

**SECRETARY KEMP:** All right. I think we have got everybody that's coming in person. Let me go ahead and call the special called meeting of the State Election Board, December 15, 2010 to order. If you will just pause with me for a minute, I'll give the invocation real quick. Let us pray.

(INVOCATION)

If you would rise we will say the pledge.

(PLEDGE OF ALLEGIANCE)

**SECRETARY KEMP:** The first order of business, I just wanted to congratulate Judge Tailor. I know you all heard Wes Tailor, our elections director, has been appointed to state court judge and is going to be sworn in pretty soon. We are excited for him and wish him the best in the future. He is certainly -- I know this Board will agree because y'all have seen more so than I have -- that Wes have done a great job to help bring Georgia elections even further forward than it was when he got here. I think a lot of the work that you have done will have a lasting impression and a good one on the state. So we appreciate your service and sorry we can't recognize you at a full meeting. But maybe we will be able to do that. But we certainly appreciate all the work that you have done on behalf of this office and the state. Wes, we really appreciate it.

**WESLEY TAILOR:** Thank you. Thank you very much.

**SECRETARY KEMP:** With that, I will go ahead and call the first case, SEB Case No. 2008-000036, Taylor County, Quinton Talton. Ms. Brumbaugh, are you going to give us an update?

**MS. BRUMBAUGH:** Sure. This case went to a hearing in November. I believe it was November 1st, and the Board should have copies of the initial decision. The initial decision came back that Mr. Talton had violated O.C.G.A 21-23-85 and 21-25-74 and that he was in unlawful possession of the ballots of Memorial Stinson and Billy Jean King. The ALJ did not find that Mr. Talton intimidated these two electors. And, in fact, there is really no evidence in the record to support that. Both the witnesses testified that they weren't afraid of Mr. Talton when he came to their home as they were voting. The ALJ recommended a \$250 civil penalty for each ballot. So \$500 total investigative costs and a public reprimand. So the Board can accept, reject or modify this initial decision as it sees fit.

**SECRETARY KEMP:** Let me just state for the record that we have in attendance in person Mr. Worley, myself -- Secretary of State Brian Kemp -- and Mr. Webb. And then Mr. McIver is attending by conference call. Any questions for Ms. Brumbaugh?

**MR. MCIVER:** I am going to have some discussion.

**SECRETARY KEMP:** Hold that thought just a minute. Have we gotten anyone else that wishes to speak in regard to this case? Anyone else wishes to speak in regards to this case? Okay. Hearing none, Mr. McIver, you got the floor.

**MR. MCIVER:** Ms. Brumbaugh, in what ways does this judge's decision vary from our normal course of handling these matters and the, if you will, remedies that are deemed necessary?

**MS. BRUMBAUGH:** Honestly, I had recommended a very similar civil penalty to this. The fact that the judge ordered investigative costs means that Quinton Talton really should have taken a settlement because we don't usually include the investigative costs. The public reprimand is similar to what we do in our consent orders. There does not seem to be a cease and desist. That would be the only thing that is typically in consent orders that does not seem to be in this initial decision.

**MR. MCIVER:** Does anybody else want to attempt an answer at this, for example, Mr. Worley who has a good history here?

**MR. WORLEY:** Well, I think the penalty is higher than we normally impose for handling absentee ballots, per ballot.

**MR. TAILOR:** May I ask you, when you say Mr. Worley, you mean in consent orders --

**MR. WORLEY:** In consent orders --

**MR. TAILOR:** -- so when somebody takes responsibility for their actions?

**MR. WORLEY:** Yes. I believe our usual penalty is \$100 per ballot. This is two and a half times that given, one, that they did not consent. I don't think that is an unreasonable -- well, I think that is an appropriately large fine.

**SECRETARY KEMP:** May I ask, Ms. Brumbaugh, how much are the investigative costs?

**MS. BRUMBAUGH:** I think we calculated them at about \$1,300.

**MR. HARVEY:** Correct, approximately. I sent you the exact figure, but it's about \$1,300.

**MR. WEBB:** So it's the \$1,300 plus the \$500? Roughly \$1,800?

**MS. BRUMBAUGH:** Yes.

**SECRETARY KEMP:** Anything else, Mr. McIver?

**MR. MCIVER:** No, sir. This certainly dispenses any discussion I've got. I obviously have some opinions, but there will be a time for that.

**SECRETARY KEMP:** Well, I know I am comfortable with the amount of the penalties. I think certainly if we want to add a cease and desist, we can. I am open for a motion on whatever

the Board wants to do.

**MR. MCIVER:** Well, I move we adopt the administrative law judge's decision with a proviso that we add a cease and desist.

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

**SECRETARY KEMP:** Okay. We got a motion by Mr. McIver and a second by Mr. Worley that we adopt the report before us and add a cease and desist; is that correct?

**MR. MCIVER:** Yes, sir.

**SECRETARY KEMP:** With the penalties and fines that were stated. Any other discussion? Hearing none, all in favor of this motion and Second please say, Aye.

**THE BOARD:** Aye.

**SECRETARY KEMP:** All opposed same sign. Okay, the motion carries. All right, Ms. Brumbaugh.

**MS. BRUMBAUGH:** The next case is the Greene County case. John Clark, the attorney for the respondents, had requested a continuance. It's in your packet. He has agreed to waive the APA provisions requiring 30 days -- three, 30-day extensions to 90 days and is willing to meet on February 24th to consider this case then.

**SECRETARY KEMP:** Anyone else wish to speak on this case? We have any questions for Ms. Brumbaugh first? Hearing none, anyone else wish to speak on this case? Okay, hearing none --

**MR. WORLEY:** I have a question for Ms. Brumbaugh. If we wanted to approve the administrative law judge's decision, would we require Mr. Clark's presence?

**MS. BRUMBAUGH:** No. You could approve it. Now, I think that that would probably -- you would probably be doing some discussion, and that might be a slightly different question. But if there's no action taken by the Board, then it is by operation of law. It becomes the law of the case. Here we have a waiver until February 24th. So we are not going to lose anything by waiting.

**MR. WORLEY:** And that is our next regular scheduled meeting?

**MS. BRUMBAUGH:** Yes.

**SECRETARY KEMP:** Any other discussion? Now --

**MR. MCIVER:** I have a question for Mr. Worley. David, don't we grant one extension pretty

much automatically?

**MR. WORLEY:** Yes, we do.

**MR. MCIVER:** This would be the first extension; is that correct?

**SECRETARY KEMP:** Yes.

**MR. MCIVER:** So this would be consistent what with we have done in the past? At least that is what my notes reflect.

**SECRETARY KEMP:** It would. I think the reason we brought this up was because of the timetable we are facing and the APA, right?

**MS. BRUMBAUGH:** Yes.

**SECRETARY KEMP:** It's more kind of a technical thing. I personally think it would be very appropriate to have this back before us in front of the full board.

**MR. WORLEY:** In that case, Mr. Secretary, I will make a motion that we table this Greene County matter, the two cases involved here, until February 24th and accept the waiver that Mr. Clark is offering.

**MR. MCIVER:** I second.

**SECRETARY KEMP:** Is that an appropriate motion to table?

**MR. TAILOR:** And I'm sorry, I am not an expert on Robert's Rules of Order, but I remember in a previous meeting we had, Mr. Chairman, where you'd have to pass a motion to take it off the table. Whereas, previously, I think you've just moved to continue it until the next regular scheduled meeting. So --

**SECRETARY KEMP:** So we need a motion?

**MR. WORLEY:** So we should move to continue this?

**MR. TAILOR:** I believe that's right.

**MR. WORLEY:** Then I would withdraw my previous motion and make another motion that we continue both of these Greene County cases until February 24th.

**SECRETARY KEMP:** When you say, "both cases," you are talking about?

**MR. WORLEY:** State Election Board versus Dorothy Wright and State Election Board versus Marion Rhodes.

**SECRETARY KEMP:** But all are under tab 2; correct?

**MR. WORLEY:** Right.

**SECRETARY KEMP:** All right. We have got a restated motion from Mr. Worley. Do we have a Second?

**MR. MCIVER:** Second. I withdraw my earlier second, and I second this motion.

**SECRETARY KEMP:** We got a motion and a second for a continuance on both the Greene County cases before us. Any other discussion? Hearing none, all in favor say, Aye.

**THE BOARD:** Aye.

**SECRETARY KEMP:** All opposed same sign. Okay, that motion carries. Next case, Ms. Brumbaugh.

**MS. BRUMBAUGH:** The final case on the agenda is State Election Board versus Ludwig Medlin. The initial decision, the names of Eddie Fowler and Ludwig Medlin are both on the initial decision. Judge Fowler had entered a consent order which this Board accepted at the November meeting. The hearing which was on October 21st related only to Mr. Medlin and that is what the initial decision relates to. It's just Mr. Medlin.

This is the case where Mr. Medlin who is a non citizen had registered to vote and had voted. Mr. Medlin stated that the reason that he did this was because Judge Fowler told him he could do it. The initial decision came back that there was no violation because Mr. Medlin -- the statutes in issue are both strict liability statutes. They require a knowing behavior. And the judge reasoned that if Mr. Medlin was relying on the judge's advice then his decision to register to vote and to vote, it was not a knowing violation of the law. So she found no violation.

**SECRETARY KEMP:** It is my understanding that we have a settlement pending with the judge?

**MS. BRUMBAUGH:** No. Y'all accepted the settlement with the judge at the November meeting.

**SECRETARY KEMP:** Okay.

**MR. WEBB:** Can you refresh our memory on what the settlement was?

**MS. BRUMBAUGH:** The settlement was for \$250.

**SECRETARY KEMP:** Any other questions for Ms. Brumbaugh? Is anyone wishing to speak in regard to this case, this matter?

**MR. MEDLIN:** I am Mr. Ludwig Medlin --

**SECRETARY KEMP:** Would you like to say a few words to us?

**MR. MEDLIN:** Yes.

**SECRETARY KEMP:** Come on up and let me get you to this mike right here in the middle.

**MR. MEDLIN:** Thank you. I take responsibility --

**SECRETARY KEMP:** If you don't mind, just state your name and your address for the record for us. Thank you.

**MR. MEDLIN:** Ludwig Medlin. 856 Nelms Road in Carnesville.

**SECRETARY KEMP:** Okay. Ludwig Medlin. What was your address again, sir?

**MR. MEDLIN:** 856 Nelms Road, N-E-L-M-S. That's in Carnesville.

**SECRETARY KEMP:** 856 Nelms Road, Carnesville. Okay, go right ahead, sir.

**MR. MEDLIN:** I take full responsibility for the fact that I did not read the small print. I did not know it was there. The aid pointed it out for the first time. I depended on the advice and kind request of Judge Fowler to vote for him. I knew that I was not allowed because I am not a citizen and a permanent resident. But Judge Fowler corrected me and said, in local elections you can vote and please do vote for me. And in federal elections, you are correct, you are not suppose to vote. So this is the story. As for the reason for my being in the court, I needed a marriage license.

**SECRETARY KEMP:** Okay. Any questions for Mr. Medlin? Okay, thank you, sir. Is there anyone else wishing to speak in regards to this matter? Any of the Board members have any questions for Ms. Brumbaugh or comments for discussion?

**MR. WORLEY:** Mr. Secretary, I had a comment. When we referred this to the Attorney General's Office, we referred it because Mr. Medlin had once said, or his side of the story which I accepted -- and Judge Fowler was taking a different position at that time -- so it was referred on to the Attorney General's Office. Since then Mr. Fowler has, essentially by entering into the consent order, admitted that he had said the wrong thing to Mr. Medlin. So I don't think Mr. Medlin is at fault at all here under these circumstances. I think that's what the administrative law judge found and, therefore, I would be in favor of adopting the opinion of the administrative law judge.

**MR. WEBB:** I Second.

**MR. WORLEY:** I would make that a motion, yes.

**SECRETARY KEMP:** Basically a motion to accept the administrative law judge's report and Mr. Webb's Second. Any other discussion? Hearing none, all in favor of the motion say, Aye.

**THE BOARD:** Aye.

**SECRETARY KEMP:** All opposed same sign. Motion carries. All right. That's all the business we have before us today. I did want to just mention I forgot to call on public comment. I don't think anybody had filled out a card for public comment. But if anyone would like to address us on an unrelated matter, I would be willing to entertain that. Seeing no one, I will take a motion to adjourn.

**MR. MCIVER:** So moved.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** I got a motion to adjourn and a Second. Again, we want to wish Mr. Tailor the best in the future.

**MR. TAILOR:** Thank you.

**SECRETARY KEMP:** With that, all in favor of adjourning, please say, Aye.

**THE BOARD:** Aye.

**SECRETARY KEMP:** Motion carries. Mr. McIver, we are cutting the clock off.

**MR. MCIVER:** All right. Thank you, sir.

**SECRETARY KEMP:** Have a good night. Thank you gentlemen.

(MEETING ADJOURNED AT 3:15 P.M.)

**SECRETARY KEMP:** Good morning let me remind you if you want to make a public comment, please go ahead and fill out one of these blue cards, if you haven't done so already.

Good morning. Let me go ahead and call the meeting to order. We are glad to have y'all with us this morning. This is the November 17th, 2010 State Elections Board meeting. I will let Mr. McIver give us a quick invocation.

(INVOCATION)

(PLEDGE OF ALLEGIANCE)

**SECRETARY KEMP:** Thank you, so much. We will now move on to public comment. If you are signed up to speak we would appreciate it if you would make your way to this side of the room, by the wall. And we are going to have the mic on over here.

**MR. EVANS:** Mr. Chair, might I have a personal privilege, just for a moment?

**SECRETARY KEMP:** Absolutely.

**MR. EVANS:** I just wanted to compliment you and your staff for an outstanding job on Election Day. And I have been on this Board for many, many years. I think I'm the longest-serving member. And I cannot remember any time in the history of my service on the Board when elections were run so smoothly. Complaints were addressed promptly. Any issues were resolved immediately. And I can't remember a time when there was more confidence in the way that our elections were handled. And I wanted to compliment you. And I compliment Wes for just a truly outstanding performance. I appreciate it and I thank you for that service.

**SECRETARY KEMP:** Thank you, so much, Mr. Evans. Obviously, Mr. Tailor and the whole staff of the Elections Division, I will concur, did a great job. And we just appreciate what they do. We also appreciate the relationship that they have with our local registrars and elections folks. And even the folks that volunteer; the poll workers and everybody else, that this is part of that process. We appreciate the relationship we have with them, as well. Yesterday, I was talking to a big part of that, as far as the complaints and how we act on that, the job of Bruce Harvey and the inspectors and the investigators are doing on handling complaints. I feel like we are doing a good job of keeping up with those and making sure that we're being prompt on those. I just appreciate all the hard working folks that have been involved with that. Mr. Tailor, do you have any comments you would like to make?

**MR. TAILOR:** I shouldn't, but I'm going to take a quick second and say that I take none of the credit. There are a number of very hard-working people that stay up very late, are in the office very early, for us and do a terrific job in coordinating with local election officials. The reason you didn't hear very much of issues on Election Day is because of the great work of the poll workers and election officials around the state. So, I really appreciate the efforts they put in.

**SECRETARY KEMP:** Okay. Thank you, very much. Okay. Public comment: If you are going to be speaking to us today, if you can just, kind of, make your way to the side wall there. I did want to just remind everybody, too -- I just want to get the technology straightened out up there -- I did want to, before we start the public comment, remind everybody that this meeting serves, as a probable-cause inquiry. This Board will only decide at this point whether there is enough evidence to refer a particular case on to the office of the Attorney General or other parties that may be involved in this. The Inspector General will have 15 minutes to present the case to the Board. The respondent will have 5 minutes to present the argument or evidence to the Board,



specific to the case that is before the Board today. Please be aware, that although you may be present, any argument or evidence you wish to use during the allotted time for a respondent to argue their respective cases, the respondent will be provided ample opportunity to present their side of the story at the hearings afforded each respondent, the one following the referral of the case to the AG's Office. We are glad that you're here. We want to make sure we hear from everyone involved in these cases. We do have time limits that will be strictly enforcing. So when you come before us, please get to the point, so you make sure the Board hears what you want them to hear. And when we call your case, if you can just be prepared, if you are going to speak on that case, to move to the microphone, where we can keep the meeting moving and get everyone back on their way, quickly, this afternoon.

**SECRETARY KEMP:** Okay. The first comment, Sally Fitzgerald.

**MS. FITZGERALD:** Good morning, ladies and gentlemen, Mr. Fitzgerald, I just want to thank --

**SECRETARY KEMP:** Let me remind you, before we start your time, to state your name and address.

**MR. FITZGERALD:** Sally FitzGerald, with a capital G. 7605, Van Ike Way, Sandy Springs, 30350. I have come forward to give you my thanks, to Mr. Taylor and Mr. Secretary and Board members, if they were involved in providing to the precincts the bar-code scanners. It worked wonderfully. It eliminated, pretty much, a bottleneck at the express poll table. I am glad that you found the dollars to send those out to the counties. I don't know how many people have told you how affective they are, but they are definitely an improvement. The other thing I wanted to talk to you about, as we contemplate this runoff, is there needs to be a way in Georgia to handle a runoff and not open 3,000 precincts in the State. I am a precinct manager in another part of my life, a fairly large precinct, 2100 voters. I expect 50 on November 30th. That seems to be a very expensive way to get a vote. Perhaps, you might want to consider, in your legislative program, to change the law to allow runoffs at the option of the local election superintendent, to be done at the advanced voting sites. That would cut the cost of the counties considerably. I understand there may be some restrictions, if a federal candidate is on the ballot, but that is not the case in November. I put that in front of you. I have provided some language for consideration to Secretary Handle, a couple of years ago. And she elected, because she had other things on her plate, not to move forward with that. It may not be exactly what is needed, but if you would give some consideration to that, we don't -- next year is the city elections and there could be runoffs and if that could be handled at advanced voting sites, instead of every precinct. That would help with some of the costs.

**SECRETARY KEMP:** Thank you, so much for that. We appreciate you coming here today and letting us know that the bar-code scanners are working good and the point is well taken. Kevin Dow.

**MR. DOW:** Thank you. My name is Kevin Dow, Post Office Box 46490066, College Park. I'm a South Fulton resident. Mine is a question. So I might be in the wrong place, but my concern was that when I went to vote in South Fulton County, early voting, my -- the line was held up. It was held up just for a little minute. When I got to the line, I asked the person, when I gave them my ID, I said, what was the hold-up. The clerk said that the system that collects the data was down; however, the system that you can vote on is still up. So you can go ahead and vote, but the system was down. That concerned me. I asked, so -- I'm an IT person -- So, I said, if the system

is down, how is my vote counted? He said, well, we are going to have to stay overtime to manually go over whatever, since the system is down, until it gets back up. Since the data wasn't collected, we have to go back and manually write the votes down or something like that. So that was my concern. The question was, if there is a question, what apparatus or act assures me that my vote is counted and accounted properly.

**SECRETARY KEMP:** Thank you for those comments. We will make sure that Mr. Brooks, right here, gets your information and follow back up with you. Appreciate you coming today. John Fortuin, you are deferring your time to Garland Favorito; is that correct?

**MR. FORTUIN:** That's correct.

**SECRETARY KEMP:** Mr. Favorito.

**MR. FAVORITO:** Garland Favorito, 220 Tallo Box Drive, in Roswell. I assume I'm taking John's 2 minutes, right now, correct?

**SECRETARY KEMP:** His and yours.

**MR. EVANS:** Back up just a little bit from the mic, because we're getting feedback.

**MR. FAVORITO:** I'm sorry. Let me take my 2 minutes first. Mr. Chairman, last May I filed a 17-point complaint asking that the Board evaluate its investigations in Lowndes and Douglas County cases. I have received a response late yesterday afternoon from General Counsel Russo (unclear) stating that the SEB does not have jurisdiction over the allegations in the your complaint. Now, the investigations were conducted by the authority provided by the Board under O.C.G.A. 20-2-31 paragraph 5. And I don't really understand that answer. Mr. Russo said that the Board, essentially, does not have jurisdiction over its own investigations. Personally, I find that laughable. Perhaps, maybe there is something I don't know. So, I would like to submit the correspondence for the record. And would like to know if each of the board members here actually agree with that conclusion from the general counsel. And that would be my 2 minutes. And I would like to have John's. Can I submit this?

**SECRETARY KEMP:** Is there a motion to accept?

**MR. WORLEY:** I move we accept.

**SECRETARY KEMP:** I'll second. All in favor of accepting the document please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** You can hand it to Mr. Harvey, right there.

**MR. FAVORITO:** Mr. Chairman, the second matter, as you may be aware, the electronic voting machines and optical scanners rang up 733,770 votes a Georgia supreme candidate in this election. That candidate did not campaign, did not have a website, did not accept donations, did not respond to surveys, did not advertise, had no published profile, didn't register any email contact data and refused all media requests. I find that kind of fascinating. And I did a little bit of an analysis on that. I found that in 3-candidate races there seems to be a trend where the electronic voting machines are recording extensively more votes for the candidates on the top of the ballot, than they are on the ones in the bottom of the ballot, as you compare that to the mail-in count. The mail-in

count, in other races in 4 and 5 counts are very consistent. So I find that very strange. And this is a pattern that's occurring not only statewide, but also in some of the county's here, just in the ones that I have investigated. The top ballot position accounts for about 2 and a half percent, according to experts and gender -- female gender counts for about 3 and a half. So that is 6 percent of the vote. This county got 46 percent. There is about 500,000 votes that are not really accounted for and cannot be logically explained. So, I just wanted to bring that to your attention. I am filing a request, filed just yesterday with the general counsel. I have already filed in Cobb County. They referred me to the State Board of Elections -- I'm sorry, Elections Division, not the state, suggesting we pull the county servers and databases and a couple of machines, preserve a couple of machines and then to see if these things really add up. I submitted that request. I would like to also include that for the record.

**SECRETARY KEMP:** Do we have a motion to accept?

**MR. MCIVER:** So move.

**SECRETARY KEMP:** Good. Do we have a second.

(NO RESPONSE)

**SECRETARY KEMP:** I'll second. All in favor of accepting the document, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** We will take document. Thank you.

**MR. FAVORITO:** Thank you.

**SECRETARY KEMP:** I think that was it on the speaker. Our next order of business is new business, something that I wanted to let everyone here know about today. We will, obviously, have more coming out on this in future. We are announcing that we are going to be doing a comprehensive elections reform. I think Mr. FitzGerald's comments earlier about the idea in the runoff, this is going to be an opportunity for all Georgians, for all our elections folks and anyone else involved, concerned about Georgia elections, for us to put a commission together, a non-partisan type commission of folks that are involved in elections and really go around the state and have some public hearings and hear from folks all over Georgia what their ideas are on what it is that we need to change in elections. What we can do better. My thoughts on this is we need to look at this as reform, but also as a way of how can we reduce cost in elections to our counties and to the states, but also make them more efficient, but also have them remain secure, accessible, and fair. So we are going to be in the process of putting that committee together, here, over the next few weeks. And we want you all to be a part of it. Any folks that are interested in this throughout Georgia, I mean, we will certainly move through all parts of the state to do this. And then, you know, hopefully a year from now we will be prepared to go to the legislature with some real elections reform bill, just continue to move our great elections process even more forward than it already is today. So be on the lookout on that. We will have more information coming. I just wanted to make sure that this Board knew. We certainly want the Board's input. Also, you citizens that are here with us today, I know many of you we see often in this meeting, we want to have your input, as well. Certainly, we want to continue to work with and partner and get ideas from our local elections folks that we work with so often, as well.

**SECRETARY KEMP:** Any other new business from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, we will ask for a motion to approve the minutes.

**MR. EVANS:** So move.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** A motion by Mr. Evans and a second. Was that you, Mr. Worley?

**MR. WORLEY:** Yes.

**SECRETARY KEMP:** We have a motion and a second. Any discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of approving the minutes, please, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay the minutes are approved. Okay. Now we will move on to our Inspector General Report. Mr. Harvey.

**MR. HARVEY:** Good morning, Mr. Secretary. Good morning, members of the Board. Our first set of cases are on the consent calendar, City of Helen, Clinch County, Catoosa County, Gwinnett County, Paulding County, Cobb County, DeKalb and City of Broxton have been submitted to you. And have been recommended for closure.

**SECRETARY KEMP:** Okay. Let me remind everyone. This is what we did at the last meeting. A lot of the cases that are non-confrontational and recommended for closure, we have been doing those in a block vote to dismiss these; however, if there is a Board member that would like to pull out one of these cases and have our normal discussion, all they need to do is let us know which case or cases they would like to do that. Also, if there is a concerned citizen that is involved in one of these cases, if they would like to speak on it, we will also pull that off the calendar. So at this time I will take any comments from anyone who wants to pull one of the consent case off of our agenda.

**MR. EVANS:** I move to close.

**SECRETARY KEMP:** Okay. We have got a motion to close the consent cases that are on our agenda, which are the City of Helen, Clinch County, Catoosa County, Gwinnett County, Paulding County, Cobb County, DeKalb County, City of Broxton. Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** Okay. We've got a motion by Mr. Evans, a second by Mr. Webb. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of dismissing these cases, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. The motion carries. Now, we will move on to our previously deferred cases. Mr. Harvey.

**MR. HARVEY:** The first previously deferred case is the case of Twiggs County 2008-37. I presented this case to the Board at the last meeting. We have changed some of the citation, so we are re-presenting it now. The facts are essentially unchanged. In 2008 there was an election for sheriff and there were numerous allegations from numerous sides about allegations of vote buying, improper absentee ballot handling, people not doing their duties properly. The individual allegations are listed in the executive summary. We've got 15 specific ones listed. The investigation was done by the Federal Bureau of Investigation and Georgia Bureau of Investigation and at the end of the investigation they found that most of the allegations were unable to be substantiated; however, they did find that there were allegations that were substantiated regarding absentee ballots. And those violations are listed for you at the end of the executive summary. There are two respondents in this case. One is Mr. Doyle Stone. The other is Mr. Gregg Stone. Doyle Stone was the former sheriff of Twiggs County. Gregg Stone was a candidate for sheriff, running against the incumbent sheriff Daren Mitchell. The violations have to do with absentee ballots. Mr. Stone is alleged to have illegally assisted voters, illegally possessed absentee ballots, assisted voters who were not entitled to assistance, possessed absentee ballots, and in two cases interfered with voters in terms of while assisting them, legally or illegally, he influenced them to vote for his son, who was a candidate.

