** - "Uh-huh (affirmative)."

**Mr. Evans** - "What was the -- I didn't quite follow the issue to dealing with how some ended up in one dumpster and some ended up

in a different dumpster? And so maybe you could just elaborate on what --."

**Mr. Ritter** - "This is what my understanding is to that question. There appeared to have been more than one dumping incidence. We don't know the extent that that happened. This is what I have been told, and this is what we believe that evidence likely would have shown, though, if the facts should be rejected I reserve the right to prove otherwise, but there appear to have been more than one dumping instance. The one at Atlanta Technical College, the 33 boxes that were taken by the two Harris brothers, Chris and Keenan (phonetic) Harris. The other documents that appeared at the Old Warehouse were placed there first, in a separate instance. Now whether that was the dumping of boxes that were then collected and pulled out, or an alternative that I have heard, is the fact they may have just been cleaning out the warehouse and these are just scraps that were found on the warehouse floor, and they just put those scraps and that's what we discovered. We've cross-examined witnesses on this. There's no discovery, of course, in administrative cases, but those are the two stories. But they were separate incidents regardless of the magnitude of the second."

**Mr. Evans** - "Which occurred first?"

**Mr. Ritter** - "To the best of my knowledge, the dumping at the Atlanta Technical College occurred first. But I don't know how to measure that. It seems to have occurred first because that was the discovery time, and that's when they went out versus the cleaning. But frankly, we don't know when that dumpster at the Old Warehouse was dumped. So we could not say, I could not stand here definitively, Mr. Evans, and tell you one definitely occurred before the other."

**Mr. Evans** - "Madam Secretary, could we ask Mr. Parks, maybe, if he's got anything to add?"

**Chairperson Handel** - "Yes."

**Mr. Evans** - "Go ahead. Because I'm just curious."

**Mr. Parks** - "No. I mean, you know, it reads like a mystery novel."

**Mr. Evans** - "Yeah, it does. And that's why I'm -- And mysteries are intriguing, but --."

**Mr. Parks** - "The answer is far blander than the question. These are temporary --."

**Mr. Evans** - "But not the questioner."

**Mr. Parks** - "No. The temporary employees were hired to move boxes from one warehouse to another. They filled up the dumpster at the Old Warehouse. They had nowhere else to go. On their break or whatever, they filled up their van and they went on and they were at the Atlanta Technical College. I think probably there for other reasons, checking a schedule or going to school, found an empty dumpster and put the rest of it in. It was a continuous process, it wasn't -- it was the same thing. It just happened to be the one at the Old Warehouse was full. Are there any other questions I can answer you?"

**Mr. Evans** - "Are there any other distinguishing characteristics that you or our staff were able to determine as to the folks whose applications got dumped? Are there any patterns that existed, or can we tell that these are largely random? And if so, is there any kind of definition to the randomness? Because I'm trying to figure out how this group got picked to get thrown away."

**Mr. Ritter** - "In terms of how they picked these specific boxes, I can't -- can hardly speak knowledgably about that. But I can tell you from our review of the materials that we had, they appear to be essentially random. These boxes were boxes in which they store voter registration applications based on receipt or when they put them to the side, or whatever. And so, they were kept in these boxes, and they were not kept in a specific order. They were not alphabetized, they were not chronological, so they were, for all intents and purposes, as best we can tell, random. Why they --."

**Chairperson Handel** - "So no system in how they were put in the boxes from the very beginning?"

**Mr. Ritter** - "Absolutely. And we were very concerned about the fact of the lack of systemization. And that's part of what Fulton County then attempted with their \$300 thousand-plus to address. Slowly, but effectively, we think they've made some steps in that regard. But, yes, there were some serious problems with the way they were storing those files. And how did they come up with those 33 boxes? My best understanding is that those just happened to be the 33 boxes that were left over

that they happened to load into the truck on that day. These were not any secret ones that they wanted to specifically get rid of, these are the boxes they happened to dump."

**Mr. Evans** - "Well, to be honest, Madam Secretary, that -- the rest of it all seems to kind of fit, although that is the one part that doesn't fit for me. And I don't have an answer, but it strikes me as incredulous that there is no systematized structure for how these 33 boxes got picked, whether it's by precinct, by age, by chronology, by location. You know, hopefully, God forbid, it would be based on race, gender, creed, or anything else. But it is -- it's hard for me to believe that there is no explanation for how these 33 boxes got picked versus any other 33 boxes. And that's just the troublesome fact that we have to work with."

**Mr. Parks** - "Excuse me. Can I --."

**Mr. Evans** - "Sure. Absolutely."

**Chairperson Handel** - "Please."

**Mr. Parks** - "The boxes were chronological."

**Mr. Evans** - "Okay."

**Mr. Parks** - "These were boxes that were older. And there was a mistake by these two temporary workers that because these were two, three, four-years-old, they fell within the retention policy on the wall that certain documents be thrown away after two years. They misread the policy. But, no, the statement that these were just random, it's not so. They were not alphabetized, because they were -- it became, you know, every time they got one, it became impossible. But they were by year."

**Mr. Evans** - "I don't see that anywhere."

**Chairperson Handel** - "If I might. And we might not --."

**Mr. Parks** - "We do -- you know, this is an interesting thing. When we put it together, we could have easily put that in there, but it didn't appear to us to be -- Yes, we can, again, add that."

**Mr. Evans** - "Yes. I think that's -- May I, for one moment?"



**Chairperson Handel** - "Yes, please."

**Mr. Evans** - "I think that's an extremely important detail, and I'll tell you why. In the world of elections, conspiracies and ideas that there are all of these multitude of ulterior motives that go on, whether it's that you -- that the 33 boxes were all Republican or all Democrat or all one group or one precinct or one locale, means that we have to offer the reason why they were picked. And I just, candidly, had not seen in any of the audit materials, and maybe it's in there, that this was based on aged boxes."

**Mr. Parks** - "The date on the box."

**Mr. Evans** - "Is that right?"

**Mr. Ritter** - "Can we make sure -- I hate to put Ms. LaGrua on the spot, but --."

**Chairperson Handel** - "That's where I'm trying to go, because that's not my recollection, that --."

**Ms. LaGrua** - "That is not correct. In fact, one of the boxes was marked 2005, which would not have been subject -- even if you misread the retention schedule that they had, as two years being the mark, there was at least one box marked '05. And another box marked, return mail destroy 1/1/08, which would have been almost one year after the discovery of the boxes. I will say there -- we found nothing that would indicate there was anything nefarious or conspiratorial or patterns to the boxes, but they were not all old boxes that were destroyed. There were documents from as early as I recall, 1946 up through 2004 contained within these 33 boxes. And there were various other boxes -- documents found at the Old -- at the other warehouse when we searched subsequently the second dumpster."

**Mr. Parks** - "But they all had a chronological common annotation. I'm not going to argue with Ms. LaGrua as to whether they fell within or without a retention period, because the documents in question didn't have a retention period."

**Chairperson Handel** - "So Mr. Parks, are you saying --."

**Mr. Evans** - "That's out of remark."

**Chairperson Handel** - "Well, let me just try to -- Are you contending that box number one that had the year 2003 on it, let's just pick a year, everything in there was from 2003?"

**Mr. Parks** - "I'm not saying that because when we...."

**Chairperson Handel** - "Okay. Because I don't think --."

**Mr. Parks** - "...got the documents back they weren't in boxes anymore, so we can't make that representation. They came back to us initially on a CD, as you might remember, and then later on just -- so I don't know. But I know that from talking to Mr. Sullivan, who was the Registration Chief at the time, that the boxes tended to be numbered by year, but not necessarily by what was in the box. And there could have been different things in a box with the applications like old polling information, other types of election documents. And those are mentioned in the --."

**Chairperson Handel** - "Ms. LaGrua, is my -- Can you refresh our memory because I thought that you'd find a box and there was a multitude of things in a box from any -- from various spans of year dates? It was not all dedicated to one year in one box."

**Ms. LaGrua** - "That's correct. They were -- The documents had no rhyme or reason to them, or order in the boxes. The other problem we had was because of the way the boxes were dumped, not all the documents from x-box, I can tell you, may not have been recovered from x-box...."

**Chairperson Handel** - "Got it."

**Ms. LaGrua** - "...because these were old boxes just thrown into a large construction dumpster."

**Mr. Parks** - "Right."

**Ms. LaGrua** - "`Now we did know that they had only been there a short period of time because the construction dumpster -- we did find the dumping schedule of that dumpster, and they had been there just a couple of days at the time that they were discovered. And the ones at the old warehouse had only been there, I believe it was less than 48 hours because that dumpster had also been emptied. And in fact, we followed the dumpster to the -- the place where they compress it all into the ground, and it was already too late for us to identify everything that had come before on that one."

**Chairperson Handel** - "All right."

**Mr. Ritter** - "Yes, and I'll just note, Mr. Evans, that in paragraph 27 and paragraph 28, those were the age of the boxes from 1946 to 2006 in paragraph 27, which was an audit of what was in those boxes. And a small audit was taken in the next paragraph, but you can see there's an enormous range of dates for the materials that was in those boxes."

**Mr. Evans** - "Yeah, I know. When I studied the sampling sizes and then looked at the backup, it was the inability to detect, Madam Chair, what was the selection method for picking the boxes that troubled me the most because I don't accept that there was no selection model. It could have been location. These are the boxes that happen to be in front of the door. It could have been they were all brown boxes and brown boxes were slated to go, or a color go. But I don't accept that there was no selection criteria. There was clearly a selection criteria, and it troubles me that we don't know what that is because, in our world, we have to offer those explanations or else they get filled in for us. And often they're filled in with things that aren't true and have no basis and fact, so we try to eliminate them as much as possible. And I find that to be a little bit troubling. And I take it there's just no way we can know the answer. Have we interviewed the people who actually --."

**Mr. Ritter** - "I've attempted to interview the Harris brothers. We had a hard time locating them. They were interviewed, however, by the Secretary of State's Office, and I've reviewed that interview in detail. And one of the other Respondents, Sean Kelly (phonetic), has departed and is now in Iraq serving our Country."

**Ms. LaGrua** - "They gave no -- They were told that they were told to throw the boxes away, there was not room in the warehouse. So when they were out there, I believe it was a lunch break, they were checking on classes at Atlanta Technical Institute, and they found the dumpster and threw them away. They were not able to explain how they found the dumpster at the very back corner behind a number of buildings, but that was their explanation."

**Chairperson Handel** - "So for the -- sorry. So for the boxes that they were told to throw away, were they already sitting out?"

**Mr. Evans** - "Right."

**Ms. LaGrua** - "Correct. They were direct to throw this group of boxes that were loaded up."

**Chairperson Handel** - "Okay. So those two individuals didn't select what boxes got thrown out, there was already a selection made."

**Ms. LaGrua** - "According to them, that is correct."

**Mr. Evans** - "So do we know who made -- I guess it's your question, which is my question as well, do we know who picked the boxes to be thrown away?"

**Ms. LaGrua** - "I do not know who picked the boxes. Ira Turnipseed was the one who indicated that he had been told by, as I recall, John Sullivan and others at a meeting with Fulton County that they could destroy boxes marked 2004 and older, and that was his story."

**Mr. Ritter** - "Right. And again, there is a dispute between Mr. Sullivan, who is here today, and Mr. Turnipseed who is not, as to what they were told, how they were told to do it, and so forth. Mr. Turnipseed, I can tell you, candidly, has tried to absolve himself of any responsibility as to what happened, even though, to the best that we can determine speaking to him, was that he ultimately was the one that made the selection and made the decision as to what these two individuals were to do. The Harris brothers were claiming under the direct supervision of Ira Turnipseed."

**Mr. Evans** - "And is he a Respondent?"

**Mr. Ritter** - "He is a Respondent, and I believe is represented by Mr. Parks, is that correct? Yes. He is represented by Mr. Parks, and still an employee of Fulton County."

**Mr. McIver** - "And a signatory to the document."

**Mr. Ritter** - "Yes. Any other questions that I can answer for you?"

**Mr. Evans** - "I take it that the counsel for, subject to our final decision which I recognize that all the rights are reserved, but subject to our final decision I assume that the Fulton County Board of Registration and Elections, April Pye, John Sullivan, and Ira Turnipseed have acknowledged all formalities as to the notice and form of this hearing."

**Mr. Ritter** - "Yes, they have. They're represented by counsel today, Mr. Parks. They have done so, and we've agreed that stipulation of facts will be binding for all purposes related to these claims, and we discussed the fact on the Administrator Procedure Act, and so forth. So they not only are signatures to this, but they've also been represented by counsel. And I can tell you this is something that the Fulton County Board of Registration and Elections, as well as Fulton County, itself, has very carefully considered."

**Mr. Evans** - "Madam Chair, could we get each counsel to put that on the record?"

**Chairperson Handel** - "Absolutely."

**Mr. Ritter** - "I'm sorry --."

**Mr. Evans** - "That you -- That we've acknowledged the validity of all notice in the form of the hearing."

**Mr. Parks** - "Yeah. We acknowledge it. We -- Based upon the stipulated facts of the Consent Order, we're here today on that basis."

**Mr. Evans** - "Is there other counsel?"

**Chairperson Handel** - "I think Mr. Parks --."

**Mr. Parks** - "I don't represent Mr. Sullivan. He's a retiree, and he's representing himself, so you might just speak to him directly."

**Mr. Sullivan** - "The County doesn't represent me since I retired, but yes, I'm well aware of all the rules and notifications, and I've signed off on this."

**Mr. Evans** - "Okay. Is there anybody else?"

**Chairperson Handel** - "Mr. Parks represents the County Elections Board, as well as Ms. Pye and Mr. Turnipseed, correct?"

**Mr. Parks** - "That's right."

**Chairperson Handel** - "Okay."

**Mr. Evans** - "My last question, if I might, Madam Chair, is if we received a complaint in the future challenging the validity of

an election, based on the contents of the stipulated facts, what would our response be?"

**Mr. Ritter** - "I think that --."

**Mr. Worley** - "Well, we wouldn't receive a complaint about the validity in an Election...."

**Mr. Ritter** - "Right."

**Mr. Worley** - "...that's not what we do."

**Mr. Ritter** - "Right. Let me just take -- hypothetically, putting jurisdictional arguments to the side. Should we receive, that is, the State Election Board receive a complaint regarding the validity of the election or conduct during election based on the stipulated facts, I think the signatories to the stipulated facts are going to be bound by those stipulated facts. And frankly, if they want to assert that they're not bound by the stipulated facts, well, we'll have the facts to cross-examine them on. Are we going to have to go through a procedure -- an administrative procedure to prove that? Hopefully not, because I think they speak for themselves. These stipulated facts are intended and entered into it specifically for the purpose of resolve in these two cases, 2007-4, and 2007-41. But I think, against the specific parities here, the Respondents, I think these stipulated facts would be hard to deny, and they'd be bound."

**Mr. Evans** - "I'm actually asking a different question."

**Chairperson Handel** - "Yes."

**Mr. Ritter** - "I'm sorry."

**Mr. Evans** - "My question is, I just want to make sure that we've taken every step that we can legally take today in contemplation of the next year there's an election in 2010, and somebody's unhappy with the outcome of the primary, or unhappy with the outcome of the general election, and they file a challenge to the election. Whether with the Board, or independently with the Superior Court...."

**Mr. Ritter** - "Right."

**Mr. Evans** - "...and they cite as a procedural defect in the election, the facts that have been stipulated and accepted by us

in these stipulated facts as reflecting a procedural or a fatal defect in the election. I just want to make sure that I understand what is the answer to that, and is there anything that we can do today to address that on a prospective, as opposed to retrospective, basis?"

**Mr. Ritter** - "And I think the answer to this -- to that is this. Of course, I know you're a very experienced litigator, Mr. Evans. But the reality is that should there be an election challenge, for instance, based on these stipulated facts. First of all, the State Election Board would not be a party to that action. And I think there would be perhaps a dispute as to what the facts are. Certainly, if I'm the challenger and if I want to rely on the stipulated facts, I'm going to ask them to admit these. If I'm Superior Court I'm going to have request for admissions if they admit all these facts, and I think they'd be duly bound to do that. Are these binding in some other action not before you right now? I don't think the answer to that is yes or no, but I think the answer is that they are bound by these facts in a future case, and I think that this Board has fully the power to rely on them. And I also will say that I think that we have attempted and endeavored to take every procedural step in protection for the State Election Board and for future use that we can."

**Mr. Evans** - "I'm actually just even asking a different procedural question, which is, as I understand it, there are things that we can do, as a Board, where we can say that we have become aware of a problem, we have addressed it, and as a result in the future, having addressed the issue, that will then not be the basis for a challenge because we've considered it. And I want to make sure that we do that, but Madam Secretary, it's probably best for us to address in the Consent Order phase rather than stipulate it...."

**Chairperson Handel** - "Okay."

**Mr. Evans** - "...rather than stipulate it fact phase. But I am a little worried about it because, having been on both sides...."

**Mr. Ritter** - "Right."

**Mr. Evans** - "...which is trying to challenge an election and defend an election, I want to make sure that we've taken all the procedural steps we can to make sure this doesn't come back in any future form in a many-headed hydra in the future."

**Chairperson Handel** - "Okay."

**Mr. Evans** - "I don't have any more questions."

**Chairperson Handel** - "All right."

**Mr. Ritter** - "Thank you."

**Chairperson Handel** - "Any other questions? David?"

**Mr. Worley** - "No."

**Chairperson Handel** - "Tex?"

**Mr. McIver** - "I'm ready to vote."

**Chairperson Handel** - "All right. Then we're ready to entertain a motion on the stipulation of facts document. I believe that there was going to be one amendment to it that the Respondents stipulate that there are no pending legal actions."

**Mr. Evans** - "Challenge any outcome of elections that's been held."

**Chairperson Handel** - "Right. So is there a motion?"

**Mr. McIver** - "I so move."

**Mr. Worley** - "Second."

**Chairperson** - "A motion and a second. And that motion was as amended."

**Mr. McIver** - "Yes. I'm sorry, as amended."

**Chairperson Handel** - "And the seconder was okay with that?"

**Mr. Worley** - "As amended."

**Chairperson Handel** - "All right. Any other questions or comments?"

**Mr. Evans** - "Do we have discussion?"

**Chairperson Handel** - "Sure."

**Mr. Evans** - "I have to say this. I concur completely with Mr. Ritter. This is the most egregious misconduct that I've seen since I've been on the State Election Board. The random -- if



we give it the best -- if we give it the best picture we can, the random selection of private and confidential information of voters, which has been entrusted to us to be discarded in a non-secure way at a happenstance back road dumpster, is just completely unacceptable. And the degree to which it calls into question the integrity of the votes that have been casts of the -- in Fulton County is just unacceptable. And we can't expect voters to have any level of confidence in the outcome of our elections if we don't have in place systems designed to address and redress, specifically, these kinds of actions. And I have to tell you that I am worried greatly. I, you know, I give all credit to Secretary Handel who has been vigilant in seeking out and detecting and preventing misconduct, but this is the kind of misconduct that even the most diligent oversight responsibility could never detect. And we have to deal with it in the most serious way we can. Voters in Fulton County have to be worried. You have to be worried about the elections that have already been handled. We're talking about tens of thousands of documents in which their most private information would be readily and easily discoverable, as was here by a citizen who happenstance to be walking down the road, where you could get private social security information in a world of identity theft, and literally, that be taken away. And that's before we get to the issue to have what impact this has on our elections. And we are charged greatly with this. It does trouble me when I look through to see that there is no explanation offered as to how the 33 boxes were in fact selected, who made that ultimate selection, and the fact that we do not have a single person who is willing to own up to the responsibility for what happened here. Now I will say, and we'll talk about this in the Consent Order, it is always good when we have elected officials, and I think the Fulton County Board has stepped up to the plate to commit resources to address this, but it cannot, in any way -- it cannot, in any way, diminish from how serious this is, how worrisome it is, how bad it is for Georgia Elections and what a stain that it leaves. What a stain it leaves on Fulton County in terms of their elections of past, and the elections to come. And it is why we have to have the most rigorous oversight on a going forward basis, and we have to take seriously what's happened here. And I just wanted the record to reflect how personally appalled I am at the facts that are being admitted in this stipulation. And notwithstanding, the civility of this forum, it should not in any way undermine how horrible these facts are when you read them, and they are truly horrendous."

**Chairperson Handel** - "Well said, Mr. Evans. Any other comments? All right. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? All right. Stipulation of facts are accepted. Our next item is the Consent Order, itself, and if -- Mr. Ritter, if you want to walk through that."

**Mr. Ritter** - "Yes. Thank you, Madam Chair. As the Board's aware, as most of the people in this room today are aware, we had to spend months trying to resolve this case in a way that is not only acceptable to all parties that are involved in this case, but is an appropriate sanction and set of remedies for the facts telling when they described by Mr. Evans, somewhat egregious, and is at the same time productive in the outcome that it is going to have. I'm going to go through the Consent Order point-by-point, but in summary. It proposes that Fulton County Board of Registration and Elections, which is funded by Fulton County, pay \$120 thousand, of which \$100 thousand which would be put into a segregated account to be directed by the Secretary of State's Office for certain expenditures which would be outside of the norm, remove that office beyond mere compliance of the law, but to state a little bit closer to excellence, an excellence that we all want. In election matters, one of the most important things is the comfort of the voters with the integrity of the process, which they are dealing with. I think the steps could be taken, I don't know specifically what those are since I don't deal with that day-to-day, steps could be taken to help with that and we would like to do that in a productive way. Now we got to this Consent Order after mediation. A lengthy mediation, I should add, with a Judge, who is the one, in fact, who pushed for this result. The parties, obviously, had very different ideas of what an appropriate remedy is in this case. But we have reached a result, which I think is an appropriate one to present to you. I would present it -- it is within your authority to accept it or reject it, of course. This Consent Order contains every single type of remedy that this Board can impose, and so I will go through those. But first, let's briefly touch on the law. And in the Consent Order, you will see, I have gone through the statutes in some detail so that you will have (inaudible) and have them at your fingertips. There are also a few regulations that I have not forwarded, but which reflect the substance of those statutes as well. The first thing, and before I get to the actual destruction of the cards, the first thing that you'll see in the Order is an issue about deputization. The parties disagreed about deputization. In fact, we've disagreed about a lot of things, but the fact of the matter is, the Harris

brothers who handled the 33 boxes of cards that were destroyed were not deputized. That cannot be disputed and is submitted into the stipulation of facts. In our view of the law, anybody who handles boxes or voter registration cards, or completed applications, whatever you call them, in moving them is required to be deputized. Page 3 of the Consent Order, you'll see 21-2-215(h) quoted, and it says -- I'm starting in the middle of the fourth line, the registration cards may be retained temporarily at permanent additional voter registration places established under this Code Section, but shall be transmitted to the main office expeditiously as possible by a registrar or a deputy registrar, or by United States Mail. That, in conjunction with the regulation in argue, means that you cannot move these cards, even if you are properly moving them, which they were not, without deputizing someone to move them temporarily. So there's no dispute. The bottom line, in my view, that these folks were not deputized, they were required to be deputized. They haven't disputed that, they know that there's a dispute in the Consent Order, but nonetheless, it's in the Consent Order that that was required. Secondly, moving past that, there are several statutes that are violated by the improper disposal or dumping of the voter registration cards. 21-2-215(h), and 21-2-236(a) require that voter registration cards to be maintained while someone is an active voter, however long they're an active voter, and then two years after that. Putting these voter registration cards in a dumpster obviously violates that rule. And they violated that rules by a) failing to have an appropriate storage methodology, which they could keep it, b) dumping them both Atlanta Technical College, and finally, at their old warehouse in Fulton County. This violation, particularly of 21-2-215(h), is compounded by the audits that were conducted by the Inspector General who determined that they could not readily and rapidly retrieve voter registration cards, as they are required to do by law. The law requires that local registration officials be able to rapidly retrieve the cards for the obvious purpose of being able to check the signature, being able to make sure someone's registered, or to see if someone is not registered, to check the information that's on the card, to update the information on the card, and so forth. So audits were conducted, first of the materials that were collected as stipulated, and secondly, of the overall storage system that existed in Fulton County to see whether those could be retrieved or not retrieved in a timely manner. The parties are willing to consent that this is a violation of these statutes with a failure to be able to do this. There are several other individual violations primarily arising from what was found at the old Fulton County dumpster. There was the voter

registration application, which appears to have been -- excuse me -- a voted ballot which appears to have been improperly destroyed. Absentee ballot applications are required to be maintained for a period of 24 months. Voter registration certificates are required to be maintained for a period of 24 months. Both of those appear to have been violated. Having summarized the law, then let me move on to the details of what we propose as sanctions. First, and I think this goes without any question that this appropriate and necessary in this case, is a Cease and Desist Order against all Respondents who are before this Board today. And to just note on that, the Harris brothers and Sean Kelly, who are not here, and we reserved our right to proceed against them. So we need a Cease and Desist Order against Respondents in front of the Board. Secondly, there's a lengthy list of compliance requirements which spread over three pages, from page 7 halfway down to the top of page 10, that Fulton County Board of Registration and Elections is to enter into. Many of these things, to the best of my knowledge, have, in fact, already been complied with. Some of them may not, but I think the first step to assure and enforce that is for this Board to order compliance. The signing -- excuse me -- their scanning, to the best of my understanding, for instance, of all the voter registration cards so they now have a complete and usable electronic database, has been completed. And they spent a considerable amount of money, and time and resources, and manpower to do that, and I credit them with that. And that was an enormous project, and they got it done. And I should add when speaking about these things, that that was for many of the Respondents, such as Ms. Pye and so forth, primarily an inherited burden, not one that they had initially created themselves. B in -- on page 8 requires the contact that we discussed before, and documentation of their efforts to contact and try to bring in all of the potential registered voters so they have a dispute with about the cards and so forth. Jumping to D, there's a self-reporting requirement so that we don't have to go through this process again of trying to discover what the violations are. We expect them to comply with this order and let us know when there are violations of the law so that they can be remediated. And of course, doing that really should be the obligation of any local Board because, frankly, it not only helps solve the problem, which is really what we should all be concerned with. We should really be concerned with how we get the solution to keep these things from happening, and make sure the integrity of the voter is maintained. And self-reporting is necessary, and they've explicitly agreed to that. And finally, and in detail, of the \$120 thousand that they are to pay as a sanction in this case, 100 thousand of that would be

put in a segregated fund. And that segregated fund would be one that they do not have control over in terms of what they're going to expend out of it, rather the specific expenditures can be ordered by the Office of the Secretary of State. I know as a practical matter, that day-to-day, there are many things that we realize -- the Secretary of State realizes, these are things that maybe they could do. And they may not be self-evident at the beginning, they may not be self-evident today, but ultimately, these are beyond the ordinary and necessary expenses, and these are contemplated explicitly by this part of the Consent Order, the amounts beyond what Fulton County would ordinarily spend. So this is, in fact, a sanction. We could have put this \$100 thousand just into the State's General Revenue Fund. And that would, frankly, be entirely appropriate, particularly in these tough economic times. But that's a drop in the bucket. Even in election terms, \$100 thousand is a drop in the bucket. Only for a cash-strapped agency, like this Board, is that an enormous amount of money, but I will tell you -- or from my personal income that's a lot of money. But I will tell you that \$100 thousand is still something that serves as a sanction to them, and is certainly, by far, the largest sanction, that I'm aware of, that this Board would have ever imposed. Even \$20 thousand is a pretty large sanction, but \$20 thousand is still left to the side as an explicit sanction. If they do not spend the money as directed by the Secretary of State's Office, in the manner directed by the Secretary of State's Office, that \$100 thousand is in default as a direct sanction to the State General Revenue Fund. A couple of legalities, as you mentioned about that just so that you're aware of it. Both, the County's purchasing law, as well as State Law, require that that account not be under our control, as a state, but be under county control. If it were under state control it would be viewed as an earmark and would not be valid. And we're not suggesting these funds be earmarked for a specific purpose, but we are suggesting that the best result, given the difficulties that Fulton County has had, and they continue to have, is to try to use what they're going to spend to improve the system. Do I wish it was larger? Yes, I do. Do I think legally it could larger? I think that we could dispute that, but it's not a clear question. I do think this is an appropriate sanction in this case. Of course, we also included a reprimand. In addition to everything else, there's approximately \$20 thousand in investigative cost making their overall financial version \$140 thousand, and then there's a \$20 thousand flat-out straight remedy. I think this is an appropriate sanction. It's one that we have carefully,

carefully negotiated over a considerable period of time, and therefore I recommend it to the Board."

**Chairperson Handel** - "All right. Thank you."

**Mr. McIver** - "Madam Chair."

**Chairperson Handel** - "Mr. McIver."

**Mr. McIver** - "I am deeply troubled by this remedy. This fund does not make any sense to me, Mr. Ritter. First of all, it's not the role of the SEB. It also compromises our position on future looking into Fulton County matters, or anybody else's. We are not to be engaged in this level, in my opinion now. Obviously, I speak for myself and not the other members of the Board, but before all this trouble and all this time was spent negotiating the terms of this, I certainly think it would have been wise to confer with this Board. But this, in my judgment, is a mistake. I think where we are is a substantial fine. A return of our investigative monies that were spent by this Department, and whatever remedies that we think are appropriate. But for us to get in the business of monitoring this money, and then having Fulton County come back and say, well, you directed us to spend it on "x" instead of "y", and that's the reason this thing failed. It's completely inappropriate to me, so I want to be heard early on this. I think this is the wrong remedy. We should deal with this in a classic way that we've dealt before. I think many of us probably concur with Mr. Evans concerns about the gravity of these two cases and what they represent, but going forward I think we use classic remedies here, and then, heaven forbid, these people come before us again, any of these people named here represented by somebody esteemed as Mr. Parks, for whom we all have great respect, that's going to be a very unusual day for those individuals. A very unusual day."

**Mr. Ritter** - "Let me make a comment. You said, consult with the Board, and I respect that. Frankly, I respect your position. While I stand behind this Consent Order and I think it is an appropriate remedy, under the circumstances. Of course, people can disagree, and I respect that, but this manner presenting of presenting it, which I feel duly bound to do and I think is entirely appropriate for this Board to approve this, this is how we would consult with you. I, obviously, can't make exparte contacts with the Board members and say, do you think this would be a good idea. I can propose it, and if you disagree you can reject it or state a different sanction. And I think that we're at that point where, since the facts are stipulated we can get

to the sanctions, however, I do think there should be a full hearing on this first Consent Order, and I would even suggest, respectfully, that we allow Fulton County have a say about why -  
-."

**Chairperson Handel** - "I'm going to. Absolutely."

**Mr. McIver** - "I'm just concerned, Madam Chair, about the energy, and your time, people's time, that has been spent on this -- Mr. Parks' time. We're concerned about the integrity of the elections here, and for us to go on this foray into funds, and so on, and how they'll be managed and we're directing how purchases will be made. And do we buy pencils or pens, things like that. It just doesn't fit what I think the role of the SEB is. So -- And if that's critical, then it's critical, but that's the way I feel about, and I'm just concerned about all the wasted energy that would have gone into this. And in my judgment, I would advise my colleagues, let's look at this in a classic way, let's deal with it with the classic remedies that are available to us, and whatever amounts those may be. I'm sure we'll find an answer to this afternoon, and go forward. This is about fixing things, and in my judgment, this isn't the fix. And then I, again, become concerned about is it ever going to be fixed, and then, what will be the fate of these individuals who are here before us again?"