In addition, there were absentee ballot envelopes that were analyzed by the Federal Bureau of Investigation Crime Lab that came back with 4 absentee ballot envelopes had Gregg Stone's fingerprints on them, none of which he signed as assisting. Doyle Stone's fingerprints came back on one absentee ballot, which he denied assisting or handling. We have statements from all of the people that were involved, in terms of whether they were entitled to assistance, whether they were assisted, what they did with their ballot, whether or not Doyle Stone took possession of their ballot. Mr. Johnson is her representing the Stones. He has provided, essentially, a rebuttal to our investigation. He has asked me to present it to the Board. And he contests the findings with voters going back on, according to him, going back on previous statements about having Doyle Stone assist them, having Doyle Stone interfere with them, having Doyle Stone take possession of their ballots. At this point, the case is being recommended to be bound over to the attorney general's office for appropriate fines and sanctions on Doyle Stone for the list of violations and Gregg Stone for the illegal possession of absentee ballots.

**SECRETARY KEMP:** Okay. Any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, is there anyone else that wishes to speak on this case?

**MR. JOHNSON:** Yes, sir.

**SECRETARY KEMP:** Come right up to this mic, right here on the corner.

**MR. JOHNSON:** Good morning.

(TECHNICAL DIFFICULTIES)

**SECRETARY KEMP:** I'll tell you what, why don't you come up there with where Mr. Harvey is. Sorry about that.

**MR. JOHNSON:** Good morning.

**SECRETARY KEMP:** There you go.

**MR. JOHNSON:** My name is Juss Johnson. I'm an attorney with the law firm of Pate and Brody, Atlanta, Georgia. And my firm represents Doyle Stone and Gregg Stone.

**SECRETARY KEMP:** If you don't mind, give us your address too, please.

**MR. JOHNSON:** Of course. It's 101 Marietta Street, suite 3300, Atlanta, Georgia 30303. I would, first, like to ask for a few additional minutes in this case, considering that I do have two clients and there are numerous allegations. I have also prepared a packet for the Board, if I may distribute it at this time.

**SECRETARY KEMP:** Have we got a motion to accept the packet?

**MR. EVANS:** So moved.

**MR. WORLEY:** Second.

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

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed; same sign?

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries.

**MR. EVANS:** Mr. Chair, do we know how much additional time he is requesting.

**SECRETARY KEMP:** How much additional time?

**MR. JOHNSON:** I request 5 additional minutes for the additional client.

**MR. EVANS:** No objection.

**SECRETARY KEMP:** Yeah, that will be fine. Thank you.

**MR. JOHNSON:** The first two pages on this packet spell out the allegations made against my clients. The remaining pages are affidavits from the alleged victims and witnesses in this case. The first allegation made against Doyle Stone is that he unlawfully possessed six or seven ballots. The first elector he is accused of possessing this person's ballot is Sharitha Basley (phonetic). According to Ms. Basley's affidavit, in exhibit 1, she doesn't recall anyone ever possessing or taking her ballot. Her son, Lamar Basley was also present when she filled out her ballot. He, also, doesn't recall anyone taking or possessing her ballot. The second elector is Henry (unclear) Washington. In exhibit 2 you see can affidavits from her son and daughter-in-law that states that she has severe Alzheimer's disease and simply can not remember anything, let alone, what happened 2 years ago. The third elector is Helen Wimberly. In Exhibit 3 she testifies she doesn't recall anybody taking or possessing her ballot, let alone, my client Doyle Stone. The remaining electors are residents of a nursing home in Twiggs County. The first is Roosevelt Ligon. Mr. Roosevelt testifies in his affidavit, exhibit 4, that no one -- I'm sorry -- that Doyle Stone never took or possessed his ballot, rather it was a caretaker at this nursing home that collected his ballot.

After he finished filling it out, this caretaker finished filling it out at the nursing home. I also have the affidavits of the two caretakers, who were at the nursing home that day. And they both testified, and their affidavits, in exhibit 5, that they took the ballots themselves and placed these ballots in the mailbox and that it was not Doyle Stone. And this goes for Jack Clay and Major Wilson, as well, the two other residents of the nursing home. I should also add that the Major Wilson is now deceased. There was an additional elector in the OIG's original report, a man by name of Thomas Nguyen (Winn-phonetic), that his ballot was possessed by Doyle Stone, as well; however, Mr. Nguyen never voted in the election, according to the caretakers at the nursing home. I am short on time, so I am sorry if I speed along, but the next allegation made against my client is that he unlawfully assisted various electors. The problem with this is that in 1999 the Supreme Court of Georgia held in Holton versus Hollingsworth that this code section cannot be enforced in federal election, and that is because it steps on the toes of the voting rights act. And this was a federal election. That is not disputed. So this code section cannot, even if my client did everything the OIG says my compliant did, he cannot be found guilty of this crime.

**MR. EVANS:** So, if there is a federal election we can have election fraud because we can't apply our laws against fraud?

**MR. JOHNSON:** The problem with this code section, which the Supreme Court found, is it simply goes too far. It steps on federal law's toes.

**MR. EVANS:** No. I know it's a law prohibits election fraud. And what you are telling me is that if a federal election is on the ballot, then we cannot enforce laws against election fraud.

**MR. JOHNSON:** In this instance, for unlawful assistance, under Georgia law, yes, the Georgia Supreme Court has held that. The third violation is also unlawful assistance. Again, I would make the same argument according to the court in Holton, that no crime was committed. The 4th count is that my client unlawfully interfered with Sharitha Basley's right to vote. Sharitha Basley's affidavit, though, clearly spells out, no one interfered with her right to vote.

**MR. EVANS:** Did they find his fingerprints on the ballot?

**MR. JOHNSON:** I am not sure which ones.

**MR. HARVEY:** Gregg Stone's fingerprints were on the ballots.

**SECRETARY KEMP:** I'll tell you what. Why don't you go ahead and finish and then we will ask the questions, if y'all don't mind.

**MR. JOHNSON:** The 5th count is that my client unlawfully interfered with Helen Wimberly's right to vote. Helen Wimberly, though, has no recollection of anyone interfering with her right to vote, let alone, Doyle Stone. 6th, it's accused that my client unlawfully interfered with Roosevelt Lighten's right to vote. If you read Roosevelt's affidavit, exhibit 4, as well as the caretakers at that nursing home in exhibit 5, you clearly see, that is not the case. No one ever interfered with his right to vote. And they state, specifically, Doyle Stone did not interfere with Roosevelt's right to vote. These are the allegations made against Doyle Stone. The allegations against Gregg Stone are that he unlawfully possessed four ballots. Again, I have already discussed Helen Wimberly and Sharitha Basley's ballots. They say they don't recall anyone ever possessing their ballots. The final two are Pamela Hodges and Marsha McCorey. These are a couple. They testify in their affidavit that Gregg Stone never possessed or took their ballot. So, there you have it. I cannot find one alleged victim or witness in Twiggs County to corroborate what's in the OIG's report. In fact, they say just the opposite. So how do we get here. Why are we here? Who

made these allegations? You have to look at the complainants in this case. Two of the primary complainants in this case, two of the primary complainants are Jerry Fincher and Edna Roberts, a couple down in Twiggs County. In 2003 Jerry Fincher was arrested for having two pounds of marijuana in his home. He pled guilty to that offense in 2008, shortly before these elections. And I have the search warrant for his home right here. And I will give you one guess as to who the arresting officers in this case were. They were my clients, Doyle Stone and Gregg Stone. And I would like to submit this, along with the certified disposition in this case, to the Board, if the Board would like to see it.

**SECRETARY KEMP:** Have we got a motion to accept?

**MR. EVANS:** So moved.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We've got a motion and second. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries.

**MR. JOHNSON:** The other primary complainant in this case was a man by the name of Oscar Basley. He was a sheriff's deputy and still is for the current sheriff in Twiggs County. He stated that Sharitha Basley and Penny Lee Washington, two alleged victims, came to him and said that my clients were doing improper things. The problem is, in their affidavits, they say they never talked to Oscar Basley, not once. So that is what we have. What we have here is a case driven purely by political reasons. That's it, no more, no less. And I recognize that this is simply a preliminary hearing, but at the very least, I would ask the Board to look at counts 2 and 3, the unlawful assistance counts, because those cannot apply when there is a federal candidate on the ballot, according to the Supreme Court of this state. I would ask the Board to read the affidavits of these alleged victims and the witnesses in this case. When you have done that I would ask you to consider whether such a weak case, based solely on political motivations, is worth the tax payer's time and expense. I thank the Board.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**MR. EVANS:** Mr. Chair, I am just troubled by these pesky things called fingerprints.

**MR. JOHNSON:** Yes.

**MR. EVANS:** And while I appreciate that through your good work, you were able to get affidavits from people in nursing homes and with Alzheimer's, that they don't remember anything. What I have is an FBI lab report that found Gregg Stone's latent fingerprints on 4 ballots and Doyle Stone's latent prints on the absentee ballots for Ms. Washington. So it is hard for me to overlook that evidence, but much more significantly is it makes me disregard or want to disregard the memory of somebody who says I don't remember them ever having touched my ballot, when I have got a fingerprint on the ballot.

**MR. JOHNSON:** Touching a ballot, in and of itself is not a crime. It is possession or taking of



the ballot under Georgia law.

**MR. EVANS:** I think you are wrong on that. One of the things that we have dealt with in this group or this Board is, it's a strict liability offense. And the reason it is a strict liability offense is because the risk associated with unauthorized people touching absentee ballots is so significant, especially if the person touching the ballot is a candidate. And we understand the risk associated with taking ballots to nursing home facilities, distributing them, intimidating or otherwise trying to influence the completion of those ballots and sending the ballot in. So the result of that is we tend to go in the other direction, which is to say we have a zero tolerance. We can't let you do that. The risks are just too great, because, in the end, what will happen is, when we go back to the voters, they will never remember. And if you could help me get past the fingerprints, maybe I have a different view, but I don't understand how we can pass over those.

**MR. JOHNSON:** Well, the one problem with the possession statute is that it also goes to the unlawful assistance statute. If you are assisting an elector, under federal law, you have the right to do so in virtually every circumstance and that is why that unlawful assistance statute cannot apply in federal elections. If you are assisting an elector, you are probably going to be touching the ballot, so your fingerprints will be on it. So you can see the contradiction in the law here.

**MR. EVANS:** I don't read Holton that same way you do. If I did, because if I read Holton that way, then every time there was a federal race on the ballot I couldn't enforce any state election laws. So I don't read it that broadly, But even if I did, it doesn't get me around 21-2-574, which is unlawful possession, which is a completely separate statute and which, in this case, was the subject of prior Department of Justice preauthorization, under the Voting Rights Act. So I would presuppose that if the Department of Justice, clearly, as being compliant with federal Voting Rights Act Law, it would be a little difficult to understand how it would then not apply. That's all I have.

**SECRETARY KEMP:** Mr. McIver.

**MR. MCIVER:** Mr. Johnson, are you troubled by the questions of fact that exist here. Affidavits that seem to directly counter what we have been presented by our IG.

**MR. JOHNSON:** My experience is that a lot of these folks are very elderly patients in the homes and in their own homes. And I think they are very much influenced by folks who talk to them. And that is why I was very careful when I spoke to these folks, as myself, plain clothes, along with a local person who is disinterested in the case, a notary public, in this case, and they were very forthright and coming with me. They said, were a little upset. We were scared when the police officers came to our homes and started asking us questions. This is small-town politics. Right now the current sheriff is in charge. And they don't want to disrupt any waters. They are scared.

**MR. MCIVER:** Isn't this the purpose of hearings for an Administrative Law Judge to hear this testimony and evaluate these issues and resolve the fact questions. We simply bind over. I know you clearly understand that.

**MR. JOHNSON:** I understand that.

**MR. MCIVER:** We are not the triers of fact. We have a recommendation and a report from an Administrative Law Judge. So, is it still your opinion we should not bind over?

**MR. JOHNSON:** The fact of the matter is the allegations in this case are extremely weak. There are the fingerprints. I agree, if you have the fingerprints, that's the FBI analysis. The

problem is none of the alleged victims in this case are willing to corroborate what's in the OIG's report. We haven't been able to see what they told the FBI or GBI, but there must be a reason why the US Attorney's Office did not prosecute this case. There has to be a reason. I am guessing it is because these alleged victims in the case could not corroborate these allegations.

**MR. MCIVER**: Remember, our rule here is the election code.

**MR. JOHNSON**: Correct.

**MR. MCIVER**: Although there could clearly be criminal implications, again your advice to us, about whether or not to bind it over?

**MR. JOHNSON**: The fact of the matter is, it's a very weak case. There is very little to go on here, aside from the fingerprints. And we are not willing to back down on this case. We will be pursuing it. I just don't think it is worth the taxpayer's time and money to go over something that happened two years that was purely politically driven.

**MR. EVANS**: Almost every complaint we get is politically driven. We rely on losing candidates to be the police officers to help us find violations. The source of the complaint is not as important to us as whether or not it has any merit. To me it is like the bank robber who says I was never in the bank, but we have fingerprints on the vault door. I think Mr. McIver's point is, while we can't sort that out here, and the process that we be put in place to sort that out is to have a fact determination make a disinterested Administrative Law Judge, who can then weigh the affidavits versus the FBI lab results.

**MR. JOHNSON**: The one thing this gives our position a great deal of credibility are the two caretaker at the nursing home who say that these four residents were never pressured. They were never intimidated. My client never interfered and that my client never possessed their ballots, even though his fingerprint may appear on some.

**MR. EVANS**: How did that happen? I'm just curious. How does your fingerprint get on the ballot if you never touched it.

**MR. JOHNSON**: You can assist a elector and not possess the ballot, would you agree.

**MR. EVANS**: I would, but my question is how does your fingerprint get on the ballot, if you never touch the ballot?

**MR. JOHNSON**: I am not saying they never touched the ballot. I am saying they never possessed the ballot, to exercise control dominion over the ballot.

**MR. EVANS**: What I heard from these affidavits is, no, these guys never helped me, never did anything. I don't remember them ever being involved. Is your client now saying that they did touch the ballots.

**MR. JOHNSON**: In, I believe, a couple of cases, yes. There was assistance. But they are not accused of assisting these folks.

**MR. EVANS**: For example, Sharitha Basley, I have an affidavit, basically, he never touched her ballot. And I have a fingerprint that he did touch her ballot. How does that get solved?

**MR. JOHNSON**: All I have is what Ms. Basley told me. That's all we have.

**MR. MCIVER**: Mr. Johnson, I trust you know the five of us have all taken an oath to do our very best in terms of attempting to enforce to election code.

**MR. JOHNSON:** I do.

**MR. MCIVER:** It is our obligation to determine whether or not to bind is a proper motion in this case. My view is when you have substantial fact questions appearing here, different positions by different people, that is a classic accusation for binding over.

**MR. JOHNSON:** I recognize that fact.

**MR. MCIVER:** In my job, you have done a very thorough job here and this is helpful. I know the Administrative Law Judge will be bound by or, at least, guided by it, but my position is going to be that we bind this over. This is a textbook case of when we would do so.

**MR. EVANS:** Let me add, Mr. Chair, I appreciate the quality of the work you put in here. This is very well done. I wish all of our cases had this level of organization. It is very effective. And I appreciate it. At the end, we still have to deal with the evidence, but I do appreciate your good work.

**MR. JOHNSON:** Thank you.

**SECRETARY KEMP:** Mr. Webb.

**MR. WEBB:** Mr. Johnson, I am a little troubled by two things: One, you seem to be saying that there was assistance provided, but I am not sure they signed as assisting. That is a direct violation. In all cases I am not sure they have signed the ballot as assisting.

**MR. JOHNSON:** Again, you have to look at the Supreme Court case, as well as Voting Rights Act. You have the right to assist the voter, in most cases, in a federal election, as long as you are not their employer. Georgia law is much more strict.

**MR. WEBB:** I understand that, but you are required to sign the ballot as assisting. And if they didn't sign the ballot as assisting and you are standing there today telling us they did assist and they did possess, but they didn't sign as assisting, that is a direct violation.

**MR. JOHNSON:** It depends on the case. And I am not sure which specific elector you are talking about in this matter.

**MR. WEBB:** In general. I think, obviously I am going to vote that we should hand this over to the Attorney General Office. But the other thing I am troubled by is you have an elector and his family -- excuse me -- a candidate and his family showing up at a nursing home. And, to me, these are not people they necessarily had relationships with, in general. And it is not something they should be doing.

**MR. JOHNSON:** Well, the candidate did not go to the nursing home. It is important to point that out. It is also important to point out this is a very small town, where everybody knows everybody.

**MR. WEBB:** But the candidate's fingerprints are on four absentee ballots.

**MR. JOHNSON:** Not folks in the nursing home. I just want to clarify that.

**MR. WEBB:** Isn't Ms. Basley in the nursing home?

**MR. JOHNSON:** No. She lives in her own home.

**MR. WEBB:** Ms. Wimberly?

**MR. JOHNSON:** She lives in her own home.

**MR. WEBB:** Hodges.

**MR. JOHNSON:** Her, along with her partner, Mr. McCord, they live in their own home, as well. They are not elderly.

**MR. WEBB:** Okay. Well, I apologize for that. I think are going to have some explaining to do, but I do agree the package is helpful; but I think it is something that needs to be bound over to the Attorney General's Office.

**SECRETARY KEMP:** Okay. Any other questions from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, Mr. Johnson.

**MR. JOHNSON:** Thank you.

**SECRETARY KEMP:** Anyone else here wish to speak on this case?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, any other discussion from the Board? Or do we have a motion?

**MR. MCIVER:** I move we bind the case over.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have a motion by Mr. McIver to bind over and a second by Mr. Webb; any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of binding over to the Attorney General's Office, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All oppose; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. The motion carries and it is bound over.

**SECRETARY KEMP:** Mr. Harvey, City of Warm Springs.

**MR. HARVEY:** City of Warm Springs, Meriwether, County. This case was presented at the last meeting. There were questions, particularly about a witness who might have been able to shed some light. Carlos White, he had previously not been able to be found and interviewed. After the meeting, our investigator went back. He found Mr. White. Mr. White disavowed any of the allegations that supposedly he had said second and third party. Mr. White was -- he was not registered to vote. He didn't vote. He didn't know anything about buying votes, selling votes. He disavowed any knowledge at all. Our investigator was not able to identify other witnesses that could corroborate the claims that were made by the people in the complaint or at the last meeting. And there is no further evidence that we substantiate that people were paid or offered money in exchange for voting. So we are recommending this case be closed.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none; any else here wishing to speak? Yes, ma'am. You need to come up and give us your name and address. If you are planning on speaking, when we call the case, if you wouldn't mind just moving to this side of the room. That way we will keep things moving. If you will come on up to the mic and give your name and address, please.

**MR. HARVEY:** Mr. Chairman and members of Board, one point, in on case we did find a violation on Mr. Robertson for taking a photograph. I don't believe that was bound over at the last meeting. That is still a violation. It appears to be a violation, taking a photograph in the polling place. We recommend that that case be bound over on that violation alone, as opposed to being closed.

**MS. RAMSEY:** My name is Hazel Ramsey, I live at 28 Oak Avenue in Warm Springs, Georgia. I am here this morning for -- I feel it is in really good reason. It needs to be looked into further. This is a thing that happened in our city and a lot of people know about it. People were paid to vote. They were hauled to the absentee ballot by the police chief and a member of the city counsel. The reason I turned I over to your Board is because I thought, surely, you would find something out about it and do something about it. These people were paid to vote for the policeman's ex-wife. And the reason for that is because I was having him investigated, the police chief, for double dipping into our city funds and state funds for the Roosevelt Institute. He wanted me out of there and that is the way that he succeeded in doing it. And I thought, sure, that you would contact the proper people, because they told my city employees, when I was mayor, the citizens told my city employees they were paid to vote. They could have one of three things: Beer, fuel, or money. And this was handled through the BP station in Warm Springs, to let each one come in and choose whatever they wanted. And, to me, that is wrong. It happened. And I thought surely the Board investigators would find a way to check that out. And we had 130 voters in the City of Warm Springs. And out of that number, 32 were absentee ballots that the chief of police was seen hauling them up to the county seat, to vote, along with one of our council members also hauled the people up there to vote. So, to me, that doesn't make sense either. This last election, in the district, we had 1100 voters. And out of 1100 voters there were only 68 absentee ballots cast and that's in the whole district. So, anyway, we are such a small city, anybody could have walked to the voting place in our city without any problem at all, without being hauled 10 miles to the county seat, the voting place there. To me, it is wrong, and just 10 miles up the road from Warm Springs in Woodberry, Georgia people were paid there to stay at home and not vote in their City election. So it is going on all over. If it is not stopped, it is going to get worse. I think it is wrong for the citizens to have to pay taxes and everything and then to let something like this go on. And I'm sure it's being done all the time more and more. And there should be a stop to it someplace along the road. And as small as our city is in Warm Springs, if you would ask the right people, they can tell you who told that they were being paid to vote. So, to me, I think it's time to get some of these things straightened out.

**SECRETARY KEMP:** Thank you, Ms. Ramsey. Any questions for Ms. Ramsey?

**MR. EVANS:** Ms. Ramsey the challenge we have is that we have to have names. And what would be helpful, is while we will undoubtedly close this matter, only because we don't have sufficient information to proceed on it, if you have information, if you have names you need to get that to our investigator and say here are the names and here are the phone numbers. I can't speak for Mr. Kemp, but I am confident I know exactly what he will do, which is, if we get names we will

look into it. That is his process, if there is a question we get to the bottom of it. That is the process. We brought this back up for a second hearing so that we could make sure that there is no -- and be very careful in this, because it is such an important area. But even after today, if you have names, if you get it to one of the investigators and I feel very confident and I will let Mr. Kemp speak for himself, but I feel very confident that there will be no end to our investigation if there are any suggestions of vote buying whether the vote buying is to affirmatively vote or whether the vote buying is to convince people to say home.

**MS. RAMSEY:** Let me say one more thing. If I had known that, I could have brought some names today. I was not even aware that I could bring witnesses here today until yesterday, late, about 6:00 o'clock when I got the call from Mr. Harvey that I could bring a witness. I didn't have time to get the witnesses together, last night, after 6:00 o'clock and leave early this morning.

**MR. WEBB:** It is not too late. After today at the end of today's proceeding, during the lunch break, if you have names get them to an investigator. All right sir.

**SECRETARY KEMP:** Ms. Ramsey, we have a question.

**MR. MCIVER:** I see the respondent is residing in the coastal state prison, Mr. Robertson. Gregory Robertson, do you know why he is there and is it related to this matter in any way?

**MS. RAMSEY:** No, sir. It is not related to this at all. The reason he is there was due to inner-marriage things that took place. And he is only there for a short time. Anyway that doesn't have anything to do with this. And if you know that much about it, you should have known that.

**MR. MCIVER:** Apparently, I didn't know it.

**MS. RAMSEY:** Okay. Well, I appreciate anything that you people can do.

**SECRETARY KEMP:** Anyone else wishing to speak?

**MR. DEGINERO:** Briefly.

**SECRETARY KEMP:** Come on up. Give us your name and address, for the record, please.

**MR. DEGINERO:** Mr. Chairman and Board, my name is Mark Deginero. I'm the attorney. I practice in LaGrange, Georgia with the law firm of Willis and McKenzie. That's at 300 Smith Street in LaGrange. I represent Mayor Sheila Lee. Sheila, will you stand up, please, so they can see you. She is here today, obviously, because she is very interested in this matter. We have heard, I think the Board will agree, bare allegations and furtherance of this Board's role, as a gatekeeping organization, nothing we have heard today remotely rises to the level of probable cause. What we would like to inquire about and what Mayor Sheila Lee is interested about is the one violation that was uncovered was a violation by the son of the (unclear) candidate.

**SECRETARY KEMP:** Let's stay on this case right here. If there is another violation, you need to report that to Mr. Harvey.

**MR. DEGINERO:** I think Mr. Harvey did address it. Clearly, as a point of clarification, is that before the Board now or will that be afterwards?

**MR. HARVEY:** Secretary Kemp, that was the citation that I mentioned, about taking the photograph in the polling place that I amended.

**SECRETARY KEMP:** Well, that is part of this case. I apologize.

**MR. DEGINERO:** No problem. The other question the question I had is purely procedural.

Mr. Harvey can probably answer this for me. Will the parties be provided with some sort of written evidence, should the Board decide to close this matter? Or did you have a practice of giving a letter?

**MR. HARVEY:** Not wanting to speak for the board, if it gets bound over, the AG they will handle it.

**MR. DEGINERO:** My question, I guess, if it is closed here, today, how is that memorialized?

**MR. EVANS:** What will happen is if we close the vote-buying component and bind over the photographing component, then you will hear from the AG's Office. The part that makes the photographing component much more sensitive is, as we all know, a component part of vote-buying is photographing people voting, which is the way in which you confirm, that in fact, people are delivering on what they bought. That is what makes it more unusual than our normal case here.

**MR. DEGINERO:** Just so the Board is clear, I do not represent Mr. Robertson. I represent Mayor Sheila Lee. Mr. Robertson, as you have heard, is presently in prison, incarcerated in the Coastal State Prison. That's all I have.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Oh, I'm sorry.

**MR. WORLEY:** Mr. Secretary, I had a question for Mr. Harvey. I just wanted to be sure that everyone is clear about this.

**SECRETARY KEMP:** Mr. Worley, if you don't mind, let me see if anybody else wants to speak and then I am going to, kind of bring Mr. Harvey back up to kind of close. Is there anyone else that wishes to speak on this case?

(NO RESPONSE)

**SECRETARY KEMP:** Go ahead, Mr. Worley.

**MR. WORLEY:** I just want to make sure I understand your report. Basically, you all received 16 names of people that were alleged to have been paid to vote and you investigated that and were not able to corroborate any of those accusations; is that correct?

**MR. HARVEY:** That's correct. The 16 names were either alleged to have been paid to vote or know something, which actually led to more people. So our investigator interviewed multiple people. Sometimes they would pass us to the next person. He would identify this person and he was never able to find anybody who would corroborate the allegations.

**SECRETARY KEMP:** Where did all those the names originate from?

**MR. HARVEY:** They originated with the initial complainant. The original complainant was Michael Ramsey, who I believe he spoke at the last meeting. And at that meeting, he claimed to know that this was true. People he had spoken about, knowing this to be true; however, when it comes to finding voters or evidence, we have not been able to find anything. It has not been for the a lack of talking to people.

**SECRETARY KEMP:** Does anybody else have a question for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Can you elaborate a little more on the one allegation that we have with Mr. Robertson about taking the picture?

**MR. HARVEY:** Yes, sir. Give me a second.

**SECRETARY KEMP:** I just want to make sure we are clear that when we vote, that we are binding that over and dismissing something else or just make sure we cover everything when we have our vote.

**MR. MCIVER:** Investigator Archey, can you speak to that more, specifically? Investigator Archey did the investigation. He can probably answer it more directly.

INVESTIGATOR ARCHEY: I can say during my interview --

**SECRETARY KEMP:** I tell you what. If you would, just state your name and address for the record.

INVESTIGATOR ARCHEY: Glenn Archey. I work at the Secretary of State's Office as an investigator.

**SECRETARY KEMP:** Go right ahead, sir.

INVESTIGATOR ARCHEY: Pretty much, what I said about that, during my numerous interviews with Michael Ramsey one of the things he brought up about during advanced voting was him and his brother Gregory Robertson had been down to the courthouse there and Michael Ramsey as telling me about that he stayed out around the perimeters taking pictures of, I believe, the Chief Of police and City Counsel and they brought a couple of people up for advanced voting. And he said his brother actually went inside the polling location and that his brother told him that he used his cell phone to take photographs inside the location. I then learned from Michael Ramsey that his brother was incarcerated. I went to his location. We interviewed him. He consented to talk with me about it. He told me that he did, in fact, had him and his brother did go to that location during advanced voting. He did say that he did go inside and used his cell phone to take photographs of people around the inside of the polling location, but he said he was pretty much, what him and his brother were doing is their own type of investigation to see if they could get some proof that something fraudulent was going on with the election involving Chief Lee and the City Councilman. He also agreed to allow me to get to cell phone from a friend of his. I was never able to recover the cell phone to obtain the photographs. That is where that came about, the follow-up charge of taking photographs inside the polling location.

**SECRETARY KEMP:** Okay. Thank you. Any questions from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Anything else, Mr. Harvey?

**MR. HARVEY:** No, sir.

**SECRETARY KEMP:** Do you want to recap on what with your recommendation is now, in the case.

**MR. HARVEY:** The recommendation is that Mr. Robertson be bound over for violating the restriction on taking photographs inside the polling place. Other than that, the other allegations are done.



**SECRETARY KEMP:** Okay. Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wishing to speak?

(NO RESPONSE)

**SECRETARY KEMP:** Okay do we have a motion from the Board?

**MR. EVANS:** I so move, I mean on the binding it over. I am really troubled, because as we have -- this is a recurrent thing in this area. Since I have been on the Board, we have had this vote-buying issue surface repeatedly. The reverse side is, as Mr. McIver points out, our hands are tied, if we don't have evidence. So I don't want us to end out vigilance in terms of exploring and investigating. Procedurally, however, we are bound, as you have noted, Mr. Chair, that we have to act on what we have before us. And so, I would move that we refer over the one matter dealing with photographing in a polling place, because we do have to send a signal. We saw, even in the last election, a huge effort by the media, to get photographs inside the polling place. If we ever give 1 inch, photograph will be all over the place in there and we can't do that.

**SECRETARY KEMP:** We have a motion by Mr. Evans? Do we have a second?

**MR. MCIVER:** A point of clarification, so your motion is not to bind over any allegations of vote-buying. You are bifurcating Mr. Harvey's recommendation.

**MR. EVANS:** That's correct.

**MR. MCIVER:** Thank you. I'll second.

**SECRETARY KEMP:** Okay. We've got a motion and a second. I will say one thing. Mr. Evans' comments about the vote-buying, you know, I think this just goes to the point of we have got to make sure that our citizenry is involved in this process. If you are seeing things out there during an election, don't wait until it's over to call us and let us know. That is one reason we created our stop-voter-fraud website, which, this election, we got hundreds, literally hundreds of e-mails about things that were going on. We looked into every single one of them as well as our 1-800 hotline. So, you know, please, as citizens, make sure that you are ever diligent in helping us if you are seeing things going on. Don't wait to call. Call or e-mail us right then, where we can investigate. Okay. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of bounding Mr. Robertson over to the AG, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** That motion carries and it is bound over.

**SECRETARY KEMP:** Mr. Harvey, Spaulding County.

**MR. HARVEY:** Okay. I want to make sure the Millers are present. They have gone to the other location. They are on their way. They are the respondents in the case. Are the Millers present?

**MS. MILLER:** Yes.

**SECRETARY KEMP:** Okay. Good to have you with us. Go right ahead.

**MR. HARVEY:** This case involved a municipal election in Spaulding County. The allegation was that Jean and Arthur Miller owned two residences in the city: one at Anne Street and one at Cold Water Lane. They are at two different districts within the city. They voted at the Anne Street address, used that on their voter certificates as their residence address; however, they actually lived at the Cold Water Lane address. There was a challenge that was filed in another court proceeding. She, Ms. Miller, admitted that her home was on Cold Water Lane. She did not live on Anne Street. Anne Street, the address, though owned, was unoccupied, unfurnished and had no furniture or household goods. As a sidenote, the election was ordered to be redone. And it is recommended that Jean and Arthur Miller be bound over to the Attorney General's office for violations of 21-2-571 and 21-2-562, for voting in an election where they are not qualified to do so, specifically in a direct where they are not qualified and also for putting a false address on their voter certificate.

**SECRETARY KEMP:** Any question for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, anyone else wishing to speak? Ms. Miller, yes, ma'am. Come on up and just give us your name and address, for the record, please.

**MS. MILLER:** Good morning. My name is Jean Miller. My address is 723 Anne Street, Apartment-D. Griffin, Georgia. I wanted to bring clarity to this. According to your investigation, it was determined I had two addresses. I manage a HUD subsidized property in Griffin, Georgia. I started working there July 1st, of 1999. Heritage Apartment is HUD subsidized. It was crime-infested, a very serious property to work on. I had two small children. They were very small at the time. Part of my compensation package was I was afforded an apartment, which I considered my primary address. After different incidents on the property, I would move off. My car keyed and bricks being thrown through the window. I had a couple of small kids at the time and I can stay on the site for so long, that I would move off. I would find a rented somewhere, move out for a while and then move back. Since 1999, I have moved off the property three times. This was under the approval of my supervisor and my company that pays for that apartment. When I'm off site it was in here that I wasn't paying for the utilities. The City of Griffin will not allow you to have utilities in your name at two different places. So they let me keep it at Heritage Apartment and I would put it in my name whenever I moved off site. I didn't intentionally do the to defraud the State and where I was to vote. If it was any error on my part it was the understanding of your primary residence. When I had to go to court in another case, I willfully gave my address as Cold Water, because I always have considered 723-D my primary address. All my -- my husband is not here, had he is ill. He is at dialysis, he couldn't make it, but I kept all our paperwork, everything coming to 723-D, because I knew I always had the intention that I would come back there to manage the property. It wasn't a problem until a guy ran for City Commissioner in 2005. He knew about it then. I lost in that election. It wasn't a problem. It came up again this time. I didn't run again for that position, but I helped somebody run and he got beat and he challenged this election with the absentee votes and he -- even though he knew about all this, it wasn't a problem until he lost, but he challenged it. And I do admit had two residences. I, personally, considered 723-D my primary residence, as an apartment manager, I always say where a person receives their mail. As a matter of fact, that is how I do a lot of evictions. If

somebody is living there illegally, I will send them a certified letter. If they accept it, I have enough evidence to take them to court to get them evicted. So I considered that my primary residence. And it was challenged in the election that that was not the case. But my argument, here, I didn't intend -- I started doing this in 1999, moving off the property for a while move and I will move back. I have done that three or four times since I have been employed with this company. And that is my position.

**SECRETARY KEMP:** Thank you. Do we have any questions?

**MR. EVANS:** Yes.

**SECRETARY KEMP:** Mr. Evans.

**MR. EVANS:** So, the difficulty that we have is -- and just to make sure that you are aware, because I don't want you tricked into a much more serious issue -- is that, as I understood it, you testified under oath that you lived at Cold Water Lane.

**MS. MILLER:** Right.

**MR. EVANS:** And you are testifying to us today that you, in fact, lived at Anne Street.

**MS. MILLER:** Well, I have two residences. Like I said, it was a problem in considering what was your primary residence? I considered 723 my primary residence. When I had to go to court I was on Cold Water. And he asked me where I lived. I said cold Water, but I considered -- I always have considered 723 my primary residence. In my understanding, that was my primary residence. Since then I have talked to lawyers and stuff about what is considered primary residence. I always thought about it like kids go off to college or something like that, but my understanding has become clear. They kicked me it out of the district. I can't vote in the 6th district. Since, I have moved back to Anne Street, so I am back there now. So, I reapplied. So I know in the future that when I do that I am going to have to make a more aggressive effort to not just assume, because that is my primary residence. I will just have to -- wherever I decide to take a sabbatical, I am just going to have to change my address, or change my voting site.

**MR. EVANS:** The only reason I raise this is because the implications are so significant, because if it turns out that, in fact, your testimony under oath was false, that is a whole much more serious matter than if we have a matter where you didn't live in the district. They are both serious, but I just wanted you to be aware. And you may want to talk with counsel, only because of the ramifications of saying before the Court, under oath, you had the primary residence at one location and say to us a different location. It puts us in a little bit difficult place.

**MR. WORLEY:** If I may follow up with a question. I don't think Ms. Miller is saying that is what she testified under oath. What she is saying is her primary residence, in her mind, was always the Anne Street address, but she did testify under oath, at the time of her deposition, that at that time she was living at the Cold Water address.

**MS. MILLER:** Right. And being honest, my intent was not to reside in an area just to vote in that area. That was not my intent. Like I said, it was a misunderstanding on my part. That was determine what, legally, your primary residence is. And, you know, like I said, they took my voting rights away from the 6th district. And like I said, since then, I just know that wherever I live or wherever I decide to move, I am going to have to change it. So I apologize if I made an error, but my intent was not just to vote.

**MR. WORLEY:** If I could follow up with another question. Ms. Miller, just to be clear, are

you saying that you never received mail at the Cold Water Lane address, that you always received mail at Anne Street?

**MS. MILLER:** The mail I get, of course, were the bills, primarily for Cold Water, you know, the light bill and stuff like that. But my social security -- my husband, he is disabled veteran -- all our social security checks, everything went to Anne Street, because, you know, I considered that my primary address. And I know when I move off site, it was for a season. I had to get the family out of the environment for a while. If the property started going worse, I would move back on. I have done this three or four times, even before I ran for office or anything. It was well-known that I did this.

**MR. EVANS:** But the judge determined you lived on Cold Water.

**MS. MILLER:** Yes, they brought that up at this trial. He said that there is something about intent. He was saying that he didn't feel like, when the lawyers was trying to take it further, he said that it is all about intent and my intention was not to defraud the Secretary of State. It was my misunderstanding of primary residence. I did that to manage my job, by not being able to stay on site for long periods of time. If I made an or error in that way, you know, in determining what primary residence I did, you know, if I made an error.

**MR. EVANS:** The difficulty that we have is that a court, after having had an opportunity the hear all of the evidence, here all of the witnesses, made a judicial determination that, indeed, you did not live on Anne Street and you lived on Cold Water, it would be very difficult for us to the reach a completely different conclusion.

**MS. MILLER:** Now, at this particular court case, this was when the Spalding County Board of Electors was challenging the absentee votes. So, they called me as a witness because at that time he was trying to discount to votes, eliminate the votes. That is the whole purpose of challenging the votes. Like I had to give my address here, when I got up, that is where I said I was living at the time. And the lawyer did bring up the fact about that, because my opponent knew about this. He knew I did this. He and I even talked about it when I was running for office. And that is how the Judge dismissed it as intent. He just went on. I made this statement. You know, I don't know what else to say.

**SECRETARY KEMP:** Any other questions for Ms. Miller?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you, ma'am.

**MS. MILLER:** Thank you.

**SECRETARY KEMP:** Anyone else wish to speak on this case?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. The chair is ready for a motion?

**MR. MCIVER:** I move we bind it over.

**SECRETARY KEMP:** We have got a motion to bind over. Do we have a second?

**MR. EVANS:** Second.

**SECRETARY KEMP:** We have a motion and a second. Any other discussion.

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of binding it over, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All oppose, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries and it's bound over. Dodge County.

**MR. HARVEY:** This case involved a special election on March 16th of this year. While our monitors were out checking polling place, they came across, in Dodge County, six locations that were not accessible to handicapped wheel chairs. In most of the case the buildings had about a 3- to 4-inch gap between the ground and a lift you had to step over to get into the building. There are also no signs marked for handicapped parking. Judge John Kelly, who is the probate judge sent yesterday or the day before, a letter that he asked me to bring to the State Election Board. He says that he acknowledges that they did not have the facilities marked and they didn't have accessibility. Since that time they have applied for and received a grant for ADA compliance, through the elections office. And he expresses his sincerest hope that the ADA permanent signs and pads will never allow this situation to happen again. It is recommended that the case be bound over for violation of 21-2-265(D) and 21-2-97, for the handicapped accessibility and also poll workers not wearing identification badges. That is 21-2-97 I have got this letter from Judge Kelly, if the Board wants to accept it.

**MR. EVANS:** So move.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We've got a motion and a second. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, the same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion is accepted.

**MR. HARVEY:** And after our monitors were out there and brought it to their attention, he did delivered the signs marked handicapped parking at those precincts.

**SECRETARY KEMP:** Any other questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Any one here wishing to speak on this case?

(NO RESPONSE)

**SECRETARY KEMP:** Is Jane Williams here?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, the chair is ready for a motion.

**MR. MCIVER:** I move we bind it bind over. I assume this is a classic case for Ms. Brumbaugh.

**SECRETARY KEMP:** Second. We have got a motion to bind over and that's on both respondents, correct?

**MR. MCIVER:** Correct.

**SECRETARY KEMP:** We have a motion to bind over both respondents and a second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of binding over, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries and it is bound over.

**SECRETARY KEMP:** Murray County.

**MR. HARVEY:** Yes, sir. This involved an allegation that the election's office received that the Murray County Board of Registrar, Chief Registrar, was not complying with the law and holding monthly meetings and reviewing lists. Our investigator went up there and spoke with Mr. Sampson, who is the chief registrar. Mr. Sampson acknowledged that they were not holding monthly meetings. He said that they reviewed their voter lists, sort of, on a daily basis, and, therefore, he didn't think it was necessary to hold a special meeting to do what they did every day. Mr. Sampson, I believe, is here. He presented a letter to me that he asks to present to the Board, acknowledging, the violation of not holding regular business meetings and explaining that they normally check their voter lists on a daily basis. It's being recommended that the case be bound over for violation of 21-2-212(d) and 21-2-228(a) in terms of holding meetings and regularly updating voter lists. And I believe Mr. Sampson wants to address the Board.

**SECRETARY KEMP:** Any questions of Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** All right, Mr. Sampson, welcome. If you will give us your name and address for the record, please.

**MR. SAMPSON:** My name is Larry Sampson. It is Post Office Box 1015 Chatsworth, Georgia. And I was, sort of, hurt by the allegations that we don't have a good voters' list, because we do. I have been doing this for 37 years. I go back to Mr. Fortson. And I am proud of what we have done. And I have two ladies that now work in the election office for me, full time. I got the first one about 15 years ago and the next one about 10 years ago. And they, on a daily basis, do all of the business and I just, quite frankly and honestly say I never called a formal meeting to keep minutes, because we never had to meet on a challenge or anything like that. I can assure you they will be held in the future and we will keep minutes. And I apologize for not doing it. That is easily corrected and we shall do so.

**SECRETARY KEMP:** Well, we appreciate you coming down to let us know about that. We

appreciate what you are doing. Do any of the board members have any questions?

**MR. EVANS:** No. I just would note that the purpose of the statutory requirement of the regular meeting is to afford members of the public, so that they can come to the meeting, even if they didn't feel comfortable, either communicating directly or indirectly. So, the formality -- and I agree with you, if the work is getting done, why do we have to formality? The reason we have the formality is, in a Democracy we have these regular hearings, so the people can come, even if they have told no one, but I appreciate your coming down. I think that a letter of instruction would be sufficient in this case, Mr. Chair. I don't know if we would necessarily need to use the resources of the AG's office, where we have got substantive compliance, but not technical compliance, and we have got the respondent here, agreeing that indeed on a going-forward basis the meetings will be held.

**MR. MCIVER:** Is it my understanding that that is your commitment, is to go forward with monthly meetings.

**MR. SAMPSON:** Oh, absolutely. If you had even just picked up the phone and said you need to have a monthly meeting, we would have done it, no problem. I'm sorry for not doing it. It was just one of those things where we were getting things accomplished without the formality, but we will take care of it.

**SECRETARY KEMP:** Any other questions for Mr. Sampson?

(NO RESPONSE)

**SECRETARY KEMP:** Was that a motion, Mr. Evans?

**MR. EVANS:** Yes, it was. It was a motion to close with a letter of instruction.

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

**SECRETARY KEMP:** We have got a motion and a second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Does anyone else here wish to speak on this case?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, we have got a motion and second to close with a letter of instruction. All in favor say, aye.

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. Thank you, Mr. Sampson. Walker County.

**MR. HARVEY:** This case involved the issue of a precinct consolidation. The complainant, Kelia Campbell, had submitted a petition protesting the changing of a polling place. What had happened was that in 2009, the Walker County Board of Elections decided to consolidate precincts. They made the determination that it wasn't efficient to operate as many precincts. In 2009 they held a vote to consolidate to precincts. That was held March 9th of 2009. They then went forward with the process, notified to department of justice, notified who they were supposed to. What they didn't do in voting to go forward was they didn't meet the statutory requirement of posting 10 days' notice before they held the vote. The vote was -- everything was precleared by

the Department of Justice and on September of 2009, the consolidations of precincts were made final. They realized that they had not published the notice about the consolidation of the precinct, so what they was in March of 2010 they published the notice that they planned to reconsolidate the precinct and then in April of 2010 they held another vote to essentially formalize what they had done in 2009. So there appears to be a violation of 21-2-262(c) in terms of failure to advertise with the consolidation of precincts 10 days prior to the hearing. They also didn't notify the Secretary of State's Office until March 26th of -- I'm sorry March 16th of 2010, almost a year after they consolidated their precincts did notify the Secretary of State's office of that consolidation. There were other allegations made by the complainant about election officials campaigning from their homes. And, I believe, at one point, one of the summaries had a violation that suggested Ms. Edwards might be in violation. That was amended. There was no evidence that Ms. Edwards was in violation of any type of conflict in terms of supporting a candidate. She did have a yard sign on her private property that had nothing to do with her title as elections superintendent. So the other allegations were that documents had not been delivered. Documents were destroyed. The elections officials were not having a budget. They weren't sworn. All those allegations were investigated and found to be unfounded. The complainant couldn't provide specific facts that would support those charges. So we are recommending that the Walker County Board of Elections and Registration be bound over on those two citations listed: Failure to submit the paperwork to the Secretary of State's office after consolidation of precincts in a timely manner and failure to public notice for the consolidation of precincts.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, any else here wishing to speak on this case?

**MR. EDWARDS:** Morning members of the Board. My name is Keith Edwards. I'm an attorney in Walker County, Georgia. My address is 208 North Duke Street, in LaFayette, Georgia. I am also on the Walker County Board of Elections and Registration. I am not the Board's legal counsel; however, I was asked to come down here today and speak on behalf of the Board. Just to draw your attention to a couple of things, most of the facts that were presented a while ago were not contested at all. The timeline with was, essentially, correct. We held a meeting after considering consolidating some precincts. After we initially voted we determined that we did not publish notice in the Walk County Messenger, which is our legal organ for people to come and make comments. We corrected that. My advice to the Board was we can cure that default if we just go ahead and publish the notice, give people an opportunity to show up and voice their opinions about it and we can revote. We had been advised by the Department of Justice, informally, that a revote was not necessary. I felt like in deference to the members of the community that we should revote, after giving people an opportunity to express their opinions. We did publish notice in March of this year. We had a meeting in April. Quite a few members of the public showed up. Some voiced support. Some voiced opposition. Everyone was given an opportunity to speak. After considering what they said, we voted again. The vote was the same as before, and we did consolidate the precincts. As far as not getting paperwork to the secretary of state's office in a timely manner, that problem, frankly, it happened. We have addressed that with the employees in the superintendent's office. We have taken some corrective measures, one of which is to make sure that all of our employees, not just to election supervisor, are familiar with the elections code and the elections rules. We do not insist that they have a legal understanding of everything they read, but we do want them to, at least, be familiar with procedures so that in the



future when we take action, the Board or Secretary of State's office is notified in a timely manner. So, while we do admit that mistakes were made, we have taken corrective action and we would urge the Board not to bind it over.

**SECRETARY KEMP:** Thank you, Mr. Edwards. Any questions from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you. Anyone else wishing to speak on this case?

**MR. MCIVER:** I move that a letter of instruction be issued on this matter. Practically, it relieves a lot of burden on yet another case, particularly given the position of Mr. Edwards that a proper tier has been engaged in.

**SECRETARY KEMP:** So you move we close and issue a letter of instruction.

**MR. MCIVER:** That's correct.

**SECRETARY KEMP:** So we've got a motion. Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have a motion and a second. Any other discussion?

**MR. EVANS:** My only question would be for the Secretary of State's office. I have always had zero tolerance if you don't get back to the Secretary of State's office if you have got a request for information, because we can't -- we depend on them and the State depends on them. So I would defer to your advice. If you think a letter of instruction is sufficient here, given that we have a failure to submit the proper paperwork, then I am fine with that. If you said, you know, we need to do a little more here, because we have to get the paperwork in and we have to get it in, in a way that we need it in, then I am fine with that, as well. But this being an issue unique to the administration of the Elections division, the office, I would give great weight to whatever position the office took.

**SECRETARY KEMP:** Mr. Tailor, have you got any thoughts on just letting us know what the process was and should have been, or do you have the facts on this case.

**MR. TAILOR:** I think that in the instance, anyway, it is the first instance I am aware of with Walker County, and not letting us know about consolidation of precincts, unfortunately, it doesn't happen all that often. Some of the larger counties have precinct moves that they have to make I think we could resolve this with a letter of instruction. That way if it happens again, we can address that in some other way.

**MR. MCIVER:** Then, Mr. Tailor, to Mr. Evans' point you are satisfied then, the cure here is adequate?

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

**MR. MCIVER:** My motion stands.

**SECRETARY KEMP:** Okay. We have got a motion and second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none. All in the favor of moving to close, but issuing a letter of instruction, signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** That motion carries. City of Cecil.

**MR. HARVEY:** This case involves the municipal election in 2009. The allegation is that people were voting that were not city residents. There were originally three people that were alleged to have voted. Two of the people we determined were actual citizens of the City of Cecil, Ronald E. Smith and Donald Lee Thomas. They lived within the City. They paid taxes and there was not a problem with their voting. Helanie Marie Hood, however, had voted in the City election on three occasions. She had lived in the City. She had moved into her mother's residence in the City. Her mother is Lawrence Guest, the other respondent, the election superintendent for City of Cecil. She lived with her mother and then at some point moved back to another location in Sparks, Georgia. She continued to vote for three elections in the City of Cecil. Her response was, well, she went by there every day to see her mother. She still got some mail there, however, she was living in Sparks, Georgia with her husband during those elections. It is being recommended that Ms. Hood be bound over for three violations of 21-3-562-1, for false information on a voter certificate, 21-2-571 for voting in an election where she is not qualified and that Ms. Guest, the election superintendent is in violation 21-2-590 paragraph 2, allowing somebody to vote who they know is not qualified.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, is anyone here wishing to speak on the case?

**SECRETARY KEMP:** Yes, ma'am. Come right on up and just give us your name and address for the record, please.

**MS. HOOD:** I'm Helanie Marie Hood Route 1, Box 596, Sparks, Georgia, 31647. What had happened was me and my husband separated. I lived with my mom for 2 years. And during that 2 years is when I changed my address to Cecil and voted. And then when me and him got back together, I moved back to Sparks. We had been together for 16 years before, but I lived with her for 2. And I didn't think there was going to be a permanent reconciliation. That is why I didn't change my address back. And I just wasn't sure I was going to stay at the Sparks residence. That is why I, you know, on the 2009 election I asked her if I was eligible to vote. She looked on the voters' list and I was still on that list, the registrar's list. She said, yes, but being as I had already moved back with him, I needed to change my address, so I could vote back n Sparks or wherever in the county. And that is what I did. I mean it wasn't to, you know, try to vote in Cecil for a certain or anything. It is just because I was living there and I wasn't sure I was going to stay with my husband.

**SECRETARY KEMP:** Any questions for Ms. Hood?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wish to speak? Thank you for being here.

(NO RESPONSE)

**SECRETARY KEMP:** Thank you for being here.

**MS. GUEST:** Good morning.

**SECRETARY KEMP:** Morning.

**MS. GUEST:** I'm Florence Guest, Post Office Box 85, Cecil, Georgia 31627. Helanie Hood's name was on the voters' registration, so I knew she wasn't living in Cecil at the time. So I called to registrar's office to double-check to make sure she was allowed to vote, knowing she wasn't living there. He instructed me that as long as she was on the voters' list I had to let her vote, but I had to give her a change of address card for her to change her address then, but I could not keep her from voting, so that is what I did.

**SECRETARY KEMP:** Okay. Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you for being here, this morning. Anyone else wishing to speak on this case?

(NO RESPONSE)

**SECRETARY KEMP:** Any other discussion from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Mr. Harvey, have you got anything else to add?

**MR. HARVEY:** No, sir. Those are the facts that were related to the investigator in terms of when she moved and when she moved back.