**Chairperson Handel** - "Why don't we, if I might, let's hear from Mr. Parks so that we can -- and then we'll come back around."

**Mr. Evans** - "Before we do that, can I just ask Mr. Ritter a question?"

**Chairperson Handel** - "Sure."

**Mr. Ritter** - "Yes."

**Mr. Evans** - "Who was the mediator that mediated this?"

**Mr. Ritter** - "It was Judge Carol Walker, and the mediator, and I would say as well, although Judge Malihi is our ALJ who was assigned to this case, was not involved in the mediation. As far as I know, we had no discussions about the mediation with her, but they made their views -- I don't want to go into that here, but they made they made their views about this case clear."

**Chairperson Handel** - "Mr. Parks, did you want to comment before we have our deliberations?"

**Mr. Parks** - "I have some brief comments. Also, Mr. Strickland is here, and he's got some comments because he was very, very involved in the mediation and would like to speak to the Board. The ALJ that was involved in this found common ground in very, very different reviews of some very serious legal issues regarding the level of punishment that can be leveled under the Georgia Election Code. And give the limited amount of civil fines in any effort to expand that by a numerosity multiplied by the number of documents, something like that, serious legal issue. We agreed to get into that battle -- was to extend this beyond the point where we were doing the people's business. And the Magistrate believed that the amount of money in question, rather than continuing to fight over it, to come to an agreement over the amount, but to put it towards the common good. One of the things that we saw this Consent Order doing is to try to create more of a collegial relationship than an adversarial relationship. We are where we are. You can understand that -- that we're not here, at this point and time, to argue that anything was done right. What we're arguing is that this is an opportunity to make sure it's done right, or at least to enhance that opportunity. I understand your concerns, and let me get into a little more detail as to how we -- and this was -- we agreed to the manner of the administration -- the (inaudible) fund as directed by the State. The State called the shots on the administration of it. The reason that we agreed to it is that we saw it as not being complex, but being very simple. Because when you read the particulars of what money can be used for, it's very limited. It's not about anything to do with the day-to-day operation of this Board. It's not pens and pencils, it's not notepads, It has to be training, equipment, or election oriented. That's it. And so that there can be quibbling between our two Boards, no matter what we might recommend as what we need -- an absentee ballot voting accounting machine versus what you believe we need. The State was insistent that we not have that -- a discussion, but that after whatever we recommended or whatever we suggested that the Secretary of State, as the designee of the State Elections Board, or the State Election Board sitting collectively, could make those decisions over a year's period of time. That really -- that gemstone was the -- originated with the magistrate and was the way we got around letting this case go off into what would likely be an appellate battle over the fact that the statute in this case is alarmingly vague on how you calculate the civil penalty. Is it an incident, is it a document, and



where, because there is a huge body of Supreme Court Case law that says, in a civil setting a fine can reach a punitive level. And we debated that heatedly over the course of this case. But where a significant fine is being paid, coupled with an even larger amount of money that is being paid only because of the sanction, only because of the wrongdoing by Fulton County, clearly someone who had no role in this -- in an effort to better the elections, I think everybody, my Board, the magistrate, Mr. Ritter, myself, we left that mediation thinking that this was a win-win situation. So from an administrative point of view, I think that that is not the mountain that I think maybe initially is perceived. Because, first of all, when I've looked -- as we've looked at some of the costs and some of the things that would be obvious that we would need, you don't -- you spend it very quickly. This is not cheap stuff. It is not going to be buying 50 or 60 things. There's not going to be a long list before we run out of this amount of money. But it does what you would want to happen. It's got to improve elections. So the bottom line is, are you going to improve elections with a carrot or the stick? I hope it's a carrot."

**Mr. McIver** - "Well, we'll see."

**Chairperson Handel** - "Anyone else?"

**Mr. Strickland** - "Good afternoon, ladies and gentlemen. Thank you for giving me a few moments to address the Board. First let me say, on behalf of the Fulton Board, that we are -- we sincerely regret that this situation occurred in the first place. And no bones about it, it did occur, and there's nothing we can do about that other than try to improve the situation as to how our elections are run in Fulton County. And as Mr. Parks said, this -- the Consent Order you have before you was the product that the Judge conducted mediation. We had all the parties present, everybody participated in it, it took us the better part of a day, and we thought we came up with a good result. And specifically, to address Mr. McIver's comments about approaching this in the classical fashion, I would respectfully disagree with that approach for the reasons outlined by Mr. Parks. And I want to outline that in a little bit more detail. If we take money from the treasury of Fulton County, which is really Fulton County taxpayers, and I'm one of those, and several of you may also live in Fulton County, and we transfer that money into the State treasury in the form of a monetary penalty, not one dime goes toward the improvement of the elections process in Fulton County. Zero. Our goal in approaching the remedy in this mediation was to develop a plan

that would put the bulk of a sanction toward the improvement of elections in Fulton County. And the way we did that, as opposed to putting in the state treasure, which is not going to go toward elections, I mean, arguably, some miniscule portion might, but in this instance, substantially, all of the monetary penalty would go toward the improvement of elections in Fulton County. You heard Mr. Parks say, and I think it's indicated in the stipulations somewhere in the Consent Order, that we've already spent at least \$350 thousand toward the improvement of elections in Fulton County. Our idea in approaching the mediation was, let's keep doing that. If we're going to spend money from Fulton County taxpayers funds, let's do it towards the improvement of elections in Fulton County. That made sense to us, and our colleagues from the State participated fully in the mediation because we agreed to that approach. So the plan is that \$20 thousand is the absolute direct monetary penalty in the classic sense, Mr. McIver, as it goes into the State Treasury. It is a transfer of funds from Fulton County taxpayers to the State Treasury. Whereas the balance of the funds go into this segregated fund under which Fulton County, we're attempting to maintain as little control over that as we can under the law. And Mr. Ritter, I believe, outlined some of the complications associated with that and he's much more familiar with those details than I am. But the concept is to have this segregated fund which could be expended only for certain -- let's call it big ticket items pertaining to elections in Fulton County, as opposed to pens and pads. And that's how we would better the process -- the elections process in Fulton, which is our goal. And although it's not a part of the stipulation, I want to tell you as an aside, the Board retained a search firm to help us find a new director. We've conducted -- we've narrowed that down to some finalists, we've interviewed all of those finalists, and we have an offer to a new director pending. And we hope to bring that to conclusion at an early date. I'm not able to report to you today that we've actually made a deal with a new director, but we had some good candidates, and we think that we found one that we want to bring on board. We're committed to making these improvements to make the election process in Fulton County the best it can be, and we would urge you to adopt the Consent Order in its current form, and not in the classic form. Mr. McIver, I understand your concerns, and if I were seated where you are I might have the same view. But I would urge you to consider modifying your view to accept the approach that was taken by both sides in the mediation, and resulted in the Consent Order that's before you."

**Chairperson Handel** - "Thank you."

**Mr. McIver** - "Madam Chair."

**Chairperson Handel** - "Yes, Mr. McIver."

**Mr. McIver** - "Mr. Strickland, you have one of the finest reputations as a lawyer in this State. I've known you a long time, and respect your judgment greatly, but you and I are just going to have to disagree on this one. I am sure the Governor and the Legislature would love to have this extra money, albeit \$100 thousand isn't much against the multi-billions they're struggling with. But it may surprise you to know, I'm for a smaller penalty in this case. A smaller civil penalty. Why? Because I want Fulton County enabled to do the best that they can, and to bring forward elections with much greater integrity with that regard. So although some of this clearly is punitive, in my judgment, that probably needs to be in some sort of appropriate way. But not to endanger what Fulton County wants to do in terms of improving their elections, and what you may have to pay your next Director of Elections, and things of that nature. So that's really where I'm coming from. I have some concerns that the Law Department went into a direction that probably, at least didn't fit anything that I felt was appropriate. It would be nice to know there was a way that they could access us, certainly not exparte, we all know better than that, but in a way where they might be able to determine our feelings. And again, I speak only for myself. But in this way, we know that you folks have worked hard, you've tried hard. Certainly nobody in this room had anything to do with dumping those boxes in the dumpster, as best I can tell. But this is about going forward and enabling Fulton County to do a great job from now on. So I, one, favor smaller penalties -- civil penalties in that regard enabling Fulton County, and then again, heaven forbid, if they come back again with this issue, whether you're a member of the Board or not, I don't know, but if they come back another time, then that's a very different situation for me. These are appalling facts, but they can certainly be corrected. And we sense and we feel for Mr. Parks, and you and others that have spoken to us, that that effort is being made, and I'm very impressed by that. So it's the next event that I'm worried about, and I don't want to cripple you, I don't want to hurt you in any way, I want you enabled to do a great job. And that's really where I come from. And, to me, the classic remedy is the one that fits. But you're right, I sit up here and you stand behind that podium. There may be a day when our roles are reversed, but that's certainly the way I see it."

**Mr. Strickland** - "Thank you. I appreciate your comments and your perspective on it. Any other questions for me?"

**Chairperson Handel** - "Thank you."

**Mr. Worley** - "I had a question...."

**Mr. Evans** - "I have some questions, as well, when we get there."

**Mr. Worley** - "...not for Mr. Strickland, but for Mr. Parks."

**Mr. Strickland** - "Thank you very much."

**Chairperson Handel** - "Thank you."

**Mr. Ritter** - "Madam Chair, before we get to those questions, can I briefly respond to what they've said just to add a couple of thoughts?"

**Chairperson Handel** - "Sure."

**Mr. Ritter** - "First of all, I just want the Board to be aware of what they refer to -- when Mr. Parks referred to as the vagueness about violations. We disagree about that, but as this Board is aware, statute allows this Board to impose a \$5,000 fine per violation. We have a box containing roughly 100 thousand dollar -- 100 thousand voter registration cards. Thirty-three boxes of those, in one day, were dumped in one construction dumpster at Atlanta Technical College. And you know, how do you count them? I think it's absurd to suggest it's all for one violation of the law, but that's what they would argue. I do wish to avoid this becoming an appellate fight over this, and more attorneys fees being poured down a drain. My goal, in a case like this, is twofold. First, to maximize the sanction in a case to the extent appropriate. Not only because it's warranted, but because I would want to plainly send a message to other potential violators that this sanction is the type of sanction you're going to get if you do this. And I think you send a message with every sanction as long as you act appropriately with relation to the facts. And that's why I think that the amount, when we talk \$120 thousand, plus \$20 thousand in cost, is appropriate. I would certainly vigorously oppose reducing that, but that's -- again it's -- the other thing is this. We try to get to the right result, the most effective result, and I have to only want to agree briefly with what Mr. Strickland said. And I do believe in this Consent Order, I would present it. I realize it is out of the norm,

this is what the mediator suggested and pushed to us, and we were very resistant at first. However, one thing that carried the day, at least with me, was that if they're going to spend this money, and this is money coming out of the Fulton County taxpayers, then I would try to have it redounded to their local benefit because they're the ones who have been essentially violated by this misconduct from their Board and its members. Thank you."

**Chairperson Handel** - "Mr. Worley, then Mr. Evans."

**Mr. Worley** - "I had a question for Mr. Parks. Were this to go back to the ALJ and you and Mr. Ritter were arguing over the appropriate penalty, or the legally permissible penalty, what would your -- what penalty would you argue was appropriate given this violation?"

**Mr. Parks** - "That the case --."

**Mr. Worley** - "What would be the maximum penalty that you would argue was permissible?"

**Mr. Parks** - "You know, to be honest with you right now, I don't know."

**Mr. Worley** - "Okay."

**Mr. Parks** - "It just was -- there was no way to calculate to get anywhere near this number, which was the number Mr. Ritter was advocating, and hence, the way the matters were found -- a way to the solution was the win-win. And yes, that's where it goes if we don't have -- if you'll note, briefly, on the Consent Order there's a number of these violations we don't agree to, but since we agreed to the sanction we didn't have to resolve that. We don't want to go back to the ALJ for resolution of those issues. But -- I didn't mean to interrupt you."

**Mr. Worley** "No. I mean, that answers my question."

**Mr. Parks** - "The other thing that I think is important to say, and it speaks both to your question, and a little bit back to Mr. McIver's concerns, is that this is not our money. My Board has no funds. The energy to resolve this came from Larry Ramsey, the County Attorney that is sitting here, the Fulton County Board of Commissioners, who saw this as a way to achieve the State's, and now its goal, of a record fine. A record amount of money being paid, but at the same time allowing --"

trusting in the expertise of this Board and the Secretary of State's Office, and the Elections Division, to guide it -- to help it guide the betterment of elections in the County. Just because it sounds different doesn't mean it's wrong. It actually is circumventing what I think is a very dangerous legal argument to make that punishment is the focus of the remedy under the State Election Code. I don't think it is, I think it's remediation. But it turns us away -- it turns us away from what this order does. The \$20 thousand sanction is half of a larger sanction -- roughly, half the largest sanction ever entered by this Board, so it's not an insubstantial sanction, particularly when we're paying \$20 thousand for investigative cost. And we're giving you carte blanche over the next \$100 thousand, all of which, again I stress, it's not as if this Board had the money. It is having to come from an external source, and the energy behind getting approval was the fact that the Commissioners were comfortable that the expertise of this Board, coupled with the Secretary of State's Election Division, would make good recommendations that would make elections better. Fulton County Board of Commissioners, I won't speak for Mr. Ramsey, they're not happy with the way the General Election went. You know that, it's on your calendar for April the 1st. Okay. This is linked. Don't make any mistakes. You don't see linkage between this solution and the problem that you want to talk with us about on April the 1st, there's linkage. It's because it's a holistic problem. It isn't a day where 33 boxes went into a dumpster. I'm not going to -- if I tried to argue you that this one isolated incident of two temporary employees making a mistake, it wouldn't fly. You wouldn't believe it, and I wouldn't argue it. This is a problem that we have been working on since that day, spending over \$350 thousand, ready to spend another \$100 thousand, ready to hire someone who we think will come in with national credentials. That coupled with that hundred, the 350 that we've already spent, and additional money that Fulton County is going to pour into this system to make sure that elections in Fulton County work. And the oversight this fund gives your Board on that process is unprecedented."

**Chairperson Handel** - "Pardon me. Can everyone please turn off your cell phones? That's about the fourth one to go off. Thank you."

**Mr. Parks** - "The persuasive argument that Mr. Ritter -- I assume it Mr. Ritter, but anyway, transmitted to us as the State's argument by the mediator was -- is that what should -- what was resonating in their room, and I hope it resonated with this Board was, is that as opposed to just sending us off with a

spanking and not knowing what the heck we're going to do to fix the elections, okay? That engagement in the process, rather than being a headache, is an opportunity. If we really are going to say that the mission of this process, the process of time, a remedial response to a code violation that the remedy is actually supposed to improve the elections to make them better, and to ensure that the violation doesn't reoccur, what better way to do it? That's why we came away from the mediation after vying at each other for 14 months, energized -- our Board energized, and the Fulton County Board of Commissioners became energized. It resonated right on down through the line. And what I'm hearing here is, is it -- are we creating a bureaucracy? You know, are we creating an entanglement? Are we creating an overstepping? That's one of the things that I'm hearing from you, Mr. McIver, that is this Board really needing to get in bed with the Fulton County Board of Elections on how it's supposed to fix its problems. And I'm not dismissing that, but I'm trying to tell you that given the way we worded this, and this was worded carefully, it doesn't do that. It's for you all, let's say when you begin to look at the general elections and say, you know, I don't think the absentee ballots were done right here because this automatic counting machine they might have. It allows you to make some insular recommendations that are mandatory within the confines of the money set aside, that with the expertise of the Elections Division, you determine will actually have a profound positive effect on elections. That's where I can't see us decide not to go down that path because of a failure of imagination."

**Chairperson Handel** - "Okay. Thank you. Let's try to do questions. We understand your point of view. Mr. Worley."

**Mr. Worley** - "Please stay. So this arrangement has been signed off by the Fulton County Board of Commissioners?"

**Mr. Parks** - "It has, and approved, and the money is ready to go."

**Mr. Worley** - "Okay. All right. Now, how much has the Commission budgeted for the administration of the Elections Department for the coming year?"

**Mr. Parks** - "I don't know that. I could try to find that out, but I'm not sure."

**Mr. Worley** - "All right. Well, I like the idea that you presented, but I don't want the -- Fulton County to basically

take \$100 thousand that they would have spent, anyway, on elections, and shuffle it over to us."

**Mr. Parks** - "Right. I mean, you need to have -- it's when you have a budget, you need to have a copy of the budget for some initial representations, but that was made -- we heard that loud and clear. We didn't even want to go there, but we all understood that whatever is the operating budget of the Fulton County Board of Registration and Elections, this is extra money. And the reason I think you'll have some confidence in this extra money is, for example, when we go to capital expenditures that are projected. Okay. Well, if they're projected you're not going to be buying anything that's -- You're not going to -- or asking us to make that purchase. So that kind of detail, I am confident we can meet the task there by either providing you the budget, or providing you some sort of certification that the things you are requesting are not part of an existing budget for capital expenditure, or for training."

**Chairperson Handel** - "Isn't it true, however, Mr. Parks, that Fulton County's budget for this year was put to bed months ago?"

**Mr. Parks** - "Yes. I mean, there's a budget to give you, I just don't know what it is. But I could certainly provide -- and that --."

**Chairperson Handel** - "And the next opportunity to inject additional funds, I believe, Mr. Ramsey you can tie them in here, would not be until budget sounds come late summer. Was money put in?"

**Mr. Larry Ramsey** - "Madam Chair, the budget soundings process begins in April."

**Chairperson Handel** - "For soundings?"

**Mr. Ramsey** - "Yes, ma'am."

**Chairperson Handel** - "But the additional funds that get put in don't actually physically get put in until well into the summer. And in my four budget years in Fulton, not a single time did soundings actually -- monies come in prior to this late summer or fall. So colleagues, to understand the Fulton budget process. So unless monies are actually dedicated and put aside for this purpose in the 2009 budget, which has already been passed by the Board of Commissioners, there is no extra money to, quote, put in there."



**Mr. McIver** - "Madam Chair."

**Mr. Parks** - "Well, they did approve the motion. I mean, it will be our obligation."

**Chairperson Handel** - "That's fine. Hold on for a second. I got --."

**Mr. McIver** - "Mr. Evans, next?"

**Chairperson Handel** - "Do you have a question on this?"

**Mr. McIver** - "I've got a question of Mr. Parks, but I know you - -."

**Chairperson Handel** - "Do you have questions?"

**Mr. Evans** - "I have questions, but whenever you're ready."

**Mr. McIver** - "Mr. Parks, I'm certainly flattered by the wisdom you intend to impart to this body, and appreciate that, however, the way I see it is the reverse, and that is you're demeaning the wisdom and guidance that people like Mr. Strickland and you, and the other election officials bring to this process. Certainly you folks are qualified to run elections with great integrity. You know how to do it, you have the experience, and so on. Your guidance to them as an attorney, Mr. Strickland's guidance to them as a member of the Board, I believe in you greatly. And I believe in these election officials greatly, and I'd like to think some of this is in aberration. I doubt Mr. Evans would agree with that, necessarily, but my view is that we don't need to take over what is your work. You folks are entirely capable of doing that on your own and that's the kind of respect I have. And that's the reason I'm going to vote for a lower fine. I'm a taxpayer at Fulton County. Perhaps Mr. Worley is, I don't know, but I certainly am one and I want to see my money spent on elections and not fines. Now the Governor may not be so happy to hear about that because they could use the money, but the reality is, what's it going to take to have better elections. So don't demean your position here...."

**Mr. Parks** - "I understand."

**Mr. McIver** - "...because you have a lot of wisdom to impart, as I know Mr. Strickland does. So that's where, at least I, for one, am coming from in that regard. And as we get into this and

we work back towards, I hope, will be a classic sort of remedy involved, in my view, it will be to better position you, and Mr. Strickland, the other members of the Board, and the County election officials to do it right the next time. Thank you, Madam Chair."

**Chairperson Handel** - "Okay. Mr. Evans."

**Mr. Evans** - "And I don't know whoever has the answer, I just had a few questions because I was confused about -- first of all, is the -- so do I understand correctly that the total number is 100 for the fund -- 100 thousand for the fund, 20 thousand for the civil penalty, and then 19 thousand 624 for the restitution."

**Mr. Parks** - "That's correct."

**Chairperson Handel** - "That's what I understand."

**Mr. McIver** - "That's the way I read it."

**Mr. Evans** - "So that the total number is 139, 624, 76."

**Chairman Eaves** - "Yep."

**Mr. Parks** - "Yes."

**Mr. Evans** - "On page 8 of 11, under b, so this was the question which was a follow up when we have an absentee vote, by someone who we do not have the scanned application. And I think you described something that was a bit further than what's in b here."

**Mr. Parks** - "I described what we actually do. The language here is prophylactic. In other words, if you find that what we're doing is inadequate, you can direct us to do more. It was language that we agreed to that Mr. Ritter wanted. What we're - - I can't imagine doing more than we're doing, which is agreeing to physically, in person, contact the voter. But the language here goes, I think, further that to the extent that that wasn't acceptable. You have complete authority to direct that there be some additional steps taken to ensure that, I guess this is really the only situation that comes up, that a voter seeking to vote absentee that does not have their application on file, that we take steps to ensure a signature match and the issuance of the absentee ballot. The words are as directed by the Secretary of State in terms of better obligations. I just let you know what we're doing. But I mean, but I guess getting back to it,

not a single time did one of these people request an absentee ballot in the last -- well, ever since this has happened."

**Mr. Evans** - "So you would not have -- I assume you would not have an objection to adding the language, including but not limited to in-person...."

**Mr. Parks** - "Not at all."

**Mr. Evans** - "...contact via Fulton County Sheriff's Office."

**Mr. Parks** - "We were letting you --."

**Mr. Evans** - "No, no. Just the experience I have as a litigator, is that agreements --."

**Mr. Parks** - "Well, he mentioned, of course, we can't do that with an overseas order. We'd would have to -- for a military summon we would have to go through the --."

**Chairperson Handel** - "We understand that. That's handled separately anyway."

**Mr. Parks** - "Yes."

**Mr. McIver** - "The whole set of federal guidelines."

**Mr. Parks** - "Exactly."

**Mr. Evans** - "Under c --."

**Mr. Parks** - "Same page, sir?"

**Mr. Evans** - "Yes. Same page, page 8 of 11, it says that the -- that you have provided the current number of registered voters which it has a voter registration card application, and the number of registered voters on the active roles for which it does not have an original application or scanned image. What is that number?"

**Mr. Parks** - "I don't know what it is today, it dwindles, but I can get it for you and we can tell you. It is not much reduced from the numbers that are in the audit because -- you saw it, the undeliverables, you know, these are people that are -- and to the extent that they don't contact us. For example, by requesting an absentee ballot, we don't have the ability to reach out to them. Our confidence level is these voters that

have either become inactive, relocated, or whatever goes up with each election because we're not seeing it."

**Mr. Evans** - "Do we know that number?"

**Mr. McIver** - "It says it in the report at the next audit we'll have it."

**Mr. Evans** - "I'm confused, Madam Chair. So --."

**Mr. Parks** - "I mean, we do have the number, I just don't have it with me."

**Mr. Evans** - "I know, but do you have the number?"

**Ms. LaGrua** - "No. I do not have the number."

**Mr. Evans** - "Because this paragraph says that the documentation has been provided, and I'm just trying to figure out where the disconnect is."

**Mr. Parks** - "That documentation really was the audit that I reported on. We update them, and we can actually give you more updated information, but what I'm telling you is that I don't think it will be materially different."

**Mr. Evans** - "Yeah. I'm far more interested in process, which is making sure that the information that is being represented in the Consent -- proposed Consent Order, is in fact being provided. So I just need to figure out what the answer to that is."

**Chairperson Handel** - "Ms. LaGrua, when's the last time we received any type of...."

**Ms. LaGrua** - "The original report."

**Chairperson Handel** - "...which was almost a year ago."

**Ms. LaGrua** - "Correct."

**Chairperson Handel** - "So that's the last time we've received anything from them, so I don't know that that language is correct, or at least accurate in terms of how I would read it, which I think is your point."

**Mr. Parks** - "We can update that."

**Mr. Evans** - "Mr. Ritter, do you have anything to add on this provision?"

**Mr. Ritter** - "Well, my understanding is that this provision was true when drafted and negotiated. I wasn't aware that it required updating, but if it does need to be updated, then I would expect Fulton County would update and modify...."

**Mr. Parks** - "Absolutely."

**Mr. Ritter** - "...and put into the Consent Order by a specific date, then we can do that."

**Mr. Evans** - "What are the categories under d -- on page 8 of 11, what are the categories where election documents carry a statutory retention period? Because I didn't see that list, and I was just curious as to what that refers to."

**Mr. Parks** - "Well, it certainly refers to a voter registration application. It refers to absentee ballots, or the application put in. There's -- I mean, it's in the Election Code. You have a list. It's also in our retention policies. I think we emailed those to Ms. LaGrua today. Is that right?"

**Ms. LaGrua** - "That's correct."

**Mr. Ritter** - "If I could say for my part, Mr. Evans, I think it's a good question. I do not have a list. It's a good question as to whether we should formulate a list. I will tell you that I have in mind, when I think of those dates, specifically, which required in 215 and 236, and most importantly 236 which is retention requirements for registration cards, applications, and list maintenance activities. However, there may be other scattered requirements under the Code, for instance, for absentee ballot applications, and so forth, which are not in 236. And I'd have to go gather all of them. Honestly, I couldn't tell you what they all are off the top of my head."

**Mr. Evans** - "Well, with all due respect, it strikes me that this will be back in front of us some day. And the extent to which we can eliminate ambiguity is extremely important. So I was curious as to how the remedial fund -- is that a segregated trust fund -- I didn't exactly understand it."

**Mr. Parks** - "It is, exactly. It is a segregated trust fund that is separated from the General Fund of Fulton County. The procedures for how it's gone down upon are covered on page 9. Little Roman Numeral I, II, III, and IV, requiring us to fully fund it within 40 days of the approval of the order, detailing the steps which you would take or the Secretary of State, as your designee, would take to direct expenditures."

**Mr. Evans** - "So does the Fulton County Board of Elections spend money, or does Fulton County spend money?"

**Mr. Parks** - "This will be a Fulton County fund."

**Mr. Evans** - "Because I was curious about little II on page 9...."

**Mr. Parks** - "Yes, sir."

**Mr. Parks** - "...which seems to suggest that the Fulton County Board of Registrars and Elections expense monies --."

**Mr. Parks** - "Well, it's Fulton County's money. It's going to be put into a segregated fund. You would direct the Board of Elections to expend it, and they would do the actual purchase order. We have to go through a purchase order process, and the Board of Registration and Elections is the Purchasing Department, if you will, so that the paperwork is under the Board of Registration and Elections, but clearly, the money comes from Fulton County."

**Mr. Evans** - "What is under page 9, the second sentence of I mean, the establishment? Excuse me. The remedial fund will not prevent the SEB or the Secretary of State from requesting additional funds to be expended or be expended pursuant to law. What does that mean?"

**Mr. Parks** - "Something Mr. Ritter wanted in. If I misstate it, he'll explain it, but his point was is that if there was another matter -- another reason that the Secretary of State wanted us to do something that the fact the -- it's funded and set up for this, we couldn't interpose and pay out of the fund something that, for example, involved a separate matter."

**Mr. Worley** - "So if we fined you again on some other matter --."

**Mr. Parks** - "You couldn't use the \$100 thousand to pay. It's a separate -- we'd have to have new funds for that."

**Mr. Ritter** - "That's right. And as I read it, and based on my experience, there have been many instances in the scant five years that I've been doing specifically election work, where the Secretary of State has realized that a county, including Fulton County, may not be fully in compliance with what it views as the County's obligation to the law. In that instance, the Secretary of State has said we want you to do this, we want you to do that. Those requests may not have a force of law, the same way that an order from the Court would, but it's a commonplace for the Secretary of State to ask for that to happen, and we do not want to undercut that ability or authority of the Secretary of State. And also to say, we think these expenditures that you much normally make are ones that in the ordinary course of business you have to do to comply with the law. So don't use the \$100 thousand account for that, this is the amount that we want you to spend. For instance, you didn't send out absentee ballots to so-and-so, and you need to send that out, and that's not going to come out of the \$100 thousand. That's your normal operating expense, so it's maintaining that ability on the Secretary of State's behalf, and it has always been exercised to practice."

**Mr. Evans** - "What is the total amount that the County -- Fulton County has spent in response to the problem today?"

**Mr. Parks** - "Including everything?"

**Mr. Evans** - "Uh-huh (affirmative)."

**Mr. Parks** - "It's over \$468 thousand, before you get to the \$100 thousand."

**Mr. Evans** - "So 468 for remedial actions taken today?"

**Mr. Parks** - "And various consultants, legal fees, everything we've spent in connection with this process. And it's probably more than that, that figure is probably my fault. But that's -- that was the calculation that Ms. Pye did for me two or three months ago."

**Chairperson Handel** - "Could we get the number minus legal fees, because --."

**Mr. Parks** - "350 -- well, we took out legal fees and consulting fees, professional fees of all sorts, and came down to about \$350 thousand. And that was -- I think that number is in the -- ."

**Mr. Evans** - "Why was the reprimand limited?"

**Mr. Parks** - "In terms of excluding Ms. Pye?"

**Mr. Evans** - "Well, in terms of just excluding all of the various violations. It's got many of the violations, but not all of them. Was that intentional, or is that just shorthand?"

**Mr. Ritter** - "It's shorthand."

**Mr. Parks** - "Can you tell me the page you're on?"

**Mr. Evans** - "Yeah, sure. Page 10 of 11."

**Mr. Ritter** - "Page 10 of 11, paragraph 3, reprimand. That was the shorthand."

**Mr. Evans** - "So that was not intended to not address any of those?"

**Mr. Parks** - "The only intentional was the exclusion of Ms. Pye from the reprimand because she had literally just stepped into the position, and we agreed that she wouldn't be reprimanded. But the other language was -- that's the State's language."

**Mr. Ritter** - "Well, I think that Mr. Evans had is specifically, were we intending to not reprimand for every violation of the statute you found? And I think the answer is, we intend to reprimand for every violation of the statute is shorthand for that, and I think that, Mr. Parks, if you agree, this applies to accepting the reprimand in full."

**Mr. Parks** - "We assumed we were so reprimanded."

**Mr. Evans** - "I was confused by the language on page 10 at the top. Failure to establish and fund the remedial fund in that period will cause the amount to become a sanction."

**Mr. Parks** - "The purpose of the language -- it may have been in the article -- was that if Fulton County failed to fund -- the segregated fund within the 40-day time period, that it would no



longer have that option, and would agree that it owed \$40 thousand to the general fund --."

**Mr. Evans** - "A hundred."

**Mr. Parks** - "We'd probably pay the 20 -- the 20 would still -- you already have a Consent Order for the 20, so the additional 100 would now convert if it failed to fund it to the sanction. And then you would have your rights under the Election Code if they failed to pay it in, to go to Court, to mandate it -- to get an injunction, there's a specific statute on it."

**Mr. Evans** - "So you view the 100 to be different than the 20 -- in character?"

**Mr. Parks** - "Well, it was put into remedial fund. I think the language here is just to ensure that it was not funded. There would be no question that money would then be payable into the general fund of the State. Stefan might want to speak to that."

**Mr. Ritter** - "Right. I think that's an accurate statement in terms of the fact it's payable into the general fund of the State, but let me say that, in my view, it is effectively a sanction, It may not be artfully referred to that way in that paragraph, but strictly speaking, we're not making it as a deferred civil penalty because that would have potential legal ramifications as an earmark. But I think that putting the money into a segregated account, and if that segregated account is not properly funded, which that subparagraph refers to, or is now properly extended, which other paragraphs refer to, then it can become a penalty. We've carefully reviewed, vetted that, and the Law Department has decided that is appropriate. And I must say, the key here being that this account is an account that is a segregated account in Fulton County's name as opposed to the State's name. But we wanted to be very careful to say that when we are doing this, we are not just taking a civil penalty and spending it after the penalty is imposed. I hope that's clear."

**Mr. Evans** - "Sir, I'm sorry. You lost me on deferred earmark."

**Mr. Ritter** - "The idea is this. We want them to fund certain segregated --."

**Mr. Evans** - "No. I got the idea, I'm just troubled by the language here."

**Mr. Ritter** - "I think that it would have been, perhaps -- and maybe it is on our fault, because the word sanction in subparagraph 4, 2.4, might be better read to say, civil penalty as opposed to sanction. You're looking at the sentence, failure to establish and fund the remedial fund in that period will cause the amount to become a sanction in the amount of \$100 thousand, and immediately payable to the General Revenue Fund of the State of Georgia. The point is if they don't fund it, then it becomes -- that \$100 thousand would then be treated as a civil penalty."

**Mr. Evans** - "I don't have any other questions."

**Chairperson Handel** - "Okay. I don't know that I have any questions, but I have a couple of things to point out. And this is really for my colleagues. First of all, I think it's important to point out that Fulton County has already a legal obligation to adequately fund and properly administer its' elections operations, irregardless of a fund or no fund. And what I'm troubled by is if there is something that Fulton County deems, quote, needs to be done, then they have an obligation to go and do it, not sit back and wait for the Secretary of State's Office to say do, or don't do. So I just don't see this as a workable way to go forward. Secondly, I'm deeply troubled to have the Secretary of State's Office, when if there are future violations, Shawn's group has to investigate it. And if we are in the middle of directing the County of what to do or not to do from an ongoing elections and administration standpoint, I think that is really not the place to be for this agency. I'm very concerned about the precedent that this would set where the State is getting in the middle of this type of detail day-to-day, because a couple of things that have been mentioned. They are normal things that the County, if you are a county with such a high volume of cards, then it makes sense that they should have the proper number of scanners, and it shouldn't be a question of waiting for the State to say, hey, you need to get the proper number of scanners. Secondly, I mean, again, on training. If training is needed, it is Fulton County's obligation to ensure that their people are properly trained. I mean, period. Irrespective of anything that occurs here. And I want to remind the Board, in terms of precedent, that we did have a serious violations from DeKalb County, albeit, nothing nearly as egregious as what is before us with these sets of violations from Fulton County. But DeKalb County was -- had a Consent Order in which they had to fix the problems, and there was a sanction. My other area that I am troubled by in this that I think we should reconsider is on page -- it's the audit

section. Page 7, number 2. I don't know that it makes -- it doesn't make a whole lot of sense to have the body that needs to be audited doing its own audits. So rather than having the Fulton Board of Registrations and Elections audit itself, it should be the other way around which is what we've done specifically with other counties, that it is the Inspector General LaGrua's office that comes in and conducts a review to ensure compliance with the Consent Order versus the Board seeing if they are doing what they're supposed to be doing by law, and then reporting. Because I mean, with all due respect, we're here because the Board didn't ensure that the staff was doing what it was supposed to be doing, so I don't have a whole lot of confidence that the Board will go forward and do that. So I'm troubled by that. I'm open to conversation, and obviously I want to hear my colleagues input around where we should go from here. I will point out that if you look at the violations and you say the Board, Ms. Pye, Mr. Sullivan, and Mr. Turnipseed each have violations times just the Code Violation, not individual per cards, that would be 33. Mr. Israel, did you want to add anything?"

**Mr. Jeff Israel** - "I think, to a degree, that the economy as it is, we need to help to some degree. And it sounds like that's what we're building on right now. I think that's very important."

**Mr. Sullivan** - "Madam Chair, as a Respondent, do I get to speak?"

**Chairperson Handel** - "Sure. If you'd like to. Sure."

**Mr. Sullivan** - "I apologize for my cell phone, my wife had surgery today."

**Chairperson Handel** - "No worries. Is she okay?"

**Mr. Sullivan** - "Yeah."

**Chairperson Handel** - "Okay. Good."

**Mr. Sullivan** - "I want to personally apologize to each of you, and every voter in Fulton County that this happened during my tenure. This is the worst thing that happened during my 42 years working in Registration and Elections. At one time, Fulton County had an image that Registration and Elections was a tight-run ship and saved a lot of money. We were doing things like designing post card registration cards, having them

presorted in order to save all the postage. In 2002, the Secretary of State adopted my design, and now the voters all over the State and all the counties are saving millions of dollars of postage based on the card that I designed, so I'm real proud of that. Now the image is that Fulton County is the county that throws away records. And that it happened during my tenure, it just makes me very sad, and I wanted to express that. Of course, Madam Chairman remembers that the budget hearings where we would come and plead for additional staff. The Registration Division has the same number of permanent staff that they had in 1964. And so, we are trying to do everything, we have temporary staff. You bring them in, you train them, conduct the election the best you can, and then do it next time. And so, additional permanent staff would be a vast improvement because it could actually make some steps forward."

**Chairperson Handel** - "Thank you. All right."

**Mr. Evans** - "I don't know how you would like to proceed, Madam Chair, but if it's permissible I'd like to just offer a couple of observations that might be helpful, and might not be."

**Chairperson Handel** - "Please. I think that would be great."

**Mr. Evans** - "I think the 120, from my own perspective, is like - I don't think it gets to where we need to get, fully. However, with that said, I'm also very sensitive to the need to move on."

**Chairperson Handel** - "Yep."

**Mr. Evans** - "Which is, we cannot continue to let, you know, past transgressions serve as the perpetual excuse for never making progress. And so in that regard, notwithstanding the fact that I think the number is like -- I think I could support the number, subject however to some modifications. I do believe, for a lot of reasons, Madam Chair, that we should attribute \$5,000 of the civil penalty to the first violation, which is 21-2-213(b), and 215(h). We should attribute \$5,000 to the second violation, which is the 21-2-215(h), and the Georgia Regs 183-16. We should attribute \$5,000 to the third violation, which is also 21-2-215(h), and all of these are on page 5 of 11. I think we should attribute \$5,000 to the violation on page 6 which deals with maintaining and securing complete voter registration cards. And we should attribute \$5,000 to 21-2-236(a). We should attribute \$2,000 to the failure -- the failure to retain absentee ballot applications for a period of 24 months, and

\$1,000 for retaining the voter certificate for at least 24 months. I believe that one thousand would be consistent with a case that we handled some time ago. And then I believe we should impose one dollar per every ballot or application that was discarded, for a total of 92 thousand, so that the total number is \$120 thousand for the civil penalty that would be imposed, so that we have made clear exactly how serious the matter is, and how that there are consequences. On page 7 under the Cease and Desist Order, I think we should 21-2-33.1 to the citation for the Cease and Desist."

**Chairperson Handel** - "Will you give me the cite again, Randy?"

**Mr. Evans** - "21-2-33.1, only because it appears that the Georgia Supreme Court has made clear that for injunctive relief, if issued by an administrative board, we need to have the statutory citation included. I believe that's what they're saying. And then under the compliance requirements, I agree with you, Madam Secretary. I do not believe that we can count on Fulton County to audit itself any more than we can count on AIG to audit itself. And so, I would suggest that we designate part of the remedial fund for the retention of a third party vendor whose job it is to report to Ms. LaGruta and conduct the audits so that indeed we don't tap our staff with doing their job...."

**Chairperson Handel** - "Excellent suggestion."

**Mr. Evans** - "...but we have them be responsible for paying that. Under that same paragraph, by consenting to the order it says that the Fulton County Board (inaudible), I would change that to confirms and certifies that it is fully implemented. And the only reason I'd change it to confirms and certifies is because that will raise the standard by which they get measured should they appear before us again. On page 8, under b, just the language, Mr. Parks, you and I talked about, which is including, but not limited to in-person contact via the Fulton County Sheriff's Office, or such other steps as permitted by law so it addresses your overseas issue, which I think was a valid concern. But I don't want there to be a suggestion in the future that they can retrench from what they're already doing under the guides of reasonable efforts. On c, we do need to get the number."

**Chairperson Handel** - "Yes."

**Mr. Evans** - "I'm worried about that number, and I'll tell you why. If the margin of victory in an election is less than the

number for people for whom we don't have ballots, I worry that becomes a factual predicate for an election contest in the future. I'm open to suggestions about how we foreclose that possibility. I think we may have to do that by rule."

**Mr. Worley** - "If I could object, those people are not voting. You couldn't contest the election because those people didn't show up to vote."

**Mr. Evans** - "Well, it would be if they voted -- if they voted and they were the margin."

**Mr. Worley** - "But they're not voting."

**Mr. Parks** - "But they can vote. They can vote."

**Mr. Evans** - "They can vote."

**Mr. Parks** - "They -- if they vote in person there's no -- it's only if they vote absentee."

**Mr. Worley** - "But they're not voting absentee."

**Mr. Parks** - "Well, they haven't yet."

**Mr. Evans** - "But with all due deference to my learned colleague, the fact that people show up -- nobody ever shows up without the photo ID doesn't affect one or the other. But in any event, on number d on page 8, which is the self-reporting, I would again have the vendor have the responsibility for monitoring. We do need a list. It would strike me, Mr. Parks, that if I were in your shoes I wouldn't want to leave it open as to ambiguity about where election documents in precarious statutory retention period, we should just specify, here's the list of documents. And that way you never get, you know, ambushed by the Board later deciding you should have kept a document, and we never have an expectation that doesn't get met. Madam Secretary, with all due respect, as you know, I have been a vigilant defender of the turf of the State Election Board, but I don't think we have the ability or the resources to monitor this fund. And so, on page 9 under 1, 2, 3, and 4, I would change that to the Secretary of State rather than State Election Board."

**Chairperson Handel** - "Okay."

**Mr. Evans** - "And again, I think this is important here that we have someone outside of Fulton County who's being paid by Fulton

County who reports to your office and assures the compliance and the implementation of the fund, and directs what needs to get done in that regard. On roman --."

**Chairperson Handel** - "Can I ask one question?"

**Mr. Evans** - "Absolutely. That's in all of those as well."

**Chairperson Handel** - "Right. And then, back to the one the outside audit, it only says -- or just in the audit provisions only, it still just says semi-annual audits, but it doesn't give a period of time, and I certainly don't think -- my sense is two years, at a minimum."

**Mr. Evans** - "Absolutely. I think we have to get through the November, 2010 Election. I think the vendor contract should specify that their job is to get us through the cycle. And I would be fine with, you know, using -- whoever we're using to help us with Diebold or our systems...."

**Chairperson Handel** - "Uh-huh (affirmative)."

**Mr. Evans** - "....so that we can kill more than one bird, you know, so that they're, in fact, contributing more value than simply auditing. On number 4 on page 9, at the bottom, I think that remedial fund shall as opposed to will, it's just a legal term. All the lawyers in the room, we can all disagree about whether the State Election Board has the ability to sanction as opposed to impose a civil penalty. To eliminate that dispute, I would just strike, Mr. Ritter, on page 10 at the top. Failure to establish and fund the remedial fund, I would just put will cause the amount of 100 thousand to become immediately payable. And let's just leave out what it is."

**Mr. Ritter** - "Excellent."

**Mr. Parks** - "Our original recommendation."

**Mr. Evans** - "You earned your fee. On page --."

**Chairperson Handel** - "Can I go back to, again, on the remedial fund. If, indeed, we're going to have outside oversight, even if we go with using the election center, I don't know that 100 thousand in the remedial fund will carry through because we're talking about a year-and-a-half."

**Mr. Evans** - "Well, I think they need to put the 100 grand in an account, and then it's gone. It's not their money anymore."

**Chairperson Handel** - "Okay."

**Mr. Evans** - "And if you need to have -- Another option, and it's a really good point, Madam Chair, is you literally could have the hundred paid into a trust fund of the vendor, and just say, we're not going to quibble with the budgeting process in Fulton County, or whatever -- my only point is --."

**Mr. Worley** - "I don't think you can legally do that."

**Chairperson Handel** - "I think he -- I think what he's saying is if there's a contract to do the audit, that they go ahead and get paid."

**Mr. Evans** - "Or you can just have --."

**Chairperson Handel** - "That's what I think."

**Mr. Evans** - "You can do it either way."

**Mr. Worley** - "Well I -- When Mr. Evans is finished, I'd like to discuss that topic."

**Chairperson Handel** - "Okay. Absolutely. Absolutely."

**Mr. Evans** - "And I'm not wedded to -- I'm not wedded, Mr. Worley, to -- these are just -- I think there's a deal -- not a deal, but a remedy here to be fashioned. I'm just trying to see if we can work our way toward it. On number 3 on page 10, I do think the reprimand needs to include all of the charges."

**Chairperson Handel** - "Yep."

**Mr. Evans** - "And I don't think anybody's quibbling really about that, really. On page -- On number 4, the cost, in order to make it clear to other folks out there -- out there, I think I would -- I would divide 4 into two categories. I would divide Sub A into cost -- expenses incurred by the Office of the Secretary of State, and then I would have a second category which are costs incurred by Fulton County which Fulton County has to bear, and put in there the \$468 thousand, plus any expense -- additional amounts incurred today so that it is clear that the total -- the total amount that we're talking about here is, you know, approaching, you know, 700 -- 600 and you know, 68 thousand, almost \$700 thousand. Because I think that a number



that reflects the steps taken in response to our investigation that approaches those kind of numbers, sends the signal of the significance of what we're talking about here in terms of people's private information being discarded rather casually."

**Chairperson Handel** - "Mr. Evans, let me just make sure I'm clear what I wrote down. So what you would like underneath investigative cost, that it would say, basically it would be...."

**Mr. Evans** - "A and B."

**Chairperson Handel** - "...other costs, and then within there, there would be an A, for the Secretary of State's cost, and a B, cost that Fulton County has incurred total...."

**Mr. Evans** - "And must bear."

**Chairperson Handel** - "...including the steps that you've taken so far, and then the legal fees, et cetera. You just want it all detailed?"

**Mr. Evans** - "Exactly. Right. And just say -- And just call that, cost incurred and to be borne by Fulton County so that Fulton County taxpayers know what this has cost them."

**Chairperson Handel** - "Okay. Got it."

**Mr. Evans** - "You know, I don't really understand, candidly, the need for the second sentence of 5. Because to me, the deal is you've got to put the 500 -- you've got to put the hundred in the fund. And so, there's no staying anything. You have 40 days to put the money in, and if you don't put it in in the 40 days, then you owe it and it's immediately due and payable. And I just view the -- I view the second sentence of 5 to be, you know, kind of language that I'd probably put in if I were trying to hedge on a little bit. And then 6, the only thing I would add on 6, Mr. Ritter, is I would put in an express provision that says, this does not, in any way, resolve any other complaint that's pending before the State Election Board. And only because I believe in eliminating ambiguity."

**Mr. Ritter** - "Yes, sir."

**Mr. Evans** - "But Madam Chair, if we made those revisions, I think we could achieve getting to the number, keeping the money in Fulton County for oversight and other supervision. We can

have a vendor whose job it is to create a reporting mechanism to stay abreast of what's happening. We can get the violations -- we can send the signal we need to send, and we can otherwise redress this. I will say this, which is in my best estimate, we have two jobs. One job is a retrospective job which is to impose appropriate civil penalties for past violations. And the violations here are sufficiently significant that I think that the penalty required for these violations has to be substantial. And second, we have a job to deal with it on a prospective basis, which is how do we deal with this on a going forward. I think that an independent third party oversight combined with funding to make sure the oversight gets done without detracting from the resources of your office, but nonetheless responsive to your office, is the best remedy to do that. I don't think I run afoul of any of the boundaries that I understand the counsel, who's done an outstanding job to have kind of created it for getting a deal done, and I know these are after-the-fact refinements, but I think they're consistent with your respective intent. I wouldn't mean to suggest that we should not give Mr. Parks and the other Respondents a moment to consider and reflect on any thoughts we have. I would never want to suggest that we have a cram-down, and as a result, if you wanted to recess for ten minutes to let them talk, I would not have an objection to that. But I did want -- I thought it would be fair to offer whatever observations that might be -- that I might have."

**Chairperson Handel** - "All right. Let me hear from Mr. Worley, and then I think Mr. McIver."

**Mr. Worley** - "Okay. Thank you, Madam Chairwoman. I want to make a couple of just general observations, then deal with some of the specific things that Mr. Evans has raised. First of all, I have the utmost respect for Mr. Strickland, and Ms. Williams, Mr. Westmoreland, Mr. McDougal (phonetic) who's not here, and the other members of the Fulton County Board. I know they do a very -- they do their best to do a very good job. I have a great deal of respect for Ms. Pye, who I know from other observations does a very good job under very difficult funding constraints that have been given to her by Fulton County. And that being said, I do think that this is a very, very serious violation, and that we have to impose an appropriate penalty that not only recognizes the seriousness of that violation, but deters other entities from doing similar actions. So I think the size of the penalty is appropriate. I think the structure is the best result for the taxpayers of Fulton County so that they pay a penalty and recognize that they're paying a penalty, but that it goes back to benefit the actual administration of

Elections in Fulton County. So I like that structure, generally speaking, and I would support that. I would have supported the Consent Order as proposed and presented to the Board, and I want to compliment Mr. Ritter and Mr. Parks for trying to get this resolved, and realizing that anything can happen if it goes to an ALJ. And we could get more money, we could get less money, we could get less benefit for the taxpayers of Fulton County. That's certainly possible if we were not to accept this. So as for some of Mr. Evans' specific points, there -- well, there's sort of two concerns or questions that I have. One, I would like the Secretary of State's Office, and this is not at all a criticism of the Secretary of State's Office. But I would like the Secretary of State's Office to provide, at least the members of the Board, with an itemized breakdown of that \$19 thousand in expenses that the Secretary of State has incurred. I don't have any doubt that those expenses were incurred, but I would like, just for the benefit of the Board's knowledge going forward, for us to know the kinds of expenses that the Board incurs in doing these investigations."

**Chairperson Handel** - "Sure."

**Mr. Worley** - "I think that's helpful to us."

**Ms. LaGrua** - "I don't have it specifically, but I can tell you that those costs were very specific. They were the cost of sort -- the temporary work and oversight of sorting the cards."

**Mr. Worley** - "Okay."

**Ms. LaGrua** - "And I can get that for the Board. There were no additional, that was the only...."

**Mr. Worley** - "That was it?"

**Ms. LaGrua** - "...that was it in this case."

**Mr. Worley** - "Well then that answers my question, and I'm fine with that. As for this idea of hiring a vendor to do the audit, I -- with all respect to the Secretary of State's Office, I think that is one of the functions of the Secretary of State and the Inspector General's Office, and I think it's appropriate for that -- for that to be done by them. And I would hate to see us require Fulton County to hire a vendor to do an audit, and spend an awful lot of money that could be better spent on other things. So I don't really like that idea. But otherwise, I think Mr. Evans points are valid points. As far as recessing for ten minutes and letting Fulton County know, or getting an

answer from Fulton County, I don't think we can really do that because there's a lot involved here, and they're going to have to take it back to the rest of the members of the Board who are not here, and to the Commission who only has their lawyer here, to be able to sign on the dotted line. We already have a hearing scheduled for April 1st that Fulton County is going to be appearing at, and I would suggest that if they're amendable to most of Mr. Evans changes, which I think they are, that they would get a final document and bring it back to us on April 1st, which is only two weeks away."

**Chairperson Handel** - "Can I just add one thing?"

**Mr. Worley** - "Sure."

**Chairperson Handel** - "Mr. Worley, on the idea of an outside -- I don't want to call it vendor, but outside expert doing it, typically, when our office has done any type of, quote, audit or oversight, on an ongoing basis of a county or a city, it's been extremely limited and defined in scope. And this would be actually coming in and auditing, pretty much, broadly all the operations which, I mean, that's going to be pretty much a full time slot for someone, and I don't have an individual on the team that can do that. I don't have the ability to hire a person to do that under -- in the current scheme. So just so you kind of know that."

**Mr. Worley** - "Okay. Sure. I appreciate that."

**Chairperson Handel** - "Yes. Thank you."

**Mr. McIver** - "Thank you, Madam Chair. I would also like to thank Mr. Evans for addressing my point about the role of the SEB in this process. Again, my position is this is a Fulton County issue and should be dealt with by Fulton County. I have the trust in these individuals, and I've already spoken on that point so I won't belay or infer this. So my position is going to be that the Secretary of State's Office, the SEB, and others outside the County not be involved, and that we administer a classic remedy here and allow them every opportunity with all the resources they need to fix the problem. Again, with my continuing admonition if they come back again with a problem that's not fixed, then I think we're looking at something beyond ugly. Although, I would offer by a spirit of bringing resolution to the matter, because Mr. Evans is right, this point has got to get closed, they've got to get back to work, we have many other cases we need to work on."

**Chairperson Handel** - "Yes."

**Mr. McIver** - "I would offer that when there's a reference in the Consent Order to the Secretary of State, that we would add the word, or her designee, allowing her to choose how that would be done, either internally or externally. I'm comfortable with either one, although it's still my belief that it's a Fulton County issue. But -- so I would offer that as, at this point, at least, an informal amendment to the suggestions made by Mr. Evans."

**Chairperson Handel** - "All right. And Mr. Evans, if I could ask one more clarification. For the quote and remedial fund, if what you've laid out is that fund is specifically for this audit oversight role, and then there would be reports, and then Fulton County would then have to deal with it on their side of whether they're going to implement or not implement versus us saying, okay, out of the fund pay X, Y, or Z."

**Mr. Evans** - "That's right."

**Chairperson Handel** - "Okay. All right. So it would be for the audit oversight."

**Mr. Evans** - "It would."

**Chairperson Handel** - "Okay. All right. Mr. Israel, did you have anything else? Any questions? You're good."

**Mr. Israel** - "Thank you."

**Chairperson Handel** - "All right. So do we -- I know that Mr. McIver, I think, has a flight. I don't know, do we need a motion to direct you if there's a sense of the Board about this, or do you have something that you want to add, Mr. Parks?"

**Mr. Parks** - "I just have two issues."

**Chairperson Handel** - "Sure."

**Mr. Parks** - "I wasn't able to take all the notes, maybe you've made notes and can give them -- there's two things that I think were systemic that I was concerned about. One is, that I'm not going to have any energy at the Commission level to hire someone to spend \$100 thousand on an audit. If I heard you on that, if it's a consultant that's going to come in for five or \$10

thousand and tell you what we need to do to upgrade the office, I think that makes sense. Again, you don't want that responsibility. So I wasn't sure what the audit, if it's the latter, someone who's going to come in and say, here's where you are, here's what you need, that's a fine expenditure of money. That's a consultant that has expertise, and you can pick that person. And then the vast amount of the funds can go to the betterment of the office. That's the energy I have with the Commission, and I need to keep that spirit alive. The second is, the language of the civil penalty was carefully crafted, principally by Mr. Ritter, because to leave it just at \$120 thousand civil penalty takes us right in the cross hairs of some citizen lawsuit saying you can't use that money the way you're using it. So the --."

**Mr. Worley** - "You mean the Fulton County taxpayer citizen lawsuit."

**Mr. Parks** - "Yes. We looked at it, there's risk -- if it's a civil penalty you're not -- there's a statute where that money goes, so it may be inartful, but we need to work on language that creates a rational reason for moving \$100 thousand back into the remedial fund. I'm not here to say that this language is the only language, it was Mr. Ritter's language, I'm fine with, but just leaving it with just the one sentence, Mr. Evans, I think creates a potential problem, and we have the ability to be prophylactic about that now, and it makes sense to do that because we all understand by that first sentence that -- that in the opinion of the SEB, without contest from Fulton County, the case couldn't have merited that size of a civil penalty. So you think that you've gotten where you need to be, but now give us the chance to counteract some taxpayer citizen lawsuit contesting the way that we're excising \$100 thousand out of that to improve the department. So those are my two suggestions."

**Mr. Evans** - "Well I'll defer to the two of you, however, I think you're actually cleaner if you use the language on E on page 8, than you are if you use the language at the bottom of page 10 to do that."

**Mr. Parks** - "We can clean it up."

**Mr. Evans** - "And as far as the hundred, my perspective on the hundred is either, Fulton County is in fact saying, we'll give you a hundred in name only, but we're going to decide how to spend it, in which case I don't have an appetite."

**Mr. Parks** - "No, no."

**Mr. Evans** - "Or the other option is, okay, the hundred is gone, you guys figure out how to do it. And I'm fine with -- with, you know, some part of that hundred being a contract with a consultant, and then, you know, the balance of that amount being based on the recommendations that the consultant gives us prioritized, and then you can decide how much, you know, how far down the priority list to go. I suspect it's like every other consultant, they'll give you 250 thousand of expenditures, of which you're only going to fund the first hundred."

**Mr. Parks** - "I'm only reminded of the time that we hired a consultant to help us buy our law firm computers, and when the consultant was finished we didn't have enough money to buy the computers."

**Chairperson Handel** - "Well, anybody at Fulton County will tell you that I'm not big on spending lots and lots of money on consultants, so --."

**Mr. Evans** - "But I do believe that --."

**Mr. Parks** - "And I don't know what that would be because I'm not familiar with this, but as long as the great bulk of the money was going to implement the consultant's recommendation, I think you and I are on the same page."

**Mr. Evans** - "The only part I would add is that I would expect there to be continuous oversight by the consultant, which is all these self-reportings would, in fact, be the consultant."

**Mr. Parks** - "I think that -- I guess that's what we have to worry about. What point, because my energy at the Commission level is it's going to not just do what they think an employer is supposed to be doing, but capital expenditures that improve elections."

**Mr. Evans** - "Where we are is, and like Mr. McIver, I have the greatest respect in the world for all of the folks in Fulton County is, we want, basically, a private police force whose job is to assure compliance. And we can't take all of the resources of the State and devote to one of our 159 counties. We have one county who's got a problem. They're not going to be called upon to fund the oversight policing function for assuring their compliance. And to be candid, if they comply, they have nothing. It'll be great. They'll get an A+ on their report card."

**Mr. Parks** - "It's not a question of adhering, it's a question of cost."

**Mr. Evans** - "I understand. And whatever -- I'm prepared that whatever the cost is to assure Fulton voters that in fact everything is being done according to the book, is to me, a cost that should be a part of this remedy."

**Mr. Ritter** - "Right. That's absolutely consistent with the way it's crafted. Now we can improve that. We can improve that in the language."

**Mr. Evans** - "And I would defer you to basically the -- we do take a transcript here, so in terms of the notations that were made in the agreement, you can just -- probably your best bet is just get it from the transcript."

**Mr. Ritter** - "Exactly."

**Chairperson Handel** - "And Mr. Evans, I just want to make sure that everybody's clear. You laid out a series of specific civil penalties for violations, plus a dollar for each card thrown out, which was \$120 thousand in civil penalties, plus the \$100 thousand into the remedial fund."

**Mr. Evans** - "No. The 120...."

**Chairperson Handel** - "Is the remedial fund."

**Mr. Evans** - "...is part of the -- well, the 100 consists of 20 thousand payable to the State, and 100 thousand payable either to a consultant --."

**Chairperson Handel** - "I just want to make sure we're all fine. Okay."

**Mr. Evans** - "And then I would --."

**Mr. Parks** - "We can't -- Our purchasing laws won't allow us to do that. We just can't pay it over to the consultant and let him decide how we're going to spend the capital, or not."

**Mr. Evans** - "No, no. I didn't mean to suggest that the consultant would hold a trust fund."

**Mr. Parks** - "Okay. I misunderstood you."



**Mr. Evans** - "No, what I understood was that the consultant may, in fact, get you to sign, you know, a 500-day contract, whatever how many days it is between now and the election day of '06 -- or '12 -- '10. Ten -- 2010."

**Mr. Parks** - "It's a 12-month fund."

**Mr. Evans** - "Right."

**Mr. Parks** - "Yeah. That's fine."

**Mr. Sullivan** - "Madam Chair, the last time we had a consultant study the Elections Office, the bids were \$135 thousand up to about \$600 thousand. I don't believe we have enough money to hire a consultant."

**Chairperson Handel** - "Yes. And as I recall, with all due respect, Mr. Sullivan, virtually none of the recommendations were implemented because the Board refused to implement them. And it was a huge bone of contention with the Board of Commissioners, in particular, this member of the Board who was extraordinarily distressed. I believe that y'all wanted to sue the Board of Commissioners and -- if I remember, it's one of the several times that Commissioner Darnell and I were all on the same page. So maybe one of the starting points will be that we will pull that audit and take a look at that and determine all the things that were not implemented from that one, that the Board of Elections and Registrations refused to implement."

**Mr. Evans** - "The only other thing that I would add is, just so that there's no -- so you don't think you're Don Quixote tilting in a windmill. Subject to the description that I outlined, that would be a proposal that I would vote, yes, for, that the motion were before the Board."

**Chairperson Handel** - "Do you need a motion on all of this, or are you clear on what you need, and then we'll come back with the revised Consent Order with all of this and take a formal vote on the first?"

**Mr. Ritter** - "I think the best thing to do is to do the latter. I don't think that -- I mean, it would be great to have a pre-vote, but I think that it would be best --."

**Chairperson Handel** - "That would be perfect, as long as you know kind of the direction we're going."

**Mr. Ritter** - "We do, and we'll present it. And should it not be approved at that time, we'll have a very short period to prepare for a hearing, but we will -- thank you."

**Chairperson Handel** - "All right. Do I have a motion?"

**Mr. Evans** - "So moved."

**Chairperson Handel** - "Motion to adjourn."

**Mr. Israel** - "Second."

**Chairperson Handel** - "Got a second, all in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Thanks, y'all."

(Whereupon, the meeting adjourned at 4:37 p.m.)

**STATE ELECTION BOARD MEETING  
2 Martin Luther King Jr., Dr., Ste. 512  
Atlanta, Georgia 30334  
Wednesday, January 21st, 2009  
10:00 a.m.**

(Whereupon, the meeting started at 10:00 a.m.)

**Chairperson Handel** - "All righty. I think we're right at ten o'clock, so I'm going to go ahead and call us to order. Thanks everybody, for being here. And first thing we'll do is have roll call. Tex McIver."

**Mr. Tex McIver** - "Here."

**Chairperson Handel** - "David Worley."

**Mr. Worley** - "Here."

**Chairperson Handel** - "Randy Evans."

**Mr. Randy Evans** - "Here."

**Chairperson Handel** - "Karen -- I'm here. And I know Jeff Israel did say he would be here, so I'm sure he's on his way. Next we'll do the invocation and Pledge of Allegiance, and Tex, if you wouldn't mind doing our invocation. Please stand."