**MR. EVANS:** Do you disagree with her explanation for the timing of when she moved in and out.

**MR. HARVEY:** I don't disagree factually. She voted in three elections after moving, which makes it a little bit different. So you are talking about years, as opposed to if it had been a short time in a matter of months. And it was sort of in the flux. I will certainly leave it to the Board's discretion at what point they want to make a determination that a move is permanent. Her explanation to the investigator was that she would always consider her mother's address her home, sort of, sentimentally. Legally, if you have gone 2 years, you are living in a different city with your husband and you are using your old voting address, where you don't live, that seems to raise concerns.

**MR. EVANS:** It is a much closer call for me, because, I just know that there are times when you are never sure. There are couples that are never sure they are going to get back.

**MR. HARVEY:** I understand.

**MR. EVANS:** I know that my son is off at college. I think he still considers my home his home. And I wouldn't want him to think any differently. There will come a moment in time when he has made the decision that, indeed, he is on his own life. And that this is for real and this is permanent. And when that day comes, I expect to him to change his voter registration. I think couples go through very difficult times. There is a great deal of uncertainty about whether it is going to stick, we have to take into account exactly what the circumstances are. I didn't hear, here, what we normally have, which is somebody's sister or brother is on the ballot and gosh they needed to vote because every vote counts, so they were being urged here. This is somebody that

went home to her mother, because they weren't exactly sure if their marriage was going to work out. So, to me, that is a much different creature.

**MR. MCIVER:** Mr. Harvey, I am troubled by the advice given to Ms. Guest. She is the elections superintendent for Cooke County. And she is advised by -- I have forgotten the name, but somebody has advised her that it is proper for her daughter to vote. Did the investigator look into that?

**MR. HARVEY:** I do not believe the investigator looked into the information or advice she might have received from the County. I don't believe -- the investigator, who, in this case, is no longer with our agency, did mention in his report that he couldn't find any evidence that Mrs. Guest had made any kind of report to the registrar about concerns about her daughter. Specifically, exactly what he did, I can't say, but it seems clear, that Ms. Guest knew that she didn't live at the address and allowed her to vote and allowed her to fill out her voter certificate with an address that was not her current address.

**MR. WEBB:** Mr. Harvey, was the advice, assuming advice was said, is that correct advice to be given.

**MR. HARVEY:** Based on this time frame, I believe it's not. If it's been 2 years that here voter registration has lapsed, I believe she would not be entitled to vote.

**MR. WEBB:** Let me try to ask it a little bit differently. If an elector shows up at the polls and the poll worker knows that this person does not reside in that precinct, but makes the call to the local Board that the person is on here, should I allow them to vote even though they are not on. They do not live in this county. They do not live in this precinct. Should the advice be let them go ahead and vote and fill out a change of address form.

**MR. HARVEY:** I would think that might be a provisional ballot call. If the poll worker knows for a fact when they walk in and they say, hey, I don't live here, but I am determined to vote and I think I have a right to vote, I believe it has been the position of the board that a provisional ballot would be the appropriate way to go. That way when you preserve the person's potential right to vote while not having to make that unilateral call and turning them away.

**MR. WEBB:** Because they would be eligible to go vote at the assumed correct precinct, because they were denied at the poll.

**MR. HARVEY:** Correct. I believe you are right on that.

**MR. MCIVER:** The issue for me is, did she fulfill her responsibilities by seeking advice. Perhaps she received bad advice, who knows. But her responsibilities were to find the answer to a solution, at least, to whatever it may be here, knowing her daughter didn't live there. Where would she vote? Did she do the right thing and go to the right place. And should she have gone to Mr. Taylor's office by virtue of (unclear) or any of those references. So, that is the real issue, as far as I'm concerned, is did she fulfill her responsibility and her own advice.

**MR. WORLEY:** Mr. Harvey, did the investigator speak to the registrar?

**MR. HARVEY:** I can't say for certain. Based on the report, he said he didn't find any evidence that she reported the registrar. I would assume he checked with the registrar to state that was true, but I can't say that completely. The ultimate responsibility, I guess, as the superintendent of election is it is hers to make, if she knew her daughter was using an incorrect address on her voting certificate and had been doing so for years, in my opinion, and this is not to negate the concerns of

Mr. Evans mentioned with turmoil and families and marriages. I think that is a mitigating factor. Again, that is why we bring this to the wisdom of the Board, to determine where the line should have been drawn.

**SECRETARY KEMP:** Any other questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Would you like to come back up. If you don't mind, just state your name, again, for the record and your address, please.

**MS. GUEST:** Florence Guest, Post Office Box 85, Cecil, Georgia 31627. I don't know where you're getting the 3 years that she had voted, because she stayed with me for 2 of the years and almost a third year. But I did check with the registrar's office and the investigator checked had also checked with the registrar. And he told me that everything was clear, that he went by who was on the votes' list at the time, because I called him. And you can call him yourself. His name is Johnny Spearman. His number is 229-896-2266, and he will verify that I did call to check what to do, knowing that she was not living with me at the time and he did state that since she was on the list I had to let her vote one more time and give her that card, the change-of-address card. I also had that come up in 2005 with a citizen moving out. And they had me do the same thing. So I don't know what I could have done differently.

**SECRETARY KEMP:** Any questions for Ms. Guest?

**MR. WORLEY:** You said you had to let her vote one more time. Had you let her vote times before.

**MS. GUEST:** Because she was on the voters' list at the time. I had to let her vote then, give her a change of address card. She fills it in and turns it in.

**MR. WORLEY:** But had she voted a couple of times before that, while she was living at your address?

**MS. GUEST:** Not to my knowledge she was living with me the times of the election that I know after. That's what I'm saying. They are saying she voted 3 times. I don't know where they are getting the other two times.

**SECRETARY KEMP:** It says in the report she voted November 4, 2008, December 2, 2008 and November 3, 2009.

**MS. GUEST:** Okay. She was with me for the first two elections.

**MR. HARVEY:** The report says that she moved to Sparks in July of 2008.

**MS. GUEST:** She was going back and forth. I don't know the exact dates. I know she was going back and forth. And, like I say, I have been elections for several years and if there is any question I always call the registrar's office. I didn't know there would be this much of a problem. Any time anybody is on the list that I know has moved out I check with the registrar's office and they tell me I have to do it. That's all I know. But I, in no way, intend to defraud the election and Secretary of State's office or do anything, I mean, just because she is simply my daughter. That is why I called, to make sure there wasn't any question about her voting.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Mr. Harvey, how about the complainant? Do we know anything about him, where the complaint came from?

**MR. HARVEY:** Give me one minute, sir.

**MR. MCIVER:** While he is looking, let me put a question to Mr. Taylor. Did Ms. Guest sufficiently comply with her responsibilities in this instance by keeping seeking out advice of the registrar or should she have gone someplace else?

**MR. TAILOR:** Mr. McIver, there are things that occurred to me that I didn't hear, that she went to the statutes of the election code and the copious amounts of material that are available to election superintendents to determine this and other issues, it sounds -- and maybe she did, and she just didn't mention it, but it sounds like she just made a call to a registrar and went with that, which, no, I don't think is the standard that superintendents should be held to.

**MR. EVANS:** Although I will say that if it involved a relative of mine, I probably wouldn't rely on my own judgment. You are basically saying, make an assessment, recognizing that you probably have some built-in bias. Wouldn't you, at that point, kind of, reach out to the registrar, probate Judge or somebody else?

**MR. TAILOR:** Well, Mr. Evans, absolutely. I think you are absolutely correct, but what I would expect and what I would do is to look at it myself, see if there is a clear process on what I should do in this instance, especially if I were the one in charge and I were the one conducting the election. And then I would go to another election superintendent or the registrar and inquire further or even call the Elections division and speak with my liaison there or Ann Hicks or me or whoever else. But what I don't think is necessarily proper is just relying on somebody else's opinion and then saying, oh, I relied on what they told me.

**MR. HARVEY:** In response to complainant. The complainant is Mike Kirkland. He is A resident of Cecil. He had gotten a list of voters for the City. Apparently, he was doing his own checking. I am not aware of any particular political agenda he has. We have got his original complaint and e-mail he sent to our investigator with his concerns about people that were living on edge of town who may or may not have been residents of the city voting. His concerns seemed to be with the overall integrity of the election. That's why he added two other people we found out worked within the city. And he did point out that he knew that her mother was the election superintendent. And that, in his mind, raised additional questions.

**SECRETARY KEMP:** Ms. Guest did you have anything else that you wanted to add?

**MS. GUEST:** No.

**SECRETARY KEMP:** Okay. Any other discussion and questions?

**MR. WEBB:** Mr. Harvey did Ms. Guest make the call to the registrar on the day of the election, when her daughter showed up at the polls or is this something that was done in advance.

**MR. HARVEY:** That is not covered in our file. I don't know if Ms. Guest could answer that or not. I don't have that answer.

**MS. GUEST:** It was the day of the election.

**SECRETARY KEMP:** Okay. Anything else?

(NO RESPONSE)

**SECRETARY KEMP:** We have a motion?

**MR. MCIVER:** Move we bind all three of these items over, both violations with respect to Ms. Hood and based on Mr. Taylor's comments the allegation with respect to Ms. Guest.

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

**SECRETARY KEMP:** We've got a motion and a second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

**MR. EVANS:** No.

**SECRETARY KEMP:** The motion carries with Mr. Evans voting no.

**SECRETARY KEMP:** Okay. Let's get a couple of more here. All right. City of Athens.

**MR. HARVEY:** This election covered mayoral election of 2010. The complainant was Brandon Shulholster, who was a candidate. Glenn Stegall was also a candidate for mayor. The allegation was that Mr. Stegall's campaign had what they call the Ipad challenge on their web page, where if you perform certain acts or did certain things, you would accumulate points in his contest and the winners would win an Ipad and other unspecified prizes. They involved things like putting a bumper sticker on your car, getting a photograph taken with the candidate, any number of things. However, one of things they mentioned was you got 250 points for registering to vote. It was reported as a possible violation of 21-2-570. Mr. Stegall, when he found out about the allegation, he said he had checked with the county election officials. He didn't think it was going to be a problem; however, when it was brought to his attention, he discontinued to rule that allowing you to get 250 points for registering to vote. However, that was active and on-line for some time. And it appears that there is sufficient evidence that he violated of 21-2-570, by offering to give a price for registering to vote, possibly 21-2-602, by offering compensation for registering to vote. The contest went on. There were winners, but none of it, ultimately was based on registering to vote. I spoke with Mr. Stegall yesterday or the day before. He said he would not be able to attend the meeting. And it is recommended that this case be bound over for consideration by the Attorney General's Office.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

**MR. WORLEY:** Mr. Harvey, could you tell in your investigation how many claimed to have registered to vote?

**MR. HARVEY:** No, sir. It was just 250 points was what you would be credited for. It was very soon after the allegation came forth that he was talked to and he, essentially, withdrew that portion.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anyone else here wishing to speak on this matter?

(NO RESPONSE)

**MR. WORLEY:** I make a motion to bind it over to the Attorney General.

**MR. EVANS:** Second.

**SECRETARY KEMP:** Okay. We have got a motion and a second to bind over. Any other discussions? Hearing none, all in favor of binding over say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** It is bound over.

**SECRETARY KEMP:** Forsyth County.

**MR. HARVEY:** The case involved a special election on May 11, 2010. Again, this is when our monitors were out monitoring precincts and they found that the precinct involved -- Keith Ridge (unclear) precinct had serious handicapped accessibility issues. There had, apparently, been some issue with electrical access and the lack extension cords. And the DRE machines were set up in such a way that they blocked access to wheelchair and people were required to go upstairs. Apparently, the precinct was cluttered and the investigator who was out there said that it looked like it could have been reconfigured to allow that access. There was actually one voter who was wheelchair bound, who had to be assisted up some stairs in order to reach the area to vote. And there were no notices posted in compliance with 21-2-409.1, advising the elderly and disabled voters of special provisions. So it is recommended that this case be bound over on 21-2-265(d) as not being wheelchair accessible 21-2-409.1 for failure to post notices regarding elderly and disabled voters.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, does anyone here wish to speak on this matter?

**MR. LUTH:** My name is Barbara Luth. I'm the supervisor of voter registration and elections for Forsyth County at 110 East Main Street, Suite 200, Cumming, Georgia, 30041.

**SECRETARY KEMP:** Could you spell your last name for us.

**MR. LUTH:** It's Luth, L-u-t-h.

**SECRETARY KEMP:** Thank you.

**MR. LUTH:** This issue is brought to us by Mr. Hall, the investigator during the primary election, two elections after this had occurred. During the first election he did find that a sign was not put up. The poll manager did put the sign up immediately after being notified of that. When our set-up crew did go in to set up that poll, it was a new crew that set it up. We have, since then, put into our instructions for the set-up crew that they are to check to make sure that all polls are handicapped accessible. According to the poll manager, and she is here today, there was not anybody that was wheelchair bound that had to be helped up the stairs at that time. We are also looking at changing that polling place, because they are grandfathered into the ADA requirements for some other issues that they had. And we are looking at changing that for the upcoming years.

**SECRETARY KEMP:** Okay. Any questions for Ms. Luth?



(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, is there -- Thank you. Is there anyone else here wishing to speak on this matter? Any discussion by the Board? I'm sorry.

MR. GLOVER: My name Donald Glover. I'm the Chief Registrar for the county. My address is 5707 Castleberry Road, Cumming, Georgia, 30040. I would like to say I managed that precinct for years before this incident happened. I retired from it before then. In this particular location, the church was gracious enough for us to use their hall there. Before this incident happened, it had been that we set up on the other side of the room, away from the handicap accessibility. During the period between elections, they had installed a huge ice maker machine on the other side and, frankly, it used up the electrical circuit over there and the space we needed for the DREs. And so it was a natural thing for the set-up people to set up on the other side of the room, which meant drop cords were across the doorway. But the church, now, we are moving to another location, because, simply, they don't want to get involved in all the things it would take to bring that fellowship hall up to ADA standards or what we require. We offered to get a grant and build a ramp and all the things that they needed, but they, basically, were nice, but asked us to discontinue our practice there. And we are getting another location.

**SECRETARY KEMP:** Okay. Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, sir.

**SECRETARY KEMP:** Any other discussion by the Board? Anyone else wish to speak? Okay, yes.

MS. KIRKBRIDE: I'm Marilyn Kirkbride, 5815 Boulderblock Drive, Cumming, Georgia, 30040. And I am the poll manager of Keith Ridge. Yes, I did fail to post the sign unclear some other signs; however, I have been audited twice since then and have come through 100 percent. We have taken corrective actions to take care of this funds do not get between funds we don't need and I think that we have alleviated the problem. Thank you.

**SECRETARY KEMP:** Thank you, so much, for being here. Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, anyone else wishing to speak on this case?

**SECRETARY KEMP:** The chair will take a motion?

**MR. EVANS:** I move we close it with a letter of instruction.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have got a motion to close with a letter of instruction and second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All oppose, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. That case is closed with a letter of instruction. I'll tell you what, let's go ahead and if I could get a motion for us to go into executive session and we will let everyone else break for lunch and we will come back at 1:15.

**MR. EVANS:** So moved.

**SECRETARY KEMP:** Motion by Mr. Evans. Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second by Mr. McIver. All in favor of the motion, signify by saying aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries. And we will see everyone back at 1:15.

(LUNCH BREAK AT 12:10 P.M.)

**SECRETARY KEMP:** Welcome back. I'm glad to have y'all back from lunch. And we will take a motion from Mr. McIver.

**MR. MCIVER:** I move we come out of executive and then reconvene the second half of today's meeting.

**MR. EVANS:** Second.

**SECRETARY KEMP:** We have a motion and a second. All opposed, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** All right, Mr. Harvey Fulton County, Mike Adams.

**MR. HARVEY:** Yes, sir. This case was brought to us by State Senator Tate, who was challenging Mr. Adams as a candidate. She brought an affidavit that showed his listed address as 1400 Audubon Court. We got a statement from the woman living at 1400 Audubon Court. She said she didn't know Mr. Adams and didn't live there. We did an investigation and we found out that Mr. Adams had put that address on his voter registration and had used that for voting in the July 15th, 2008; November 4th, 2008; November 5th, 2009, and December 1, 2009, voter certificate, as his address, as well as his candidacy of affidavit. He doesn't live there. He has never lived there. Our investigator, when he was able to finally respond, he said I don't have at 1400, I live at 1401 Audubon Court. We went to 1401 Audubon Court and he didn't live there. He didn't live anywhere on Audubon Court. He, essentially, refused to cooperate with the investigation. He did, late yesterday afternoon, sent over a fax that he asked that I present to the state election board, where he respectfully requested that the investigation be dropped. He doesn't refute any of the allegations and I would present it to the State Elections Board for their consideration, along with the recommendation that he be bound over to the Attorney General's

Office on the 6 listed violations.

**MR. EVANS:** Move we accept his letter.

**SECRETARY KEMP:** We have a motion to accept. Do we have a second?

**MR. WORLEY:** Second.

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

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, like sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. The motion carries. Any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anyone else here wishing to speak on this matter?

**MR. EVANS:** Move to refer.

**SECRETARY KEMP:** Okay. We have got a motion to refer to the Attorney General. Do we have a second?

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** We've got a motion and second to refer. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. Towns County.

**MR. HARVEY:** Yes, sir. This involves the July election, early voting and a case of attempted double voting and one case of double voting. Mr. Richard Stulz, who's in Towns County voted on June 7th of 2010. He appeared again on July 16th, 2010. He was able to cast another ballot in the election. The update had not been made to the express poll and just a few moments after he voted, the error was county by an election official. She tried to flag him down, but he was already gone. She wasn't able to get him, so he was allowed to voted twice. Interestingly enough, in his case, his wife showed up about 10 minutes after he left, the second time. She had also voted previously and showed up about 10 minutes later to try to vote a second time. She completed another absentee ballot application voter certificate. At that point it was determined that she had voted and she was not allowed to vote a second time. The Towns County election officials are being cited for allowing him to vote twice and for failing to mark on the absentee ballot was rejected, as they are required to do, by law. The other interesting thing about Mrs. Stulz's second attempt, when she voted the first time, she used the name Elizabeth Henry Stulz. I take that back. The first time she used the name, Elizabeth R. Henry. That was in June of 2010. When she tried to vote a second time, in July, she used the name, Elizabeth Henry-Stulz, and she signed her name,

respectively, each time. She was not allowed to vote twice, but it is being recommended that she be sent to the Attorney General's Office for attempting to vote twice. Ms. Shook from the Towns County Elections Board is here. She presented me a letter that she asked to present to the Board where she acknowledges that there is a clerical error and the Mr. Stulz's application was not date stamped. She says that she realizes they made an error. And she says that they are developing a more in-depth checklist and have scheduled additional training. I don't know if she wants to speak or not, but I have got this letter from Johnnie-Marie Shook.

**SECRETARY KEMP:** Do we have a motion to accept.

**MR. EVANS:** So moved.

**SECRETARY KEMP:** I'll second. We've got a motion to accept the letter. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. Okay. Any questions for Mr. Harvey.

**MR. WEBB:** Mr. Harvey, how is Ms. Henry Stulz listed on the voter list?

**MR. HARVEY:** She did say to the investigator that she was fairly recently married. Her voter registration shows the name Elizabeth Stulz-Henry. So Elizabeth Stulz-Henry is the way her voter registration shows. The first time she voted, she used Elizabeth R. Henry. The second time she used Elizabeth Henry Stulz.

**SECRETARY KEMP:** Any other questions of Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wishing to speak on this matter?

MS. SHOOK: Good afternoon. My name is Johnnie-Marie Shook. I am Superintendent of Elections in Towns County. I reside at 1689 Foggy Bottom, in Hiawassee Georgia. In this case, it was a perfect storm. The first time the gentleman came in, we forgot to date stamp that he voted, but it was entered into the system on screen 16 at the time he voted. He came back in on July 16th. Human error, we did not check to make sure he was eligible. He was given a voter card and voted. It was caught minutes afterwards, but by that time he had already cast his vote. When questioned about it after we found it, he, merely, said he had forgotten that he had voted earlier. It is a mistake on our part. We are implementing more checklists and have additional training for our clerks. And I do apologize.

**SECRETARY KEMP:** Okay. Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wishing to speak on this case? Mr. Worley.

**MR. WORLEY:** Mr. Secretary, I had a question, I guess, for Mr. Taylor. We seem to be getting more and more of these cases with the increased use of early voting. Is it Mr. Taylor's view that we need to look into this issue more, and come up with some more procedures, or does he think the procedures that we have, if adequately implemented, will properly deal with these problems?

**MR. TAILOR:** Mr. Worley, I appreciate your asking that question. That is something that is absolutely something we have been trying to think of ourselves. There have been more issues of this than you would like to see. I wouldn't say it's rampant. With millions of votes cast with early voting and on Election Day, it is very, very small percentage that we even have that even attempt to try to vote twice. The procedures in place, if properly implemented, would serve to eliminate double voting like this. I should point it out that all it takes is just one person who isn't as attentive as they otherwise need to be when they are creating a voter access card and they ignore the information that is in front of them that's on the scree, then something like this could happen, but the nice part is you can tell if that happens after the fact. The problem is it may happen. And there are things in place to prevent it, but also the nice part is you can tell if it does happen and, you know, I think the procedures are fine. It is really a matter of training the folks that are actually doing it and staying on top of it. Even though during busy election times a lot of people are doing lots of things. You have to check to make sure somebody hasn't voted. And you have to look at the screen and make sure that they haven't voted.

**MR. WORLEY:** If this is something that can be checked after the fact, can the Secretary of State's office look at the Statewide voter file and see how many people might have voted twice after an election?

**MR. TAILOR:** Sure and it really comes in when the county is trying to get creditor voting and reconciling the votes cast versus the applications they have. So there are ways that we can find that out. And we have, the few cases that we have run across in the past election cycle will be covered before the State Elections Board.

**SECRETARY KEMP:** This is no excuse for this. I would remind the Board, too, that this was, I believe, in the 9th congressional district where you had the special election and the runoff right behind it and then the primary right behind that and another runoff after. So it was confusing for, I think, the voters. Okay. Anyone else wishing to speak on this case?

(NO RESPONSE)

**SECRETARY KEMP:** The chair will take a motion.

**MR. EVANS:** I move we refer it over.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We have a motion and a second to refer. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries.

**MR. BROOKS:** Mr. Secretary and members of the Board, this involving the July 2010 general primary election. We received a series of e-mails from the two complainants listed, about the accessibility for handicapped people at the Druid Hills High School precinct. We dispatched a monitor to go to that location. What he discovered when he got there was that there wasn't

adequate handicapped parking spaces in front of the precinct. The precinct was under construction and the ramp where the wheelchair access would have been had been under construction. There was fresh cement there and another location where the wheelchairs could have accessed, the precinct, there was an 8-inch drop, there. So they would have had trouble accessing that particular area.

**SECRETARY KEMP:** Any questions for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anyone here to speak? Come on up.

**MS. RASPBERRY:** Hi. How are you?

**SECRETARY KEMP:** Doing great. Good to have you.

**MS. RASPBERRY:** Yes, my name is Brenda Raspberry. I'm an attorney with the DeKalb County law department and we are located at 1300 Commerce Drive, Decatur, 30030. Also present with me here today are Maxine Daniels, who is the director of the elections for DeKalb County and her assistance director, Phyllis Wheeler, to the extent that the Board may want to get some more factual information from them, as to what happened. I will try to keep this brief. The County is aware that from the statement that we got from the Board that there are two complainants indicating that this Druid Hills Precinct lacked adequate accessibility for handicapped electors and that during construction there was no handicapped parking space. And based on that, the board has indicated potential violations of the election code section 21-2-265(d) for not selecting a correct polling place and then a violation of state rules 183-1-6-.045(a). Let me just say, briefly, here, Ms. Daniels and Ms. Lewis can testify that somewhere after the special election that was held in May at the Druid Hills precinct, the DeKalb County Board of Registration Elections became aware there was some construction that was taking place at the Druid Hills High School. Ms. Davis had Ms. Wheeler, who works for her, to check into that. Ms. Wheeler was in constant contact with a gentleman named Mr. Asbury and Mr. Matthew Asbury, he is the supervisor for the poll workers who would be stationed at the Druid Hills precinct. Ms. Wheeler had many contacts with Mr. Asbury, as well as having meetings with school board staff members, including a Stephen Donahue. Prior to the construction, as I understand it, there were two different entrances that voters could go to. There was one that was on the side of the building and that was the one where the handicapped people would normally go or the elderly people would go. I was a flat surface and there were several handicapped spaces on the side, on the left side. To the right side there was an incline and with the construction, the school had made a decision to shut off the entrance on the side, which is one of the handicapped spots with a flat surface, that usually elderly or handicapped people use and so what was left was the area with incline, which is on the other side. So what Ms. Wheeler Ms. Asbury and Mr. Donahue and whoever else from the school Board made arrangements whereby there were specially designated handicapped spaces that were placed in front of the building up from the incline. And this was all put together and planned, at least, a week before the primary election of July 20th. The voter registration and elections made available temporary handicapped spots. They got permission from the school to place these temporary handicapped stands, if you want to call them, in an area that was in the front of the building. The DeKalb Voter Registration and elections hired an off-duty police officer to be present to direct traffic. So what ended up happening was that the day before the election, July 19, Mr. Matthew Asbury, the supervisor for the polling place, went out to the polling place to just verify everything and to just check, in terms of making sure they could still put the temporary

stands in the front. And what Mr. Matthew discovered is that the school board had -- or unbeknownst to the school board, but the construction people had dug up or tore up the sidewalk in the area where voter registration elections, Mr. Asbury and Mr. Donahue, through the school board, had designated as a special parking elections -- I'm sorry -- the special places for handicapped parking. Again, it was totally unbeknownst to DeKalb County that the school was going to allow construction workers to dig up the sidewalk in the area where they were going to put the temporary handicapped parking spaces. So, on July 19th, which is the day before the election, there was no way to change the voting space or the polling place because there would be no way to alert to voters who came out between July 19 and the next day July 20th. So, you know, we went out to the site on July 20th and we did see that the sidewalks were dug up. And we also saw that they had put up pavement. They had torn up the sidewalks and put down cement that was loose. So basically, if you would, the hands of DeKalb County was tied because, again, we don't have control over Druid Hills High School. We don't have control over the construction workers to stop them from doing what they were doing. DeKalb County has used Druid Hills High School in the past without any problems. We were alerted of the problem. We took immediate reasonable action to temporarily modify to existing location. And 21-2-265(d) indicates that the superintendent of the election -- Ms. Daniels as the director and the Board as superintendent has discretion to temporarily modify an existing location to accommodate handicapped voters. So the County took all reasonable steps that it could to try to address the problem ahead of time, but on the date of the election there was just nothing that we could do.