(Whereupon, Mr. Tex McIver gave the invocation, immediately followed by the Pledge of Allegiance.)

**Chairperson Handel** - "First I'm going to ask for -- is everybody all right with the Agenda for today? Okay. Minutes? Mr. Worley, I know you wanted to add something to the minutes."

**Mr. Worley** - "Yes. In relation to the minutes of Wednesday, September 24th, that meeting. On page five."

**Chairperson Handel** - "Five."

**Mr. Worley** - "Just before the discussion of the City of Arlington matter there is a description of a discussion that was had about a recusal issue. And there's a sentence that says, Mr. Worley stated the letter was on behalf of the Obama campaign and made no threat to sue the State Election Board, but rather it raises an issue relating to the internal administration of the Secretary of State's Office. I think in order to fully explain my point we should add the phrase, and because the State Election Board does not supervise the Secretary of State's Office, there is no conflict. That is my position, and so I would move that we adopt the minutes with that condition."

**Chairperson Handel** - "Any other changes, colleagues? Do I have a motion?"

**Mr. McIver** - "So move as amended."

**Mr. Worley** - "Second."

**Chairperson Handel** - "A motion and second, all in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed?"

**Mr. Evans** - "No."

**Chairperson Handel** - "All right. The next item on our Agenda is our Public Comment, and it looks like we have five speakers. So if I can have folks come a little forward, the first speaker is Garland Favorito. And I see that the next speaker, Ms. Frieda Smith, wants to defer her time to Mr. Favorito, and I'm going to ask my colleagues if they're amenable to that. Is everyone okay? All right. Mr. Favorito, four minutes. Come on up to the microphone so we can hear you, and -- it's probably easier, folks, if you come around this way so you don't trip. State your name and address for the record, that would be great."

**Mr. Garland Favorito** - "I'm Garland Favorito at (inaudible) in Roswell, Georgia. And first of all I'd like to thank the Board. I think over the past couple of years I've heard each of you make some comments concerning electronic voting, and unverifiable capability here in Georgia. I just wanted to bring a few things to your -- to the Board's attention very quickly. The first one is that the only -- Georgia, as entering the 2010 Election, we're the only State in the Union that is going to attempt to continue to vote on unverifiable voting equipment statewide. The only other state that has tried this is Maryland. They have recently voted to throw all their similar type of AccuVote-TS equipment out of the state, and gone back to, I think, to the optical scan. They have filed an eight-and-a-half million dollar lawsuit against Diebold. Similar things have happened in other states. California just certified them three times and got a two-and-a-half-million dollar judgment. And in Ohio, they filed punitive damages after a critical programming error that can cause votes to drop while they electronically transfer from the memory cards to the central tallying point. That was commissioned by a Diebold press

secretary who formally worked in Georgia. As most of you know, I wanted to just quickly bring a few points to your attention from a voting rights lawsuit to be something very critical, and I'm putting it together in a letter for you. And also some computational references. What we believe we found out is that in overwhelming trends is that these systems work, how it can certify and procure illegally. There was a law that required them to have an independent audit trail of each vote cast. At that time, the State has admitted what we all know, these machines do not have an independent audit trail of each vote cast. I'd also like to bring to the Board's attention that the professor conducted the evaluation and has admitted under oath that votes can be flipped between candidates and erased without protection. And that the candidate database totals can be fraudulently manipulated in any race without protection. This is all because of a lack of the independent audit trail. We also believe that there's overwhelming evidence, which we're going to provide to the Board, that these voting systems were improperly certified and illegally patched back in 2001, and there's no such documentation on the files. And the professor has also admitted, under oath, that the machines were, in fact, patched in 2002 and they would not recertified as the law required. December 3, 2002, a letter from the Secretary of State's Office, back then, stating they're still awaiting for the certification from the vendor, and confirmation one month after the election was conducted. So I just wanted to bring this to your attention. I've got letters -- I've got for each of you letters, and I would also like to point out just a couple of things, in closing, that we've heard a lot of excuses over the years for not doing anything about these machines in spite of the fact that we're now ranked last in the Country in terms of reliability of equipment and verifiable recounting errors. That's according to a study that was done in 2004, which is two years out. We spent \$54 million of taxpayer money on machines which, I believe, were obsolete at the time of purchase. So the question here is, in order to concur with -- in closing on that, we can't do anything for a variety of reasons. First of all there's no report of fraud. Well, fraud is not detected. That's the whole issue of voting rights. We've heard that there is a lack of funds, and everybody knows there's a budget crunch right now, however, it is possible to go back to optical scan equipment to have what we spent on these machines, and that would save the State about five million dollars per two-year election cycle in testing, training certification and logistical cause, because you only have to have one counter in each precinct versus two to twenty machines that have to be tested

and certified. Finally, per federal regulations, we can't do that, but I think as everybody here knows, there's never going to be a federal regulation that prevents us from having an audited voting here in Georgia. So again, I thank you for your time and your patience, and I'm going to leave you with these letters. I've requested that the record -- to see if there's anything that the Board can possibly do about this. And again, we -- I continue to pursue this with the courts, however, we have not gotten a ruling yet -- a written ruling based on the facts and evidence that have been presented. So thank you, once again."

**Chairperson Handel** - "All right. Thank you. I think Mr. McIver has a question."

**Mr. McIver** - "Mr. Favorito, thank you for coming back to assist with our journey in this area. I can't help but notice that you have a tag, or a name badge of sorts on the lapel of your jacket."

**Mr. Favorito** - "Yes."

**Mr. McIver** - "Are you here representing yourself or are you speaking on behalf of a group?"

**Mr. Favorito** - "I'm speaking on behalf of a group called Voter GA. It's a voter organized to trust election results in Georgia. Which is -- that's a non-partisan -- bi-partisan group of individuals that are all over the political spectrum, and all believe that regardless of political differences, that we need to have elections that can be verified and audited. And that comes before we can even discuss politics. "

**Chairperson Handel** - "Okay. Thank you. All right. Our next is speaker is David Chastain."

**Mr. David Chastain** - "Good morning."

**Chairperson Handel** - "Good morning."

**Mr. Chastain** - "Thank you very much for the privilege to speak to you folks. My name is David Chastain. I'm resident of Acworth, Georgia, and live at 4771 Nandino Court. What I just passed out to the Board was a certification of a voting referendum that was held in Cobb County back in 2005. Those of you who are familiar with Cobb County, we love a good debate."

We enjoy going out and trying to weigh all the issues. So this particular referendum had to do with a \$1.4 billion capital improvement campaign. One side felt it important enough to invest over \$350 thousand in the campaign. The other side was able to invest about a thousand dollars, mostly like-kind contributions and some ROBO (phonetic) calls. On the evening of the referendum, the votes are being cast, Cobb County Channel 23 was showing the returns, and all of a sudden the returns stopped. The best we could put together, everybody that knew somebody was pulling out their cell phones making phone calls. Apparently there was a problem with modem data catcher-something. We let that go. We understood that electronic voting was relatively new, and then the next day -- well, several days later after the certification, that I've handed you, shows share and done certification where we had 40 thousand and 65 ballots cast in this referendum. And of that, 19 thousand 947 showed voting yes, 19 thousand 833 show no, so the margin passed by 114. However, there were 285 blank ballots, and let me remind you that this is a referendum where there is only one question. Yes or no. So based on what I see, 285 people, people who are willing to vote who, at that time, had to show their I.D., to stand in line for a few minutes. These people went into the -- went to vote, and after standing in line and spending the money on gas, decided I really don't care which way or the other, I just want to make sure that the people know that I showed up, which I've been told that's the reason for not casting a ballot, yes or no. So I want to submit this because when I asked the Cobb Board of Elections, via email, to give us an explanation, they really didn't have one. So what it boils down to is if you 285 blank ballots after a referendum where you're going to cause the taxpayers to invest \$1.4 billion, the local Board of Elections cannot tell you why they were blank. So the question is, do we have honest elections in Georgia? And given the evidence I see from my personal experience, I would have to honestly answer I honestly don't know. Thank you for your time."

**Chairperson Handel** - "Thank you. The next speaker is -- I'm having trouble reading the last name. Is it Gunther Ruck? And I think the last speaker is Bill Bozarth, so wherever Bill is if you want to kind of make your way up. I'm sorry, sir. Tell me, how do you pronounce your last name?"

**Mr. Gunther Ruckl** - "My last name is Ruckl."

**Chairperson Handel** - "Ruckl."



**Mr. Ruckl** - "There is an L after the K."

**Chairperson Handel** - "Thank you."

**Mr. Ruckl** - "R-U-C-K-L (spelling)."

**Chairperson Handel** - "Got it. Thank you."

**Mr. Ruckl** - "Director Tailor, your Board, my name is Gunther Ruckl. I'm a physician, I'm a pediatrician living at 14145 Piedmont Drive in Decatur. I remember, in the meantime, a couple of years where I met with a handful of people at Cathy Cox's office discussing transparency and trustworthiness of the Georgia Election System. Much earlier, as the issue became a national issue and has found entry into the newspapers. When I look back and see how far we have come into -- I must say very little has changed. Very little has changed. And I'm honestly baffled that arguments that are truly clear and obvious, and those who understand a little bit about computers had to understand that our system just doesn't deserve the trustworthiness that most of our systems are assigned to our election system. I'm disappointed that the citizens of Georgia are not more educated or interested in this issue because this is a fundamental democratic issue. Having grown up in Europe, we are even today, in many countries, vote the old fashioned way with piece of paper, pencil, and a circle, you know, and this ballot is the ballot of evidence deposited and audited. In my personal opinion, that's the only way to do it. So, you know, I have come here because this is very close to my heart. This is part of the foundation of our democracy, and I really appeal to you, and I beg you to pay greatest attention to it. Thank you very much."

**Chairperson Handel** - "Thank you very much. Mr. Bozarth."

**Mr. Bill Bozarth** - "I passed the test of being slim enough to get by the screen in order to make my appearance."

**Chairperson Handel** - "Sure. Right."

**Mr. Bozarth** - "Thank you for the ability to speak to you this morning. And I know my predecessors all had some concerns about the election. I wanted to just comment to you, Madam Secretary, and to the members of the Election Board, a common cause that I represent was active this year very much in the election process

in the November 2008 Election. I personally, as well as the organization, were aligned with an umbrella group Election Protection, which was really concerned with making sure that everybody that could vote on Election Day, that was entitled to vote and was able to vote, we would want many organizations, as you know, watching the election process. The Republican Party and the Democratic Party had their soldiers out making sure their interests were known. There were a number of other non-partisan groups watching the election, in addition of course, to the resources that your organization puts in place to help. It was educational to get some of those calls. I was on the phone bank, and so many of the stories about people that really probably should have been able to vote and couldn't were always regrettable. But I would offer up that I think you deserve a real vote of confidence here in the State. Your office, the actions of this Board, and the election community, in general, I think, did a good job on Election Day. You deserve credit for that. As I say, any instance of someone's vote not being able to cast a vote is regrettable. I always distinguish between excellence and perfection. We strive for perfection, but excellence is a goal that we continue. Let me just sort of say, there's a couple of things that came out of that that I would like to recommend you consider. First of all, I know there's some discussion of whether early voting, as we implemented in November of 2008, was a good thing or not, and are discussions in General Assembly about rolling that back. You, Madam Secretary, I think had taken the public position that early voting was, in general, a good thing and we want to leave it that way. I would encourage us to do that. Over half the people that cast their votes in November, I think we all know, cast them early either by absentee or in person early voting. And the fact that we got that many more people out, because this process is very encouraging, I think, only 60 percent of what we call the active registered voters voted in Georgia. And I say only 60 percent, that was the highest its been in a number of years. But when you considered that over half of the people who could register to vote, don't, and only 60 percent of those who are active turning out, we still have a minority of those who could vote making decisions in our election. So any ability to get more people out is a good thing. I think we could be encouraged to do that. In terms of tuning that process, one of the things that I observed was that there were long lines in many cases. I believe as a restriction, as I understand it, that in early voting you can't use a non-governmental location to conduct the early voting. And some prudent flexibility around that probably is in order to consider the next time

around. In addition, voting on Saturday or Sunday, even if you had to say don't come in on Tuesday or Wednesday, but come in on the weekend, we can make that process available to more people. That would be a good thing to consider. One thing that I discovered when I was trying to help people on the phone is that people who think they've registered but don't show up in the registered voters' database, there was no way for organizations, like my help organization, to tell that person where their voting location was so they could go there and cast a provisional ballot. You're online help, I believe, only let's you know where you vote if you put in your name and date of birth. If there's a way to put in a zip code and find the voting location, that would certainly help organizations like I was working with on Election Day. So those are some practical suggestions that have come out of my own experience. But again, let me close by saying that -- I want to say that slight concerns of my predecessors, some of which I share and certainly any departure from normal processes, need to be looked into. The election in Georgia in 2008 went well, and I commend you for that."

**Chairperson Handel** - "Thank you very much. Thank you. I have three more cards, folks, so if anybody else wants to speak during the Public Comment period, this is your last chance, and then we're moving on into the meeting. So these are individuals who speak normally, so you know when you get here you're supposed to fill out the card. All right. Now we have three people who want to give all their time to one person. And I mean, that's really -- frankly, folks, I'll yield to my colleagues, but now we have a person who's going to speak for ten minutes."

**Mr. Evans** - "Madam Chair, I think the way that we've handled that in the past is the Board will act upon a request to yield on a request-by-request basis."

**Chairperson Handel** - "Okay."

**Mr. Evans** - "And generally, we've never permitted one speaker to get more than one additional four-minute slot."

**Mr. Davis** - "That would be satisfactory. Quite frankly, I don't need that I need eight minutes."

**Chairperson Handel** - "All right."

**Mr. Evans** - "So in that regard, I would -- if there's a particular request we can just take it up."

**Chairperson Handel** - "Perfect. Good suggestion. All right. Let me see if I can get to the person who wants to do the speaking. Ricardo Davis is the individual who wants to do the speaking."

**Mr. Evans** - "I would move that we would -- how many people are going to yield to him?"

**Chairperson Handel** - "Three."

**Mr. Evans** - "So I would move that we would grant him one yield."

**Mr. Davis** - "So a total of four minutes."

**Chairperson Handel** - "Four minutes. Correct."

**Mr. Worley** - "I'll second that."

**Chairperson Handel** - "All right. All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Okay, Mr. Davis. Four minutes."

**Mr. Davis** - "Thank you very much."

**Chairperson Handel** - "You're welcome. Good to see you."

**Mr. Davis** - "Well, likewise. I'm going to echo the previous gentleman's sentiments regarding the process of the election, that all-in-all given a lot of the challenges that we had this time around, it could have been a whole lot worse. And I really do commend, in particular Madam Secretary, your perseverance on the Voter ID issue, and ensuring that we have -- we verify that individuals that are actually showing up to the poll actually are valid electors. I have here a cover letter addressed to Wesley Tailor, and I'm going to read that letter since its not very long. And this letter represents many requesting that you open a case with the State Election Board with the dilemma regarding the recording of votes for qualified write-in candidate, Chuck Baldwin, during the November 4th, 2008 Election. On November 17th, I petitioned Secretary Handel on behalf of Dr. Baldwin, per the particular election statute, to

re-canvass the county to correct discrepancies between the certified returns from some of the counties around the State, and the official results posted by the Secretary of State on the website. And I've included those results in the information I provided. I'm sorry, I didn't have enough copies for everyone. Dr. Baldwin and his supporters in Georgia believe that the State Election Board should review the circumstances behind his petition request, and the remaining discrepancies between the County and State officials hold corrected. As noted in the petition, we're concerned about several points. The first being, a two thousand vote difference between the official results on the 13th and the official results on the 14th. The second concern is the discrepancies that remain between some of the County's official results, and the latest State official results that were posted on the Secretary of State's Elections Division website. I included in your packet the official certification results for write-in candidates from Gwinnett County, which showed that Chuck Baldwin received 100 votes, but yet, still, the official results on the Secretary of State's Election Division website dated December 8th, and that's current, shows that Chuck Baldwin only received 14 votes. A third point of concern we wish to bring to the attention of the State Election Board is that the number of counties we canvassed did not provide their results on the appropriate form. Other counties didn't certify their write-in elections until basically the date that we requested the petition. And still, others didn't even respond to our candidates. Given that, Madam Secretary, you have a deadline to meet of the 19th for the Election, it concerns us that when we tried to find out information, we couldn't get a response back from a number of counties. So given these concerns, we're asking the State Board of Elections to, number one, verify that the Elections Division received the certification of returns for write-in candidates in every county in a timely manner, and to obtain a certified copy of each County's result. Number two, to certify that all elections or certification of returns for write-in candidates are reviewed and instruct the Elections Division to correct any errors and omissions. And should -- in the Board's view, the current Election Law and Policies present a challenge to correct a timely reporting of qualified write-in votes that the Board would recommend to the State Legislature, a change in the law to leverage our investment in automated tabulation equipment to review -- so I have and, it should be to reduce human error by modifying the particular statute that increased the probability of an independent or political bodied candidate become ballot qualified in line with some of the procedures in the other

States of the Union. It is our desire to see that, and ensure, that the laws and regulations in this matter of faithfully administered, and I am willing to assist the Board with the resolution of this matter. And I include, again, the enclosures from Gwinnett County, as well as the petition to re-canvass that we resent on the 17th, and then the results from the 13th of November, the 14th of November, and the 8th of December."

**Chairperson Handel** - "All right. Thank you. I will tell you, Mr. Davis, I don't think that the office received anything, but now that we have all this, and certainly, Inspector General LaGrua will consider this a complaint, and she will look into it."

**Mr. Davis** - "Thank you very much."

**Chairperson Handel** - "Any other questions? All right. Thank you. All righty. Let's see, our first case today is 2007-000022, Fannin County."

**Ms. Shawn LaGrua** - "Madam Chair, members of the Board, good morning. As you may recall, this was on the last calendar. Unfortunately, Ms. Collins is ill and is undergoing severe serious procedures today and is unable to here. However, I have communicated with her Attorney, Lynn Doss. It is my understanding, and I'll let Ms. Almond take it from here. It's my understanding there was concern at the last meeting that there was a conflict with the proposed Consent Order, potentially with the law. The Attorney General's Office has reviewed that, and they do not see a conflict, as I understand it. I'll let Ms. Almond address it if the Board is inclined. The Consent Order has been signed, and with the representation of Ms. Doss, they are ready to move forward."

**Chairperson Handel** - "Ms. Almond."

**Ms. Calandra Almond** - "Ms. Collins, if you'll recall, had attended an open --."

**Chairperson Handel** - "I'm sorry. Do you have copies of the Consent for us? I don't think we have that in our packets."

**Ms. LaGrua** - "I have the original."

**Chairperson Handel** - "Okay. Can we just let everybody take a look at it? That would be great. I'll start down here with

Randy so y'all can take a look at it. Thank you. Go ahead, I'm sorry. You might want to pull that microphone down. There you go."

**Ms. Almond** - "Yes. She attended -- she's a Deputy Registrar. She attended a community meeting to discuss a liquor sales referendum. At the request of the organizers of the meeting, she attended in her official capacity, and dropped off some voter registration forms. If read expansively, this could constitute an additional registration place under the Code which will require publication of the registration place in the newspaper and radio, which she didn't do. So she's acknowledged that this is a violation, and she's agreed to cease and desist from doing this, agreed to a public reprimand, and to attend training."

**Chairperson Handel** - "All right. Any questions, colleagues? All right. Do we have a motion on the Consent Order?"

**Mr. Evans** - "So moved."

**Mr. McIver** - "Second."

**Chairperson Handel** - "I've got a motion and a second, all in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "None opposed. All right. Thank you. The next case is 2007-000028, City of Greenville."

**Ms. LaGrua** - "Madam Chair, as you may recall, members of the Board, this case has been on, I think this is the fourth time, if not more, it's been on the calendar. The Complainant is Johnnie Owens, the Elections Superintendent, and Esther Johnston, Elector. The Respondents, at the last meeting, were Johnnie Owens, the Elections Superintendent, Ann Moreland, Poll Manager, JoeAnn Bray an Elector, Kim Bray an Elector, Linda Caldwell, Elector, and the City of Greenville -- the Board asked that we add the City of Greenville as Respondents in this case. I can go re-go over the facts if the Board needs, but I will tell you that as soon as we notified the City of Greenville that they had been added as a Respondent in this case, I received communication from Ted Meeker, who is currently representing the City of Greenville, indicating to me that he wanted to work with our office and the Attorney General's Office to immediately

resolve this matter. I don't want to speak too much for Mr. Meeker because he is here, but it is my understanding he would ask that the case go ahead and be forwarded to the Attorney General's Office for as quick a resolution as we can. I will let the Board also know that Mr. Radford -- James Radford is here this morning on behalf of Johnnie Owens. I see Mr. Meeker has already stood, Madam Chair, and is ready to address the Board."

**Chairperson Handel** - "Mr. Meeker, and then Mr. Radford. Where is Mr. Radford? Did you want to address the Board?"

**Mr. Meeker** - "Yes, ma'am."

**Chairperson Handel** - "Okay. Why don't you come on up -- come up around this way if you wouldn't mind. I just worry about people tripping there. And folks, if you've got a case, when it's called -- we put some chairs up front, so you can go ahead and come on up and get in the chairs, and that way you don't have to -- again, I'm worried about somebody tripping over those wires over there. Mr. Meeker."

**Mr. Meeker** - "Madam Chair, Board members, Ms. LaGrua accurately captured our conversations regarding this matter."

**Chairperson Handel** - "And if you'll just state for us, your name and who you're representing so we have it for the record."

**Mr. Meeker** - "Yes, ma'am. My name is Ted Meeker. I'm here this morning on behalf of the City of Greenville. As I told Ms. LaGrua, I was appointed as Greenville City Attorney back in August of last year. While I may be new to Greenville, my understanding is that Greenville is not new to this Board. I've had a number of discussions with Ms. LaGrua. We want to actively work to, not only resolve this matter, but also take the necessary steps to where we don't have to come back. So that's our goal in this matter."

**Chairperson Handel** - "All right. Thank you."

**Mr. James Radford** - "Ladies and gentlemen of the Board, Madam Secretary, my name is James Radford. I'm with the firm Parks, Chesin and Walbert. We represent Ms. Johnnie May Owens, who was the --."



**Chairperson Handel** - "A little bit closer to the mic. Thank you."

**Mr. Radford** - "Our firm represents Ms. Johnnie May Owens who was the Elections Superintendent in this matter. In a related employment matter regarding her former employment as the City Clerk of the City of Greenville, and originally the City had appointed Ms. Gina Compton."

**Chairperson Handel** - "If I can stop you for one second. The employment situation would not be at all relevant before this body."

**Mr. Radford** - "No, ma'am."

**Chairperson Handel** - "I just wanted to make sure."

**Mr. Radford** - "I only relate that to sort of explain as to why I'm here. Originally, the City had appointed Ms. Gina Compton, who is the former City Attorney, to represent Ms. Owens' individual interest in this matter. Because of the litigation between Ms. Owens and the City, in which we represent Ms. Owens, there is a conflict of interest, so the City Council for the City did not represent Ms. Owens in this matter."

**Chairperson Handel** - "So are you representing Ms. Owens now in this matter?"

**Mr. Radford** - "Yes, ma'am. Yes, ma'am. I'm sorry for the confusion."

**Chairperson Handel** - "That's okay. Just making sure we're all on the same page."

**Mr. Radford** - "I'm here, basically, just to represent Ms. Owens' individual interests in this matter, and I've spoken with Ted Meeker and I think we are in agreement that the -- if there is a fine to be imposed in accordance with the Consent Order in this case, it would be a fine that would be -- the City would be liable for rather than Ms. Owens in her individual capacity. I think that Ted and the City are amenable to this. At the time, Ms. Owens has acknowledged that she made some mistakes during this contentious election in her capacity as the Election Superintendent, however, it's important for the Board to understand that Ms. Owens was acting on behalf of the City in a manner that she thought was her duty, that she really did not believe that she had a choice whether to serve as the Election

Superintendent in this election, and she -- in many instances sought the advising counsel of other more experienced election superintendents and the Secretary of State's Office when she had questions that arose. Many of these questions and controversies are now the subject of this matter. So I would just ask, and I think the City is in line with this, that Ms. Owens not be personally made liable -- made personally liable for any fines. And I would certainly be willing to answer any questions that the Board may have."

**Chairperson Handel** - "All right. Thank you. Any questions, colleagues? All righty. Do I have a motion? Is everyone -- oh, I didn't think there was anyone else. Anyone else on this? Did you want to speak on this matter? And again, folks, if you have a case that you want to speak on, if you'll come up so that I'll make sure that I see everybody and I don't miss you. And if it looks like I'm missing you, just wave your hands at me. All right. Do we have a motion on this?"

**Mr. Evans** - "Madam Chair, I would move that we refer it over, and I would note these are serious -- this is pretty serious allegations and violations. When we involve fraudulent certificates and private recounts, et cetera. And so, in the context of what the AG note, I request that fines either be, or not be, imposed. I think that'll be up to the Board. So I would move we refer it all over."

**Mr. Worley** - "I would second that."

**Chairperson Handel** - "There's a motion and a second. And that was on a very good point, Mr. Evans. Thank you for making that about the differences between the City, as well as well as the individual issues here. Do you have a question, Mr. McIver?"

**Mr. McIver** - "No."

**Chairperson Handel** - "All right. I have a motion and a second to refer it to the Attorney -- to the AG's Office. Any other questions or comments? All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "That was unanimous. Thank you. Our next case is 2008-000035, Paulding County."

**Ms. LaGrua** - "Madam Chair, members of the Board, this case involves the July 15th, 2008 Primary in Paulding County. The Complainant in this case was Ms. Diedre Holden, the Supervisor of Elections and Registration. The Respondent is Joseph Seabolt. The allegations in this case are that Mr. Seabolt made false statements regarding residency on his Declaration of Candidacy. Essentially, what we found in this case is that Mr. Seabolt registered to vote in Cobb County in 1996. According to our investigation, he bought his home in Paulding County in 1999. He voted in Cobb County twice in 2000, and once in 2004, but said on his Declaration that he had lived in Paulding County for nine years. He -- One of the questions that has been raised is, where was he voting in between? He never registered to vote in Paulding County, but that's where he declared his residency but kept his registration in Cobb County for purposes of voting. When he was interviewed he indicated that he voted -- when he voted in Cobb County he was having personal problems, had moved to Cobb County with his family, and had planned to stay, but that happened on a number of occasions. The recommendation of this case is that it be referred to the Attorney General's Office for appropriate fine, sanction, and order. And I believe the counsel for Mr. Seabolt is present."

**Chairperson Handel** - "Okay. All right. Anyone here to speak on this? Come on up."

**Mr. Michael Jablonski** - "Hi. I'm Michael Jablonski, I'm representing Joey Seabolt in this matter. Essentially, the problem in this case comes down to an interpretation of the affidavit. The affidavit of candidacy that was filed asks how long the candidate has lived in the county, but it doesn't state whether that time period is consecutive or whether it is cumulative. Mr. Seabolt informed the Inspector General that he misinterpreted, apparently, the affidavit, and gave the total length of time that he had lived in Paulding County, rather than the length of time immediately preceding the election. He also, very specifically stated, that he was having family problems. His family was problems which caused him periodically to move in with his family in Cobb County. In those situations, he was in Cobb County and actually registered to vote and voted in Cobb County when he was a resident there. Since residency is, essentially, a state mind and question of intent, I think it's pretty clear that Mr. Seabolt appropriately voted in the County where he was registered, but also filled out the affidavit in a manner that was appropriate to the exact wording that was in the affidavit."

**Mr. Evans** "Do we have a copy of the affidavit?"

**Chairperson Handel** - "I was -- that's exactly what I was going to ask, if we could get a copy of that. Okay. Mr. McIver."

**Mr. McIver** - "Mr. Jablonski, it's a great honor to have such an election expert, as you, come before us."

**Mr. Jablonski** - "Thank you, sir."

**Mr. McIver** - "What is it that you seek us to do? We have not had the benefit of seeing the affidavit this morning."

**Mr. Jablonski** - "I don't see that there's any reason to refer this to the Attorney General for any further action."

**Mr. McIver** - "So you're encouraging us to drop the matter?"

**Mr. Jablonski** - "That's correct."

**Mr. McIver** - "Thank you. I have no other questions, Madam Chair."

**Chairperson Handel** "All right. Just give us one second so everyone can look at this affidavit."

**Mr. Worley** - "Okay. I had a follow up question. I just want to be clear about this. You're saying that on the affidavit where Mr. Seabolt says that I have been a legal resident of my district for nine years, and in fact, was a resident of the district for a total of nine years."

**Mr. Jablonski** - "That's correct. Can I go this time?"

**Chairperson Handel** - "Any other questions?"

**Mr. Worley** - "I don't have any further questions."

**Mr. McIver** - "You didn't enjoy your time with us?"

**Mr. Jablonski** - "Well, I'm going to stay for the rest of the party, I just --."

**Mr. Jason Phillips** - "Madam Chairman, members of the Board, my name is Jason Phillips. I represent the Paulding County Board

of Elections and Registrations. Just as a matter, by way of information, this came to our Board's attention after Mr. Seabolt had indicated and filed that he wanted to run for office. Shortly thereafter, we received a challenge to his qualification to run for the position of Post One Commissioner. The Paulding County Ordinance has a -- they had a residency requirement of one year preceding the qualification as a requirement in order to run for the particular office. The challenger, in his evidence that was presented, a hearing was conducted during this -- for this matter during which Mr. Seabolt and the challenger, as well as our Election Supervisor, were all sworn in as witnesses. The evidence that was presented to challenge the one-year residency was simply the fact that he filled out an affidavit indicating that he had resided in Paulding County for nine years. If you look at the affidavit, itself, the affidavit, the best I can tell, doesn't mention anything about consecutive or accumulative in there, but the challenger also presented and Mr. Seabolt admitted that he had voted in Cobb County twice in 2000, and then once again in 2004. He was questioned about this while he was under oath, and he indicated that he had gotten married in September of 1999 at which time he and his wife purchased a home in Paulding County. Shortly after he was married, and we have a transcript of the testimony, I believe Mr. Seabolt testified for about a year-and-a-half he returned to Cobb County and lived with his parents over in the Smyrna area. At that time, he voted in, I believe, the summer election and the general election during 2000. He and his wife apparently made up after that, but then once again in 2004, he indicated that he began to have marital troubles right before the holiday season and returned to Cobb from a period of about October of 2004 until January of 2005. We are -- Our Board heard the challenge. We received no evidence regarding anything -- that he hadn't done anything but resided in Paulding for the year prior to the position he qualified for, so we denied the challenge based on the one-year residency requirement. But because of the seriousness of the allegations that had been brought forth, that being that either he falsified the affidavit, or perhaps that he had voted in Cobb County while he was perhaps, in fact, a resident in Paulding County. Because of the seriousness of those allegations, we forwarded to this office, as well as to our local District Attorney's Office to review the matter. In terms of the nine years stated in the affidavit, comparing the nine years to the testimony that came out at the hearing, I think the calculations are you're going to reduce about a year-and-a-half -- total residency in Paulding, I think, totals to about seven years and two months if you simply

take out the time he said he was having marital problems and returned to Cobb County. I will note for the Board, that as Mr. Jablonski said, each time he was in Cobb he told the Board that he was there and thought he would never return to Paulding County once again, but nevertheless, he did return, not once, but twice. That's -- I'll be happy to answer any questions that I can about that, but the Board comes at it merely from a fact-finding perspective regarding the one-year residency, but because of the seriousness, they thought it best to refer it to this Board."

**Chairperson Handel** - "Questions, colleagues?"

**Mr. Worley** - "I have a question. You're here representing the Election Board?"

**Mr. Phillips** - "That's correct."

**Mr. Worley** - "And do you also represent Paulding County?"

**Mr. Phillips** - "That's correct."

**Mr. Worley** - "And Mr. Seabolt was running against an incumbent of Paulding County Commissioners?"

**Mr. Phillips** - "That is correct."

**Mr. Worley** - "So -- I just think that it's unfortunate that you would take this opportunity to take these personal issues that really don't seem relevant to why he was living there or not. and I really think that that's inappropriate and unfortunate. Do you have any evidence that Mr. Seabolt was not actually living in Paulding County during the time that he says he was?"

**Mr. Phillips** - "There's two issues, and if I may address your first comment, my role in representing our Board, we received evidence as to whether or not he was a resident for a year because a challenger from the community brought the allegation to the Board. The Board reviewed the matter and determined that he was a resident, regardless of who's incumbent -- regardless of who I represent."

**Mr. Worley** - "Right."

**Mr. Phillips** - "These were statements that Mr. Seabolt made to the Board. As to the length of his residency, from what was

presented to the Board, I don't have any evidence that contradicts his statement that he resided for the first time back in Cobb, I think it was for about a year-and-a-half through difficulties, and then again for another four months afterward. I don't have any evidence that would rebut that, however, I have not investigated the matter either."

**Mr. Worley** - "And you said that the District Attorney has conducted an investigation. Was there a result of that investigation?"

**Mr. Phillips** - "It was forwarded to the District Attorney to review it. I am not aware of any -- of the extent of that, whether they had taken that or whether they had concluded it."

**Chairperson Handel** - "Any other questions? Mr. Evans."

**Mr. Evans** - "I just have a comment when the time is appropriate."

**Chairperson Handel** - "Please."

**Mr. Evans** - "So it appears to me that the Declaration of Candidacy was designed to comply with 21-2-153, and when I look at 21-2-153, there's a designated list of categories for the Declaration of Candidacy, but that list does not include the language that's at issue here, which is -- I've been a legal resident of the State of Georgia for a number of years, and I note there that it doesn't say whether they had to have lived in Georgia consecutively, or whether you could have gone to Washington and come back, which sometimes happens. And I've been a legal resident of my district for a number of years. And so, then I have to figure out, well, what is the basis for that language in this affidavit. And I assume, Madam Secretary, that it would fall within item 10, which is vest in you the discretion, any other information as may be determined by the Secretary of State to be necessary to comply with federal and state law. Now I'm not sure of any federal or state law that the legal residence for a number of years would be necessary to comply with, other than the one-year residency requirement that you have lived at least one year prior to the election day. But then it would be -- it would seem that the appropriate question would be, have you lived here one year or not, as opposed to whether or not you've lived a number of consecutive or other years. It would seem to me that we would either have to decide that that language is designed under paragraph 10 of 21-2-153 to

meet the Secretary's direction in order to determine residency, which I don't think is appropriate under this section. Or we have to decide that we need to change the affidavit. I will note, we either insert the word residency or figure out why these phrases are in here, and just make it conform to the statute. I would note that the Declaration of Candidacy says its for counties and municipalities, but there's a separate section 21-2-153.1 that applies to the affidavit for municipalities, and it's the same issue which it is vests within your office and your execution of the laws to decide what is the necessary remedy. Given all of that, I would be inclined to revise the affidavit to make it clear and close this case, because I think there's sufficient, if you will, kind of a gap between what's in the statute and the affidavit that I don't think it would be worthwhile to make this the test case about the sufficiency of our affidavit. So I would so move."

**Chairperson Handel** - "Second. I concur, and for the Board's information, and everyone here, all of our forms are -- have not been looked at in really long time, and different things have occurred in the Code. So Wes and his team have, with a group of local elections officials, are going through all of them in a very comprehensive way."

**Mr. Evans** - "And I wanted to say that I was aware that you were in a revision process and commend you for that, because I think that revising -- we've had so many changes in the last six years that it's almost impossible to keep up with them all. And the last thing that we want is that these requirements to be traps for the wary -- or unwary, which is that you just kind of get caught in the middle. And so, thank you very much."

**Chairperson Handel** - "We've got a motion and a second to close. Any other questions or comments? All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? All right. Thank you. Our next case is No. 2008-000007. Anthony Scott Hobbs."

**Mr. Evans** - "I'm recusing myself."

**Chairperson Handel** - "Oh, yes. That's right. Thank you. Mr. Evans has stated, for the record, that he is recusing himself from this case."



**Ms. LaGrua** - "Madam Chair, this case has been on the calendar before, and was continued at the request of Mr. Thomas (phonetic), counsel for Anthony Scott Hobbs, at the last meeting due to a conflict he had. It's my understanding that Mr. Thomas has been in communication with Ms. Almond with the Attorney General's Office, and as I understand it, there is a Consent Order ready to be presented, so with that -- with your permission, I will defer Ms. Almond and Mr. Thomas to decide."

**Chairperson Handel** - "Okay. Ms. Almond."

**Ms. Almond** - "The Respondent voted in Cobb County twice. He indicated that he lived at a certain address in Marietta, however, it turned out he was actually staying in certain temporary residences while he was having a home built. He claims that he called the Cobb County Election Board to ask what address he should use, and he says that he was told to use the temporary -- his prior address in Marietta. So the Respondent, in the Consent Order, acknowledges that he violated OCGA 21-2-562 when he indicated that the Marietta address was his permanent residence, and he's agreed to pay a hundred dollar fine in addition to a Cease and Desist Order and reprimand."

**Chairperson Handel** "All right. Mr. Thomas."

**Mr. Thomas** - "Madam Chair, I have nothing further to add unless you have any questions."

**Chairperson Handel** - "Okay. All right. Colleagues, any questions?"

**Mr. McIver** - "Is a hundred dollar fine consistent with what we've done in the past with these violations to which the Respondents have consented?"

**Ms. Almond** - "Well, for these type of violations -- and if it's a clear violation, the Board has typically imposed a fine of between \$500 to a thousand dollars. But here, there's a complication that the Respondent says that he was told to use that address, so that might give us some trouble if we were, you know, if he wanted to go to a hearing before an ALJ."

**Mr. McIver** - "No other questions."

**Chairperson Handel** - "All right. Any questions from you, as well, Mr. Worley?"

**Mr. Worley** - "No. I would make a motion that we accept."

**Chairperson Handel** - "I have a motion to accept."

**Mr. McIver** - "Second."

**Chairperson Handel** - "A motion and a second, all in favor please say aye."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? There is none, so thank you very much."

**Mr. Thomas** - "Thank you, ma'am."

**Chairperson Handel** - "Thank you. All right. We're moving right along. Next case is 2007-000044, City of Locust Grove."

**Ms. LaGrua** - "Yes, Madam Chair. This case occurred in the City of Locust Grove in Henry County involving the November, 2007 Municipal Election. The Complainants are Keith Boone and Linda Henley, both Electors in that circuit. Respondents are Theresa Breedlove, the City Clerk, Elsie McCarter, the Election Superintendent, Lorene Lindsey, the Mayor, and Purnie Upchurch, an Elector. The allegations were that Mayor Lindsey was campaigning within 150 feet of a polling location. Mayor Lindsey delivered absentee ballots of voters to the city clerk, and the Mayor improperly assisted others voted in absentee ballot, and that Purnie Upchurch, an Elector, improperly assisted with an absentee ballot. Further, that Theresa Breedlove and Elsie McCarter did not receive proper training, and that poll workers Elsie McCarter, Scott McCarter, Karen McCarter, and Ms. Garland did not properly tally the votes. Our investigation indicated that Mayor Lindsey was working within her office in the courthouse, I believe, within 150 feet of the polling location, solely due to the fact that that was where her office was located, but there was no evidence at all that she was campaigning at that time. We could find no evidence that the Mayor delivered absentee voter ballots or that she assisted improperly and the electors of absentee ballots. We did find, however, that Mr. Upchurch was assisted by his wife and that his wife did not sign as assisting, but appeared to be, while no excuse, lack of knowledge for the law in that regard when assisting her husband. And I'm not excusing that, but it

appears that there was no intent to defraud or manipulate any ballots at that time. Theresa Breedlove and Elsie McCarter have not attended training since July of 2005. I have confirmed with Mr. Taylor that there was municipal training since that time that they could attend it, however there was no evidence of improper tallying to vote. During the investigation we found some other evidence that was not originally claimed, and found that Ms. Breedlove did not properly document or follow procedures for keeping up with the absentee ballot applications and absentee ballots. She did not compare the signatures and information as required by law. In regards to Purnie Upchurch, it's recommended that that be resolved with a letter of instruction to her that she not be able to do this and be told about the law, and that Ms. Breedlove and Ms. McCarter receive -- either be forwarded to the Attorney General's Office for sanctions and fines, or again, be given a letter of instruction or consent indicating that they have to have training which is consistent with what we've done with municipal elections in the past. So I think that could be handled either way at the discretion of this Board."

**Mr. McIver** - "I have a question."

**Chairperson Handel** - "All right. Mr. McIver, go ahead."

**Mr. McIver** - "Where did you propose to send a letter to Purnie Upchurch?"

**Ms. LaGrua** - "I'm sorry."

**Mr. McIver** - "We see that she deceased in 2008."

**Ms. LaGrua** - "I apologize, Mr. McIver."

**Mr. McIver** - "No. Just a matter of having simple curiosity."

**Ms. LaGrua** - "That's a very fair question, and I apologize for that. I do think we, however, have to address the municipal training in this one because we're dealing with the absentee ballots and applications, and the vote tallying is obviously a serious matter. Again, we've seen these issues with our municipal elections over and over. You may recall from the last meeting, I think most of the cases we had were the municipal elections."

**Mr. McIver** - "Now my question, merely, went to the location of Ms. Upchurch."

**Chairperson Handel** - "Mr. Worley -- Mr. Evans."

**Mr. Evans** - "Is the -- Is the City of Locust Grove a Respondent?"

**Ms. LaGrua** - "They were not named as a Respondent in this case, however, the City officials were notified that this matter was on."

**Mr. Evans** - "It just seems to me, Madam Secretary, consistent with, kind of, the directive that you've given, is that we need to impose on the City an affirmative responsibility to make sure that their staff and their election officials are properly trained so that it's a two-way street, which is the officials, themselves, need to understand that there's a penalty if they don't get trained, but there's a penalty for the City if it doesn't make sure that its' folks are trained."

**Chairperson Handel** - "I completely concur."

**Mr. Evans** - "And so, I'm not sure what our procedural solution is, because I think we have to reissue the notice with an opportunity for the City to respond and participate, although I would guess having named, you know, the clerk and the superintendent that the City's well aware of this, but I wouldn't want us to get caught up in some procedural -- but maybe we could hear from the Respondent that's here and determine whether or not -- but I do like, and this originated at the last meeting where we saw the pattern, is that we have to figure out a way where there's some ownership by cities and municipality, some ownership of the training obligation. And the only way we can do that is to start to name them as respondents where we have a training allegation issue."

**Ms. LaGrua** - "We will start reviewing all our open cases of that, and add those prior to the meetings for upcoming State Election Board meetings, Mr. Evans."

**Mr. Evans** - "Thank you."

**Chairperson Handel** - "If I might, before we hear from you, maybe what would be appropriate so that we don't have to address them case-by-case because I think the Board has to take an action to

add a respondent. So maybe we want just sort of a blanket motion that in these circumstances that the Inspector General has the authority to add them."

**Mr. Evans** - "Absolutely. I think you're exactly right. To me, and maybe this is just the lawyer hat, literally, I would say if there's a training allegation that a city or a county should be a respondent, or in the alternative, if the respondent that we have raises a defense that says, I did not know, I wasn't properly trained, that we then bring in the city and the county so that we have both sides, and they can then explain to us which is right. Because what we kind of get caught in now is they point over to the City and say it was them, they didn't give me the resources, and the city points back at the employee and says they didn't go to the training, honestly...."

**Chairperson Handel** - "We don't know."

**Mr. Evans** - "...we -- and we don't care. We care that it wasn't done. It doesn't matter why it wasn't done, and that's been your approach, and that's the approach that we want to adopt."

**Chairperson Handel** - "All right. Well, let me make a motion and then we'll move on. I knew that, going forward, whether it is a city or a county jurisdiction, if training is the issue that, in addition to the elections official, that also the governmental jurisdiction also be named as a respondent by the Inspector General."

**Mr. Evans** - "I second that. And I would further that, Madam Secretary, if you would, including the ability to ask Wes what I think would be -- if we, in fact, adopted one of our SEB rules that just impose a training obligation on the city that says, you have an obligation to train your officials."

**Chairperson Handel** - "I'm amenable to that, and --."

**Mr. Evans** - "And to include that today."

**Chairperson Handel** - "Right. When you do your project, we'll talk about that later, though."

**Mr. Evans** - "Okay. Great."

**Chairperson Handel** - "Got a motion, and your second was as amended?"

**Mr. Evans** - "Yes. Uh-huh (affirmative)."

**Chairperson Handel** - "All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "All right. Now who else is here to speak on this case, come on forward? Are you here on this case also - come on down. And if you'll state your name and everything for us."

**Ms. Theresa Breedlove** - "I am Theresa Breedlove. I am the City Clerk for the City of Locust Grove, and I was here basically to explain the training. We were actually in negotiations with the County to handle our municipal election, and we signed an ordinance in June of 2007 with them to sign a contract to conduct our elections. I became seriously ill in July and I was out for five weeks from work. When I returned, I came back on clock time leave, and I was told that the County had not signed the contract. Now I was not privy to the reasons why they hadn't, but I was instructed then that I was to help with the election, and that's what happened. It wasn't that we neglected to go to training, it was just we were thinking that the County was going to be handling the election."

**Chairperson Handel** - "Can I ask you a question?"

**Ms. Breedlove** - "Uh-huh (affirmative)."

**Chairperson Handel** - "So that was the summer -- first of all, are you feeling better now?"

**Ms. Breedlove** - "Oh, yes."

**Chairperson Handel** - "Okay. Good. That was in summer, July '05?"

**Ms. Breedlove** - "No. This was in 2007."

**Chairperson Handel** - "2007. Okay."

**Ms. Breedlove** - "I have a copy I brought with me of that ordinance when we signed it, and the minutes from the meeting."

**Mr. Evans** - "I move that we accept those."

**Chairperson Handel** - "Second?"

**Mr. McIver** - "Second."

**Chairperson Handel** - "All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Okay. Could you hand those over to the clerk?"

**Ms. Breedlove** - "I have explanations for why the procedures were not followed, but it's true. We made mistakes. I do not have a voters registration list to verify the voters. I was having to call the County to get the -- I just didn't handle the absentee part, so I didn't feel qualified to verify they were, indeed, registered voters because I was just taking the word of the person on the phone. So that box at the bottom of the application was, indeed, not filled out. As far as the ballots being signed off in the box, some of them were signed. I had clerks assisting me, they put them in the box. I wasn't going to go back in the box and pull those ballots out and sign them, so that's true. That procedure we did not follow completely. However, since then, my counsel and I have talked about this and we have a signed contract with the County to conduct our elections in the future. So I'd like to offer this, too."

**Mr. Worley** - "I move that we accept this in the record."

**Chairperson Handel** - "Second. All in favor?"

(Whereupon, there was a chorus of ayes)

**Ms. Breedlove** - "And we will -- you know, in the future we do offer -- we'll try not to make the same mistakes again. We tried to do it the best we could."

**Chairperson Handel** - "Okay. Any other questions, colleagues?"

**Mr. Worley** - "When will the County begin administering your elections?"

**Ms. Breedlove** - "This year. We only have them every other year, so they're doing it this year."

**Chairperson Handel** - "Mr. McIver, do you have a question?"

**Mr. McIver** - "I have a comment, but not a question for -- she wanted to be excused."

**Chairperson Handel** - "I think we have one more speaker."

**Mr. McIver** - "As appealing as these remarks are, I do want to second what we've all agreed here to do. Contracts come and go by their very nature, but that would not relieve a city of its obligation to train, in my judgment. So I wouldn't want there to be an exception there. I do appreciate the fact that with a contract the county steps into the shoes and municipality to the extent that there is a disagreement, a falling out, a termination of obligation, whatever it may be. It seems to me that since this training is made available through the Secretary of State's Office for municipal officials, that it would be wise for them to do so even though a contract exists"

**Mr. Evans** - "And if could just add to that."

**Chairperson Handel** - "Go ahead, Mr. Evans."

**Mr. Evans** - "It would be great is that, you know, the buck stops at our desk, right here. And the Secretary has proven by her diligence on elections, voters don't really care why the system doesn't work, they just want to know that it works. And so, we have to do -- we have to take actions that are designed to make sure that, regardless of the circumstances however compelling they may be, that voting in Georgia is secure, that it's accurate, and that it's uniform and we are consistent in that regard. And that we have oversight that's sufficient to accommodate every circumstance, but that the answer is always the same. And so, when we get to it, we'll have to take action that's designed to do that."

**Mr. Keith Boone** - "Madam Secretary, Board members, my name is Keith Boone. I live at 1211 Jackson Street, City of Locust Grove. The year of 2007 I had this notion, for some reason, that I wanted to run for Mayor of the City. I would like to be the first to say that Ms. Elsie McCarter and Ms. Theresa Breedlove has done us a fine job in the past running our elections. This is something that may have falling through the cracks, which it did, between the council members and the employees. They're both an extension of the City. I had to resign from my position as City Councilman, but I was on the



Council for 17 years. And like I said, they've both done -- I consider them my friends. Probably after this, probably not. But this is something that's, whether it's the City's fault or personnel's fault, I would like to say it's more along the City's lines of responsibility, which y'all have noted. The two main concerns that I filed on the complaints, number one was the fact that the Mayor was well within 150 feet of the polling place. Was she doing any campaigning? I have no idea. Which that's where her office is located, but it also says in the election rules that the polling place should be relocated if it falls within that 150 feet, if I'm not mistaken. That's something else that could be addressed. After the election I filed these complaints, and I don't want to sound like I'm a bad loser, sour grapes, or whatever you want to call it, but I found out through Ann Hicks' office that they had not received any recertification as far as running the elections. If I might use an analogy, say I was speeding down the highway and one of y'all pulled me over as a police officer and says I was speeding by radar. Okay. Well, if that officer is not certified to run radar, then you've got to throw my ticket out. So -- and I think an election is more important than any speeding ticket, so you know, I'm not asking a redo or anything, but I think this is a serious -- excuse me -- that's all I have. Once again, I'd like to say that Ms. McCarter and Theresa Breedlove has done us a fine job in the past."

**Chairperson Handel** - "Thank you very much. I appreciate it. Colleagues, I guess given that we do want to add the City to the -- we probably want to hold this until our next meeting."

**Mr. Evans** - "I would move that we add the City as a Respondent."

**Mr. Worley** - "I would second that."

**Chairperson Handel** - "Motion and a second, and inherent to that, if you'll maybe amend it to say, and hold for our next meeting. Okay. Motion and a second. Any other questions or comments? All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? All right. Thank you, folks. The next case is No. 2008-000013, Cobb County."

**Ms. LaGrua** - "Madam Chair, members of the Board, this involves the 2008 Presidential Preference Primary in Cobb County. The

Complainant is Melvin Perry, an Elector. The Respondent is the Cobb County Board of Elections and Registration. The allegations in this case is that Mr. Perry was not given proper attention, and was required to give a reason for voting early. As the Board is aware, the forms for the absentee early voting still requests a reason to be given, even though no reason is required. He actually did check the no reason given, and he was allowed to vote. He also alleged that he was not allowed to use his valid Louisiana drivers license as Photo ID. Again, initially, there was some question about that, but when the poll worker got some guidance he was allowed to vote. So with all that said, Mr. Perry was allowed to vote, appropriately was allowed to use his ID, so there are no violations here before the Board, however, this may be -- he was in the absentee ballot precinct and voted in person absentee. There may be some training indicated for line workers in the area of absentee voting and Photo ID, and should probably be encouraged because of the questions that runs in this case?"

**Chairperson Handel** - "All right. Is there anyone here on this case? Is Mr. Perry here? Okay. I guess not. Colleagues, any questions on this one?"

**Mr. Evans** - "I move that we close the case."

**Chairperson Handel** - "Second. Any other questions? All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? All right. Thank you. The next case is 2008-000027, Richmond County."

**Ms. LaGrua** - "Members of the Board, this case did not involve an election, and as I understand, this is one of the more serious cases we encountered in our investigation. The Complainant in this case is Lynn Bailey, Director of the Richmond County Board of Elections and Registration. The Respondent is LaRae Shelton, reportedly an Elector. The allegations are that LaRae Shelton illegally obtained a voter identification card in someone else's name. And the Board may recall we had some of these allegations, and in fact, in Richmond County there were questions since the beginning of the issuing of the voter ID card why Richmond County has had sometimes a large number of voter ID cards. And we had some suspicions, and they were confirmed with this investigation. LaRae Shelton received a

Voter Identification Card, and some months later returned to get another Voter Identification Card in the name of Andrade -- Sherrie Andrade. Thankfully, the worker at the place that issued the voter ID Cards thought she recognized Ms. Shelton when she came in, did issue the Voter ID Card because she didn't have an opportunity prior to issuing it and had no way to verify that, in fact, she had received one previously in a different name. After Ms. Shelton left she searched her file database and was able, in fact, to pull up the Photo ID Card for LaRae Shelton and compare it to the Photo ID Card issued to Sherrie Andrade and, in fact, it was the same. Ms. Andrade was interviewed and was found that she had not ever requested a Voter ID Card. Our investigator, Andy Garner (phonetic) who is here today, got in touch with Richmond County Sheriff's Department. They actually did an interview with LaRae Shelton and found out that LaRae Shelton's boyfriend had asked her to get the Photo ID card so he could cash a check. And in fact, a check was taken -- a check that had been issued from Sherrie Andrade was not received by Sherrie Andrade, and was subsequently cashed. The U.S. Treasury Department and Secret Service are looking into this, as well as the Richmond County Sheriff's Department. The D.A.'s office has also been involved, and as soon as we receive the proper documentation back from the Secret Service and the Treasury Department, and the copies of the check, the D.A.'s office is prepared to move forward on any charges that the federal government does not move forward on. It's recommended, in this case, that this case be forwarded to the Attorney General's Office for maximum sanctions, and that we also stay in touch with the District Attorney's Office, and if there's any conflict that we defer to the District Attorney for criminal prosecution in this matter."

**Chairperson Handel** - "Thank you. Is anyone here to speak on this case?"

**Ms. LaGrua** - "Ms. Bailey was aware, but did not feel that she needed to be here because they weren't directly involved."

**Chairperson Handel** - "That's fine, I'm sure. Is Ms. Shelton here? Ms. Shelton. Let the record show that she's not here. Colleagues, any questions?"

**Mr. Evans** - "I think the precedent we have from Chattooga County, and from others, is that we have to defer action pending the completion of the criminal investigations. And we have to

keep it on a diary so that we make sure that whatever statutes that might apply for our sanctions doesn't expire."

**Ms. LaGrua** - "We will do so, Mr. Evans. I'll make sure that we keep this on the front burner in terms of time."

**Mr. Evans** - "So I would move that we -- I was trying to remember. Did we do the notice and then deferral, or did we defer prior to issuing the notice? I'm pretty sure we deferred prior to the issuance of the notice. So I would move that we defer pending criminal -- completion of criminal investigation."

**Chairperson Handel** - "Is there a second?"

**Mr. McIver** - "Second."

**Chairperson Handel** - "Got a motion and a second. Any other questions? All right. All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? Next is 2008-000028, City of Richland."

**Ms. LaGrua** - "Yes, ma'am. This involves Teresa Nelson, an Elector who is the Complainant. The Respondent was Valerie Salamar (phonetic) Mayes, a former City Councilman for the City of Richland. It was alleged that Valerie Mayes continued to serve as a member of the City of Richland Council after she moved from Stewart County to Webster County. These are adjoining counties. What we found was that in late 2007, Ms. Mayes bought property through Webster County and moved to that location around November of 2007. Ms. Mayes resigned her position as City Councilperson at our about the time she actually moved, however, she signed her voter certificate in February of 2008 with her former address in Stewart County. In July and November -- in July of '08 she did not vote, and in November of '08 she actually voted in Webster County, which is where she had moved and I -- we have no explanation for why she signed the voter certificate in February of 2008 with her Stewart County address, which was not her current address at that time. So essentially, it's a violation of signing the voter certificate. We do not have a role at this point, and there don't appear to be violations in her role as City Council. She did move -- she did resign her position fairly concurrently with when she moved, so the voter certificate violation

recommend be forwarded to the Attorney General's Office for issuance of a Consent Order and appropriate sanctions."

**Chairperson Handel** - "Okay. Let's hear -- first, let me figure out everybody we have here. You are?"

**Unidentified Speaker** - "(Inaudible)."

**Chairperson Handel** - "Okay. Why don't we here from Ms. Mayes first as the Respondent, and then we'll come to you, Mr. Mayor. Is that okay?"

**Mr. Tommy Coleman** - "I'm the Attorney, I represent the Richland."

**Chairperson Handel** - "Okay. Who's representing Ms. Mayes? Are you Ms. Mayes -- Oh, you're doing everything. Got it. Okay. Come on up."

**Mr. Coleman** - "Good morning, you all. My name is Tommy Coleman. I'm with firm Perry Walters in Albany, and I represent the City of Richland. The City agrees with the report, but in assessment, rather that the Board not have jurisdiction with regard to Councilman's qualifications. However, the counsel is interested in establishing that Ms. Mayes was, in fact, a qualified Elector in the City of Richland for the entire time that she served on the Council. She, in fact, submitted her resignation on January 30th, 2008. We have the Mayor, Ms. Mayes, herself, and also the City Clerk is here, and other Councilmen should you require any additional information to substantiate the facts. To Ms. Mayes point, I'll point out to you that she did enjoy the ownership of some property in the adjoining County. She had it, I think, since 1999. Her children did go to school in Webster County. She has documents where she had arrangements to pay tuition in Webster County. For those of you who know something about education, you can go to school in an adjoining or another county other than the one in which you domicile, but there is usually an arrangement to pay tuition. If, in fact, she was domiciled in Webster County she would not have had to do that. She did, in fact, live in Webster County on the weekends with her fiancé, but at all times she intended to be in Richland and she maintained domicile there. I guess that it's no surprise to the Board that the matters occur as a part of an ongoing political dispute that's long-standing, this is just a recent part of it. And the question of examining her residency had been going on, frankly,

in a discussion in the community probably to follow that year. I would point out this is a bit disingenuous. It seems to us, a City on behalf of the City, that the Board of Elections and Registration who has authority and, in fact, has the duty to determine that somewhere someone's domicile is for the purpose of voting, obviously would have an effect on their qualifications as an elected official, took no action, but had the authority to do that at any time up until the day that she goes to vote. In fact, Ms. Mayes had a discussion with the election official that she would have to vote the next time in Webster County because she was moving. So they had perfect knowledge of all that, yet seemed to take no action with it. I would also point out that, as you all know, that 21-2-218 provides that you can vote in the County from which you are moving, provided that you didn't do so in the five Mondays previous to the election. She was a domicile certainly on January the 30th, and she resigned at that day. She contends that she's with domicile at the date of the election, so even if she was not, it seems to be clear that she could have voted in the Presidential Preference Primary of Stewart County. I'm not familiar with what form she might have filled out, and that might be a subject of discussions you had a moment ago. We feel like that she was a resident of Stewart County at the time, and was qualified to vote. We would ask that the Board dismiss these charges, or at a minimum go back and attempt to further establish exactly what her domicile was at the time. It does not seem to have been done in the investigation. Mr. Mayor McLendon would like to speak to the Board, and then Ms. Mayes."

**Chairperson Handel** - Mr. Mayor."

**Honorable Mayor Adolph McLendon** "Ladies and Gentleman, thank you. In short, Ms. Mayes did live in the City of Richland for many years. She was living there in '06, '05, '07, '08. We have many, many, many people who can document that. And she had told me that she may get married in Christmas, or around Christmas of '08, and since -- so the information that the people that were saying that she may be moving to Webster County, I talked to her about that and she said she would resign if she did get married and decided to move to Webster County. And this -- about her maybe living in Webster County, or whatever, before this time there was -- she had property there, but there were no houses she had. I know that for a fact. And they gave -- her fiancé moved, well, was living in a mobile home in probably October or November, but because of many circumstances, I constantly had someone to keep in touch to see

if she was moving back and forth to her house in the City limits of Richland, and of which she did in November. And I am aware of that, at least for the first two or three weeks of January. She did not attend any Council Meeting after the one we had in early December of '07. Right, '07. She appeared at that Council Meeting. After that, she did not attend, and she did, in fact, tell me that after Christmas that she did get married and that she would be residing at the appropriate time, which was January the 3rd. Thank you."

**Chairperson Handel** - "Thank you. Did you want to speak?"

**Ms. Valerie Mayes** - "No --."

**Chairperson Handel** - "Questions?"

**Mr. Worley** - "I just have a question to clear. Our investigative report says that Ms. Mayes resigned on December 24th, '07. That's taken from City of Richland Mayor Adolph McLendon."

**Mayor McLendon** - "I think what I said, I had been on a boat trip, and I came back in and I was getting gas at the service station there the day before Christmas, and that's when Mr. Mayes was driving by and got stopped at the red light, and told me on the 24th that she did get married, and that she would be leaving at a later appropriate day. No, she did not resign the 24th. I have a copy of her resignation if you would like to see it."

**Mr. Worley** - "Which is January 30th, 2007."

**Mayor McLendon** - "Yes."

**Chairperson Handel** - "If you have that resignation letter, that would be great to have that for our file, if you have it."

**Mayor McLendon** - "I hope I have it. Wanda, do you have a copy of it? It's in the car, I didn't bring it."

**Ms. LaGrua** - "If you'll just give the number to Mr. Brown, we'll get a copy of that from you."

**Chairperson Handel** - "Super. Any other questions, colleagues?"

**Mr. McIver** - "I move to admit the resignation, if it's found and presented."

**Mr. Worley** - "Second."

**Chairperson Handel** - "All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any other questions on this one?"

**Mr. Evans** - "No. Madam Secretary, if I could, it kind of puts in play what our -- what the role of the Board is at this stage, which is to determine whether or not there's a reason to believe -- not whether there is, but a reason to believe a violation has occurred. And the possibilities are that we think that the record or the evidence before us is enough to establish that Ms. Mayes lived in Webster County. Second option is that if the evidence is convincing that she lived in Stewart County. Third possibility is that it's a matter of dispute where we need to get someone else to investigate, which is what the Attorney General's Office does to make a factual finding. Or the fourth option is to say it merits further investigation by Ms. LaGrua, and that's kind of the issue that we have to decide. I would say that I don't believe that on this record that we can decide one way or the other, that either Webster County or Stewart County. Because I think there's enough ambiguity or difference in the evidence that I don't know that we can state with any degree of certainty one or the other, and so the two options before us are refer it over to the Attorney General and let them sort it out and tell us when was it, and the other option is to say, you know, can we maybe get a little further investigation to see. I'm very sensitive to the idea that people's reputations are tarnished, no matter how hard we try to say that isn't true when we refer a matter over to the AG's Office. And so, in a matter such as this, my inclination is to ask for more investigation to see if we can get a distilled recommendation of residency on February 5th, 2008 when the certificate is signed. Because that really is -- what happened in December is not really relevant. What happened in January is really not relevant. What's relevant is on the day of the execution of the certificate, that that moment where was the residence? And maybe we could zero in on that and take a look at it. So I would generally favor taking just a closer look at that issue before we make a final decision, Madam Secretary."