**SECRETARY KEMP:** Let me see if the Board has any questions.

**MR. MCIVER:** Just one. I think I have written down accurately what with you've said. You said the county immediately took remedial action. Were those were words?

**MS. RASPBERRY:** Well, we immediately responded and when we were made aware that there was a problem. There had been a special election at Druid Hills in May. During the special election we were not aware of there being a problem or an issue. Then we received a letter from a citizen, indicating this was an issue. This was some time the in mid- to late May of 2010. We immediately respond to this individual by getting out to the school, met with Mr. Asbury, who is the poll supervisor, met with the school postman, yes, we did. When we were made aware of the problem, we took steps to identify the problem and had to work with the school board and the school to figure out a way of correcting the problem. And that was through -- they did find a spot in the front of the building using temporary handicapped post stands as designated parking spaces. So, we were as surprised on as anyone on the day of election when we saw the contractors had dug up the sidewalk. And now what do we do, because, again, we feel like we took reasonable steps to address the problem. So, we would ask that this not be referred to the AG and, if anything, that we get a letter of instruction.

**MR. MCIVER:** Well, you do know this board has a rule, 183-1-6, that says the election superintendent of each county shall conduct -- so on and so forth -- an inspection of the polling place. I'm paraphrasing.

**MR. MCIVER:** And the inspection should be reported to the Secretary of State. It sounds as if you simply reported it to the school and expected the school to do something about it, when, in essence, our rules require the election superintendent.

**MS. RASPBERRY:** It is my understand that the DeKalb staff reported to the Secretary of State, correct, but Ms. Daniels and Ms. Wheeler would be able to provide more specifics. So if you

would be willing to hear from then for a few minutes, they can tell you all the steps that took place with the Secretary of State, if you would indulge us for a few minutes.

**MR. MCIVER**: That would be your call. I want it to be that our rule places the responsibility for this on the election superintendent.

**MS. RASPBERRY**: I understand. I will allow Ms. Daniels to speak.

**MS. DANIELS**: Thank you for allowing me this opportunity. My name is Maxine Daniels. I'm director of registration and elections for DeKalb County at 4380 Memorial Drive, in Decatur. When we were made aware of the fact that there was construction being done at Druid Hills High School, we immediately contacted the Board. We did not depend on the Board to do it, but we made contact to the Board, saying that we understand that there is construction that will prevent us from using our normal entrance that we had been using for some years. We have been at the school for over 30 years. We began to have meetings with the Board. We did not leave it upon them to find the solution. Phyllis Wheeler, who is the Assistance Director for DeKalb Board of Registration and Elections was the one who met with the school board. Ms. Donahue, who is a member of the Board, accommodated us, helping us meet with the principle as well as the poll manager to work out a process whereby we would have temporarily assigned handicapped parking spaces that were right next to the building, right next to the entrance of the building. We moved our polling location within the building, so we were at the front of the building, where in the past, if you had been in the back, so that it would be very accessible for any handicapped or any elderly voters. That was our intent. We went through every process. We e-mailed back and forth with them. We did notify the Secretary of State's Office. In fact, we were in contact with Mr. Kamosi Kalisi with the State Staff. So, we did do our due diligence, which was to, first of all, develop a plan to allow handicapped access to the location and to secure it with the school, who also had control of that and also to notify the Secretary of State's Office. What we did not anticipate and could not anticipate was that on the Monday prior to the election that the construction crew would, in fact, come in and tear up all the sidewalk in front of the school. So that all of the plans and processes we had set into effect were then nullified by the fact that the sidewalk was gone. So, when, in fact, the voters went out -- we did work with them to get them to put a gravel entrance into the location, but at that point, because of the fact that they tore up the sidewalk the day before, that, basically, nullified our plans.

**SECRETARY KEMP**: Okay. Any other questions?

(NO RESPONSE)

**SECRETARY KEMP**: Okay. Thank you, Mrs. Daniels. Anyone else wish to speak on this case?

(NO RESPONSE)

**SECRETARY KEMP**: Any other discussion from the Board.

**MR. EVANS**: I move to refer it over.

**SECRETARY KEMP**: Motion to refer. Do we have a second?

(NO RESPONSE)

**MR. MCIVER**: Absent a second, I have a motion if that's appropriate at this time. We take the advice of Ms. Raspberry, from the DeKalb County Law Department, and we issue a letter of



instruction. It sounds as if Ms. Davis and others were doing what they could do, but when you get an independent intervening cause like this, it's tough. I might have run out there with sort of plywood and established some sort of bridge for those attempting to vote by wheelchair. But there is only so much you can expect under the circumstances. I think our rule is clear, but the effort that was made here was impressive to me. So, I would move that a letter of instruction be issued.

**SECRETARY KEMP:** So that would be a substitute motion?

**MR. MCIVER:** Yes.

**SECRETARY KEMP:** Do we have a second?

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

**SECRETARY KEMP:** Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, we have got a substitute motion to close with a letter of instruction. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed.

**MR. EVANS:** No.

**SECRETARY KEMP:** Mr. Evans votes no. And the motion carries.

**SECRETARY KEMP:** Chatham County.

**MR. BROOKS:** Yes, sir. This next case was the July 20, 2010 primary election in Chatham County. There were two separate complaints on this. The first complaint was from Mr. Bruce Vinson, who complained that his registration was not recorded and he wouldn't be allowed to vote in up coming election. The investigation in that particular allegation determined that the deadline for registering for that particular election was June 21st and he registered June 23rd, which would have put him over. The second complaint was from Ms. Hill who stated that when she when to her precinct to vote, at 6:55 that morning, the precinct was not open. Approximately, 20 or 25 minute later she was told it would be another 15 or 20 minutes later before the precinct actually could open. During the time that she was there, there were several firefighters that appeared to vote. The poll wasn't open at that particular time. The explanation for not being open was that they didn't have access to that particular facility. They did open at 7:30. They extend the hours. And the firefighters were able the come back and vote later that day.

**SECRETARY KEMP:** Any questions for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, anyone else here wishing to speak?

**MR. BRIDGES:** Good afternoon. I'm Russell Bridges. I'm the elections supervisor from Chatham County. And in the case of the poll that did open late, I was here, basically, to discuss the issue. We had not had a problem previously with this facility having access, but on that particular morning, the polling place, the person that was supposed to come open the building for them did not show. We were unable to contact that person or their backup. We finally were able

to do so, but by the time they got there, they delayed the entry into the facility by the polling (unclear). So they were late gaining access. They were late opening. They did open at 7:30. Because we had voters in line who chose to leave before the facility was made available. We felt compelled to extend the hours of that poll. We obtained a court order and extended the court hours to 7:30. During the day, I actually spoke to some of the voters who were affected, urged them to return, informed them that were extending the hours to afford them that opportunity. As it turned out, all came back before 7:00 o'clock and voted. So were able to service all the affected voters without any further problems. We have remedied the problem. We now have a key to the building. So we will not have a further problem gaining access to it. And the subsequent elections that we have had all went according to the original plan.

**SECRETARY KEMP:** How many locations were there?

**MR. BRIDGES:** We actually had three that day. We have a pretty good track record on our polls being open on time. So, we were taken aback by the problem. We had another poll that had the same problem with the person not showing up. And by the time we got them, they were, also late getting in the facility. In both case, I will say, the poll managers did keep the voters informed that were standing there, waiting to get in to the poll, let them know where they were and what they were doing and afforded them the opportunity watch, while they got things operational. The second poll that opened late, nobody left. They all stayed. They waited and as soon as the poll manager raised his hand and said the poll was open, they came in. They voted and they went on without further incident. The other one we had that was like 5 minutes, the facility had a problem that the facility had not put out tables and chairs and they had to find somebody who had access to where the tables and chairs were stored in the facility and get those out. That delayed them getting set up, but they were in business at 5 minutes after 7. We have had no further occurrence of any of these. All have been addressed. In the case of the facility that we do not have a key to, we now contact them once a week for 3 weeks preceding the election and the poll manager contacts them ahead of time and our shipping contractor also contacts them. So we continue to remind them that we have to be there and they have to be there at 6:00 o'clock in the morning to open the facility. Again, none of those have had an recurrence of that problem.

**SECRETARY KEMP:** Any other questions for Mr. Bridges?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you.

**MR. BRIDGES:** Thank you.

**SECRETARY KEMP:** Anyone else wishing to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, do we have a motion from the Board?

**MR. MCIVER:** Move to bind it over.

**SECRETARY KEMP:** Motion to refer and a second.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We have a motion and a second and then I guess the allegations in the first one, about the voter, I guess you are not.

**SECRETARY KEMP:** Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** All in favor of the motion, signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All Opposed; same sign.

**MR. EVANS:** No.

**SECRETARY KEMP:** Mr. Evans votes no. Move to bind it over.

**MR. BROOKS:** Mr. Secretary, I believe, for the transcript, that was just on the opening of the polls and not the other ones.

**SECRETARY KEMP:** Correct.

**MR. BROOKS:** The next case is the Paulding County case. It involved the 2010 general primary election. The complaint that we received on this one was that the Austin Middle School precinct, were not checking elector's identification. The complainant state that she went into the precinct, presented here identification and was told, that's, okay, I don't need to see that. I can read your writing on the voter's certificate. This information was also passed to the Paulding County Officials, who conducted an audit of the precinct in terms of the number of voters that actually voted there. Out of 920 voters certificates that they examined 89 of them had not been completed to the point where they indicated what sort of identification was used to verify to eligibility of the elector. In addition, during the investigation, it was determined that the Paulding County Sheriff's Department had assigned a deputy sheriff there, as part of the duties, as the sheriff in the county. There was information that the deputy was at the voter certificate table, filling out or putting information on the voter certificates and there was some suggestion that he was actually checking the identification of the voters as they came in. He is not a poll worker, was not assigned as a poll worker, had not been trained, had not taken the oath of a poll worker. He was there, basically, assisting the poll workers at the poll. There was also information that there were several movements. Some people were working voter certificate. They would go work the express poll and move back. So there was some move or rotation between workers, and that may have led to some of the confusion about checking the identification and marking voter certificates.

**SECRETARY KEMP:** Any questions of Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anyone else here wish to speak?

**MR. PHILLIPS:** Good afternoon, Board members. My name is Jason Phillips. I serve as the County Attorney for Paulding County, Georgia. My address is 367 West Memorial Drive, in Dallas, Georgia. I work with the law firm of the Talley, Richardson and Cable. I am here before you, today, representing the Paulding County Board of Elections and registration, as well as the Paulding County Elections Supervisor, Ms. Diedra Holden as Mr. Brooks indicated this arose from a citizen complaint, I believe, probably e-mailed to the Secretary of State's office wherein she had indicated that he had not been asked to produce her identification when she was voting. Mr. Conway, an investigator with the Secretary of State's office conveyed that information to Ms. Holden. I believe Ms. Holden had also been contacted regarding the same complaint by the complainant. In response to that, Ms. Holden pulled the voter certificate. And when she looked

at the voter certificate, essentially, none of the requisite fields had been filled out. As you are aware, a voter certificate really has two sections. It has an upper section, which is to be completed by the voter with identifying information and then there is a lower section. And in that lower section there is a field where the poll worker is supposed to identify which form of identification they could verify. And there is another field where the poll worker is supposed to, at least put their initials. You can also put your name down there, but there is, at least, a call for initials. The complainants voter certificate that was with pulled had nothing indicating who the poll worker was, nor did it indicate with which form of identification was checked. Ms. Holden then forwarded that to Mr. Conway. In response thereto, she herself initiated an audit of all the voter certificates that had come in that day in Austin Middle School precinct. That audit generated a total of 920 voter certificates. And of that 920, I know your executive summary says there were deficiencies for 89. For accuracy sake, we checked again yesterday and we, actually, discovered there were 94 with deficiencies on them. The deficiencies can really be summed into 3 categories. For all 94, there are no poll worker initials or poll worker names for those 94. As to four of those certificates, there is no indication as to what form of ID was checked. That would be the complainants voter certificate would be amongst those four. As to two there was an identification, a form of ID that was checked. And as to the remaining 88, there is an apparent mark through the voter certificates. I think there is five or six different forms of ID that can be checked. The mark goes through more than one form of ID. So we are unable to really clarify which form of ID was intended to be checked.

Having discovered that, Ms. Holden informed the Secretary of State's office of the problems that she discovered. And we began to check into what happened there, that day, much of which the contained in the case summary. In the precinct that day there was a poll managers Denise Hooper. Assistant poll manager, Sharon Carol.

**AUDIENCE SPEAKER:** (Out of turn) I'm sorry I was not existing manager that day.

**SECRETARY KEMP:** Okay. Ma'am. We need to let him finish. And then you can address us, here, in just a second.

**MR. BROOKS:** -- poll worker Melanie Reid, Poll Worker Chris Hooper, as well as Deputy A. J. Furgeson. As far as the Board of Elections is concerned, I cannot explain to you why those certificates were not completed. The certificates speak for themselves. There are deficiencies on here. What I can tell you is that the Board of Elections, as well as our elections supervisor have conducted sufficient training to instruct our poll workers as to how a voter certificate is supposed to be completed. The integrity of the process the sanctity of the process stands on getting just about every component correct. In this case we wanted to make sure that our voter certificates are correct. The instruction that happens, to my understanding, is that when the voter certificate component of the instructional section is given, there will is either a screen shot up on the screen what with the voter certificate looks like or there is a blown up laminated model of what the voter certificate looks like. It is explained to poll workers that one of those section is to be completed by the voter, the lower section is to be completed by the poll officer, indicating initials and indicating what form of identification was checked. The training can the last several hours. We do have some sessions that can go on as long as a day. I our staff encourages questions throughout the training, if there is any confusion as to what is being asked of them. If there are not any questions or there is a poll worker that has difficulty understanding what is being asked of them, staff make themes available in their office for additional instruction in the office, kind of, on a one-on-one basis. In this case, there is no indication that any of the poll works, poll managers,

or assistant poll managers had questions about this process. Our records so that poll manager Denise Hooper was in training in a poll managers' meeting on April 26th, 2010, on June 22nd, 2010 and that she was also at the regular poll workers' training on May 18th, 2010.

Also present at the May 18th, 2010 poll workers' training was respondents Sharon Carol, Melanie Reid and Christopher Hooper. They were all found to be qualified. They were all certified and again no confusion was voiced as to what the voter certificate requires.

**SECRETARY KEMP:** Mr. Phillips. Your time has passed. So, if you can kind of wrap this up.

**MR. PHILLIPS:** Executive summary indicates that the alleges violation for the supervisor and the elections Board is a deficiency in training. I think this information speaks that there was training. The training just, apparently, was not followed. As to the deputy being in the polling location, the election board did not certify him as a poll worker. They did not train him as a poll worker. He was in that day, solely to serve the law enforcement capacity, as we required in the duties of the sheriff under Title 15. I think what happened in there is that we have a law enforcement officer who is used to going above and beyond to call of duty in providing assistance. That is what he does during the days that he was is not in the polls. He did so in this case in that he did so without being authorized to do so by either our Elections Supervisor or the Elections Board. In sum, I would ask that, as to the allegations against the Board and the Supervisor that you would close this case with no action, because I believe the training requirements were met. And they had no intention, whatsoever, that this deputy should be serving in any sworn poll-worker capacity. As to the other respondents, I will defer to your discretion on that. Thank you.

**MR. EVANS:** Was the sheriff on the ballot?

**MR. PHILLIPS:** During July -- No. It's an off year for our sheriff.

**MR. MCIVER:** Mr. Phillips were there problems in any other precincts?

**MR. PHILLIPS:** Sir, I am not aware of any problems of this nature in any other precincts.

**MR. MCIVER:** My question was narrowed to this category.

**MR. PHILLIPS:** No, sir. We have a deputy assigned in ever single precinct for public safety purposes. I am not aware of anything on that issue either.

**MR. MCIVER:** So, if there were training of individuals for other precincts, apparently that training worked.

**MR. PHILLIPS:** Yes, sir.

**MR. MCIVER:** May you conclude that from the remarks?

**MR. PHILLIPS:** I would conclude that and I would conclude that -- I hate to say it -- any imperfection is not acceptable, but there were 824 or 826 certificates out of Austin Middle School Precinct that, apparently, were done correctly.

**MR. MCIVER:** Thank you.

**SECRETARY KEMP:** Any other questions from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, Mr. Phillips. Anyone else wish to speak? Yes, ma'am.

If you would, just give us your name and address for the record, please.

**MS. HOOPER:** My name is Denise Hooper. My address is 144 Mill Pointe Court, Dallas, Georgia. I was the poll manager at Austin Middle School that day. I just want to say that I took my oath seriously and that I did everything I knew to do. If any incident was brought to my attention I address it immediately. The issue with the deputy was brought to my attention. I immediately informed him that he did not take the oath, that everyone there had and that he was not to perform any duties as a poll worker whatsoever. And I was not aware of the certificate issued. We are trained. We were all veteran workers there, that day. So, I didn't feel it necessary to check the certificates of the 900, because everybody had experience and we all had received training and it's fine training. So I could not address that, because I, actually, was not aware of that until my election supervisor did call me and tell me. And then, of course, you know what happened at that point. I just really feel like I did the best I could with the information that I had that day.

**MR. EVANS:** So what happened?

**MS. HOOPER:** All I know is what I was told by Diedra, the Elections Supervisor. Anything I say can only be a opinion or speculation as to what happened, which I have some ideas about what happened.

**MR. EVANS:** What are they?

**MS. HOOPER:** One of the things I think happened was crowd. It was with all the cuts, all the cuts in precinct size, cuts in people. I don't think the cuts in size, this is just my opinion, was a problem for the size of the precinct; however, manning the people, we did have people going back and forth. My parking lot person was supposed to be the line person. I was trying to handle any issue that came up. And I really think it was a matter of not having enough supervision in these positions. So, if a person would come in, I don't feel we had enough eyes to catch the lady. And I think at that time she just moved on. Unfortunately, I think that was just an error on -- I don't know -- crowd control. But that is just speculation. I wish I could ask her what happened that day.

**MR. WORLEY:** Can you explain how it was that the deputy came to be checking the voting certificates and when you became aware of that?

**MS. HOOPER:** Yes. He was actually at the table. To my knowledge, I saw no reason for him to sit there at the entrance to observe. We were going to be there a long day. So I saw no reason that he should be sitting in the middle of the room, basically, at the entrance and to be there for security sake. We did need him at one time during that day; however -- I would go around check the stations and see if everybody as okay, when I wasn't dealing with anything individual. When I went up to him Melanie Reid said can this deputy check identification and I immediately said, no, right then and there. And I actually told him directly, we take an oath and he is not permitted. His response to me was, I'm a deputy. That was the response I got from him. I said I know that you would do a fine job, but we take an oath and you would not be permitted to do that. So I stopped that immediately. And I was told at that point that he didn't, after that point.

**MR. WORLEY:** And what time of day was this when you discovered it.

**MS. HOOPER:** It was somewhere between, I think, 11 and 1. I don't know if it was right before lunch or after, but it was in that window, probably, closer to 1.

**MR. WORLEY:** Do you know what with time he had started doing it?

**MS. HOOPER:** No. Whenever -- in walking around I never actually observed him doing that. It only got brought to my attention when the certificate lady, Melanie, had actually told me that. I was shocked. I was like, no, this can't happen at all.

**MR. WORLEY:** You had mentioned some cuts. Could you describe that?

**MS. HOOPER:** I meant staffing. Diedra can say more, specifically, how many people that there used to be at the larger polls, but maybe there were 12 or 13 workers and we were down to eight. So there were some combined spots. So, I would have somebody who might go, depending upon where the crowd was, who might work at the express poll or the certificate table. Now, there was one regular person at the certificate table. But when we started getting crowds in, I would have to must have somebody and then I had the parking lot person, also supposed to be the line person. We had quite a few try to come in and the parking lot needed to be manned quite a bit, trying to come in and challenge with T-shirts or whatever. So it was tricky.

**MR. WORLEY:** And when were those cuts implemented.

**MS. HOOPER:** I'm not sure. I would have to ask Diedra.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you. Anyone else wish to speak on this case? Yes, ma'am. Come on up.

**MS. CARROW:** Hi. I'm Sharon Carrow. I live at 200 Paces Lake Drive, in Dallas, Georgia. 30158. I was not and assistant manager that day. I had been a manager, an assistant manager in the past, but that day I was just a poll worker. I we arrived at 5:30 in the morning, myself and some other staff members, actually probably about 5:20. The school was not unlocked. We were not set up, other than the DRE machines being in place. We got in a little after 5:30 and we had to set up at that time. The room we were in was humongous. It allows people to walk anyplace, all over the place. Mr. Harvey has been provided with a report of photographs and a layout of the room. If we had adequate time to layout the room, to set it up the way that it should have been set up, because we normally did this on Monday evening, Monday afternoon. This time we were told we had to set up at 5:30 in the morning. That means we are counting on the staff to open up on time, the staff at the school, the custodian to already have tables out there for us. In this case, they didn't. And we are counting on all of the poll workers to know how to set up a polling place, which is something that we are not trained for. And we are counting on all the poll workers being on time. In this case, this did not happen. It didn't happen. And I was the one who was running back and forth. I was not originally signed to work both places. There was an elderly woman who was assigned to work both places and she had had a broken hip the previous months and she was still healing. Twice, I watched her get up and walk all the way across the room. I saw that she was in pain and I asked her what happened and she said that she broke her hip getting out of bed. To me, if you can break your hip getting out of bed you can break your help getting out of bed, you can break your hip getting out of a chair. If she were injury herself seriously, and have to leave, we would be even more short-staff than we were. We were, at least, three people short. So I, being sick that day, was literally running back and forth from one place to the next. At that certificate table, we should have probably had, at least, two people there at all times, if not three, because I read the law. Part of the law says if a person's signature is not

legible, you are supposed to go back and rewrite it. Now, to have time to rewrite all the messy handwriting takes time. Honestly, I have poor penmanship so for me to work at the certificate table, I should have been administered the penmanship test. My penmanship is horrid. I personally checked the ADA supplies that morning, because I wanted a pen grip to put on the pen that I was going to be using throughout the day, not even knowing that I was going to be working at the certificate table at that point. The pens grips that are supposed to fit on the pens don't fit. They just don't fit. I was sick. I was in a hurry. The night before elections I didn't sleep well. And the training that we have, we have one session of training, maybe 2 hours long. We, perhaps, the other managers that assisted had the longer training. I didn't. The law says that we are supposed to initial the certificate. It doesn't say where. And it doesn't say that my initials have to be in a legible way with. I'm sorry that my penmanship is messy. I am sorry that I was in a hurry, but if we had time to set up and had adequate staffing, this would not have happened. Honestly, Ms. Heather Cartwright, I am positive I spoke to her that day at the express poll. I remember her penmanship. I remember what she looks like. I saw her put the driver's license. She handed it to me. I looked at the certificate and said, no, thank you. I don't need this. Most of the time when people hand me a certificate when I'm working at the express poll, it is terrible handwriting. Most of them hand me their driver's license. And rather than say I can't read this, please rewrite it. I take it you off their driver's license, because if you say you have messy handwriting, I don't get upset when you say I got messy handwriting, but I know other people get mad. And I have had people get really flustered with me, so I just take it off the driver's license. Now, in Ms. Cartwright's case, that was not necessary. Her penmanship looked like it was printed out of a book. I handed it back. At the expressed poll, we are encouraged to get in information in the system in 30 seconds flat. That doesn't give us you time to really look at anything other than that top half of that and the indication of what idea is checked is on the bottom half. So the focus is just on what the express poll says, what it says on the top half of the certificate. Then, if you have someone who has a double last name or a recent divorce or a different situation and it is in the wrong place, it takes longer. So the people that you can do quickly, you do it as quickly as possible. Now, there was one incident. Honestly if Ms. Cartwright had said I want to speak to a manager, she could have spoken to Ms. Hooper. She statehood that she came in, in the middle of the day. So by this time, probably four to five of those certificates being marked incorrectly probably had passed. The other four to five could have been prevented if she had said, can I speak to a manager. We would have caught the problem. Later in the day, when I was working at the express poll it was a little bit slower. I noticed there was one certificate that I was given that was not marked correctly. It may have been initialed where the poll worker was supposed to initial, but it was not marked as to what identification was presented. I asked the gentleman for his ID. Now, in my experience as a manager, it does happen on occasion that you get ones that aren't marked right. As a manager, what I have noticed when this happened, is I had just gone back to the person working at this particular table to say, you made a mistake, take it a little bit slower. Don't let this happen again. When this happened with this gentleman, I look to my right and saw Denise Hooper was busy with another voter. Both of the other assistance managers, not myself, were occupied. So, I immediately went to the person at the certificate table and told to the person of the error, so that it would not happen again.

**SECRETARY KEMP:** Ms. Carrow, your time is up. Have you got anything else you want to wrap up with real quick?

**MS. CARROW:** No. Do you have any further questions of me?



**SECRETARY KEMP:** Does anybody have any questions from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** I believe we're good. Thank you.

**SECRETARY KEMP:** Anyone else wishing to speak?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, comment by the Board?

(NO RESPONSE)

**SECRETARY KEMP:** I will say, while y'all are thinking, one thing that we have been in the process of doing is working with the Georgia Sheriff Association on some training and some things that we are going to be working with them on. We would add to our list about deputies that are working poll locations, to make sure they realize what their duties are. So Mr. Harvey, and I have already talk to Mr. Taylor about that. And, Chris, we can put that on our list too, for training at the sheriff's association.

**SECRETARY KEMP:** Oh, I guess we need a motion to accept the documents she gave us.

**MR. HARVEY:** She didn't offer them to me. She sent them in the mail and they are part of the file. We can accept them as a Board, if she wants to introduce them.

**SECRETARY KEMP:** Okay.

**SECRETARY KEMP:** No one else wishes to speak; is that correct?

**MR. EVANS:** I move we bind it over.

**MR. WEBB:** Second.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We have got a motion to bind over and a second. Would that be including the deputy, as well?

**MR. EVANS:** In my opinion, yes.

**SECRETARY KEMP:** All right. We have got a motion and a second. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, like sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. It's been bound over.

**MR. WEBB:** I would like to comment. I just appreciate the witnesses coming up and being so forthright with their comments. I think there was a diligent effort made to correct some deficiencies, but as Mr. Evans is quick the point out, this is a probable cause hearing. And I think that you will be able to work something out with the Attorney General's Office, very easily.

**SECRETARY KEMP:** Mr. Brooks.

**MR. BROOKS:** The next case is involving Pickens County. The one thing I wanted to point out before I go into the actual discussions is the events took place in 2008. The allegations came

to us in 2010. So these are two-year-old allegations that were brought forth in 2010. The allegation in this case is that Robert Jones, while a candidate on the ballot for commissioner, violated the 150-foot rule, as far as campaigning, in that he entered the polling place on three separate occasions and engaged in conversations and shook hands and talk to people who there to vote. There was also an allegation that he interfered with the poll workers during those three times that he came into the polling place. There was also an allegation that a Mr. Tony was campaigning in the polling place, in that his office is located adjacent to the polling place and that he was playing some type of campaign music that would be associated with one particular party. During the investigation, it was determined that Mr. Jones did enter the polling place on three separate occasions. He was observed shaking hands and engaging in pleasantries with a voter while in there. He also talked to the poll workers about problems that his mother was having with voting. Their statement were that they would have had to have answered those questions and assist any other person who would have come in. So they didn't feel like they had been interfered with. They felt that he had perhaps lingered around the table. They didn't feel like they had been interfered with. In terms of music, it never could be determined what that music was or how it was associated. He was asked to turn the music off, which he did immediately, and that was the end of that.

**SECRETARY KEMP:** Any questions for Mr. Brooks?

**MR. EVANS:** Mr. Worley and I are completely befuddled because between the two of us we would know if there is a song associated with either of our parties, although he did suggest that happy days are here again. We are puzzled.

**SECRETARY KEMP:** Mr. Evans I'm not sure how to respond to that. And was that a question, by the way.

**SECRETARY KEMP:** All right. Any other questions or comments of Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else here wishing to speak on this matter? Yes, sir, come on up.

**MR. LANDRUM:** Thank you, Mr. Chairman. My name is Phil Landrum. I'm an attorney in Jasper Georgia, here, on behalf of Robert Jones, the sole commissioner in Pickens County, and Larry Tony, who in 2008, was an employee of Pickens County. My office is located at 95 Stegall Drive, in Jasper, Georgia 30143. I would like to thank the Board for the opportunity to address them at this time. I would point out that Robert Jones, during the 2008 campaign, he did enter the elections office on three different occasions, when that office was open for early voting. On the first of those trips, his purpose was to actually vote as an elector. The second visit was at his mother's request, to obtain an absentee ballot for her. Her absentee ballot had not been counted in the primary. And she wanted to make sure that she had a valid vote for upcoming general election. He was informed by the poll workers that he could not mail the absentee ballots to the mailing address, but they would mail it to the local nursing home, where she was a resident. She went back. To his office, retrieved that address and the purpose of the third visit was to give the correct mailing address for that local nursing home to the poll workers. He did speak. On one of these three occasions -- I'm not sure which -- he did speak to a man named Hugh Bradley. He was in line. They shook hands and spoke, but under no circumstances did he engage in any act of campaigning or tell Mr. Bradley how to vote or comment on the voting. It was mainly a greeting

of, hi, how are you doing. But at no time during either of these three visits did Mr. Jones commit any act of campaigning, nor did he interfere with any of the poll workers, as I believe they support. We also aware that Mayor Tony did play music in his office. I was not actually adjacent to the elections office. It is in the same hallway as Robert Jones. They are all in the same building, as is another elected official. I apologize for the inaccurate level of detail, but as the investigator pointed out, the allegations are over 2 year olds. I would like to clarify one comment that is made in the written report to Board. There was and still currently is pending litigation between the complainant in this case and Pickens County. It does not involve the facts in front of this Board. The reason for that litigation is because Robert Jones refused to approve a subdivision plat filed by the complainant. He filed the claims in federal and state court. The federal case was dismissed earlier this year and just shy of \$15,000 of cost were assessed against the complainant. Shortly after that he filed this complaint in front of your Board. The State Court claims are still pending, although we have a dispositive motion on that judge's desk. I would like to point out that Pickens County is in a similar situation. Like many other small counties are, in that we have our election board housed in the same building that some elected officials are in. So when that office is opened for early voting, during those period of weeks, we now realize, since this complaint has been filed, we will always be subject to the question of that official, just by showing up for work and performing his duties is going to be subjected to an accusation of campaigning and violation of the 150-foot rule. We have since -- our sole commissioner has sat down with our local board of elections. The county has bought a building, a stand-alone building that is well, far away, more than 150 feet away from any and all elected city or county official works and after the first of the year that is where the local Election Board will be housed and hopefully we can avoid these types of allegations in the future. In closing I would like to ask that the complaint against Robert Jones be dismissed. I do, as I said, he did not engage in any act of campaigns in violation of the 150-foot rule. And he, of course, did not interfere with any of the poll workers. I will not address the comments of the allegations against Larry Tony, since I believe that is not being recommended for action. I would also like to comment to the Board on the conduct of their investigators. We were very pleased with their level of professionalism and how they conducted their investigation. And we would like to pass that along to the board as a compliment. Thank you, very much.

**MR. EVANS:** As I understand it, your position is that, at no time did Mr. Jones solicit votes while he was in the poll room.

**MR. LANDRUM:** Yes, sir.

**SECRETARY KEMP:** Mr. Landrum, what was Mr. Tony doing at the time he was employed by the County.

**MR. LANDRUM:** He was an advisor as to economic development. At some point in time he changed gears and became more of a consultant than an employee, along the lines of economic development. I believe in 2008 he was an employee, because he had an office at that time. But if I'm inaccurate in that regard, he was either a full-time employee or an independent contractor.

**SECRETARY KEMP:** Any other questions for Mr. Landrum?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, sir.

**MR. LANDRUM:** Thank you.

**SECRETARY KEMP:** Anyone else wish to speak on this case?

**MR. LANDRUM:** I'm sorry. Both Robert Jones and Larry Tony are here, if y'all would like to hear from them.

**SECRETARY KEMP:** Anyone else wish to speak?

(NO RESPONSE)

**SECRETARY KEMP:** Any other questions or comments?

**MR. EVANS:** I move we close.

**MR. WEBB:** I would second that.

**SECRETARY KEMP:** We've got a motion and several seconds that we close the case. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all those in favor of moving to close, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion to close carries.

**SECRETARY KEMP:** Mr. Brooks.

**MR. BROOKS:** The next case is Gilmer County, caught involving the general primary election of July 20th of 2010. The allegation in this particular case is that two of the absentee ballots were not properly scanned, so the official and complete results did not account not account for all of the absentee ballots that were voted. The investigation determined that there was a total of 133 absentee ballots that were certified, but only 131 of those absentee ballots were actually scanned. The explanation that was received was that they were having problems with a modem and that they may have accounted for the discrepancy between the 133 and the 131 that was actually scanned. During the Statewide recount, the number of ballots scanned was 133 and that discrepancy was explained, so to original scanning is too short in terms of what was reported to the begin with.

**SECRETARY KEMP:** Let the record show Mr. Worley has excused himself for just a few minutes. Any questions for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, anyone else wish to speak on this case?

**MS. MULLINS:** My name is Anita Mullins. I am the Probate Judge and election superintendent for Gilmer County. Our office address is 1 Broad Street, Suite 204, Ellijay, Georgia, 30540. On the night of July 20th. Gary Watkins accepted 135 absentee ballots from the chief registrar, Nelda Spires. All the ballots were open and then scanned by page Martin. The machine did reject two ballots, which were also rejected by our resolution BOARD. But all 133 ballots were ran through the machine. All were scanned, in our opinion. All ballots were taken from the black box and put into the gray envelope, which was later taken from the Clerk's Office with the final results. Gary Watkins had worked in this capacity for 37 years. We trusted the machine and had no

reason to believe that the ballots did not scan, because all ballots did pass through the OS machine. Gary is the person that always verifies the number. When we were notified on Thursday the 29th, of the recount, we got the gray envelope from the Clerk's office and we only needed to count the democrat ballots that there were not many. I said let's run all of them. I had no reason to believe that there was a discrepancy. So we ran all the ballots. This is when the difference of the two ballots showed up. We had actually scanned 131 the first time. The tech that we had at the recount immediately called up Tara Robie with ES&S who notified the Secretary of State. This was the first election that we had had any problems with the system. And I have always adamantly defended this system that was provided to us. And we were excited this system. On Friday we started receiving calls about the missing ballots. The ballots weren't missing. They were always there. They just didn't scan the first time that we ran them. So the problem happened, the person that was assigned to verify the number, he forgot to verify the number, so we didn't know that there was a different on election night. It was a human error. It was not intentional in any way. But because of this issue I have set new procedures in place which we followed on the November 2nd election. We had our resolution Board and our ballot openers present. I personally observed every ballot as it was being opened and sat directly behind the scanner as the ballots were being run through. We were totaling the ballots with each precinct. We had totaled approximately 380 ballots and when we got to the -end of that precinct, we were one vote short. So, I stopped everything. I called KSU to see what the procedure should be. The gentleman at KSU told me that he hated to tell me, but we had to start over. He said the old machine we had to watch every ballot and make sure every ballot scanned and every ballot was counted. We had never been told this before. We trusted the OS machines. So, we started over a second time. And on the second time we were through ever precinct until the last precinct, at the end, we were one ballot over. We counted one too many. So we started a third time. At that time we that time we got the correct number which was 548. I checked it. I had Gary Paige and Spires also to check to see that the total was accurate. In this election and all elections we have a lot of the public present and we are in a small area. So they can see everything that we do. We encourage them to be there. And we welcome them there. And I have always done everything within my power to protect and maintain and defend the integrity of the election process in Gilmer County. And I am very sorry for this mistake, and I have done everything I know to do to correct it, so I it won't ever happen, again, by having multiple people checking the totals on the machines. So I would just appreciate your consideration and understanding.

**SECRETARY KEMP:** Thank you, so much, Judge for being here today. And taking us through that. Let the record show Mr. Worley is back with us. Any questions for the Judge?

**MR. WATKINS:** Good evening, gentlemen. My name is Gary Watkins. I reside at 46 Cripple Creek Road in Ellijay, Georgia, 30540. I'm election manager for the probate judge. I want to reiterate the new system that we have put in process so that this will never happen again. When I received the ballots for the voter registrations, I double count right before we get started and we go precinct by precincts. We count We make sure the machine and the numbers is correct. And at the end of the night, like she said, we had to do it three times, myself and the lady (unclear) she checks it. She signs it, the Judge signs it, and (unclear) with voter registration, she signs it. Also we have talked about it (unclear) resolution Board to sign it. So we have got several things in place that this won't happen again. I appreciate your time. And, again, we apologize. We take this very serious just like anybody else. This is one freedom you have and we want everybody to be able to vote.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you. Anyone else wishing to speak?

(NO RESPONSE)

**SECRETARY KEMP:**

**SECRETARY KEMP:** Any other discussions by the Board?

**MR. EVANS:** Move to close.

**SECRETARY KEMP:** One thing I would like to bring to the Board's attention -- Mr. Evans, I guess you are wanting to close because of what's been done since the vote count was certified.

**MR. EVANS:** Yeah. I think it's -- our practice has been that the mere existence of a discrepancy does not in and of itself reflect that there has been a violation the rule. That's the very reason we have recounts, which is that you go back and you try to find out what is the right answer. Otherwise we never have a recount. You just say once you count it the first count you're done. I was satisfied that they had taken adequate steps, which I thought were pretty compelling, to first get to the right answer. Second that it was open and transparent, which is that everybody was included and permitted to view it at all times. And third the degree to which they acknowledge they can do it better and offered plans for doing it.

**SECRETARY KEMP:** I certainly agree with the steps that have been taken and applaud the Judge and the county for doing that. I think the only concern I have is -- and maybe Mr. Tailor can help us clear it up as to why it would have gotten certified in the first place, because you would have known the number of votes cast; correct?

**MR. TAILOR:** Yes, sir. I think that is the reason why our judicial felt it was necessary to bring this before the State Election Board in these instances. I understand the voting issue on election night, but at the time of certification, steps could have been taken, which it sound, quite frankly, like the probate Judge and Mr. Watkins and Gilmer County are taking and going forward to make sure that they are checking and double checking, to make sure certified results are correct the first time. And perhaps not the second time around the resolution I will say is left to the sound discretion of the Board.

**SECRETARY KEMP:** I think, what we are going to see too is because of the recount, I believe there may be some other counties coming. So I am thinking down the road, making sure we are treating everyone consist consistently. I would hate to get in a position, where we hear another two of these and then decide, well, we are hearing about this a lot and refer or give a letter of instruction, but not be consistent with everyone.

**MR. EVANS:** It could always be that when I read through the materials I missed something. I think we are going to see that the response is different among these counties and among these election officials.

**SECRETARY KEMP:** Okay. We have a motion to close.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We have a motion and a second, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed.

**MR. WEBB:** Nay.

**MR. WORLEY:** Mr. Chairman I abstain.

**SECRETARY KEMP:** Motion carries with Mr. Worley abstaining, to close.

**MR. BROOKS:** Next case, Pickens County. It involves the general primary election and runoff of August 10th, 2010. The allegation in this particular case is that William Dilbeck damaged a voter card access card by bending it after he had voted in that election. That investigation determined that Mr. Dilbeck appeared at the polling place during the advanced period and when he was instructed that he had to fill out to advance voting application and produce some photographic identification, he became angry at that process. It was never determined what he was angry about or why he was angry. The card was coded. It was provided to him. He proceeded to the booth, voted and as he approached, the poll worker who was handing out the just voted Georgia Peach sticker he turned his back to her. And when he turned back around, she immediately noticed that the card had been bent. The card was collected. It was taken by the investigator to Kennesaw State University to determine the extent of damage on the card. Kennesaw State recommended that that card not be used in the next election.

**SECRETARY KEMP:** Any question for Mr. Brooks?

**SECRETARY KEMP:** Anyone else here to speak on this case. Yes, sir.

**MR. DILBECK:** My name is William Dilbeck. I live at 700 Gordon Road, Jasper, Georgia. I would like to take this opportunity to give you some background on myself as well as the to respond to these allegations against me. I was born and raised in Pickens County. And after graduating high school, I served in the United States Air Force in 1968 to '72 with honorable discharge. Upon returning to the states after military service, I attended college on the GI bill. While I was in college, Pickens county began using mechanical voting machines. I was recruited by the by the probate judge, who, at that time, was in charge of the elections machines for voting.

I was eventually voted to be in charge of all the county voting machines for 26 years from 1972 to 1998. Also during this time my wife and I were poll workers and I also worked as a poll manager. While I was at the polls I learned the importance of the election process. I handled many situations, such as intoxicated people at the polling place and candidates, and residents voting, (unclear) the poll worker manager handled the situations when they occurred and resolve them without further disruption of the voting process. On August 10th, 2010, (as stated) I went with my wife to vote earlier, like we usually do. It was my turn to sign in to vote. I began joking with a poll worker. When she asked for my ID, I asked if a state-issued picture ID with a war bill with an address was sufficient. She seemed to get very mad and she told me only a driver's license would be accepted. I asked her if she lived at (unclear) since I knew she wasn't a local. That really seemed to make her angry. At that time, I told her I was only kidding around with her and presented my driver's license and filled out the paperwork. Both my wife and I forgot to put our birthday on the form. The poll worker had to us to fill out that information, which we did with no problems. I also asked to speak to the poll manager because I know her and wanted to say hello. She refused my request and seemed to get even more upset with me. At no time was I angry or indicated I did not want to complete the process. As I stated, I worked elections 26 years and I understand the process. I normally joke around with people, but this poll worker seemed to think it wasn't very funny and seemed angry and insulted. After we voted, my wife and I handed our

cards to the poll worker and she handed us the stickers. I did not turn my back on her, as alleged. I saw an old friend standing in line and went over to him and started reminiscing about growing up in Jasper and how much it changed and about kids and grand kids. He and I talked until the poll worker came to get him to vote. That was between 5 and 10 minutes. The poll worker alleges that she immediately recognizes the card was bent, but at no time did she or anyone else ask me about the card. She accepted the card and went on to the next voter. I would think that she would have said something to me or alerted the manager to the question, alerted the manager to question me or examine the card. Nothing like that took place. At the polling place. I did not bend the voting card. I did not know how that could have happened. There would have been no point in doing such a pointless and terrible thing. Like I stated before I was not angry or upset in any way. It was a complete shock when the investigators knocked on my door a couple of weeks later. My wife's, who was with me the entire time states that if she would have seen me doing something like that, she would have yelled at me in front of everyone in the polling place. She would be here today to support me, but she couldn't because she suffered injuries in a bicycle wreck Saturday. After discussing the allegations with my friend he said he was confused, as he witnessed me hand my card to the poll worker. He didn't see any kind of damage to the card or any direction from the poll worker to suggest there was a problem. I have a written statement from this person, notarized, if you would like it.

**MR. EVANS:** Move to accept.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We have a motion and a second. All in favor, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Mr. Dilbeck, your time is up. If you can just wrap up real quick, I'd appreciate it.

**MR. DILBECK:** All right. Thank you for giving me this opportunity address the Board and I am not guilty of these allegations. I did not become angry upset or refuse to show proper ID complete the paperwork. I did try to joke with the poll worker and that only appeared to make her angry with me. I have no idea how the card became bent. It wasn't bent when I handed it to the poll worker.

**SECRETARY KEMP:** Any questions.

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wish to speak on this case?

**MR. EVANS:** I see as an exhibit the voter access card itself. Do we have that?

**SECRETARY KEMP:** Do we have any other witnesses besides the poll worker that took the card?

(NO RESPONSE)

**MR. HARVEY:** No, sir.

**MR. EVANS:** It seems like to me, Mr. Chair. We have a simple fact dispute and they will have to sort it out between the poll worker and the respondent. So, I move we refer it over.

**SECRETARY KEMP:** We have a motion to refer, do have I a second?



**MR. MCIVER:** Second.

**SECRETARY KEMP:** We have a motion and a second. Any other discussion? Mr. Worley.

**MR. WORLEY:** In a case like this, where we have a fact dispute between two witnesses, one of whom is here and strikes me as being very credible and the other, who is not here, we can act as a trier of fact and make a determination as to who we believe and who we don't believe. And so I would vote not to refer it.

**MR. EVANS:** I would also note that I would probably include 21-2-583, which is what we have done before in earlier cases I have participated in, where we have had an altered card.

**MR. MCIVER:** We have 582.

**MR. EVANS:** We have 582 and 583. I am talking 21-2-580-3. We have actually had other cases before where we have had an altered card.

**MR. MCIVER:** Is that an amendment to your motion?

**MR. WEBB:** Can we repeat that?

**MR. EVANS:** Normally, when we deal with the altered cards we include the two cited in the report. Also 21-2-580 sub part 3, all of that gets sorted out by virtue of, typically, the consent order or some other resolution by the AG. The reason we have included that 21-2-580-3 is we had -- people who wanted to protest our DREs and so their way to protest was the crush the cards. So, we included that so that we could, if that became a pattern, it was a higher standard, which, if you noticed 21-2-580 is higher than the 20-2-582.1, but in a case like this, I agree with Mr. Worley. I think it gets sorted out by the AG's office. But we need to rely on our investigators. If they have talked to the witnesses and found them to be credible, I don't really need them to all come here. That is why we have the investigators give this report, a well-meaning law Judge to sort out and make some findings of fact and tell us who is telling the truth.

**SECRETARY KEMP:** Would you mind restating your motion for us.

**MR. EVANS:** Yeah. I just move we refer it over based on the 3 code sections that I have cited.

**SECRETARY KEMP:** That is adding one.

**MR. EVANS:** Correct.

**SECRETARY KEMP:** Mr. McIver, are you seconding that?

**MR. MCIVER:** I'm seconding the amended motion.

**SECRETARY KEMP:** Mr. McIver seconds the amended motion.

**SECRETARY KEMP:** Any other discussion by the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

**MR. WORLEY:** No.

**SECRETARY KEMP:** The motion carries Mr. Worley votes no. Mr. Brooks.

**MR. BROOKS:** The next case involves DeKalb County. It was the early voting period for the runoff election in August 2010. The allegation in this case was that Mr. James William Brewer appeared in person at the Clairmont West precinct to vote in person on runoff date. The investigation determined that Mr. Brewer had voted by absentee ballot on August 6th, 4 days earlier. DeKalb County checked to make sure that their records were correct. The signatures appear correct. He did vote on the 6th as absentee. And when they told him that he what have to vote a provisional ballot, he said that was okay. He must have voted on the 6th. He really didn't offer any explanation as to why he forgot about voting on the 6th, as opposed to showing up in person on the 10th.

**SECRETARY KEMP:** Let the record show that Mr. Evans has stepped out for a minute. Any questions for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, does anyone else wish to --

**MR. MCIVER:** Perhaps, I should put the question to Mr. Taylor. If an individual has voted an absentee ballot, can he aggregate that ballot, Mr. Taylor, and the vote in person.

**MR. TAILOR:** Actually, no, sir, not if it has been -- they can sent it back -- if it has been accepted and voted by the registrar they can't then turn around and vote again, but they can ask to, if they had a ballot, they can cancel that. They can bring it in without it being voted. But once they have actually voted, then you are not allowed to vote again.

**MR. MCIVER:** Thanks for that clarification. No further questions.

**SECRETARY KEMP:** Any other questions for Mr. Brooks.

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, anyone else wish to speak on this case?

**MR. MCIVER:** I move we bind it over.

**SECRETARY KEMP:** We have got a motion to refer to the AG by Mr. McIver. Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have a second by Mr. Webb. All in favor of referring, please, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, like sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries.

**MR. BROOKS:** The next case is Pike County. It involves the August 10th Primary Runoff. During the normal monitoring duties, visiting the precinct in Pike County -- there were two poll workers assigned to that particular precinct -- asked for an explanation as to why there were not three workers there. The regular poll manager had taken vacation. And the additional person had not been sent to that particular precinct. I spoke to Judge Brandenburg in Pike County in reference that. And he said that once he was notified that there were not three workers there, that

he immediately sent someone down to the precinct so that they would have 3 workers there.

**SECRETARY KEMP:** Any questions for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wish to speak?

**MR. BRANDENBURG:** Yes, sir. Probate Judge Lynn Brandenburg from Pike County Probate Court, Zebulon, Georgia. I am fully aware three people have to be present at the precinct. There is no question about that. I did not know it was not it, was not aware. My poll workers did not notify me until the investigator stopped by and they called me. I have a back-up list. I went straight to my back-up list and had somebody on the way within 5 or 10 minutes. There was no other excuse, other than I was not aware and my poll workers failed to notify me. They have undergone a second round of training, now, in this election cycle and now they are all aware to call me with any problems.

**SECRETARY KEMP:** Thank you, Judge. Mr. McIver.

**MR. MCIVER:** Judge, I have a question, if you can spare me a moment. Any voting irregularities during the time that the two people were present?

**MR. BRANDENBURG:** No, sir. It is a small precinct. This was in the runoff. I think they probably only voted 40 or 50 until 1:00 o'clock is when I was made aware of it, 5 after 1, actually. By with 1:45 I had my third poll worker there, at the precinct.

**MR. MCIVER:** So, you would advise us that everyone was able to vote that sought to.

**MR. BRANDENBURG:** Oh, there was no problem voting, no, sir.

**MR. MCIVER:** No irregularities?

**MR. BRANDENBURG:** No, sir.

**MR. WORLEY:** Judge, what happened to the third person?

**MR. BRANDENBURG:** My poll manager was supposed to have somebody there. For some reason she forgot or forgot to notify me. Even the day before the election, when I personally deliver all the equipment myself, in my own vehicle, to all the precincts. They did not notify me then. I did not know it. I my registrar was in the precinct that morning. There were several people in there. She assumed they were all poll workers and it was, they failed to notify me.

**SECRETARY KEMP:** Any other questions for the Judge. Thank you, Judge, for being here. Well, let me ask you something, judge. Sorry about that. The person that took the vacation, I mean, obviously, you weren't aware of that.

**MR. BRANDENBURG:** I knew she was going to be out, but she had informed me that she would have a replacement there. And I had told her that if she did not, to please contact me, so I would go on my list and have somebody there.

**SECRETARY KEMP:** Thank you. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Does anyone else wish to speak on this case?

**MR. MCIVER:** I have a motion. As an old military man, the captain of the ship always bears

the brunt of whatever goes wrong. Therefore, I would move that a letter of instruction be issued in this case. It sounds like a sad development, but nonetheless a mistake that should not have occurred and went on for several hours. It is my belief that a letter of instruction would be the best way for this case to proceed.

**SECRETARY KEMP:** Mr. Evans, do you want to be back on the record or do you want to wait?

**MR. EVANS:** Let me look at my notes. Yes, I second Mr. McIver's motion.

**SECRETARY KEMP:** Let the record show that Mr. Evans is back with us. He seconds the motion to dismiss with a letter of instruction.

**MR. EVANS:** Close.

**SECRETARY KEMP:** I mean close with a letter of instruction. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, we have a motion and a second. All in favor of the motion, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, like sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. Thank you for being here, Judge.

**MR. HARVEY:** Mr. Secretary that concludes our part of the agenda.

**SECRETARY KEMP:** Okay. I'm going to move on to the Attorney General Report. As y'all know Ms. Brumbaugh is here with is. At the last meeting Mr. Evans requested and we had talk about voting in block for the recommendations that we have from the AG's office. And Ms. Brumbaugh, we will do that now, unless, just like with our consent calendar, one of the Board members would like to pull a specific case or cases out or if there is anyone in the audience with us today that would like to speak on one of these matters, they have did authority to do that as well. So, at this time, if there is anybody that would like to take one of the Attorney General Report consent cases offered by our list, speak now.