**Chairperson Handel** - "I would concur with that. I would like to see a letter of resignation, as well, and we don't have that yet. And I agree, I certainly -- is very sensitive about



people's reputations and things of that nature. It's very important that we try to look out for that. So I would be amenable to asking the -- our investigators to just get the copy of that and look into this a bit more so we can be judicious. Mr. Worley."

**Mr. Worley** - "I'm going to take a slightly different position. The Inspector General's report says that the Secretary of State's Office received a complaint by email alleging irregularities by elected officials. Specifically, the elections coordinator has questioned whether Richland City Council Members living in the bounds of the City. Can we get a copy of that email, or is there any sort of factual allegation in that email, other than the she doesn't live in the County? I mean, what was the support --."

**Mr. Coleman** - "I got it from you folks, and can give it to you right now, if you would like."

(Whereupon, Tommy Coleman handed paperwork to chairperson Handel)

**Mr. Coleman** - "The City has no objection to any further investigation to determine the domicile. I would point out that it really matters that much. I mean, if she was a resident of Stewart County on January the 7th, which was the fifth Monday before the election, she's going to be able to vote in Stewart County, even if she had moved from Webster County. I don't know what form one signs when they go to vote during that period between when you have moved from county to the other, but yet you can vote in previous county. I suspect that neither do many election officials when they are there. They're just volunteers, as you all know, and it was a discussion between one of those volunteers -- Ms. Mayes doesn't even know who that was when she asked -- had a discussion with them, and not have to vote Webster County next time. But nonetheless, we would be happy to assist with any pertinent information regarding her domicile. But it does save a bit of expense and trouble in this instance. You'll certainly note county races, conspiracy to perfect election of local -- Presidential Preference Primary, and every citizen in the United States ought to have a right to vote. She could not have voted in Webster County."

**Mr. Worley** - "I'm looking at this letter which has the complaint, and it appears to me that the only fact that's alleged in here is that she submitted her resignation in

December to the Mayor and City Council. And that appears to not be true. So I don't think there's any further investigation to be done, and my position would be to close the case. I appreciate the City's willingness to continue a further investigation."

**Chairperson Handel** - "Mr. Mayor."

**Mayor McLendon** - "If I may say something on behalf of the City and Ms. Mayes. The Election Superintendent was called yesterday, Tuesday, and she was asked that if someone living in the City of Richland, and that party -- if they lived in the City of Richmond, around the end of August or the first week of September or moved the last week of August or the first week of September, would they be able to vote in the election coming up in a City Election in November, that's this year. The Election Superintendent told the party that she could vote if she lived in the City the first week of November, and that she would be able to vote in November. And that goes to show and prove what Ms. Mayes was told that she did, and she told me coming up that she asked them and they told they were familiar with her and she could vote, but she couldn't vote after February."

**Chairperson Handel** - "And if I might, just to be clear, the law is that if you move within 30 days of an election you can vote in your previous precinct. It's not months or anything, it's very clear that it's 30 days."

**Mayor McLendon** - "The City's aware of that."

**Ms. Mayes** - "I'm Valerie Mayes, and I just wanted to say that I did go to the Mayor and tell him that I was getting married. And when I get married I was going to move. But while I was -- when I gave my resignation I was still living in Stewart County behind my mother's house. And that's what I've been telling everybody. That's where I was. Even when I voted, I was still staying in Stewart County, even though I gave my resignation, you know, because my plans were to move in my home that I had purchased in Webster County."

**Chairperson Handel** - "Mr. Evans."

**Mr. Coleman** - "Madam Chair, I would like to reiterate that it seems to me --."

**Chairperson Handel** - "I'm sorry. Mr. Evans has the floor."

**Mr. Coleman** - "I -- forgive me."

**Chairperson Handel** - "Thank you."

**Mr. Evans** - "The narrow issue that's before us is whether or not on February 5th, 2008 a certificate was signed that was fraudulent. And with all due regard to my honorable colleague, Mr. Worley, it doesn't matter how we learned it. It doesn't matter what the complaint says. Once we learn of information that indicates that a certificate, which is a statement under oath, was fraudulent or a verification of your -- of the statement, even not under oath, but a certificate for purposes of soliciting or obtaining a ballot is false, we're duly bound to investigate it. We now have an investigation which raises some issues. Not about December, not about January, but about whether that certificate was, in fact, true or false. Out of some degree of difference to you, rather than simply kick this over to the AG, which is honestly our normal practice to let them sort it out and have a fact hearing, and they make decisions of fact or recommendations of fact in conclusions of law for us, and we act on it. It would seem to me that the appropriate thing was to take one more careful look at that precise moment in time to see if we could determine that. And if we could, then we could make a decision without the necessity of a referral. If, however, what I'm hearing from counsel and from the parties is, this is very -- you know, this is very complicated. There are various and sundry legal issues that you should be aware of. You know, she had the right to vote, which would affect her scienter as to whether or not she intended to commit a false or fraudulent certificate in order to obtain a ballot, then my inclination is to kick it over to the AG and let them sort all that out. If it's a narrow fact issue, which we should be able to have our investigator discern, then fine, we take another look at it. And so, my inclination, Madam Secretary, is we take one more look at that narrow issue and then make a decision."

**Chairperson Handel** - "Is that a motion?"

**Mr. Evans** - "That's a motion."

**Chairperson Handel** - "Second. Mr. Worley."

**Mr. Worley** - "If the narrow fact issue is whether she was living in that County on February 5th, 2008, and there is no allegation of fact in the letter that says she was not. There's nothing in

that letter that says she wasn't living there on that date. It just says some people claim this, and it says she resigned on December 24th, which was the wrong date, she actually resigned on January 30th. But there's no issue -- there's no allegation of fact in that letter that says she was not living in the County on that date. So I just don't think it's a valid complaint. I don't think there is -- I would vote to close the case."

**Mr. Evans** - "Madam Secretary, is -- but the record we have before us, which includes our investigator's report, says but at the time of the election she resided at 5246 Kennedy Pond Road in Webster County. So I have in the record a complaint. I have in the record an investigation report, and I have a fraudulent certificate, or a certificate that's alleged to be fraudulent because it says a different county. I can either -- we can try to sort that out, which is what we let the AG do, or we get more information. If we act based on the record, we would be duly bound to refer it over to the AG. We're here, really, to kind of it give it the benefit of the doubt and take another look."

**Mr. Worley** - "Well, I don't think that there is a statement in the report that says, but at the time of the election she resided at 5426 Kennedy Pond Road, but there is no fact in the investigative report that says that, that's just this conclusion. And I, you know, I know our investigators work very hard and do a very good job, but I don't think we ought to bind this over -- you certainly can't bind it over because of an error in the investigative report, or a misstatement in the investigative report. And it just seems to me that the appropriate thing to do, rather than waste more time. But if we want do that, I mean, if that's the only alternative I'll certainly support continuing the investigation rather than binding it over."

**Chairperson Handel** - "All right. I have a motion to direct the Inspector General's Office to look into this a little bit more, and come back at our next regular call meeting, and a second. Any other questions or comments? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed?"

**Mr. Worley** - "No."

**Chairperson Handel** - "Okay. Thank you. Next is 2008-000043, Polk County."

**Ms. LaGrua** - "This occurs in Polk County. This case came in from Susan Williams, Director of Elections. It involves the July 15th, 2008 Primary Election. The Respondents are Evetter Hawkins, Director of Social Services at Cedar Springs Health and Rehabilitation Center, and Missy Miller, the Activities Director. The allegations were that Keith Woodard signed with an X, and that no one signed as assisting on his ballot. That Evetter Hawkins illegally assisted voters and improperly handled the voter registration applications. Our investigative findings are that, in fact, Keith Woodard did properly receive assistance with the absentee ballot application and ballot, but that, in fact, Missy Miller did properly sign as assisting. What happened was, apparently the application and the registration card had the signature of Keith Woodard. Subsequently, he was unable to sign his name, signed with an X -- Missy Miller signed as assisting, so it appears that that allegation is not substantiated. However, Evetter Miller, who is the Director of Social Services at Cedar Springs Health and Rehabilitation Center, when interviewed, admitted that he did assist residents registered to vote, held those documents -- registration documents until the time for the absentee ballot application, and brought them at the same time. He admitted all this, that he did not know there was a time limit on the registration documents. We have checked, we cannot find any indication that this facility is a member of the Nursing Association here in Georgia. I don't -- that's not -- we were not -- we did check with those associations and were not able to find that specific affiliation. It's recommended that the case involving Evetter Hawkins be forwarded to the Attorney General's Office for a Consent Order involving training and other sanctions, as appropriately needed. There's not much to tell you, except there's an admission it happened, and he said he did it."

**Chairperson Handel** - "All right. Is Mr. Miller here?"

**Ms. Missy Miller** - "Hawkins."

**Chairperson Handel** - "Pardon, me?"

**Ms. Miller** - "Hawkins."

**Chairperson Handel** - "Is he here?"

**Ms. LaGrua** - "I'm sorry."

**Chairperson Handel** - "I'm sorry."

**Ms. Miller** - "Madam Secretary, members of the Board, I was the Social Service Director at that particular time, and of course, I had no training. In 2007, due to our investigation, residents do have a right to vote. I had never been trained, so as a Social Service Director I took the responsibility to get the residents registered. In 2007, I completed registration cards. I always took them, myself, to Ms. Francis Peyton (phonetic), that's who I dealt with at the Polk County Voter Registration Office. At that particular time, every time I took registrations there I always had them -- they were never sealed because I didn't know they really needed to be sealed. And the purpose for doing that, a lot of times residents forget on a day-to-day basis when they signed, or what they signed, so I would always make a copy because 2007 was my first year assisting them with that. So I made copies and kept them in my files so when we had inspections, if there were questions arising if this person registered -- we've had residents say they did not, but I could show proof where they did. In 2008, January, I did registrations again, and at that particular time I did take them in. Ms. Francis Peyton called me about a couple of days later telling me that I needed to -- there were some that were not signed, as far as the date, and there were two or three I missed putting their social security numbers in. She asked me to pick them up and I picked them a week later. At that particular time, I was still not told that, you know, we needed all that information within a certain time, because I did not know. The only thing I knew that it had to be back before July 15th. That was the only thing I knew of. And of course, I had put them in my car that evening. By the time I made it to the registration office they were closed, so I had left them in my car. And it just so happens my husband had the car that day, and I asked him, I called him and I said, would you please get these to the voter registration office. They were in a brown manila envelope sealed, but the actual voter registrations were not. And again, I have had no proper training, but as residents in a nursing home you want to make sure they're still involved in every community aspect possible, and I was trying to do that. I did not know the rules and regulations of voting."

**Chairperson Handel** - "Okay. Colleagues -- thank you very much. Any questions? One thing for all of you -- thank you. The issue of activities -- voting and registration activities in the

nursing homes as we go forward we've got, on any number of cases pending in this area, and later this afternoon when we get into our update about SEB rules and legislation, I hope we can maybe talk about this issue a little bit. It is abundantly clear that some level of training really must take place with these activities directors. So with that, questions on this matter? Comments? Mr. Evans."

**Mr. Evans** - "Yeah. I just had a question for Ms. LaGrua. Only because I -- when I was -- it's a citation issue. The violations citations are to SEB rules, and I was just hoping you could direct me to where those are."

**Ms. LaGrua** - "I can. In fact, it took a minutes to find this as well. It's 183-1-6-.03."

**Mr. Evans** - "All right, I'm there."

**Ms. LaGrua** - "And I've got to get there as well."

**Chairperson Handel** - "Did you say 183-1-6."

**Mr. Evans** - "Yeah. I think it begins on page 15."

**Chairperson Handel** - "Thank you."

**Ms. LaGrua** "It's at subsection three, Mr. Evans, 03 -- I'm sorry. V3."

**Mr. Evans** - "Where is that at? I'm sorry."

**Ms. LaGrua** - "It's at 16 -- at the bottom of the page it says 16.04, and it's transit time should be kept to a minimum. Registration applications shall be mailed or delivered to the Registrars as soon as reasonable and practical, but in any event, no later than ten days after the date of the execution by the applicant."

**Mr. Evans** - "Yeah. I think that's 3.03."

**Ms. LaGrua** - ".03 --."

**Mr. Evans** - "I think that's -- it's under 0."

**Ms. LaGrua** - "Correct. I'm sorry. 03, you're correct."

**Mr. Evans** - "It's a -- it's just a citation, and I want to make sure that we're clear because on our notice we have to make a correct citation, and then the other citation, which is the V3, that refers to transit time as well?"

**Ms. LaGrua** - "Correct. Transit time is the -- I'm sorry, it is 03. There's a V right above it that I'm missing -- 03."

**Mr. Evans** - "No, that's fine. I'm just saying we have two rules cited, is there just one rule to transit time?"

**Ms. LaGrua** - "I believe it's just one to transit time."

**Mr. Evans** - "Okay. That's fine. And so, that would be 03."

**Ms. LaGrua** - "Correct."

**Chairperson Handel** - "Any other questions? Do I have a motion?"

**Mr. Evans** - "So moved. Move to assign it over."

**Mr. McIver** - "Second."

**Chairperson Handel** - "Motion and a second. Any other questions or comments? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? All right."

**Mr. McIver** - "Only to a point, Madam Chair, where we could consider a rule either in admonition to the Nursing Home Association in Georgia, or some other governing body, to kind of raise the level of awareness of their various members. All I see from the report that this facility was not a member of the Association, but these cases continue to come before us and it's very, very faithful people who have tried their very best to perform their duties as outlined, but they find themselves in violation of either our rules or the Code. And I'm wondering if we're reaching a point where it's time to do such a thing."

**Chairperson Handel** - "I think that we are, and this afternoon when we talk about -- when we have our conversation about rules and legislation, I hope that we can do this. And one thing that I would like to ask of Ms. LaGrua is that for this matter, I think, also, if the Board's amenable, I'd like to send some kind



of communication to the head of this nursing facility about the matter as well. Since they are not part of the association, they would not have been part of the...."

**Ms. Pam Davis** - "Excuse me."

**Chairperson Handel** - "I'm sorry."

**Ms. Davis** - "I'm the Administrator of the Nursing Home."

**Chairperson Handel** - "Okay. Again, if I can ask -- folks, if you're here for a case, I need y'all to stand up and say -- I would have no idea. I know you would like to speak, but I think, clearly, just as we believe that on a training side of things that when there is a city or county elections official that hasn't been properly trained and we want the city and council -- City Council and County Commission to be aware of the circumstances, the same is true for the heads of these facilities. I mean, these are legal requirements, and to -- to an earlier point, we do want to do everything that we can to make sure that these individuals get to exercise their right to vote to the fullest extent. With that said, the rules and procedures still need to be followed, and if nursing homes are hiring activities directors and they are going to be given that task, there is a responsibility on the part of the nursing home, and the employee, to know the law."

**Ms. Davis** - "Thank you for letting me speak. My name is Pam Davis, I'm the Administrator of Cedar Springs Health Care. I come to support Ms. Hawkins in what she may be saying, however, we are a member of the Georgia Nursing Home Association. I don't know if that falls under the guidelines of doing liable healthcare that we work up under, or what. But we are a member of the Georgia Nursing Home Association, and we do have consultants that come in and talk with both, the social worker and the activity worker, and give them the guidelines and the rules and the regulations on what the voting practices are in our facility. So I know that that person has been to our building. She comes in on a regular basis, and I do know that those instructions are given."

**Chairperson Handel** - "I'm sorry. What person is this? A consultant?"

**Ms. Davis** - "Yes. It's a consultant that we have hired to come in that works with social service and activities."

**Chairperson Handel** - "Okay. Any other questions? Thank you. All right. I have a motion and a second, all in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? There is none. Thank you. All right. Our next series of cases, we'll have Ms. Almond give us an update. The first one involves Macon County, 2004-21."

**Ms. Almond** - "Yeah. It's one of our oldest cases. The Respondent in this matter, Edward Lee, who was the husband of a candidate for County Commissioner, and Eugene Hill, who was a friend of the Lees, were helping them in their campaign. The Respondents were accused of improper assistance of absentee ballots and improper possession. Additionally, there is an allegation that the Respondents violated O.C.G.A. 21-2-562 for falsification. This involved a situation where Respondent Lee assisted Respondent Hill with his absentee ballot application, and indicated on the ballot -- the envelope that the reason for the assistance was the fact he was illiterate. However, then Respondent Hill subsequently assisted two other people with their absentee ballot. This never was scheduled for a hearing, it was December 2nd. And both of those Respondents appeared, but none of the keynote witnesses appeared. There were five witnesses, including the former investigator who had been informed by previous administration that no longer works for the Elections Division. So since the witnesses did not show up, these had to be dismissed. However, I would like to note that even if the witnesses had shown up, this case -- there were evidentiary problems that would have made establishing a violation difficult. With respect to false statements, that was probably the clearest evidence of a violation in this case. We had the ballot envelope with Respondent Lee's signature, and the fact that he checked that Respondent Hill was, in fact, illiterate. And in talking with him and observing him, it does appear that he -- his command of the English language was somewhat marginal. So, you know, I don't know how -- whether we would have been successful on that had the witnesses showed up and had we proceeded on that. With respect to the improper assistance claims and improper possession claims, three of our witnesses -- well, two of them are deceased, one of them was very elderly, too ill to testify. One was Respondent Hill, and the fifth voter did not show for the hearing, and I'm not sure if we have his current whereabouts. So without the testimony of

those voters, it would be pretty difficult to establish that they did what they were accused of doing. They did make certain admissions to the investigator, however, I had spoken with the investigator previously, several months before, and he indicated he didn't remember anything about the case and would have to refer to his notes. In looking at the notes, I didn't think those would be very persuasive just due to a kind of complicated facts to this case. So in light of the jury's difficulties, I would recommend the Board take no further action on this matter."

**Chairperson Handel** - "Any other questions on this one? Mr. Worley."

**Mr. Worley** - "I'm sorry, Ms. Almond. Who was the former investigator?"

**Ms. Almond** - "That was John Adams."

**Mr. Worley** - "And I guess I was bothered by the report, which they didn't respond to our subpoena to testify."

**Ms. Almond** - "Yeah. There must have been some sort of miscommunication. I called them before the hearing, and his wife indicated that he was on a hunting trip, so I think there must have been some sort of miscommunication."

**Mr. Worley** - "All right."

**Chairperson Handel** - "Any other questions on this one?"

**Mr. Evans** - "No, Madam Secretary. To be candid, I find it very troubling."

**Chairperson Handel** - "Yeah."

**Mr. Evans** - "I find it troubling, first, because it's a great illustration of what delay in prosecution results in. And I would be interested to know how long this has been at the Attorney General's Office waiting the setting of a hearing to a point where witnesses have died, and other witnesses are unavailable. And we have allegations of false statements where people go unprosecuted. And the second thing that's troubling for me is that the Attorney General's Office agreed to, and moved to, dismiss our case. And I don't believe they have that power. I don't believe the AG has the power where we are the

party plaintiff, to dismiss our case. And these are important, legal, and constitutional issues which need to be addressed. Because if that's true, it means that whatever action we take to enforce the election laws can be forwarded, for whatever reason, by the Attorney General deciding to dismiss valid and pending lawsuits, valid and pending actions to enforce the election laws. So I view this as a very, very serious matter, and I'm not sure what the remedy is, but I think the remedy will be start with getting more data about the exact timeline on when this was filed, when the notice was, when it was referred to the AG's Office. And then, second, the authority upon which the Attorney General's Office believe they can move to dismiss an action instituted in the name of the State Election Board."

**Chairperson Handel** - "Thank you. And Ms. Almond, if you'll follow up with us in writing, that would be helpful. If I might, then I'll come to you, Mr. Worley. It has, indeed, been troubling to have many, many cases languishing, and while I appreciate the desire to work towards a Consent Order, one thing that we have asked of the Attorney General's Office, not just for elections matters, but in other matters when we have to deal with the AG's Office and Consents are involved, that once six months go by, if they've not been able to obtain an agreement that the matter needs to come back to this body so that we can then determine if we are going to want to continue the negotiations, or move forward with an ALJ hearing. And so, hopefully -- not hopefully, so over the course of the next year you will start to see some things come back. Because I agree, at some point simply stalling becomes a tactic just hoping that it will ultimately go away, and it's a disservice to voters, as well as to the hard work that each of you put in to have things languish for this long, and then never have the ability to really do our jobs as the law requires us. Mr. Worley."

**Mr. Worley** - "Well, I just wanted to state, for the record, that in my experience the Attorney General's Office has been, and particularly the Attorney Generals in the office, including Ms. Almond and Mr. Ritter, and others that have done work for us, have been very diligent in prosecuting cases that obviously everything has to be prioritized in cases that are less than capable of being won, are not going to get the highest priority. But I just wanted it to be clear that I don't think there's any question here of the Attorney General's Office stalling -- including Ms. Almond and Mr. Ritter, and others that have done work for us, have been very diligent in and cases that are less than capable I just wanted to be clear that I don't think that

there's any question here of the Attorney General's Office stalling cases. I don't think the attorney General, or people in his office, stall cases."

**Chairperson Handel** - "I'm sorry, Mr. Worley, if I might. I wasn't implying that they were stalling. I was implying the other folks on the outside would."

**Mr. Worley** - "All right. I'm sorry if I misunderstood that. But I also just wanted to say, again, for the record, that Ms. Almond, in particular, from my experience, has done an excellent job in prosecuting cases at hearings and has gotten excellent results in the hearings that she's processed."

**Chairperson Handel** - "Anything else?"

**Mr. McIver** - "Yes. I just would amend Mr. Evans' remarks. If we're going to make an inquiry of the Law Department, I would add to that, I'd like to know the number of outstanding cases and the relative dates. I presume that the remainder of our Agenda might encompass all those, although I'm not sure. But I would like to have a report from them, then, that how many cases do they have, what are their relative dates, so that we then, as a body, since we are charged the disposition of these matters, can begin to make a determinations on our own as to which one's we might want to call forward in advance of the time that the Law Department would choose."

**Ms. Almond** - "I would just like to say, there is a chart in the binder that was all of our --."

**Mr. McIver** - "All right. The question, again, is you said all. That would be all -- all. There are none that are not here?"

**Ms. Almond** - "Right."

**Mr. McIver** "I've got a 16 in the Randolph County matter."

**Chairperson Handel** - "Actually, it's under 17, Tex."

**Mr. McIver** - "I've got legislative briefings. Thank you. I didn't think I had missed it. And then, Ms. Almond, what you're presenting to us -- or at least what you referred to that I hope I have in my hand, is all the cases...."

**Ms. Almond** - "Right."

**Mr. McIver** - "...that are now with the law firm...."

**Ms. Almond** - "Right."

**Mr. McIver** - "...for which we have the responsibility to resolve."

**Ms. Almond** - "Yes."

**Mr. McIver** - "Thank you."

**Chairperson Handel** - "So this one is going to be held until we get the additional information. I probably need a motion to that effect."

**Mr. Worley** - "So moved."

**Chairperson Handel** - "Second. All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? Next item is McIntosh County."

**Ms. Almond** - "This item will be presented by Stephan Ritter."

**Chairperson Handel** - "Okay. You've got a big packet for us."

**Mr. Stefan Ritter** - "Yes, I do. Thank you, Madam Chair. Madam Chair, I'm delighted to be here before you this morning. First, let me say having just heard your comments and Mr. Evans comment, I'll just reiterate that we take our duties to -- we're very serious. We will investigate -- preparing report, but I agree with Mr. Worley. Ms. Almond does an excellent job, and absolutely includes everything she can. She does phenomenal work, so I don't know what the situation is with that case is, but I'm sure it's a good reason. Let me move on to McIntosh County and tell you about this case. Because this case is on the Agenda today, and we have some folks who've come here from McIntosh County, particularly their current head of their elections, which is Mr. Bob Mucha. But this case is a case that arose under your predecessor's term, Cathy Cox. It was tried by Penny Hannah of our office to the ALJ. Judge Gotta heard the case, and Judge Gotta issued an initial decision. And I will tell you, candidly, that reviewing that initial decision, which I have done and that is in your packet, I do not think it was an

excellent initial decision, and I don't think the Board, when it came before this Board, thought so either. And our view of it, understanding -- Ms. Hannah's understanding was that that initial decision had been rejected. But looking at the Summary Minutes, which are on the top of your packet that you can see on the first page, I've discovered, in fact, that what happened is that the Board did, in fact, vote on amendments to the initial decision and adopted it with those amendments. This is a serious case. This is a case that involves a gentleman named Boyd Gault who had a number of absentee ballots that he handled himself. And he had admitted in a previous trial that he had handled them himself and when he was questioned at the administrative hearing, he took the Fifth Amendment and refused to testify. And it involves a situation that used to exist, but hopefully does not any longer exist in McIntosh County, where the former head, now it seems to be James Amerson, failed to take his duties as thoroughly as he might have, and perhaps didn't understand absentee voting and advanced voting in the way he that he might of. And there was some serious irregularities. What has happened since then is a complete revamp of McIntosh County election situation where they have now consolidated the Board, which was really not a successor to the prior Board. Where legally, the robber hits the road, so to speak, on our case is on that prior meeting that this Board held where this Board said we are going to impose these fines, and we want these amendments to the Board."

**Chairperson Handel** - "And Mr. Ritter, that this Wednesday, December 13, 2006 meeting."

**Mr. Ritter** - "Correct. Correct."

**Chairperson Handel** - "Okay. Thank you."

**Mr. Ritter** - "It did come before the Board again when Ms. Hannah tried to present that, and I think that the Board, at that time, did not consider it, did not move on that, but a final decision was prepared. I went through this, actually, to write a new final decision. It was only later that I discovered this. We then got what was in then a very poor recording of the prior meeting to see if the minutes did accurately bear out. In fact, they do -- I'm sorry, the transcript is not as good as we'd like, but they do bear out, 51 pages, around 23, 25 with the motions, and the order. So Mr. Gault, who handled these absentee ballots, was fined only a hundred dollars by this Board. I wish I could tell you today that I would like to have

that changed, because I would. I think it's much too low, but the bottom line is this. It's been voted on. Well over 60 days have passed since that vote was taken. So I think we are at the point where our final decision should have been executed, has not been executed. In fact, I don't think there's any other actions for this Board to take, and I would suggest, Madam Chair, you can actually execute the final decision, but formality if the Board wanted to vote on it -- I've included a copy of the final decision I've proposed. It was actually looked over by Ms. Hannah, and it goes through and it reflects exactly what the votes were, including the changes in the language to the initial decision, but otherwise it's the same language in the initial decision, and the changes and sanctions from the initial decision. One last thing, one other change that was made to the initial decisions in the prior meeting was that there was a gentleman named Reggie Williams who was a convicted felon. Judge Gotta mis-appreciated what the duties were of Mr. Williams in terms of thinking incorrectly that Mr. Williams had to go forward and to reestablish his right to vote once he completed his sentence, which he did not. He was still in violation of the law at the time, however, and a cease and desist order was issued -- well, to be issued against him. So that's where we are. And I would present the final decision to Madam Chair for execution, and that resolves this case."

**Chairperson Handel** - "So do we, or don't we, need to vote?"

**Mr. Ritter** - "You do not need to vote, but you're free to make a motion, and do it for formality sake, if you want. It's already been voted on."

**Chairperson Handel** - "All right."

**Mr. Worley** - "I just -- if we've already voted, I don't think we should vote again...."

**Mr. Evans** - "I agree."

**Mr. Worley** - "...and establish some precedent that might be problematic in the future."

**Chairperson Handel** - "Any other questions on this one? All right. Next item."

**Mr. Robert J. Mucha** - "Can we talk?"



**Chairperson Handel** - "Pardon, me?"

**Mr. Mucha** - "Can we come up? There's something I'd like to say for McIntosh. See, I have a concern --."

**Chairperson Handel** - "Hang on for a second. Let me just get the pleasure of my colleagues, here."

**Mr. Evans** - "I'm fine. I remember us...."

**Chairperson Handel** - "Two minutes."

**Mr. Evans** - "...Madam Secretary, this was before you came on Board. We were working hard, and this was something that Mr. McIver, who in his capacity as the Vice Chair, worked hard on as well, to break the barrier to actually begin to impose civil penalties, individually, or violations. And prior to this time period, there had be reticence by the Secretary, at that time, and the Board before then to do anything other than generally cease and desist orders. And in order to -- in order to break that barrier, we went with an artificially low penalty just to establish the precedent of being able to impose a penalty. And that's how we ended up where we are now. Once we broke that barrier, then we were able to work toward establishing meaningful penalties, which is where we are today. I don't think it would be right to go back and revisit a penalty that was imposed then, but I did want the record to reflect the judicial history, if you will, and the legislative history for what was happening in that time period as we work hard to give teeth to these types of violations. So I agree with Mr. Ritter. I think it is in order. It stands -- I don't buy the 30 day thing, but we need not get into that today."

**Mr. Ritter** - "And if I may say, I want to clarify the record on that, too. I think that this Board can go back and amend prior orders in certain circumstances. I'm not suggesting that if you fail to act within 30 or 60 days of an extension that that is the end of the day. But that does begin, generally, from Respondents appeal rights. Thank you."

**Mr. Mucha** - "Thank you. I appreciate that very much."

**Chairperson Handel** - "You're welcome. Tell us who you are, please. Pull your microphone up just a little bit."

**Mr. Mucha** - "Am in on now?"

**Chairperson Handel** - "Yes, you are."

**Mr. Mucha** - "My name is Robert J. Mucha. I'm the Chairman of the Board of Registration and Elections in McIntosh County. We went through the order. We've been waiting a long time for this case to come to its fruition. My primary concern in reading this is, you know, I recognize you cannot change it, but this is going to come down and it's going to actually, in my opinion, be smirched and hurt more on existence than McIntosh. We do not have a Board of Registrars anymore, and this talks about penalties against those people. However, when people look at this they're not going to make a distinction between the Board of Elections and the Board of Registrars, so I want on the record, the specifics that the current Board is not being sanctioned because we have got a new Board, we have gone through a lot, we had a very tenuous election, the last one. There are some additional charges that have been filed, I'm pretty sure. Shawn LaGrua's got those right now, and it does speak of one of the individuals that we're talking about now. I'm not going to get into to discussion on that because I don't think it's worth that at the present time, at least. But I do want to make it clear that we have a group of people -- we are a working Board. You know, we have a Clerk in there, but things come down we do the early advanced voting. We're in there. And it's everybody that's on my Board of Elections and Registrars over there. That's basically about the only thing I wanted to get across. I recognize this is a done deal, you know, and I knew we were supposed to talk about it, look at it more, understand the ALJ went through a number of things. This Board, again, was at the VRG Meeting. I've got to really compliment Mr. Ritter because he's really the one that finally took it and brought it all together. So thank you very much, we appreciate it."