**MR. EVANS:** The only one I had a question on was Bleckley County 2008-0115. All the others, I think are consistent with our practices and procedures in the past. I would move that we accept the consent order.

**SECRETARY KEMP:** Okay. Is there any other discussion from a Board member or anyone else that would like to see a case removed?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none. Mr. Evans has made a motion that we pass with consent all of the Attorney General Report cases except for 2008-115 Bleckley County. We will pull that out and hear that in just a second. Do we have a second to Mr. Evans' motion?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Mr. McIver seconds, any other discussion? Hearing none, all in favor of the consent cases for the Attorney General Report, except for the Bleckley County case, signify

by saying aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed, like sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. Ms. Brumbaugh, Bleckley County.

**MR. EVANS:** May I.

**SECRETARY KEMP:** Yes, sir.

**MR. EVANS:** I think, actually, we do not have a proposed consent order in Bleckley County, but I had asked that the Board consider a motion for reconsideration on those two matters so that we are completely in accord with the patterns and practices of the Board, which is to bind these cases over in the general direction that if you vote twice it is going to cost you a thousand dollars, for the attorney general to see if she can resolve the matter in accordance with our directions, but to rescind any referral to the District Attorney's Office because that is a little different. I think we kind of set the pattern of how we go about the vote twice fixes. I would with so move with that direction to the AG's Office.

**SECRETARY KEMP:** We have a motion by Mr. Evans that. Did anyone have any further discussion or like any more information on the Bleckley County case or do we have a second.

**MR. MCIVER:** I think the record needs a little more clarification from Mr. Evans. My segway to you. You are asking us that we vote, to bring the case back so that the (unclear) issues can be raised.

**MR. EVANS:** That's correct.

**SECRETARY KEMP:** Bring the case back to the SEB Board.

**MR. EVANS:** Yes.

**MR. MCIVER:** (unclear) law department.

**MR. EVANS:** You will have two motions. You will have a motion for reconsideration and a chance to pass. If the motion for reconsideration passes, then it will be back on the table before us. I would then move to refer it, consistent with our earlier determination to refer it, but that referral would with not include a referral to the District Attorney's Office, because what we have discovered is that it doesn't result in anything. It only slows the process down. And what we really want is to have swift and steady and consistent results for people who vote twice -- which is, it will cost and it will cost you fast. It won't cost you by virtue of any delay tactics while we wait on the criminal process or any other process along this course.

**MR. MCIVER:** I assume you intend no criticism towards the District Attorney in the county.

**MR. EVANS:** None of these cases. I think the District Attorney is doing the best job that they can. What we have discovered is that some respondents, not necessarily these, but use they use that as a basis for delay. And we want to take the delay out of it.

**SECRETARY KEMP:** Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** All right. For the record, let me just -- Mr. Evans, we have got a motion by you to reconsider.

**MR. EVANS:** Correct.

**SECRETARY KEMP:** Do we have a second by Mr. McIver.

**MR. MCIVER:** Yes, sir.

**SECRETARY KEMP:** Okay. Let's go ahead and vote on that motion, if y'all don't mind, a motion to reconsider. All in favor, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, like sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. Now, Mr. Evans.

**MR. EVANS:** No I just mover to defer with the direction being that it goes to the AG's office, which is that our normal practice, absent extenuating circumstances, we expect there to be a civil penalty of at least a thousand dollars if you vote twice. That is not a directive. We don't limit them that way, but we certainly give guidance.

**SECRETARY KEMP:** Okay. We have got a motion by Mr. Evans to refer it. Do we have a second?

**MR. MCIVER:** Point of clarification. A thousand dollars, plus anything else the AG's office would determine to be appropriate, such as cease and desist.

**MR. EVANS:** That's right and reprimand and all of the other penalty. But that is just a mere guidance, much the same way, Mr. McIver, you did to refer if you touch an absentee ballot it's a hundred bucks. Anybody that thinks they are going to coming in and if you handled 50 ballots it is going to cost you big.

**MR. MCIVER:** So we are establishing, at least, in this instance, a floor for the penalty, but Law Department is still free to use any other remedies they consider appropriate.

**MR. EVANS:** That's right and extenuating circumstances always have to discerned.

**MR. MCIVER:** In that event I second.

**SECRETARY KEMP:** We have a motion to refer and a second by Mr. McIver. Any other discussion?

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, like sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay the motion carries. We are now going to move on to some proposed rules proposed for public comment and consideration. Mr. Tailor.

**MR. TAILOR:** Thank you. Secretary Kemp. Would you like me to do these here or would you like me to the mic or does it matter?

**SECRETARY KEMP:** I think you can do it from right there. We don't need any kind of special motion or anything.

**MR. TAILOR:** No, sir, just motions if the Board decides they would like to impose these for consideration and adoption at a future date, the motion would be suggested for that.

**SECRETARY KEMP:** Has it been the direction of the Board to vote on posting the rules individually or can we vote in block for this?

**MR. EVANS:** We have done it both ways.

**SECRETARY KEMP:** Why don't you just go through all the rules and then we will let the Board decide how they want to vote on it.

**MR. TAILOR:** Yes, sir. I am happy to take any questions. All of these were brought about because of issues that we saw that the local elections officials made us aware of. The first in your first 541, it's a revision of rule 183-1-12-.02 subsection 3(b)2i. The only changes to change the notice requirement for L & A Testing from Currently 5 days prior to commencement of the testing to 24 hours. And the reason for the 24-hour change is simply for runoffs and to make this consistent for all elections, currently, right now, especially in small counties where the legal organ is a weekly publication, it makes it virtually impossible for the county to actually with this rule when it comes to posting notice in the legal organ. So the idea was the start of early voting or for the general elections is to be consistent. The 24-hour notice should be plenty of time for anybody who wants to observe L&A (phonetic), to observe it's a notice. That isn't taken up too terribly often, but it's there and that is the idea behind it.

**SECRETARY KEMP:** Any questions about this rule from the Board?

**SECRETARY KEMP:** Okay.

**MR. TAILOR:** Yes, sir, the next rule is in tab 42. It is, again it's revision to rule 183-1-12-.06 subsection 11(d) and it changes the provisional balloting when the superintendent counts the provisional ballots and accepts or rejects to the third business day, which is consistent with House Bill 540, which was passed in the last legislative session and precleared in it's now new code section 21-2-419(c).

**SECRETARY KEMP:** Any questions about that rule?

**MR. MCIVER:** Just to clarify this has been pre-cleared.

**MR. TAILOR:** Yes, sir. The next rule is 183-1-14-.01 and again, this is to be consistent with House Bill 540 and the and newly revised O.C.G.A. 21-2-380 and the idea behind the change is simply to take out all of the reason codes that are no longer reason codes under the statute and to add in and keep the reason codes, physical disability, the elderly, which, of course, will help decide or help registrars to determine whether somebody will get an absentee ballot over multiple election during an election cycle as well as the different types of codes for military and overseas voters so that we are consistent with our voters for the overseas citizens -- Uniformed Overseas Citizens and Absentee Voter Act. I have trouble with that acronym every time.

**SECRETARY KEMP:** The UNOCAVA, right?

**MR. TAILOR:** Yes, UNOCAVA, yes. I should just say that.

**SECRETARY KEMP:** Any questions on that?

**BOARD MEMBER:** I'm sorry your reference was O.C.G.A. 21-2-380.

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

**BOARD MEMBER:** Versus 31.

**MR. TAILOR:** What happened with code section 380 is House Bill 540 changed and took out all of the previous provisions, what could be an absentee elector and it just took out all of those the designations, because you don't need an excuse anymore to vote absentee.

(INAUDIBLE DISCUSSION) .

**SECRETARY KEMP:** Any other questions?

**MR. TAILOR:** Yes, sir, tab 44, 183-1-14-.04, Reporting Requirements for Absentee Ballots. The two changes; one is to take a out the specific references to UNOCAVA voters and to simply make it clear and consistent that it is -- anyone who is subject to 42 US section 1973, as amended. And the other piece, if you will remember, this rule was put into effect when we were under a consent order with the Department of Justice with regard to the state's implementation of UNOCAVA and with the implementation of the move act, if we removed the sunset provision on this rule, this will allow the state to track the ballots that are sent in compliance with the moved act to make sure that the ballots are all out within or at least 45 days before an election.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** I would like to remind the Board that with us getting the move act passed here, during the last legislative session and the great work of the elections division and our IT Department, for the first time ever in the general elections, our military and overseas voters were able to access their absentee ballot electronically through our the MVP website, which is something that has been really received well from the Secretary of State's office, that we have done, that the citizens have really received well. There was a lot of great work in that. There was a lot of states that weren't in compliance with this that the justice department was suing or they asking for waivers because they couldn't get it done or they were having to go outside to hire and pay for private contractors to do this. Wes and Brett Brammer their team, together with our team and our office did all this at no cost to the tax payer. And when early voting started, those that wanted an electronic ballot, all they had to do was get to a computer. We literally had people accessing their ballots from all over the world, which sped up the absentee voting process, and certainly, in the future, I think more and more people will be using this, but it was some great work by Wes and the IT folks. And we appreciate getting that done.

**MR. TAILOR:** And the last is 183-1-14-.11. This is a new suggested rule. And hopefully this accounts for the Mr. Language Mr. Evans had suggested previously, which is that under code section 21-2-384, when a registrar receives in an absentee ballot request, they need to determine eligibility. The code requires that the ballot be issued immediately. This gives clarification of what that code section requires by defining that to be within 72 hours after receiving the absentee ballot application -- 72 hours, 3 days.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Any other questions from the Board? Any other comments on



the rule changes?

(inaudible question from the board not using mic)

**MR. TAILOR:** The procedure, at this point, is to simply post these for public comment. And that would have to take place, at least, for a 30-day period. We would set a hearing date for the next regularly scheduled -- unless the Board would like to have a special call meeting, we typically would schedule this for to next general session State Election Board, at which point the board could take public comment on the rules and decide whether to accept the rule as posted or to make revision or repost or to make more comments and decide whether they want to adopt the rules as posted.

**SECRETARY KEMP:** Mr. Evans.

**MR. EVANS:** I was just going to say does this mean that at the next meeting we will have both a Board meeting and then we will have a hearing and we will have to bring one to closure and then open the hearing.

**SPEAKER:** Right.

**MR. EVANS:** But I am open to posting public comment.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Mr. Evans moves that we post the proposed rules on our agenda for public comment. Mr. Worley seconds. Any other discussion.

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of that, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, the motion carries. The Chair, at 3:12 will take a motion to adjourn.

**MR. EVANS:** Mr. Chair, I would like to just say, some will celebrate, but my next meeting will be my last meeting and there is a requirement to put that on the minutes so I put that on there so that everybody will note that as a reason for celebration across the way. So, with that, I second Mr. McIver's motion to adjourn.

**SECRETARY KEMP:** Okay. We've got a motion and a second. We will certainly be to the thank Mr. Evans for his gracious long and hard-working service to the State Elections Board at the next meeting.

**MR. WORLEY:** Mr. Secretary, I would like to make a motion that the Board appropriately recognize Mr. Evans at the next meeting and honor his long and very valuable service.

**SECRETARY KEMP:** I will be glad to second that motion.

**SECRETARY KEMP:** All in favor of that please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, a like sign.

(NO RESPONSE)

**SECRETARY KEMP:** That motion is carried and you can count on us to take care of that. Mr. Worley, thank you for that. We now have Mr. Evans' motion to adjourn. Mr. Worley seconded. All in favor of adjournment please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** We are adjourned. Thank you for being here today.

(3:14 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  
5th FLOOR, WEST TOWER, ROOM 512  
ATLANTA, GEORGIA 30334

WEDNESDAY, AUGUST 31, 2010  
10:00 A.M.

PRESIDING OFFICER: BRIAN KEMP  
SECRETARY OF STATE

PANEL MEMBERS AS SEATED FROM LEFT TO RIGHT

**MR. CHRIS HARVEY**, Inspector General's Office

**MR. LEE BROOKS**, Inspector General's Office

**MR. WESLEY TAILOR**, Director of Elections

**MR. L. KENT WEBB**, Board Member

**MR. TEX MCIVER**, Board Member

**SECRETARY BRIAN KEMP**, Secretary of State

**MR. DAVID WORLEY**, Board Member

**MR. J. RANDOLPH EVANS**, Board Member

**MS. ANN BRUMBAUGH**, Assistant Attorney General

**SECRETARY KEMP:** Good Morning everyone. Let me go ahead and call the MEETING to order. If you would bow your head for our invocation.

(INVOCATION)

(PLEDGE)

**SECRETARY KEMP:** A couple of things real quick. I just wanted to remind everybody. First of all, thank you for being here. I appreciate your interest in our meeting and the elections in Georgia. I wanted to make sure that you understand that this meeting serves, essentially, as the probable cause hearing. The Board will only decide at this point only whether there is enough evidence to refer a particular case to the Office of Attorney General or other means. Our Inspector General will have 15 minutes to present the case. The respondents will have 5 minutes to present any arguments. I just wanted to make you aware of that. We certainly want to make sure that anyone that is here on behalf of the case, respondent or the complainant, has a chance to address the Board. We will make that available to you. We will just remind you that when we get to your case, if you can just move your way to the front and have a seat up front, it will help us move our meeting along and help us get out of here a little quicker. A couple of announcements I wanted to make. I know many of you are aware that Francis Duncan passed away, a great public servant. Her career started in 1964 as a Georgia Capitol Tour Guide. She later became a clerk for the Secretary of State under Ben Fortson. Secretary Fortson appointed Ms. Duncan as Georgia's first State Elections Director in 1967. She held that post until her retirement in 1988. In 1988 Secretary of State Max Cleland established the Francis Duncan Award, which is still in place today. Following her retirement, Speaker Murphy appointed Ms. Duncan to serve on the State Election Board, where she served for 16 years. She was certainly a woman of distinction and we appreciate her service to the State and we want to let her family know that our thoughts and prayers are with them. And I just want to make the Board members and everybody that dealt with her over the years and appreciates her service aware of that.

**MR. EVANS:** Mr. Secretary, if I could, I would consider it a personal privilege.

**SECRETARY KEMP:** Absolutely.

**MR. EVANS:** When I first joined the Board, Eunice Nixon and Francis and I served with Secretary COX and I can tell you from firsthand experience that she always elevated the performance level of the Board. She was professional in all respects. There were many times when the Board gained the reputation of having partisan or political interests at heart, as opposed to other things, but Francis Duncan always carried herself as a non-partisan and non-political, a reasonable person, that just really looked out for what she thought was best for the State. I will miss her. I enjoyed working with her on the Board. I would ask, Mr. Chair, that we with adopt a resolution that would then be presented to her family in honor of her service to the Board and in honor of her service to the people of the State of Georgia.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** That would be a great idea. Do we need to vote on that?

**MR. WORLEY:** Mr. Secretary, if I can just echo Mr. Evans' comments. I had the pleasure of serving on the Board for a brief period of time and she as wonderful person and the quintessential definition of a lady, an outstanding individual and Fayette County, (inaudible) everyone in that county honors her at this point.

**SECRETARY KEMP:** We will make sure that we get the resolution done and get that presented on behalf of the Board. We certainly appreciate your comments on that. I also have one other announcement that I wanted to make. If anybody wants to sign up for public comment, this will be the last opportunity to do that. You need to fill out a blue card, because when I finish speaking here, in about a minute or two, we are going to close out and move on with our meeting. On a happier note, also today, Sharon Dunn of the Cobb County Board of Elections and Registration, who is also a great public servant, she is retiring from Cobb County and they are having an event for her this afternoon. Unfortunately, this Board will not be able to attend, but I wanted to congratulate Sharon and thank her for her dedicated service, years of hard work in elections in Cobb County and with our State. Certainly, she is a model for others to follow. So we appreciate her and we have sent -- Ann Hicks is going to be going to the ceremony this afternoon and will be presenting Ms. Dunn with a letter and an outstanding Georgian Award on behalf of the Secretary of State's office. Certainly, she knows how the Board feels about her, as well. So, I just wanted to mention that, as well. With that, we will go ahead and move on with public comment. Gunther Rickle. Good morning. If you will just come to the podium and make sure and state your name and address for the record and you will have 2 minutes.

**MR. RICKLE:** Good morning. My name is Gunther Rickle I live on 1391 Midland Drive, Decatur, Georgia 30032. This is not the first time that I have appeared before the Board on the very same simple issue, nothing specific, only that I remind you time and again that since years, since Mrs. Cox bought the Diebold machines, Georgia elections results are not auditable. I say that time and again and I wish this format would allow that each one of you have to answer me directly why you think the ballots are countable. They are not. This system is illegitimate and the people have the right to overthrow it. That is my opinion. Thank you.

**SECRETARY KEMP:** Thank you for being with us today. Hagle Ramsey. If you are planning on addressing us, if you will please move to the front, so we can speed this process up, we would appreciate it. Yes, ma'am. Just go to the podium and state your name and address, for the record, please.

**MR. RAMSEY:** Good morning, ladies and gentlemen, Board of Directors, my name is Hazel Ramsey and I live in the City of Warm Springs, Georgia.

**SECRETARY KEMP:** What's your address, Ms. Ramsey?

**MR. RAMSEY:** 28 Oak Avenue, Warm Springs, Georgia. Okay. The purpose of my being here today is due to the election held in 2009 for the City of Warm Springs, I was Mayor of Warm Springs for 12 years, prior to that, on the City Counsel for 4 years. And prior to that I

worked for the Federal Government, U.S. Department of Interior for 27 years. Prior to that I was -- worked with the National Foundation of Infant Child Paralysis. Okay. Warm Springs is a very small city, as you all know, and this last election was fraudulent. It was crooked. People were paid to vote. The investigator found that out. They admitted to him that they had been paid to vote. They were hauled up to Greenville, Georgia to vote about, vote absentee ballot. When as small as the city of Warm Spring is, you can walk to the polls and vote. You didn't have to be hauled. But anyway, the first election there were 34 absentee ballots that voted, and they were hauled up to Greenville, all except 2.

**SECRETARY KEMP:** Ms. Ramsey.

**MR. RAMSEY:** Yes.

**SECRETARY KEMP:** Excuse me for interrupting you. Did you realize that this case is on our agenda today?

**MR. RAMSEY:** Have I said what I'm supposed to say?

**SECRETARY KEMP:** Well, you can do that when we get to the individual case. This is just for the public comment.

**MR. RAMSEY:** I didn't realize that.

**SECRETARY KEMP:** That's all right. We will be glad to bring you back up here in just a little bit.

**MR. RAMSEY:** Thank you. Mr. Ramsey were you going to speak on the same case. Okay.

**SECRETARY KEMP:** Mr. Quarterman -- excuse me -- Mr. Quarterman. Welcome back.

**MR. QUARTERMAN:** You should know my name by now.

**SECRETARY KEMP:** Name and address for the record. I probably should know that too, huh?

**MR. QUARTERMAN:** My name is James Quarterman. I reside at 8880 Dornoch Circle, Winston, Georgia, 30187. Mr. Secretary I am here today to remind you that we went round and round with you over a 2008 election. We filed a subsequent complaint in 2009. I have been assured by your investigator that this matter will come before this Board. I am here to remind you this morning that when this matter comes, it comes under a reprimand. It comes under a cease and desist. It was a 2009 election involving the SPLOST. All SPLOST questions are approved by the Secretary of State before they are put on the balance. You guys approved, again, another illegal ballot. People voted on it for \$150-million. I remind you of this, because you know you will see it again. So, when you take this up in your deliberations, be reminded that you are under a cease and desist. You are under a letter of reprimand and you did issue an illegal ballot. Now, those are serious issues when we are looking at people talking about the

security of machines. It is not the machines that we need to be concerned about. It is the individual that is controlling the machines and individuals that are making ballots. No election superintendent or Board of Elections Director has authority to call Kennesaw State and tell them to make a ballot for me, when you guys say don't. Now, you guys have got to address these problems. We can spend billions of dollars in the machines, but if the people that are operating these machines have no remorse or concern for the people they are governing, then something needs to be addressed. You don't have to do anything for me. I am going to live my life. I am not here to judge you or any member, here, on this Board as to what y'all do, because there is somebody that is going to judge all of us one day. And I hope that when we reach that point, that what you have done you can feel good about the actions that you have taken. These people rely on y'all and we vote for you as Secretary as these other members are appointed by our general assembly, who were charged with the constitution for our safety and our well-being for the citizens of the State of Georgia. We look to these Boards and we pay y'all's salary for our best concern. We don't pay you to take advantage of us. It is time that the people of this state stop being taken advantage of with these elections.

**SECRETARY KEMP:** Thank you.

**MR. EVANS:** Mr. Chair, may I make a brief comment? We don't get a salary. All the members of the Board here serve as basically public service. I just want to make sure everybody in the room knows that. Everybody on the Board is entitled to a per diem. In fact, few of the Board members even file for per diem that is available to us. So, I just wanted to note that for the record so that everyone of you understands that everybody that you see up here, that serves on the Board as an appointee are doing so because they believe in the State and because they want to fulfill their public service.

**SECRETARY KEMP:** Thank you. No question about the dedication of the Board members.

Mr. Favorito, good morning.

**MR. FAVORITO:** Good morning. For the record, my name is Garland Favorito, Voter GA, 220 Tallo Box Drive, in Roswell, Georgia. I would like to note that the Chairman, Secretary of State, does get a salary. Mr. Chairman, at the June 9, SEB meeting during the Attorney General's on Lowndes County, I asked for a point of clarification to determine if the charges raised by Gallegos were included in the consent order under discussion. You didn't give me an answer, but I found out later that Ms. Gallegos' charges were not considered. She was not identified as the complainant on the agenda and she was not informed of that hearing. I have also explained during the public comments of that meeting that the consent order that you had signed had had some false information that was proven to be false, based on the hearing in Valdosta, Georgia on January 14th. I can only call this a cover up. By the way, Mr. Fortune has donated his 2 minutes, I think, to me, for deferral. During the Deputy Attorney General's report on Douglas County, as Mr. Corbin just mentioned, I asked for a point of clarification to explain that the investigative report contained serious potential violations committed by officials, but not investigated by Deputy Attorney General. Again, you did not allow me to tell the Board that the report said that the officials did not like the results of the 25,000 elections ballots, left those 25,000 votes in an unsecured spreadsheet that could be taken home overnight, manually entered



the results from the spreadsheet into the server the next day and manipulated them until they were satisfied. That is what the investigative report says. That's not my words. I believe that may be the worse case of election fraud that this Board has ever seen and the Deputy Attorney General did not even investigate it and did not charge the Board member who was involved. And I'm talking about the county Board member. So, as a result of this, Mr. Chairman, I am filing today, a 70-count complaint against the Deputy Attorney General for mishandling these cases, giving false information to the Board and preparing legal documents with false information. I am asking that the Board find a true independent counsel that can investigate this complaint and I would point out that the former Inspector General is also the subject of an impeachment resolution in the Georgia General Assembly with about 5-dozen count in it. I know we have been praying to do the right thing, but I want to say here, the book of James says that faith without works is dead and we need some works on these cases. Thank you, very much. Here is my complaint and my letter.

**SECRETARY KEMP:** Thank you.

**SPEAKER:** Should I give it to Rhonda?

**SECRETARY KEMP:** Yes.

**SECRETARY KEMP:** Ralph Nobles.

**MR. NOBLES:** No comment. The gentleman there had my 2 minutes.

**SECRETARY KEMP:** Mr. or Ms. Hampton.

**MR. HAMPTON:** I defer my 2 minutes to Mr. James Quarterman.

**MR. QUARTERMAN:** Again, my name is James Quarterman. I reside at 8880 Dornoch Circle, Winston Georgia 30187. For 2 minutes we are going to talk about SPLOST. The Georgia General Assembly saw the need to institute a Special Purpose Local Option Sales Tax for the benefits of the tax payers to keep the tax payers from being severely, heavily burdened when counties and municipalities needed capital improvement projects for education or roads or sewer infrastructure, whatever the needs were. That law is O.C.G.A. 48-8-111 through something. I can't remember. And it clearly states that SPLOST are for capital improvement projects. You cannot reimburse yourself money that you spent in a SPLOST. The Secretary of State of Georgia approved a valid question for November of 2009 that says Douglas County wants to build a 150-million-dollar jail and out of that we want to reimburse ourselves \$8 million for land that we purchased in 2006 to put this jail on. Now, the County spent that \$8 million to buy that land to put that jail on. They bought a trailer park. You cannot use a SPLOST go back and reimburse yourself. And when you approved the question, it says to include the reimbursement of \$8 million to Douglas County. That was in the question. That is what you put on the ballot for the people to vote. That is illegal. That is not contained in the law. That is not a capital improvement project. That is a reimburse. Again, when you consider this -- I don't know. I have seen cases that were supposed to come before you mysteriously get lost and don't come before you. I doubt very seriously with what just happened with Douglas County and the

rigamarole that we just went through that was supposed to be on this calendar, but it's not, so it probably won't ever come up, because I don't think you want to address any issues right now with Douglas County, quote, unquote, being so hot, in your presence. But you did approve a question that allowed Douglas County Board of Commissioners to reimburse themselves for \$8 million for land that they purchased in 2006. That's illegal sir, and it's time for this stuff to stop. Again, it's not the machines. It's the people. And I understand your office is busy. And I understand you have go 159 counties submitting questions and all kinds of things to you. But you have got to take the time to look at these thing when you approve them.

**SECRETARY KEMP:** Your time is up. Thank you. Thank you, very much. I'm not sure about this name. Is the last name Maxis?

**SPEAKER:** I will speak later, thank you.

**SECRETARY KEMP:** OKAY. That closes our public comment. I appreciate that. We will move on to approval of the minutes. Mr. Worely, did you have something you wanted to add?

**MR. WORLEY:** Yes. Mr. Chairman, I wanted to amend the minutes, as written, on page 8, at the very top. Before 10 begins, it currently said Mr. Worely was concerned. There were no speakers present, so that it reads that Mr. Worely was concerned that no respondents chose to attend or be represented.