**Chairperson Handel** - "Thank you. Appreciate it. All right. Our next page is City of Fort Oglethorpe, 2005-000062. I'm going to let the Vice Chair take over for just a moment."

**Mr. McIver** - "Let the record reflect the Chair is leaving the room, albeit for a brief time."

(Whereupon, the Chair left the room at 12:15 p.m.)

**Ms. Almond** - "This case involves a candidate for City Council. He was accused of giving free hot dogs and cokes in exchange for votes during the November 8th, 2005 Municipal Election in Fort

Oglethorpe. What he had done was he had his hot dog stand offering hot dogs, and right next to the stand he had a sign that read, elect Stephen Allen Lanier City Council. The Respondent has claimed that he, with the advice of the City Attorney, and was told that the stand was proper as long as it was a certain distance away from the polling place, and as long as he didn't petition voting upon receiving a hot dog. This matter has been referred -- however, in anticipation of the hearing, Respondent Lanier has obtained affidavits from people who have prepared to testify on his behalf, including the former Mayor and two of his opponents in the election. These individuals would testify that they were present on Election Day, and that they were given hot dogs by Mr. Lanier and the supporters were getting hot dogs. You know, with no expectation that they would vote for Mr. Lanier. In spite of the fact the evidence, we recommend that there be no hearing, and this case be closed."

**Mr. Evans** - "So what was the evidence upon which we bound a case over?"

**Ms. Almond** - "The fact that he -- just the sign -- the fact that he had the sign next to the hot dog stand, and then you had the complainant alleging he was conditioning the hot dogs on -- giving the hot dogs on -- in exchange for voting. There wasn't really much evidence, but there, you know, it was kind of a borderline case."

**Mr. McIver** - "But on the strength of the three affidavits obtained by the Respondent, you began to lose faith in this matter; is that right?"

**Ms. Almond** - "Yes."

**Mr. McIver** - "Were affidavits challenged in any way? Were they validated? Did we interview any of the three ? "

**Ms. Almond** - "I haven't interviewed any of the three -- any of the people who issued the affidavits."

**Mr. McIver** "Mr. Evans , I didn't cut you off"

**Mr. Evans** - "No. That's fine. I apologize for interrupting. I would recommend that we issue a letter of instruction, because we really do have to set the boundary. And Mr. McIver, Vice Chair and I have talked about this before, which is there is

some lack of clarity about when does free food, free stuff cross the line. And I think through a pattern of letters of instruction, we can start to define exactly where that line is. In the last election, we clearly articulated that giving free Starbuck's coffee, or free doughnuts, or free compact discs was over the line, and now the question before us is if you have adjacent signs, or signs in close proximity, one which says election one and one that says free-something, does that cross the line? And we need to figure out, where is that line? I don't know that we should punt, which is what closing the file does. I think we actually have to make hard decisions so that local elected officials aren't left constantly trying to figure out, you know, radar lines as to where we might end up. And so --."

**Mr. Worley** - "So you're suggesting that we send a letter of instruction that says, you didn't violate the law, but don't violate the law again?"

**Mr. Evans** - "No. I would -- actually, I don't know that would ever work either. I would suggest a letter of instruction that defines exactly where we think the boundary is, which is that -- that an election sign cannot be attached to or adjacent to a sign that indicates that there'll be free anything."

(Whereupon, Chairperson Handel returned at 12:19)

**Mr. Worley** - "I would ask Mr. Ritter and Ms. Almond, about what our authority is here. It seems if that's what you want to do, you usually have to pass the rule that says that. I don't think if you're wanting to get in that much detail, that letters of instruction to various candidates as we go along are really going to be of much use."

**Mr. Evans** - "Well, what I'm not willing to do is ignore the will of the Election Board, or to let the Attorney General decide which cases they want to prosecute and which ones they don't, and then we just live by it."

**Mr. Worley** - "Then if we think they're wrong and recommending that this not be prosecuted, let's vote against it and have them prosecuted. You know, let's see what an ALJ says. It seems to me that, you know, and honestly I don't remember the exact details and the reason we bound it over, but I take Ms. Almond in her word that there was some question as to whether he had conditioned receipt of the hot dogs on casting votes. But we've

got affidavits here from, I guess two of his proponents, saying that they were the whole -- they were there and -- during the entire time, and he never conditioned it giving the hot dogs on the votes. So if we want to take the standard that we're going to take some amount -- some minimal allocations in order to refer a case over to the Attorney General, which based on today's action is the position that we seem to be taking, then it seems to me that we have to accept the fact that when an investigation is done and when evidence is collected by the Attorney General's Office, there are going to be many cases where it turns out that the probable cause didn't result in sufficient evidence to actually bring a case. These are -- this is one of those cases, and I just don't want -- I just don't think we should be second guessing the Attorney General in all of these cases. I mean, the case that we just had -- further investigation revealed that there was -- the woman actually lived in Webster County when she said she didn't -- or in Steward County when she said she didn't that, you know, we're going to be second guess that decision, I don't think so. Or I don't think we should."

**Mr. McIver** - "Any other discussion? Do we have a motion?"

**Mr. Evans** - "I move we send her a letter of instruction indicating -- a letter of instruction indicating that it is improper to offer food or free hot dogs and cokes in exchange for cokes, as provided in 21-2-57."

**Mr. McIver** - "We have a motion. Second?"

**Chairperson Handel** - "You said she, but did you mean --."

**Mr. Evans** - "Mr. Lanier."

**Chairperson Handel** - "Second."

**Mr. McIver** - "Motion and a second. Discussion? We'll call out to vote. Those in favor of the motion, respond by saying aye."

(Whereupon, there was a chorus of ayes)

**Mr. McIver** - "Opposed?"

**Mr. Worley** - "No."

**Mr. McIver** - "All right. Mr. Worley opposes."

**Chairperson Handel** - "Thank you, Mr. McIver. Next case is Spalding County, 2006-000041."

**Ms. Almond** - "This case involves claims of improper assistance - improper possession of absentee ballots, and also improper possession of an absentee ballot application. The Respondent Cynthia Reid-Ward and Gwen Flowers-Taylor have admitted to improperly possessing absentee ballots. Respondent Reid-Ward had admitting to taking possession of about four voters, and she's agreed to pay a \$400 fine, in addition to a cease and desist and reprimand. Respondent Flowers-Taylor has admitted taking possession of the ballots of at least five voters, and has agreed to pay a \$500 fine, in addition to the cease and desist order and reprimand. Respondent Cora Flowers has been accused of improperly taking possession of a completed absentee ballot application, however, this office has previously issued and is continuing in taking possession of application is not actually a violation, and since she otherwise properly assisted this person, I recommend the case be closed."

**Chairperson Handel** - "I seem to be missing a page here."

**Mr. Worley** - "I think we're just out of order."

**Mr. McIver** - "Yeah. It's out of order."

**Mr. Worley** - "I would make a motion that we accept these consent orders."

**Mr. Evans** - "Second."

**Chairperson Handel** - "I have a motion and a second. I have one clarification. On the Consent Order for Gwen Flowers-Taylor, the \$400 fine -- Is that right?"

**Mr. Worley** - "And the other's \$500."

**Chairperson Handel** - "But it was five voters, and the other one, I thought, was five voters for \$500, and I'm just trying to understand why we wanted \$400 in one -- you know what? I think because they're out of order, I bet they're different. Is Ms. Ward for four voters, \$400?"

**Ms. Almond** - "Right."

**Chairperson Handel** - "Okay. And then Ms. Flowers-Taylor for five voters is \$500."

**Ms. Almond** - "Correct."

**Chairperson Handel** - "Thank you for that clarification."

**Mr. McIver** - "I have my standard question. Is this consistent with what we've done in the past?"

**Ms. Almond** - "Yes. In the past we've issued a hundred fine for absentee improper assistance and possession of the ballot."

**Chairperson Handel** - "I have a motion and a second to accept. All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? There being none, we'll move forward. And if the record can show that Mr. Israel is with us now. Welcome. Good to see you."

(Whereupon, Mr. Israel arrived at 12:26 p.m.)

**Mr. Jeff Israel** - "Thank you."

**Chairperson Handel** - "Our next matter is City of Kingston, 2008-10."

**Ms. Almond** - "This case involves a complaint by an unsuccessful candidate for City Council. He lost this election by two votes, and alleged that the City and, specifically, Respondent Terry Provenson, with former Election Superintendent didn't challenge the votes of people who didn't reside in the City, and also failed to remove deceased voters from the voting list. He also alleged that Mr. Provenson failed to properly provide poll worker training for the election. The complainant provided a list of 48 voters who, we believe, should have been removed from the elector's list. After further investigation, it was determined that only three of the voters on the list were in the election, and all were falsified votes."

**Mr. Evans** - "Three voted, and he lost by two?"

**Ms. Almond** - "Right."

**Mr. Evans** - "I can see why he was upset."

**Mr. Worley** - "But they were all qualified to vote."

**Ms. Almond** - "Right. During the course of the investigation, it was revealed that the City hadn't appointed a municipal registrar who would have been responsible for determining who should have been on that list, and who shouldn't have. Instead, Ms. Provenson had been wearing that hat, even though it really, under the law, wasn't her duty to do so. The City has cited a Consent Order agreeing to appoint registrars, and also a cease and desist and reprimand. Ms. Provenson has admitted that she failed to train the poll worker, and has agreed to a cease and desist order, reprimand, and training if she enters into another electoral position. And so I recommend the Board accept the consent orders."

**Chairperson Handel** - "Questions? Is there a motion?"

**Mr. Evans** - "So moved."

**Mr. McIver** - "Second."

**Chairperson Handel** - "Motion and a second. Any other questions or comments? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? There being none, that one's approved. Next item is 2008-000014, Randolph County."

**Ms. Almond** - "This involves a dispute between the Registrar's Office, Randolph County, and the Election Superintendent Office of Randolph County. The Election Division received a complaint that the Election Superintendent's Office was refusing to deliver DRE machines after --. After intervention by the Secretary of State's Office, with the assistance of the County Attorney, the machines weren't, in fact, delivered on the day that -- Further investigation was done, and it was revealed that the Election Superintendent, Sandra Thompson, that she committed other violations that she failed to post notice of two scheduled testings of the DRE units, as required by O.C.G.A. 21-2-379.(c). And also, during the investigation it was discovered that Respondent Hoover, who took over the position on short notice after the Chief Registrar resigned abruptly, that he had failed to sign two absentee ballot applications that he had rejected,



and failed to document the reasons why he rejected that -- the ballots, as required by law. Both of the Respondents have entered into Consent Orders, and have agreed to attend training by June, in addition to a cease and desist and a reprimand. So I would recommend that the consent orders be approved."

**Mr. Evans** - "So moved."

**Chairperson Handel** - "Second."

**Mr. Evans** - "Madam Secretary, for purposes of discussion on just one point, which is now that we've started the process of adding Respondents such as, in a case like this where Randolph County would be a Respondent. In the event we get a Consent Order with the entity, such as Randolph County, it would be helpful if you would put in the Consent Order an undertaking, on their part to pay for the training. Or otherwise, make available the training that's required so that we make sure that we are -- the adequate resources are allocated. And obviously, if the County agrees to that, that's not a problem."

**Chairperson Handel** - "And in this instance, what we can do is send a copy of this Consent Order with a cover letter from me advising them of it, and we can send it to the Chairman of the Commission, as well as the County Manager."

**Mr. Evans** "Yeah. We just want to create the idea that it's cheaper to have them do the training first, than to wait for us to make them do the training. And so, we've got -- you know, these county officials understand the ballot sheet, and we've got to make it more expensive for them not do the training. So that's our goal, I think."

**Chairperson Handel** - "All right. I've got a motion and a second. Any other questions or comments? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed?"

**Mr. Worley** - "Aye."

**Chairperson Handel** - "That's a unanimous vote. Any other questions for Ms. Almond? All right. It's right about lunch time. Colleagues, I believe we do have Executive Session on

litigation matters, so if the Chair can entertain a motion to go into Executive Session on Litigation."

**Mr. Worley** - "I would make a motion that we go into Executive Session."

**Mr. Israel** - "Second."

**Chairperson Handel** - "All in favor?"

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "All right. And we will -- let's see. Let me see what time it is, 12:33. Let's call it that we'll be back at 1:30 if everyone who wants to be here is here."

(Whereupon, the meeting broke for lunch and Executive Session at 12:33 p.m., and reconvened at 1:27 p.m.)

**Chairperson Handel** - "All righty, folks. I'm going to call us back to order. We did have Executive Session on litigation. No action was taken. I'd like to get a motion to come out of Executive Session and come back into regular session."

**Mr. Worley** - "So moved."

**Mr. Evans** - "Second."

**Chairperson Handel** - "All in favor?"  
(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? All right. Next item on the Agenda is Matt Carrothers, Election Update on where we are with Photo ID Outreach that we did up through the November Election."

**Mr. Matt Carrothers** - "Madam Secretary, members of the Board, my name is Matt Carrothers, Director of Media Relations with the Secretary of State's Office. This presentation details all of the Photo ID Out Reach and Education Programs through the December 2, 2008 Runoff Election. On the next page you'll see the total voter identification cards issued, both in 2008 and then the total number of cards issued as of December 31st, 2008. The next page details both, the General Election and the General Election Runoff efforts, and the number of voters who voted provisionally because they did not bring a photo ID with them to vote in person. Fairly self-explanatory, as well as the numbers

we returned with an ID, and numbers who did not return with ID. We did mail letters to 683 voters who voted provisionally, but did not return to provide photo ID. Of course, those names were provided by County Election officials."

**Chairperson Handel** - "Do you have a question?"

**Mr. Worley** - "Why is there a difference between 873 and 683? There were some people who didn't return to provide ID."

**Mr. Carrothers** - "Right. The information that we use -- the data that we use is provided by the counties. It's not mandated that the counties provide it. Not all the counties are, you know, as fast in getting us that information, so we send letters to all the names that we have, then I request we make numerous follow attempts to the County Elections officials to get the names. So that would explain any discrepancy."

**Mr. Worley** - "So the 873 figure there, that's based on information that was provided by the counties?"

**Mr. Carrothers** - "Correct."

**Mr. Worley** - "And how many counties did not --."

**Mr. Carrothers** - "I'd have to get that information. I don't have that in front of me right now, but I can get that."

**Mr. Worley** - "Because I would like to know if that 873 is a real number, or not. I mean, it's real to the extent it was recorded by some counties. But I'd be very curious to know how many counties did not, or what could be done to get that information from them."

**Mr. Carrothers** - "Okay."

**Chairperson Handel** - "Any county that didn't provide it, they are to get a communication from me telling them to respectfully provide it. I mean, that's just ridiculous. I'm sorry. That really annoys me. All right."

**Mr. Carrothers** - "The next page details the direct mail outreach for the combined September 16th Special Election and the November 4th General Election. We won't go into all the numbers, but you can see that we mailed nearly 865 thousand pieces of direct mail through various means, including letters,

brochures, postcards, packages to nongovernmental organizations, and inserts with Georgia Natural Gas bills. The next page, we've actually discussed in the prior presentation, details our partnership with the Atlanta Falcons organization. We ran over five thousand 700 radio PSAs before, during, and after the football games detailing Photo ID requirement, the voter registration deadline, and all the early voting options available to voters. And during the football games in the Georgia Dome, there were messages on the LED there. The next page details some additional outreach efforts, including television, ads placed on MARTA buses, and additional radio PSAs to a clear channel network. That includes what they call total traffic, online streaming on the websites, Atlanta Braves Games, and then also something called the Georgia News Network which is owned by Clear Channel. So this is in addition to the radio playing before, during and after the Falcons games. So the next page is just a synopsis of September 16th and November 4th. Again, fairly self-explanatory. 865 thousand pieces of direct mail, 15 thousand pieces mailed out to nongovernmental organizations, which include houses of worship, libraries, et cetera, and the Falcons radio and MARTA. And then, the final page details the total education outreach campaign, what we call phases one and phases six. And that would be since the program began in 2007 through December to the runoff election. Over five million pieces of direct mail, over 57 thousand pieces of mail to nongovernmental organizations, over 83 thousand automated phone calls, over 60 thousand 600 radio PSAs, et cetera."

**Mr. Worley** - "I have a question. Matt, do you have a figure for the total campaign, how much money this State has spent to do all this?"

**Mr. Carrothers** - "I do have that. It was just over a million dollars since the fall of 2007."

**Mr. Worley** - "Thank you."

**Chairperson Handel** - "Any other questions, folks? All right. Matt, thank you very much. Wes."

**Mr. Wesley Tailor** - "Madam Chairwoman, members of the SEB, I am going to give a brief overview of the efforts by the Elections Division. I'm also going to look back at the General Election, Runoff Elections on some statistics. As I go through this, of course, if you have any questions or anything you'd like me to

elaborate on, I'm more than happy to do so. The first slide really summarizes the election turnout for the General Election, as well as the Runoff. And to put that in perspective, I'm sure you all have heard these numbers so I won't linger. But to put it in perspective I also included the 2004 figures as well. The -- couple of things that stand out is the turnout, just as sheer numbers from 2008 to 2004 was an increase of about 700 thousand voters, however, if you look at it as a percentage of voters -- of registered voters, it was roughly the same as in 2004. The biggest difference that, as you'll see, is with the absentee and the in-person, as well as voting by mail numbers that we saw during the General Election. And then, even during the Runoff it stayed high at 28 percent of the total votes. And in fact, we saw during the November General Election that it was the highest absentee voting that we had ever seen, and it was as much as five times as much as it was in 2004. The next slide is actually -- or the next piece of paper that you have, I'll --."

**Mr. Evans** - "It does strike me that --."

**Mr. Tailor** - "Yes, sir."

**Mr. Evans** - "It does strike me that -- if you go back to that slide -- that these numbers, combined with the -- or using the advance votes, change the way -- act to change the way in which we project turnout. Because, before, if you remember, we had a formula we used which took the advance votes, absentee votes, prior voting patterns, and combined them what we were getting from our -- from the field and use that, basically, an algorithm was applied and you were able to get a pre-(inaudible) indication. However, the success of advance voting and the numbers being so great, of course, didn't translate into similar numbers on Election Day because so many more people were just voting early. And so, it probably changes -- we probably have to go back and look at the algorithm for projecting turnout."

**Mr. Tailor** - "From what I have seen, overall, Mr. Evans or on those lines, the ability -- or getting options to voters on when they cast their vote. It doesn't necessarily translate into an increased turnout, overall, but it does change when people decide that they are going to vote, and it does change whether they -- you know, really see that as a positive experience, or not. And for instance, now they're talking about some of this in a bid, some people are more willing to stand in a line longer periods of time two weeks before the election, but not being willing to do the same thing on Election Day. And some of that

we had seen, and I will say that Georgia is not an anomaly. Across the nation, where early voting was in place, there were certain jurisdictions, I think North Carolina saw something like a 75, 77 percent turnout during early voting. So --."

**Mr. Evans** - "Even in the, applying the algorithms, we didn't end up that far off. Because I think were thinking at the end around four million, so that's, what, 76 thousand off? And about 80 percent of active , we ended up 4.3 percent off. We thought two-thirds total, we ended up 2.2 percent, so even with the changes in the dynamics I don't think the numbers ended up that far off."

**Chairperson Handel** - "If I might, though, Mr. Evans. Their -- your comments about an algorithm, that's the first we've heard of it. Nobody in the field or in the office has a mathematical formulation, but what we do do is just really look back at the trends for elections and, you know, there tends to be some elections that have a lot more excitement than those that don't and we've just been talking with the locals, really felt bad with this particular election. If we were at 77 percent of all total registered voters, previously, that we needed to really count a minimum of 80 percent. And say you're right, so we just tried to look at historical data around all of it. But if we could ever figure out a mathematical formula, I know -- I see Gail back there smiling, we'd love to have one if there was one."

**Mr. Evans** - "I know I speak from the other hats that I wear, we use an algorithm, which is just, literally, a weighted algorithm that's based on advanced voting, absentee votes, information you get in terms of wait lines or anticipated requested ballots, those kinds of things."

**Chairperson Handel** - "Sure."

**Mr. Tailor** - "And, in fact, one of the things that we did do on the slide was to break down the absentee voting for you so that you could see. During the General Election, we could break it out into voting by mail, as well as the time period when those votes were cast, whether it was during the early voting period, up until the advanced voting week. And you can see that those percentages, the interesting thing, I think, that comes out of this is the voting by mail percentage is very similar, in fact it's almost the exact same during the runoff and during the General Election. So most people, obviously, during the

absentee period chose to go and vote in person rather than requesting a ballot by mail. And then, I also put in for comparative purposes for the Board, previous elections and the percentages that we saw historically. Which, of course, all this is available on our website under results and statistics, but I thought I would summarize it here. Next slide. This is a slide looking at the voter registration statistics and the newly registered voters that we saw this past year. And we did see a market increase in the amount of total registered voters this year, which actually is consistent with what we have seen in the past year. And, in fact, if you look at the new applications that we received, it was actually quite surprising to me. When I did the calculation, it came out almost exactly the same as the percentage of total voters at the registration deadline for how many of those were actually new applications. So it is interesting to look back at history on some of these statistics, and they do end up repeating themselves over time, including in the voter registration area. Along those lines, on the next slide, is really talking about what did our office do, what did we see during the election, how did we prepare, and what came out of that? I can tell you that we did, for the first time, we partnered and must thank profusely the Governor's call center -- his customer service call center. In connection with that, they had, I think it was something like 25 individuals who answered the phone at their call center for the two weeks leading up to the Election. We provided them with very specific questions and answers so that there was an absolute script by which each individual would respond. If a question that came in was not part of that script, it was referred to the Elections Division for a more -- for basically expert handling by folks within the Division who know how to answer questions other than the limited number that we provided. However, I can tell you that the number that came into the Elections Division was pretty small comparatively. The vast majority of the questions were exactly what you would expect -- am I registered, where am I registered, where do I go to vote? Those are the vast majority of the calls that came in, and the Governor's Call Center really helped out with that. In fact, I believe the numbers are -- they answered more than 13 thousand calls during the two weeks leading up to election. We also layered in, and I must thank Randy Vaughn, the Director of the Professional Licensing Board, as well as all of the folks that work in the call center for the Professional Licensing Board, which is another division within the Secretary of State's Office. Again, we had, I believe it was 15 individuals who actually answered elections calls from an 800 number that we had. And in the 45 days, because they were

assisting us during the entirety of the early voting period, they answered more than 62 hundred calls with the same type of parameters of script -- questioning and answer the script, if it was off the script, it came to us to be able to handle it within the division. And in that time period, the Elections Division, itself, handled tens of thousand -- it's hard to keep track because we don't have -- some of these other call centers had these tracking mechanism, and within the Secretary of State's Office or within the Elections Division we didn't, but we knew that we continually answered calls, and it was tens of thousands of calls that we handled over the 45 days leading up to Election Day. And we handled about 62 hundred in-house within the division on Election Day. And the reason this is important is because, I believe this was one of the first times where Georgia voters have the ability to actually call in and get somebody consistently. And so, we really wanted to make sure that Georgia voters had the ability to reach somebody and get their question answer rather than getting any kind of busy signal, or any other issue was with getting a quick succinct answer to their question. And fortunately, we were able to achieve that. In the meantime, out at Kennesaw State University, they had ten -- they had 12 people actually out at the call center, and of course, the Kennesaw State University Call Center is for elections equipment issues that occur on Election Day or before. But they had 12 people that were staffing their call center. On Election Day we contracted, and actually the Secretary of State's Office provided two contractors to assist them with those calls on Election Day as well. And also on Election Day we contracted to supplement the field technicians that some counties will hire on their own in order to help them with elections issues or equipment, or even with uploading a return or whatever it is that they have a technical need for. And we supplemented those technicians that the counties hire with 24 also from the State, spread across the State so that if any issue -- any particular equipment issue came up, they would be immediately ready to go to that jurisdiction and be able to assist. Fortunately, there wasn't much call on Election Day for that assistance. And of course, Shawn -- Shawn's team, there were 40 investigators spread throughout the State. Monitors to assist in any issues on Election Day, and also included during early voting and advanced voting throughout the State. And they were strategically placed to be able to get to any jurisdiction very, very quick. Any questions about that aspect of it?"



**Mr. McIver** - "You mentioned 62 hundred phone calls, or so, if I recall correctly. I noticed in the photo ID report there were 197 thousand hits for Georgia Photo ID."

**Mr. Tailor** - "Yes, sir."

**Mr. McIver** - "Were constituents attempting to reach you via the internet as well the phone?"

**Mr. Tailor** - "Well, we did. And we answered thousands of emails during that time period as well. But I will say, we were tracking and at one point we were at, I know, 400 hits a minute on our poll locator where it answered the question, am I registered, when was I registered, where do I go to vote, who were my representatives? And so, fortunately, because we had such a robust system and, in fact, before this election we layered in another server to take all those hits and so the poll locator was running off of two separate servers so that there wasn't any lag time for anybody out there who actually wanted to find out where they voted. We were seeing a significant number of folks using our website."

**Mr. McIver** - "You mean, there was a separate channel there. In addition to the phone, they could have used the Internet to come with their question?"

**Mr. Tailor** - "Yes, sir."

**Mr. McIver** - "Who do I call, or what's the name of my registrar, or what's their address, or whatever --."

**Mr. Tailor** - "And in fact, we encourage that. And I will say one of the things that we did before this election which, again, I have to give credit to my team that designed it because I didn't come up with the design, but we redesigned the Secretary of State's website to make it much easier for the voter because, before, sometimes all the information was there, but if you were a voter trying to come and get the information, it wasn't as easy to find. And so, what we wanted to do before the election is make information easy to find so that when you go to our website, one click, maybe two at the most, and you have the information that you need. So we did do that before this election, and I think that's part of the reason, also, why people were able to get the information. And that website is advertised by lots and lots of organizations, as well as we put it out there and make sure that people know that they can go to use that website. The next one is just an overall election

review. On the electronic voting equipment we did not see any statewide issues with respect to the electronic voting equipment. There were, of course, isolated situations that were dealt with quickly and resolved immediately, but no statewide issues. In fact, I will say that, if he allows me to quote him, but Merle Kin, out at Kennesaw State University was actually very pleased with how our voting equipment held up during early and advanced voting. Because it was during early and advanced voting, there was necessarily a smaller amount of equipment that's being used during that time period, but yet, it's all more than 50 percent of the vote cast on those machines, or about 50 percent cast on those machines, and they held up extraordinarily well in that everything worked really well. The express polls during the election also functioned well. There were some issues, the issues that express -- that we have seen on express polls, which we've dealt with in training, and continue to deal with is an issue with uploading the correct voters list onto the express poll units. When that is not done exactly properly, then the County will have to refer back to the paper list and utilize the paper list, and there have been issues, but they're very minor and sporadic. Overall, the express polls very well. Under the Georgia Technology Authority, we did take very aggressive and proactive steps to involve GTA in this Election. In GTA, as you all know from the County -- is GTA houses the voter registration database. And so, we wanted to make sure that any issues that may have come up with that, whatever -- regardless of what it was, that GTA and we had open communication -- an immediate line of communication, and that worked for most of the election. Any issues, like I say, that did arise were addressed immediately. They were resolved timely, and GTA was very good at working with us in that respect. Any issues, by the way, that we did see with respect to voting, we're all involved in connectivity issues rather than the database issue, which is -- if you want to take solace in that, it wasn't the database that was having an issue, it was a connection to the database. And part of those are just as a result of the fact that a database is a top-down system housed by the Secretary of State's Office, and GTA and the counties access it without getting too much into that. Those issues were resolved timely and immediately. The -- what we did see were some early voting lines. As you all know, that's what the news was reporting on a significant amount of time during early voting, however, what we saw is we went back and were able to actually analyze those lines. For the most part, what we had seen were lines that were forming because the early voting sites were getting large amounts -- groups of individuals appearing at

the exact time to vote. And that contributed to the line because when you have 100 people show up all at one time, there's going to be a time for when that one-hundredth person actually makes it through line. We also saw issues where people were getting to the voting sites, and we noticed from looking at it, they were being reported as being -- as waited in line for, say, six hours. Yet, we knew that there were people who were actually on TV or being recorded as waiting that long who had gotten to the polling location at five o'clock in the morning -- four o'clock in the morning, and the polling location didn't open up until nine. And I know there's one specific incident of that comes to mind. And so, but -- the report was the total wait time of that four-hour time period before the poll even opened, which isn't really fair, necessarily, to those workers and to those local election officials who processed people within an hour or two after the poll actually opened. With that being said, as you well know, our office and the elections officials across the State worked very hard, talked about planning, talked about the expected turnout during early and advance voting, and the lines and how to deal with those issues, and we will continue to do that going forward and looking at lessons learned in this situation as well, including, I believe it was mentioned before, where -- I don't want to talk about what Rob is going to talk about, but we are going to address the governmental building requirement for early and advanced voting. There's a statute that says it has to be in a government building, so we are going to try to address that with legislative issues. And of course, that's to give flexibility to the elections officials. Election night reporting. There have been -- there were some questions raised about the sequence of vote reporting, meaning it could show 99 percent of the precincts, and yet you're only looking at 40 percent of the turnout numbers. And then, once that absentee precinct comes in then you have your 90 percent, or 99 percent of the vote in that -- in that County, even before you get to the mail. And what we are going to do is address that. I'm going to work with Mr. Evans and the rest of the Board in maybe designing the rules, or at least guidance as to how election night reporting needs to occur sequentially so that everybody knows what they're looking at when they look at their reports on Election night."

**Chairperson Handel** - "And so it's consistent -- that was one of the challenges we had. Some counties were reporting in one order, and other counties in a different order, and that obviously, got folks out there somewhat confused. Plus, if we go onto to HAVA, let me just -- things were not absolutely

perfect, but I think, overall, things went extremely well in our State, and that is truly a testament to a couple of things. Wes and his team's really hard work. Equally as important, the partnerships that we've had with other agencies in the State. Candidly, we would not have been able to manage the volume of calls if the customer service office from underneath the Governor and the Licensing Board folks, and at least that, sort of, at some greater latitude of making him want to answer an election call, but certainly, in the other division, I didn't. They really did a tremendous job. And GTA really, I mean, worked with us for a good eight months leading up to the election trying to just troubleshoot every little thing so that we didn't have any type of long term catastrophic failure that would really impact the ability to do the election in -- obviously the poll workers -- anybody here who are poll workers? And yes, thank you. I know you are Sally, but I mean, 15 thousand-plus poll workers that come out to support democracy did an outstanding job. And for the County Elections Officials in the room, y'all are just awesome. Gail, I see you there. And Kevin, everybody, you've done, really, a tremendous job, and you've had the most voters, ever, that you had to manage and, again, it wasn't perfect. I think someone said earlier, strive for perfection, but that's usually not the most attainable goal. But you really did an outstanding job, and my hat's off to every one you. So thank you for your hard work."

**Mr. Evans** - "So our long term plan for how we deal with the popularity of early voting in the future is -- it struck me as -- I mean, the Secretary and I are completely on the same page. I personally believe early voting is a great thing, and I don't buy the idea that people voting and somehow they're now locked in and they change their mind. What I've discovered, having done this for three decades, is that people who vote early have already made their mind up and the people who are undecided wait because they're undecided. So the question is, putting aside for a moment whether early voting is good or bad, is just how do we -- how do we in the long term basis? And the reason I raise that now is this quarter -- this quarterly meeting and next quarterly meeting will be the times when we can get the most done, but as the intensity of the next cycle starts to crash in on us, it'll become increasingly difficult because people will be motivated by their individualized political interests. Right now, it's over. There are -- everybody hasn't, kind of, staked out their camps yet. And it just strikes me that we need to either expand the number of places where you can early vote, or increase the number of days for advanced voting, or some

combination thereof. My greatest worry that I noted from the cycle was this tension between local control and the ability for us to have uniformity. And we heard rumors of various individualized Boards of Elections considering the possibility of extending the advanced voting to Saturday, or until Monday. And it would seem to me that we need the ability to make sure we can assure uniformity, as it would be unfair for the voters in one County to be permitted to vote on Saturday, but the 158 can't. And so, in that regard it would strike me pretty important, and maybe Rob's going to address this, the ability to make sure we have some ability to keep uniformity in the way in which elections are run. I think that's currently granted in the Code, but if there's ambiguity about that, and apparently, based on some of the local County Board decisions, there's deception there's no restriction in terms of what a local County can do -- we need to figure out how we plug that hole."

**Chairperson Handel** - "That makes sense, and I'm sure Rob will address that. A couple of things, though, that we've already looked at -- Wes talked about. The Code is written that says the advance and early voting sites need to be government-owned facilities. Some of the County Attorneys interpreted that as meaning that the County had to actually own that building versus if they entered into a lease agreement for the facility, did that, by virtue of the lease, make it a government facility? But not all the County Attorneys interpreted the law that way, so we will be happy to help them with that because that will give some flexibility for sites. Because many of the counties, obviously, were incredibly restricted if that County Attorney used the law. The second thing that we're kind of trying sort through is whether or not there's a way to have some flexibility when -- because as you know, Georgia -- all the counties have to request approval from DOJ -- from Department of Justice -- for their site. And if there's some way to inject some flexibility in that, because what we saw was as -- knowing we just did not, candidly, anticipate 53 percent of the votes coming early. It was an astounding number, and now we will obviously plan for that kind of number going forward, but sort of looking at, can we give them some flexibility when they make their request to DOJ? Can they have core sites, and then be able to bring some additional sites online? So we're working through all that and trying to get some feedback from the County Elections officials so that they can have the flexibility to deal with, you know, what might be an unanticipated high number of early voters, et cetera. But very mindful of that being able to deal with that and to accommodate the popularity of early voting. Because I'm

with you, Randy, I think it's extremely popular. Yes, the County's know that I was very intent on promoting it because I didn't want us to be overwhelmed on Election Day, so I think it's going to continue this way and now we know we have the benefit of having gone through it once. So, definitely."

**Mr. Worley** - "Thank you, Madam Secretary. And I just wanted to echo your comments and Mr. Evans' comments about the importance of early voting and what a success it was this year. And that it is something that the voters, they clearly want to do. And I was bothered by some comments that were made just before and after the election about the ideas reigning in early voting, and I was very gratified to see your comments in the press, and I know Mr. Evans -- have known Mr. Evans' position, that it's something that's here to stay. I don't think it's going away, and we have to figure out a way to make it work better. And I think one of the ways to do that is just to expand the number of locations or advance and early voting. And I know it's very popular for County Election officials, because if you don't do it, they're going to be overwhelmed. So I appreciate what you --."

**Mr. Evans** - "I do believe that some of -- many of these things that we can address by the rules. And I think the point you raised, Madam Secretary, is exactly right, which is, for example, we should be able to abide rules to find commercial or public buildings. We should be able to define these terms. And we've done that before. We did it in 2005, and 06, and 07, and we should be able to do that now in 2009. Some will require legislative modifications, but I believe that in terms of the definition of terms that we work within our boundaries, and we should -- I do want to hear from -- and I'm assuming we'll hear from Rob or Wes, one will talk about this tension that exist between making sure we have uniformity among the 159, and granting counties local control. And I'm eager to hear, specifically, this issue the ability to change polling times and days of operation, et cetera, which are tandem out there effectively changing an election outcome."

**Mr. McIver** - "Let me segue that with my question, and that is, Mr. Taylor, you mentioned we have 15 thousand poll workers or perhaps you did, Madam Secretary. Break this down for me. We have 159 counties, how many precincts out of 159 counties, do we have?"

**Mr. Tailor** - "We have three precincts and you're talking about -  
- well, precincts it ends up being five -- but we have polling  
places."

**Mr. McIver** - "Well, that's the next question, but let's start  
with precincts."

**Mr. Evans** - "I believe it's three thousand."

**Mr. Tailor** - "I believe --."

**Chairperson Handel** - "A little over three thousand."

**Mr. Tailor** - "Right."

**Mr. McIver** - "All right. I'll say three thousand-plus on  
precincts. Now polling places. How many?"

**Mr. Tailor** - "Well, there were over three thousand polling  
places."

**Mr. McIver** - "So there's not more than one polling place at a  
precinct?"

**Mr. Tailor** - "I think there can be more than one precinct in a  
polling place which, I believe, there were actually -- there was  
something more than the three thousand precincts on Election  
Day. And I apologize I don't have that number right off the top  
of my head, but I can find that out for you."

**Mr. Evans** - "It was in your presentation at the last meeting. I  
think it was actually two thousand 998, but --."

**Mr. McIver** - "And then the last question. How many early or  
advanced voting locations were there?"

**Mr. Tailor** - "I don't have that off the top of my head."

**Mr. McIver** - "Does anybody have a swag at that?"

**Mr. Worley** - "I think it would be somewhere around 200."

**Chairperson Handel** - "I think it was right around 200, because  
you had -- at a minimum there had to be one in every county, and  
then, the larger counties all did, for the most part, have

multiple sites. I think Cobb had five, DeKalb had seven, I believe. Fulton had seven -- how many did y'all have, three?"

**Unidentified Speaker** - "Fayette had four."

**Chairperson Handel** - "Four. So most did, for this particular election, some of them more prodding -- I know y'all are sick of hearing me say it, really did expand out. But one of the things that I think as we look at rules, Randy, and what we've asked, and Tex and David, is input from the counties, is do we want to look at some sort of formula around the number of early advanced sites that you should based on the total number of registered voters, things of that nature. And again, you want to have the right balance between uniformity and letting them have local control. But when we had our leadership meeting with the folks in their legislative session, they were kind of tossing that around and trying to give us a little guidance. And I know you and Wes are working on rules together, as well."

**Mr. Evans** - "Yeah, and honestly and, you know, I've said this already, but I honestly would like to see us work toward a ten or 12-year progression where people could vote at their bank. I think that they're secure facilities, and they're generally in a separate location, people should be able to go vote at a bank. There's videotape that permits whatever, there's a private area, but it's a secure facility and it would eventually, you know, afford voters greatest flexibility. That's a long way away. We've got a lot of steps to go before we can get to that point. But convenience has to be the mantra for voters at the end of the day, because we want people to vote."

**Mr. McIver** - "Isn't that our charge, is to take that 200 number and put it, by virtue, make the formula or the standards convenience, but to move it out to numbers that are far more approachable from -- when they're not driving to their county seat. Which I was required to do at my little county. But it's just far more convenient."

**Chairperson Handel** - "Absolutely. And I mean, Randy, to your point, and Wes will address this in a little bit, one of hurdles that we have to get over in terms of really being able to look at, some states do with those centers, et cetera, is the voter registration system, and the fact that we're on the main frame, and we know that this system -- we were very, very fortunate, and again, GTA put so many additional resources into helping to ensure the stability of it. But, I mean, that we're still on



the main frame versus the server is a really big problem, and when Wes talks about the '09 initiative, one piece that he'll address is a project involving that systems."

**Mr. Tailor** - "Also, Mr. Evans, to your point, we in the Elections Divisions, are constantly looking at other alternatives moving forward. I know that Secretary Handel is always looking at the convenience of the voters tempered with making sure that we have a secure and efficient elections process. And so, what that in mind, we're always evaluating Internet voting, you name it, or at least looking what's out there to make sure that we're not planning for five years ago, but we're planning for five years ahead, or more in some cases. Military and Overseas Voters. This, I will say, was my own two cents -- this was a success, a great success during this election period. We looked at military and overseas voters, looked at what was needed and where to get information to those voters, get the ballots, get the applications, make sure that all that was done in a timely manner. That elections officials reported what they were doing in a timely manner, and I will tell you that, overall, and when I say overall I mean a vast majority of elections officials took this charge extremely seriously, made sure we were on top of all of their folks, and did just a great job to make sure that this segment of our population who, in many instances, are protecting our very right to be able to cast a vote, were able to do so. And this election had -- really, was overwhelmingly positive, especially when you look at the past. The -- last year, as you know, legislation was introduced to make emailing of absentee ballot applications available. That did occur. Every single county got right on Board and made sure that they had an email address that we provided that we had up on website that was easily found so that those voters could email their applications if they chose to do so. We also worked extensively with Overseas Vote Foundation, which was a separate organization, as well as the Federal Voter Assistance Program, FVAP. They have their own program, and there have been some reports of past issues with military and overseas voters. And the real issue if you look at those reports, were the transit time. The time it took for a ballot to reach the voter and to get back. And FVAP and OVF, as well as NASS --- the National Association of Secretaries of States, worked very hard to reduce that transit time by allowing working with Fed Ex to have Fed Exing available of absentee ballots back to the States, as well as Express Mail options for to U.S. Mail to get those ballots back in a very timely effort, and I believe those efforts were very successful. From our end,

I know that Secretary Handel and I met with General Nesbitt in the Georgia National Guard, provided them information that they provided then to their folks and dispersed to the National Guard here, within the State, to get information as to the different ways to vote, and making it as easy as possible to get information. One of the things that we discovered in this process, and we're fortunate to have some Vets working within the division, is really access to information. And we made sure that there wasn't any barrier to access information. Okay. And just so -- in this election, in the runoff we did have three issues that occurred where the SWAB -- the Statewide Absentee Ballot was not included with the regular ballot during the General Election. It should have been, under state law, it was not. Those three counties worked with the Department of Justice, worked out consent orders, actually extended the time period when they could accept absentee ballots from military and overseas voters due to that oversight. They also, I will tell you I know, contacted those voters directly, and made sure that those voters, if they chose to cast a ballot during the runoff, were able to do so. Any questions about any of that? All right. On the provisional ballots, I just included some quick numbers for you. From the General Election, as well as the runoff, the total provisional ballots cast for the General Election was a little over 17 thousand. During the runoff it was a little over three thousand. As you can see, the vast majority of provisional ballots that are cast could be because people's names were not on the registration list. And there are any number of reasons why that could be. They could be in the wrong precinct, they might not be on the list, and I will tell you that one of the things that we initiated this year, prior to this election, was a voter (phonetic) voter confirmation where the elections officials could go direct to DDS and request information from DDS and their database as to whether an individual registered with the Department of Driver Services. And that was a significant improvement over past practice, which was the elections official would call or email the Secretary of State's Office, we would then go to DDS, we would look at DDS and get back to them, that could take anywhere from days to weeks to get the information back to elections officials. This is an instant access that's very similar to what insurance companies use when they look at -- and that was very helpful. Next line. On the challenged ballots, as you all I'm sure are aware, we were -- a lawsuit was brought against the HAVA verification process that the State undergoes to verify when somebody registers to vote, that their information matches with certain other databases. And under HAVA, the State has required

to match what's in the voter registration database with what's in the Department of Driver Services database, and if that can't be done, then also with the Social Security Administration and what's in their database. And because, in part because of that, there was a challenge brought to the verification procedure that is still pending, and there was a Consent Order that was entered in that regard, which was -- I'm sorry, not a Consent Order. It was a preliminary injunction entered by the three-judge panel which required that the State do what we had been doing with respect to the HAVA verification process through the election. We received almost no complaints with respect to the challenge process, even before or after. And I put in the numbers of -- when we went back to the counties to ask, there were approximately 600 ballot -- challenged ballots passed, and 369 of those ballots were accepted, 230 were rejected, either because the individual did not come back with information, or they weren't citizens when they registered."

**Mr. Worley** - "Mr. Taylor, those figures -- are those figures for the whole State, or are those only figures that have been reported back by selected counties?"

**Mr. Taylor** - "Well, we had asked all the counties, so it is for the whole State, not for selected counties."

**Mr. Worley** - "Okay. And they all reported back."

**Mr. Taylor** - "Yes, sir."

**Chairperson Handel** - "And they've all reported back -- that's all of them?"

**Mr. Taylor** - "Yes, ma'am."

**Mr. Worley** - "Now, and I recall from your previous report that there were around five thousand people who were flagged as being -- having questionable citizenship?"

**Mr. Taylor** - "It was four-something. Yes."

**Mr. Worley** - "Yes. And How did those people fit into this category. Does that mean most of those people didn't vote, or most of those people have their issues resolved?"

**Mr. Taylor** - "It could be both, and it was both."

**Mr. Worley** - "So do you have an idea of the number of people who were flagged as having some question about their citizenship who turned out to actually be good."

**Mr. Tailor** - "I do not have the citizens on top -- I mean, I don't have that information on the top of my head. No, sir."

**Mr. Worley** - "I would like to know that, if possible. From reports that we were getting, and other things, there seemed to be a number of people who were flagged for that. But there was no question about them being citizens, right?"

**Chairperson Handel** - "If I might, David. One of the things to remember is that when the data match is done, it's done against quote, self reported information and DDS. So when an individual would have applied for their drivers license, they reported themselves as a non-citizen. I think in a number of instances, not all, obviously, but especially in some of these where they ultimately accepted the individual became naturalized during the interim, if you will."

**Mr. Worley** - "I realize that, and I appreciate that. But there were other people who came -- all of us lived in this Country, all of us been citizens --."

**Chairperson Handel** - "Actually, we had two reported to our office, and in both instances the individuals had, for whatever reason, when they renewed their drivers licenses had checked themselves as non-citizens. They can't -- I mean, if a person says they're a non-citizen when they're not, that's kind of hard for us to manage."

**Mr. Tailor** - "And I have no problem with it. And Mr. Worley, one of the other things I mentioned is that the process was done so that if anybody had that issue come up, they could actually verify that with the Election Registrar and it wasn't an issue that was taken care of. This was the verification process that we actually -- mandated by HAVA, and so, that's what we --."

**Chairperson Handel** - "Special Elections."

**Mr. Tailor** - "All right. We have 25 special elections scheduled for March, so far, that we are aware of, and I wanted to let you all know what they are coming up. The ones that have the city within the parenthesis means it's just a City Municipal Election, or it's a combination of county and city special

election. But I wanted to let you know what is coming up. And to that end, Ms. LaGrua and I have been in discussions, and to the extent that we are made aware of any issues that come up. Obviously, we will have monitors that are available and will be -- next slide, please. 2009 Initiatives for the Elections Division. I will tell you the top of the list is training for this year. And I think this, correctly so, is the emphasis within the Elections Division right now is on training for elections officials. Getting information to elections officials so that they can understand it, and that they can actually can synthesize the information. We have several times when we can provide that GEOA, VRAG, GEOC means the Georgia Election Official and Certification Programs that we'll be running this year. There will be four of them, one in each quarter. Those will include, by the way, counties and municipalities that we'll be doing this year. The -- Secretary Handel and I have already scheduled regional meetings throughout the State where we are able to talk in a smaller environment with local election officials to deal with certain issues, talk about things, and to be able to impart information in a smaller setting that we hope, or that we think will allow folks to actually retain that information. One of the other aspects, which is brand new, is LMS. And what that stands for is Learning Management System. It is a brand-new online learning system and training system that it was free, and was developed by our training manager out of public source, I forget what you call it, but it is a free system and we intend to layer it online, as well as online training, as well as online information into our certification and training courses. So we will be doing that going forward. Another initiative is the Department of Driver Services Project. They have revamped their entire system. We will be working with them with respect to how voter registration information is transmitted ultimately down to the county. And that is a large project for undertaking. Statewide Voter Registration System Review and Analysis. Karen mentioned this. We are -- we will be looking at an analysis of the system, a review, and looking at what else is out there to make sure that as to how we need to go forward with this voter registration database that we have. We're also going to take an Election Form Review Project that we talked about. Every form that we have that we use, we're going to be analyzing all together to make sure that we can either eliminate forms, simplify forms, and do that from not only a perspective of us, or the election officials, but from the voter as well. And that is another monumental undertaking. And last is, as you well know, this year is -- the Statutory List Maintenance Activity we'll undergo this year with a national

change of address, cancellations, those kinds of issues. If there's no other questions about that, I'd be happy to --."

**Mr. Worley** - "I had not really a question, but a couple of points to make. First, the Statewide Voter Registration System Review and Analysis. As a representative of the Democratic Party, we, in our election monitoring process, came across a number of systemic issues, or things we think are systemic issues, not isolated incidents, but sort of general problems that we think can be remedied over time, and I'd certainly like to work with you on that. And I, sort of general information on that."

**Chairperson Handel** - "Yeah. Let us know."

**Mr. Worley** - "The other thing I'd like to say while Mr. Taylor is up there, is that I had the opportunity to work with him a lot the last few months before the election on a variety of issues, and also with Mr. Simms, and I have to really compliment them on their work and their work ethic. They were working around the clock, available on weekends. They worked very hard, very confidently. It was a very difficult situation given the large turnout, and I think they really did an excellent job. I think we're very fortunate to have them. They're very, very dedicated election officials, and I just wanted to say that. I think the Secretary of State is very fortunate to you have working for her."

**Chairperson Handel** - "I am. I most definitely am. Thank you. Let me -- on that last two projects, that statewide project and reforms project, we have a leadership from the County helping us with that as well, because, obviously, they're sort of the end users on everything, and we really need their input all the way through. So I just wanted you to know that they were engaged with us on that."

**Mr. Rob Simms** - "Madam Chair, members of the State Election Board, Rob Simms with a very brief Legislative Update, being five days into the Legislative Session. Okay. The first slide, basically we've got three pieces of legislation that have been introduced to deal with the citizenship verification, and she reverses the Constitutional Amendment that would merely -- As I recall, he inserted the word, citizenship, or verification in very few requirements for voting that's been discussed as part of photo ID litigation and things like that. That provision -- I don't have the site right in front of me, but I think this

Board is very familiar with that part of the State Constitution, and this would just insert a verification requirement with the citizenship requirement."

**Mr. Evans** - "I wonder if someone should read Representative Graves -- it's the very distance of the bill operates undercuts out case in the State Court action. Because the suggestion, now, is that the citizenship is already a constitutional requirement, and if you offer an amendment, the suggestion is that it doesn't currently exist, but needs to be added."

**Mr. Simms** - "Well, it's a very -- point very well taken, Mr. Evans, and as we discussed over the past couple of years, many legislators grant legislation and file it, and all that without consulting, really anyone, as to its requirements or, more importantly, the ramifications of it."

**Mr. Evans** - "Well, I posed that just in case he came calling to you for advice."

**Mr. Simms** - "Well, I'd be happy to give it. Representative Mills --."

**Mr. Worley** - "I think there -- I think there's legislators that are almost difficult to control as Mr. Evans."

**Mr. Simms** - "Well, I'll leave that to the Board to come up with their conclusions on that one. But the second bill -- Representative Mills' bill is House Bill 45. It's already been filed. Inexplicably, it was filed based on a draft of a bill that was done almost a year ago, January. The dates included in the Bill are not possible. Its effective date was 2008, or it would have obviously would have passed, things of that nature. So if Representative Mills' bill is to go anywhere, obviously its going to need some work. Roger Williams, member of the House from Dalton, had legislation introduced last session -- toward the end of last session, as well that he actually asked for to be put on, and we worked with him to incorporate language almost identical to the Arizona statutes on citizenship verification, almost to the period, comma, and semicolon. That legislation in Arizona has been -- to a state and federal challenge. It is the law of Arizona today, so it is our understanding that Representative Williams is going to file that bill Monday, and it should be almost a carbon copy of the version of his legislation that was actually in the mix, if you will, at the end of last session. Next slide. Absentee. This

goes to House Bill 86. Again, this was introduced by Fran Millar of DeKalb County. It was a bill that he drafted and submitted on his own. As Wes said in his presentation, absentee ballot tabulation and early voting tabulation, I think most of what Fran Millar is looking to get done, you're all going to be able to achieve. I know Gwinnett County had a pilot project with how they did their returns. That seemed to go very well, which I think is going to solve most of the problems that Representative Millar is hoping to address. We conveyed that to him, and he seems to be pretty pacified with that, and I think he was just trying to get a little bit ahead of the herd. There's some legislation that will probably be -- it's currently being drafted and finalized. That will be introduced next week. That's why there's no House Bill number on it. It deals with confidentiality, for lack of a better way of putting it, endangered voters. Those voters are, I don't know if there's a better description of them, but basically we ran across a circumstance or two where there's some questions raised about spousal abuse in women who may be in a home -- temporary living facility where their physical well-being is in jeopardy. They may be in the middle of court action, a divorce proceeding, temporary restraining order. And there was some questions raised about, not so how their registration would be -- their personal information, things of that nature, would convey to their voting. So we're trying to work with a couple of representatives to come up with some language where that side of the personal information would be protected, and not necessarily available."

**Mr. Evans** - "Yeah. That's actually a gender neutral bill."

**Mr. Simms** - "Absolutely."

**Mr. Evans** - "Yeah. I mean, it could be a husband or a wife."

**Mr. Simms** - "Absolutely. Finally, we got an Elections Clean-up Bill. It's an annual Rite of Passage for the Secretary of State's Office. I've highlighted, I guess, about six of the kind of provisions we're working on. It hasn't been filed yet. It's in the process of being finalized and drafting with legislative counsel. Several of these issues Wes touched upon in his presentation, so I won't go into great detail. A couple, though, I did want to bring to your attention. The first -- the first point which is the date timestamp on voter registration forms. This became quite an issue of concern in the final days of the voter registration timeline where several counties saw



what would amount to an avalanche of voter registration forms, things of that nature. And we want to put a provision in that and make sure that if the registrant did everything that they're required to by law in trying to register on time, that they, in fact, would be counted as duly registered provided all their information was accurate."

**Chairperson Handel** - "Rob, Will that also address on the timeline within which county -- if County-A got in a bulk of voter registrations for, let's say, County-B the timeline within which they're supposed to forward them to -- that issue too?"

**Mr. Simms** - "Did we include that in the --?"

**Chairperson Handel** - "Will you just double check that, because that was a problem, too. Some counties sat on them, and then all of a sudden the recipient county got things at the very late minute. And they were the ones that had been held onto, frankly, for some time. And I mean, that's just not necessary and not good practice."

**Mr. Simms** - "And also the date stamp would help because they would be able to fall back in knowing that, from the voter perspective, they actually put it in and tried to do their part."

**Chairperson Handel** - "Right."

**Mr. Simms** - "A couple of other things that's probably of interest to the Board. We're going to make a small little change on the laws to allow for electronic transmittal of absentee ballot applications. The logic being if you're able to fax it in, there's no reason why you shouldn't be able to scan and email it in. And that seems to be pretty non-controversial. One other -- a couple of other provisions on the challenged ballot, which just kind of seemed to be one of those things that wasn't really clarified in the law, but a challenged ballot and a provisional ballot. A provisional ballot is sealed in an envelope and maintains the integrity and privacy of the vote. That provision isn't necessarily addressed in the law for a challenged ballot, even though it's the exact same ballot, you're just writing challenged across the top of it. So we're going to make sure there's the ability to secure those ballots in envelopes and keep those votes private. We want to put in a provision that allows for absentee ballot for voters whose ballot had been rejected prior to Election Day to give them the opportunity to -- can you go to the next slide, please -- to

allow them to cast a ballot in person, in essence, and not have their rejection counted against them and prevent them from voting at all. Wes had discussed the early voting issue, and I think, as he mentioned, that's something that can certainly be clarified and addressed through the rule-making process of the State Election Board."

**Mr. Evans** - "The feedback that I've gotten on that piece is that we have to be very careful that if we open up early voting, then early voting will be on the table. And there are members of the House Conference, especially, who want to restrict early voting. So we have -- you know, I defer to your judgment on whether we're better off defining government buildings by rule, and defining it broadly, because I'm afraid that if you put early voting in a bill, when it hits the house they're going to cut back on early voting."

**Mr. Simms** - "I think that's a very legitimate concern. It's something we'll definitely -- as Wes, and you, and other members of the Board kind of get to the rule making process, I don't think there will be any issue with pulling that part of out this legislation for that very reason."

**Mr. Evans** - "I'm just offering data. I --."

**Chairperson Handel** - "No. We'd rather do things by rules than legislation."

**Mr. Evans** - "Well, I just worry there, because there's a lot of folks who want to cut back on early voting for all the wrong reasons, in my opinion, but they do."

**Mr. Simms** - "Exactly. We have, also, myself and Secretary Handel and members of our staff have been spending some time speaking with legislators about the early voting issue and the comments that were made in the Fall, and right after the election in kind of explaining -- maybe painting a broader picture of what's involved. And as of today, there has been no legislation introduced that would restrict or shorten that time. I'll just mention, briefly, as y'all are aware with the inauguration yesterday and Congress being in session, there is likely to be a multitude of bills introduced in both the House and the Senate that will affect voting. It states directly, similar to the Holt Bill two years ago, and subsequent legislation that follow that. We'll obviously keep you abreast of all that, and at whatever time we can discuss about the Board

taking positions on bills in the past. Obviously, that would be your decision. One thing that in light of the economy and the stimulus package that are being debated, I think the appetite to provide what would amount to hundreds of millions of dollars, and coming to the State to comply with legislation from previous Congresses may not be there this time. I don't know how that's going to affect what's introduced, and how that may score, but I think that dynamic has changed a little bit. And if there are no other questions, I'll just, Mr. Worley, I appreciate your comments about Mr. Taylor and me. And also, appreciate that sometimes our sense of humor doesn't necessarily convey in email format. But, thank you."

**Mr. Worley** - "I appreciate that, and I'm sure I was not easy to work with a number of times."

**Mr. Simms** - "Oh, you were a peach."

**Mr. Worley** - "And you guys were very, very helpful and understanding. Thank you."

**Mr. Simms** - "Thank you."

**Mr. Evans** - "Rob, two other things I had. One, is that if somebody could go back over the minutes for the last two years because there were a number of times where we said a statute needed to be cleaned up, or we missed -- we thought the wording was off, and just make sure we grab those. I didn't bring them today, but I tried to have the means to just drop them in a folder because I know that you'll come to this, but the easiest thing is to just go back and look at the meetings. There's a couple of times where we concluded that a statute didn't fit. And the second one was after the last session, there seemed to be some question about whether or not the change deleting the disclosure requirement for -- for whoever is responsible for a paid ad. Having been vested in our jurisdiction as opposed to the Ethics Commission, that the amendment deleting the disclosure requirement went too far, and I just didn't know if that's something we decided to drop or whether there's some idea that we, in fact, need to address that, and if so, how do we address it -- how do we address that issue?"

**Mr. Simms** - "Well, thank you for mentioning that, Mr. Evans. I made a note to myself to mention the now notorious files amendment, which was the amendment that struck that disclosure language entirely from our part of the statute when the bill

that had been in his committee was actually going to mimic the Ethics Commission. The Ethics Commission, itself, has got that language -- or not the exact same language, but it addresses the issue of disclosure and put disclaimers on campaign materials, and things of that nature in one of their bills. And I'm not sure if they've introduced it yet, that it's been officially filed, but I know there are drafts of it. Austin Scott, who's Chairman of the Government Affairs Committee in the House which has jurisdiction on all these type of issues, is very interested in that, and I think he's been working with Rick Thompson in Ethics, and I know that there are couple members of the Senate that were interested in, not so much bringing back the original language, but tweaking it to getting to the disclosure point, but not necessarily going as far as the original language."

**Mr. Evans** - "And are you satisfied with the -- and I'm fine with that. I mean, I think the line that gets drawn there is I understand it from an early Attorney General Baker opinion that he gave us, is that as to accuracy that's within our jurisdiction, as to disclosure, for example, who paid for it,\*1c et cetera, it's an Ethics Commission. And instruct me if that's the right line, and I'm fine that. Are you satisfied that the statute requires no amendment as to addressing the ability of the Secretary of State in a State Election Board to promulgate rules that require uniformity statewide, and I'm specifically referring to this kind of number of times when folks raised the issue of meeting or extending advanced voting to Saturday, or change the hours or change all of those things?"

**Mr. Simms** - "Well, I think between -- I think the State Election Board can address probably all of that through the rule making process. I think one of the things that was discussed on the -- as I understand, there are similar advertising requirements and things of that nature, If they're going to open the new polling location, and things of that nature, then a late timeline could never have done that. So there was all sorts of procedural and practical, and other problems that would have been wrong. Not the least of which was Department of Justice pre-clearance and things of that nature. I think what the State Election Board may want to consider is putting into rule a notification requirement to the State Election Board and the Secretary of State of their polling locations and the dates in which they would be available during the early voting process."

**Mr. Evans** - "I think that's a great idea. We just need to -- because we have to pass it through a 30-day -- through the

notice, then once its adopted get pre-clearance. And we want to do all this well in advance of the Gubernatorial and Lieutenant Governor's race in 2010...."

**Mr. Simms** - "Sure. Absolutely."

**Mr. Evans** - "...we have to get HAVA --."

**Mr. Simms** - "Sure."

**Chairperson Handel** - "Mr. Worley."

**Mr. Worley** - "I have just one question. Has there been any talk of any legislation being introduced to move from electronic voting back to Optiscan?"

**Mr. Simms** - "Well, every year, or every session -- the two-year cycle, I think, there's legislation introduced to do that. I think Representative Geisinger had some legislation in the House for the last couple of years. I don't know if he's introduced it again. I haven't really talked to him about that, he may very well, from a practical standpoint for the State, the first question will be funding and timelines and transition periods, and things like that. So there's those type of things that have to be figured out, but I don't sense that -- let's say as a reaction to November's Election, that there's a grounds law movement or any more initiative to do that than has been the case over the last few years. But I think there will still be some legislation."

**Mr. Worley** - "Thank you."

**Chairperson Handel** - "Thank you. I think our last order of business, what you had raised at the very beginning, that January is when we do the election of the Vice Chair."

**Mr. Evans** - "Yes. The January following the election, and I would move that re-elect Mr. McIver as our Vice Chair."

**Mr. Worley** - "I would second that."

**Chairperson Handel** - "See what happens when you leave the room, Mr. McIver. Will you accept the honor and duty that's bestowed upon you?"

**Mr. McIver** - "Yes. I'd be delighted to. Thank you."

**Chairperson Handel** - "Okay. Great. Any other questions or comments? All in favor, please say aye."

(Whereupon, there was a chorus of ayes)

**Chairperson Handel** - "Any opposed? All right. Anything else, colleagues? Thank you very much. Great meeting. We'll entertain a motion to adjourn."

**Mr. Evans** - "So moved."

**Mr. Worley** - "Second."

(Whereupon, the meeting adjourned at 2:46 p.m.)