**MR. EVANS:** Second.

**SECRETARY KEMP:** Okay. We have a motion to amend and a second, are there any other questions?

**MR. TAILOR:** Would you read it, again?

**MR. WORLEY:** With the amendment, it would now read that Mr. Worely was concerned that no respondents chose to attend or be represented.

**SECRETARY KEMP:** All right. We have got a motion to amend the minutes or is this a motion to approve the minutes as amended? I guess we would have to do the amendment first. I think there is a typo on 7. I think that should be GBI, under W on page 7.

**SECRETARY KEMP:** Let me just vote on both of those. Let's vote on Mr. Worely's motion to amend. Mr. Evans's second. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. You want to make a motion about GBI?

**MR. EVANS:** Sure. I have a motion to correct the typo there.

**SECRETARY KEMP:** Motion to correct the typo.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** A second by Mr. Worely. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries. We will take a moment to approve the minutes as amended.

**MR. EVANS:** So moved.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We've got a motion by Mr. Evans, second by Mr. McIver. Any discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The Motion carries. Okay. Now on to the Inspector General Reports. Mr. Harvey, take it away.

**MR. HARVEY:** Mr. Chairman, the Board, as was discussed at the last meeting, we have moved to a consent-calendar case, for cases where we have done investigations and have found no violations. You have got listed in front of you: Pike County, City of Forest Park, City of Lookout Mountain, the City of Atlanta, City of Summerville and DeKalb County. They were all submitted to you with no violations found, according to the allegations. And it is my understanding that you will be voting, sort of, in block to close these cases. If you have any specific question I will be happy to address them.

**SECRETARY KEMP:** Okay. Just to remind everybody in the audiences. We talked about this

at our last meeting to try to speed things up and get rid of some of the cases where we were finding basically no evidence to move forward with. Instead of going through the long presentation, what we are going to do here is we will ask the Board if there are any cases that they would like to pull out and hear. If there are none, we will then ask the audience if there is anyone here to speak on behalf of any of these cases. I would remind you that if you are okay with the case being dismissed you don't need to address, us unless you have a specific concern. If you do have a concern, then we will pull that case out and we will hear the findings of the case. So that being said, are there any of the Board members that have any problems with any of the cases that are on the consent calendar?

**MR. EVANS:** I just have a couple narrow questions. On the Pike County case, did we apply the protocols that were used in Paulding County to determine if folks who were ineligible to vote because they are convicted felons were now voting in Pike County?

**MR. HARVEY:** That wasn't a part of the complaint. The specific complaint in Pike County was that an inmate was requesting to vote.

**MR. EVANS:** I agree with you, with regard to the investigation and the report. My question was, given that we had before us the Paulding County Case, where we determined that felons were, in fact, voting, it struck me that if we had a county where there are allegations of people in jail voting, that might move it to the front of the desk to see if we could apply what was applied in Paulding County to Pike County. If not, it doesn't affect my vote on whether to dismiss this case. But what I would ask is that if we could check that part.

**MR. HARVEY:** Okay. We did not address that in Pike County. As far as I recall there were no other allegations of anybody voting from the jail.

**SECRETARY KEMP:** Okay. Any other Board members have any comments on any of the other cases?

**MR. WEBB:** Mr. Harvey, on the Pike County Case, the Deputy Honeycutt that was assisting Mr. Williams, I guess, get to the poll, because he kind of tried to make some comments about influencing him because the voter did not feel threatened or intimidated, there is no further action on that, is that correct?

**MR. HARVEY:** Correct.

**MR. WEBB:** On the City of Forest Park case, there was a situation with a man whose name, Doc Hicks, voted twice.

**MR. HARVEY:** No, sir. The situation with him is he applied for an absentee ballot, was mailed an absentee ballot, then voted in person at the polls and then received a letter from the county saying, so you understand, you can't vote your absentee ballot or you will be voting twice and possibly breaking the law. So, he did not vote twice and did not attempt to vote twice, but when he got the letter from the county or from the City, he was concerned that he was being discouraged from voting, but he had, in fact, voted in person already. They were just alerting

him to the fact that if after voting in person, if he then returned his absentee ballot, he could well be committing a felony.

**MR. WEBB:** Thank you.

**SECRETARY KEMP:** Any other questions by the Board?

**MR. EVANS:** On the City of Forest Park, I just had one question. This may be better addressed to Mr. Taylor. I know that in one of the last two meetings we talked about adopting either a rule or a guidance for the turnaround time for a request for absentee ballots, so that these cases could be dealt with administratively, which is if they sent it within 72 hours, then by definition, it's timely. So, if you can just make sure we have that on the list, what I prefer to do is before we get to November is to have that in place so everybody knows there is a boundary within which if they get the absentee ballot out they are going to know then, by definition.

**MR. TAILOR:** That's the turnaround time to send out the absentee ballot?

**MR. EVANS:** And this is within the 72 hours. So it doesn't affect the outcome of this case, but I just wanted to do a follow-up, because as you can see already, all of you can see, one of the advantages of having been on the Board as many years as I have is that you start to recognize a pattern, which is that as we get closer to November 2nd, the passion and the intensity and the accusations and the allegations all get much more intense. And the more everybody knows the rules before we get there, the less of that, the more of that we are able to deal with those in a very dispassionate effective and administrative way. So, if we have those kinds of rules in place there is no suggestion then that there is some kind of conspiracy or wink-and-nod going on. We've set out well in advance of the election what the boundary was. And if elections officials comply with the boundary, then they have complied with the boundary. So, if we could get those out, that would be great.

**MR. TAILOR:** If I could clarify one point real quick on 21-2-3-4 subsection (a)2, just as getting the rule correct. It does say as additional applicants are determined to be eligible, the Board or Clerk shall mail official absentee ballots to such additional applicants immediately upon determining their eligibility. And from what you are talking about is the determination of eligibility and the immediately mailing of the ballot needs to occur within 72 hours of receipt of the application.

**MR. EVANS:** That's correct. What we are saying is that 72 hours will be deemed to be immediate, so that we don't have to, on every single case have to restate that. We state it well in advance and that way we don't have election officials getting complaints against them every day because they sent it out -- if you remember, we had one sent out within 24 hours and the allegation was it wasn't immediate. Well it is immediate.

**MR. TAILOR:** All right. Will do.

**SECRETARY KEMP:** Okay. Anything else from the Board? Okay. Is there anyone in the audience that has a reason to pull one of these cases out and not have it on the consent calendar

to be dismissed?

**MR. SLAVIN:** I just want to make a comment, if possible.

**SECRETARY KEMP:** Come on up here, if you don't mind. If you would, just state your name and address for the record. Thank you.

**SECRETARY KEMP:** My name is Kenneth Slavin. 938 Gary Summers Road, Senoia, Georgia. On the Pike County case one of the complainants was my brother and Mr. Williams did, in fact, was told how to vote. He was allowed to vote in jail.

**SECRETARY KEMP:** Let me ask you this? Do you want us to have a hearing on this matter?

**MR. SLAVIN:** Sure.

**SECRETARY KEMP:** I am going to go ahead and ask you to step down. We will pull this case out and then we will have a full hearing on it and we will bring you back up to address us in just a second.

**SPEAKER:** Will that be today?

**SECRETARY KEMP:** Yes, sir.

**SECRETARY KEMP:** Is there anyone else in the audience? Yes, sir. If you would just state your name and address for the record.

**MR. PAINTER:** My name is David Painter. I'm the respondent on the City of Forest Park. My address is 8080 Summit Business Parkway, Apartment 129 in Lake Spivey, Georgia. The only question or concern that I have about the 72-hour limit, when you get an application for an absentee ballot, you have to fax that request or that application over to the County. They have to verify that that's a registered voter and everything is copacetic. It may not be faxed back in the next 3 hours or 4 hours. It may be 24 or 48, depending on the magnitude of applications that you have. In the City of Forest Park in 2009, whereas the normal applications for absentee ballot ran about 20 or 25, in 2009 there were over 1400. That put a tax on the county to verify, in a very timely fashion, in order that I could mail out the ballots within 72 hours. And if you get a weekend or a holiday in there that is going to change things.

**SECRETARY KEMP:** We will be glad to pull the case off if you want us to have the inquiry on it, but we just need to -- if you want us to do that, we can. If you don't we will be glad to take your comment.

**MR. SLAVIN:** I am satisfied with the Board's action.

**SECRETARY KEMP:** Okay. Thank you. Okay. Is there anyone else who would like to address one of the consent cases? Yes, sir. Come on up. Really in the portion we are not really asking you for evidence or hearsay. If you will just tell us if you want us to pull the case off or

not. We are not trying to stop the process. We just want to move it along, if there is no objection.

**MR. FOSTER:** I'm Melvin Foster from 104 State Street, Summerville, Georgia 30747. I ran for Mayor in November of '09 and I have the evidence where ballots was took out of the box.

**SECRETARY KEMP:** This is the City of Summerville.

**MR. FOSTER:** Yes, sir.

**SECRETARY KEMP:** So you want us to hear that case?

**MR. FOSTER:** I want to hear it, yes, sir.

**SECRETARY KEMP:** Okay. Thank you very much. We will do that. Okay. Anyone else?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, I will accept a motion to dismiss the consent cases that we have on your agenda that are the City of Forest Park, City of Lookout Mountain, City of Atlanta municipal runoff, and the DeKalb cases and we will hear the Pike County and City of Summerville cases.

**MR. EVANS:** I move we close those cases.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We have a motion and a second. Any discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. That motion carries. Now, we will just go ahead, Mr. Harvey, with the Pike County Case.

**MR. HARVEY:** Yes, sir. In this case the complaint was that inmates were being allowed to vote. And in this case the complainants brother was not allowed to vote. The inmate in question, the complainant's brother denied that he ever requested to vote. The sheriff denied he was ever petitioned to allow him to vote. The inmate in question that the complainant

mentioned, Mr. Williams, was allowed to register to vote, but he did not cast a ballot in the election. Again, I don't know what evidence Mr. Slavin has that Mr. Williams voted in the election. The evidence we have is that he did not and that we don't find any violation.

**SECRETARY KEMP:** Any questions of Mr. Harvey from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Is there anyone that wishes to speak for or against this case, if you would just make your way to the front? If you don't mind, just state your name and address again, for the record, so we can keep it with each person.

**MR. SLAVIN:** My name is Kenneth Slavin, 938 Gary Summers Road, Senoia, Georgia. The thing that I'm upset with right now is that I was never notified that this was going to be a hearing. I'm new to this process. And if I would have known it, I would have brought all my paperwork that I personally wrote the sheriff to let him know that my brother wished to vote along with my brother's internal request to vote. Mr. Williams made a sworn affidavit that he did vote in there, that he did vote in jail and they stood over him and told him how to vote. Unfortunately, I did not bring that paperwork. I didn't know this was a hearing-type setting or I would have done that. I don't know that we can delay this or not, but I would appreciate it if you would. All that paperwork was turned in and faxed to the State here. I don't know what else to say.

**SECRETARY KEMP:** So our investigators have that paperwork?

**MR. SLAVIN:** They are supposed to. If they don't, I do. It is at my house. I have a letter notifying me that there was hearing, here, today, involving this. I have no idea about this process at all.

**SECRETARY KEMP:** Okay. Any other questions from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Anyone else wish to speak on behalf this case for or against the respondent or complainant?

(NO RESPONSE)

**SECRETARY KEMP:** Mr. Harvey is there anything else you can add?

**MR. HARVEY:** Give me one second, sir. Our investigator spoke with the inmate in question, Chadrick Williams, who said that he was allowed to fill out a voter registration card while he was in jail. He may have thought he was voting when he was doing that. There is no record of an absentee ballot application. There is no record of an absentee ballot. There is no record of him voting in person or by absentee. There is a statement from the, I believe it's the statement that Mr. Slavin is referring to, where Mr. Williams indicates that he was told to vote, that he was brought to a room to vote. But, again, it appears that he might have been confused about voter



registration card versus voting.

**SECRETARY KEMP:** What about the paperwork that Mr. Slavin is mentioning that he sent to us, do we have any record of that?

**MR. HARVEY:** I believe this is the statement he is talking about, the statement from Chadrick Williams, where, again, he says, they took me out to vote, stood over me, and he says that I needed to vote for Jimmy Thomas or the deputy would lose his job. But, again, there is no -- Mr. Williams didn't relate that information to our investigator and, again, simply said that he filled out a voter registration card while he was in jail. He said he was not intimidated or threatened by the deputy when he was doing it. He said that the deputy had said that, sort of in passing, that if the sheriff didn't get re-elected, he would have to find a new job. Mr. Williams himself, told our investigator, who is here today, that he was not intimidated, wasn't threatened. He said he was allowed to complete a voter registration card, but that he did not vote. So, again, whether there is confusion with Mr. Williams, about whether he did a voter registration card or voted, that might be the source of the confusion.

**MR. EVANS:** Mr. Chair I would propose that we do something we have done before, which is do a conditional motion to close, which is afford 5 business days for the receipt of any of the documents that we have heard about today. If the documents are received and they reflect any piece of paper that is different than what we already have, then it can come back before the Board for us to consider the additional documents. If no new documents are produced within 5 business days then the motion to close takes effect and the matter will be closed. So I would so move.

**SECRETARY KEMP:** Thank you, Mr. Harvey. Any other questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Motion by Mr. Evans. Do we have a second?

**MR. WEBB:** Second.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We have a simultaneous second. Mr. Webb defers to Mr. McIver. So we have a second by Mr. McIver. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of the motion, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Motion carries.

**MR. EVANS:** If you have any documents --

**MR. SLAVIN:** So, a new affidavit if he filled it out, stating it or what?

**MR. EVANS:** It doesn't matter to me. We are more interested in getting to the truth. You have 5 business days.

**MR. SLAVIN:** Okay. Thank you.

**SECRETARY KEMP:** Rhonda, can we make sure that he knows where to send those documents.

**MS. BROWN:** Yes.

**SECRETARY KEMP:** Okay. City of Summerville.

**MR. HARVEY:** City of Summerville. The complainant in this case, Mr. Melvin Foster complained that poll workers asked voters who they were voting for and that voters were turned away from the polls and that voters votes were not counted. The investigation revealed that there was nobody that came forward that said that they were asked who they voted for. The poll managers were told -- were interviewed and they said that they never asked anybody who they were voting for during the election. The second complaint about voters being turned away, the voter in question did vote on the day that he said he was turned away. The allegation was that he went to vote and was told that they were in a meeting and could he come back in a short while. He left. He did come back. He was able to vote without any problems. The last complaint was that several people told the complainant that they voted for him and when he got the list of voters they were not on it. Our investigation revealed that none of the people, save one who voted during advanced voting actually voted. Our investigator was able to make contact with several of the people in question and asked them did you vote. You told him you voted. In those cases, the voters said, well, I told him that I voted for him because he is a neighbor, because he is a friend; however, I never got to the polls and I never voted. So there was miscommunication or some kind of confusion about who actually voted. As far as ballots being taken from the ballot box, as was just alleged, this is first I'm hearing.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anyone here to speak for or against this case?

**MR. FOSTER:** I didn't.

**SECRETARY KEMP:** If you don't mind just state your name and address for the record, again. Thank you.

**MR. FOSTER:** I'm Melvin L. Foster, Sr., from 104 State Street, Summerville, Georgia 30747. I am not an attorney or nothing of that nature. If I had known that this was going to be up in the air like this, would have got one, which I probably still may do. But the thing about it, when I sent this in, the investigator, he called one person and that one person told him that she voted. He didn't call or get in touch with the other people. I have seven names on here that was left. One of the guys had passed, so his name is not here. But I got seven names on here. They said nobody ever got in touch with them. And I have got the -- I have the voters list here. I have how many people the number of peoples that voted for me and voted for the other party and throughout the whole election and they just don't add up either, but we a lot of people don't -- we are not going on hearsay or nothing, but it could be proven if it was really investigated that the ballot box was tampered with and got into, if we had a thorough investigation on this right here, because I strongly feel that this process was not fair. As a matter of fact, a lot of the peoples that I know, they know that it wasn't fair. They have spoken to me about it not being fair the way things had been done at this particular time. And I am just, like I said, I am not an attorney. If I had knew it was like this, I would have got one, but I would like to see this case continued. And I would like to get to the truth of it, because the truth is the light. And I have no -- I'm not a sore loser, but, you know, I would like for somebody to just beat me, not cheat me. And I would like to see this continued. And if I have to get an attorney, I will and come back, but that's about as much as I want to say is I know something was wrong that day, November 3rd, '09.

**SECRETARY KEMP:** Thank you, Mr. Foster. Did anybody have questions for Mr. Foster?

**MR. WORLEY:** I had a question. Mr. Foster, you said the investigator talked to a woman.

**MR. FOSTER:** Yes, sir.

MR. WORLEY: Who was that?

**MR. FOSTER:** Ms. Martin, Annie Martin. She told him that she voted, but he never called. I have several more names. I asked them other peoples and they said that he never called. He never called and I have got some people and these is reliable people. And I can assure you or anybody, if you was to call them right now, I could get them on phone and they could tell you.

**SECRETARY KEMP:** Mr. Evans, did you have a question?

**MR. EVANS:** No. The cruelest part of election politics is that I have discovered that after an election, many times my candidates lose and I go around and I can't find anybody whoever voted against them. And so we have to balance the secrecy of the ballot box. We don't make people tell us exactly who they voted for when making sure that we have thoroughly and completely investigated voting irregularities. So, these are the kind of cases that make it difficult, because on the one hand, if there are irregularities, we want to know about them. On the flip side, we never get into actually invading the privacy and the secrecy of the ballot box. So, if there are people who our investigators can locate who are willing to testify, then that is one thing. On the

flip side, if reasonable steps have been taken to do that, and while they are more than willing to talk to you and probably confirm to you who they voted for, when a third party wants to talk them, they are not quite so eager. That is just one of the areas that is a challenge for us. If you have pieces of paper or other documents that reflect the irregularity, obviously, as reflected by the earlier case, we are always very interested in that. I just want you to know that trying to force people to tell us who they voted for is not something that the Board regularly encourages or persists in, because of the obvious implications and the implications of that are that at the moment anyone in a position of power can force you to tell them who you voted for, then we run into the whole area of people in positions of power insisting that you vote for them and then having a way to validate, in fact, that you did what you were told to do.

**SECRETARY KEMP:** Any other questions for Mr. Foster.

**MR. HARVEY:** Mr. Chairman, I have some additional information.

**SECRETARY KEMP:** I'm going to give you a rebuttal in just a second. Anything else, Mr. Foster?

**MR. FOSTER:** Yes, sir. I would like to ask you a question. I am not saying who voted for who and who didn't vote. If somebody tells you that they voted and their name is not on this ballot, then regardless of who they voted for, something is wrong p someplace.

**SECRETARY KEMP:** I can tell you that there have been a lot of candidates that have been told by people that they voted in an election and they didn't, but I appreciate your comments.

**MR. FOSTER:** Actually, I seen this lady go in city hall that day to vote.

**SECRETARY KEMP:** All right. Is there anybody else that would like to speak on this case here?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Mr. Harvey.

**MR. HARVEY:** Mr. Chairman, Board, we do have a list of names and telephone numbers that were provided by the complainant. The investigator attempted to call all those people. He also sent them letters. He did make contact with two people on this list who specifically told them they did not vote. The letters were unresponded to. The phone calls were unresponded to. We attempted to contact these people to see if they voted or if there was any evidence that they were turned away. And there is simply no evidence. I don't know what the complainant is talking to about evidence that the ballot box was tampered with.

**SECRETARY KEMP:** The list you have, the two voters that you checked into that were convicted felons, are they on that list you have right there or is that a different list or do you know?

MR. HARVEY: Off the top of my head, I'm not -- let me check.

**SECRETARY KEMP:** It says under allegation 3 that there was a list of voters that allegedly voted and their votes were not counted. Two of the voters on that list were discovered to be convicted felons, so they couldn't vote.

**MR. HARVEY:** Right. And they did not vote. I don't know if -- let's see. Looking at the list right now, I don't know. Investigator Zagorin, can you provide the details of that.

INVESTIGATOR ZAGORIN: I got the name. I don't know if they are on that particular list, but they came as being people that voted. (unclear) .

**SECRETARY KEMP:** Why don't you come up here and let's get your name, so we can get this for the record.

INVESTIGATOR ZAGORIN: Benson Zagorin, Investigator, Secretary of State's Office, 2 Martin Luther King Drive, West Tower, Suite 802, Atlanta, Georgia. I don't remember which two were the convicted felons there was an issue with.

**SECRETARY KEMP:** -- but it was that list, right?

INVESTIGATOR ZAGORIN: This is the list I got from Mr. Foster that I went through and I went out to contact each person individually at their residence when I sent the letters out and made the phone calls.

**SECRETARY KEMP:** Any other questions from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you.

**SECRETARY KEMP:** Anything else, Mr. Harvey.

**MR. HARVEY:** No, sir, just a list from the election superintendent of the specific names that were given by the complainant with the result. We requested voter certificates for those people, requested any documentation that they voted and a response on them was that they did not vote, with the exception of Ronald Montgomery, who I don't believe was on the original list.

**SECRETARY KEMP:** Any other questions for Mr. Harvey?

**SECRETARY KEMP:** The chair is ready for a motion.

**MR. EVANS:** Motion to close.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Motion to close by Mr. Evans; seconded by Mr. Webb. Any other discuss from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of closing, vote, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** That motion carries and the case is closed.

**MR. HARVEY:** The next case is Dade County. It's a referral back from the previous meeting. There was a request for additional investigation to see if there was any other evidence that could be found or other charges that would apply. Again, a very quick recap of the events: There was a recall petition to recall a county commissioner. Charles Pittman was the chairman of that commission. We re-interviewed him. He explained that he had between 20 and 30, possibly more circulators sending the petition around. The circulators were not notarizing it. They weren't signing the back. When they ended up on the day that the petition was due, they were going to submit the petition, they realized that there were forgeries; there were false names; there were people that were deceased. And Mr. Pittman at that point realized that he couldn't submit those sets of petitions. They weren't completed. He decided not to submit them. And then Malinda Brison, who worked on the campaign shredded them in the sheriff's office to prevent any type of retaliation, anybody knowing anybody had signed it. It was investigated by the GBI, and it was presented to the District Attorney. The District Attorney declined prosecution. In discussing this with the Attorney General's Office and doing this investigation with our investigators, if you take a, sort of a broad construction of possessing petitions with fraudulent names, you might be able to attribute that to Mr. Pittman. You could possibly say that Ms. Brison violated 562(a)2 and that she intentionally destroyed the recall petitions prior to their submission. I think a basic question the Board has to, I guess, answer is when they had those petitions in their possession, and they knew that they had false signatures on them and false information and then they decided not to execute them, at that point they decided, look, we need to shred this, this is bad stuff, whether or not that constitutes a violation. If you find that it does constitute a violation, we can't tie Mr. Pittman specifically to any false names, simply as the petition chairman. Ms. Brison shredded the petitions after the chairman decided, in effect, not to use them, not to submit them. So I have listed the potential violations. If somebody were to take a certain interpretation of the statute and I leave it to the Board, in your wisdom to determine how to dispose of this case.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

**MR. WORLEY:** I have a question, Mr. Harvey. Under the statute, as it is written out in 21-2-562, what happens if someone circulates a petition, signs it and then decides not to submit it

and throws it away?

**MR. HARVEY:** Well, that's a -- I guess that's the -- That's a good question. If you have got people that are out, legitimately circulating petitions for a cause and they turn it in and then somebody else decides it, maybe, say they are a mole, and they are trying to subvert the petition, and they destroy it, under those conditions you might have a valid 562 violation. In this case, there were so many people involved it was hard to determine what happened. And I think what happens in that scenario is, frankly, kind of, what the issue is here. I think, under strict reading, it could be interpreted as destroying it. However if the larger decision was made not to execute it, then they had to do something with it, whether he threw it away, whether they filed it, whether they shredded it, whether they just decided not to act on it. And that's what I'm presenting to you, essentially.

**SECRETARY KEMP:** Any other questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Anyone else here wish to speak on this case? Yes, sir, come on up. If you want to speak on this case, if you will just make your way to the front. Come right on up and give us your name and address, for the record, please.

**MR. PITTMAN:** My name is Charles Pittman I live at 1788 Porter Road in Trenton, Georgia, which is in Dade County. I was the respondent on this case. Up until today I thought I might be the craziest person in Dade County for serving as the chair until I heard that you folks are serving voluntarily, with no pay. I appreciate Inspector Harvey's comments. It is indeed -- the question, I think, what happens to petitions if they are not submitted and if you read and you say you would have to do a broad interpretation, the code he cited was not the code for recall. The code he cited was the code for, as I understand it, primary elections. The recall code, the section of the code dealing with recall is absolute silent about what happens with petitions until they are actually submitted. So, we, actually, had a lot of folks who said they wanted to destroy their petitions if we didn't get enough. So we sought advice from our election supervisor and she was pretty new, so she called the Secretary of State's Office and what she gathered is they were ours until we submitted them to destroy or not destroy. It wasn't just her that wanted to destroy them. Mr. Brandon, who is the only person I know who would object to a recall, he won, is known to be very vengeful. And I think he filed this charge because, kind of, as a way to get payback. But there were a lot of county employees who signed the petition only under the idea that if you don't get enough names I don't want him to know that I signed it. And even up until that point, what was going on is he was only working 5 minutes a day. He was objecting to the fact that the other commissioners could overrule a decision he made during the month. He was the day-to-day county commissioner. And then once a month the entire Board would meet and he didn't like the idea that they could overrule a ruling he made. So, as an objection, he would come in, unlock his door, sign whatever time card he keeps and then leave. He, actually, had another job down on the industrial park that he was working in the meantime. He was working 5 minutes a day and he was the highest paid employee in our county. And we called him several times and we told him, hey, if you will just go back to work we will end this recall. And I came here today. I didn't want you to think I didn't take this seriously. I, actually, tried twice before. I was in this

room. Me and my wife came down and we were late and listened to every case and didn't hear our case. We didn't get an agenda that day. And after it was over, they said, oh, yeah, we heard that one first. So, we missed that one. That was in 2008. Earlier this year, I am not -- to be honest with you, I misjudged Atlanta traffic and I was still sitting somewhere up around Delk Road when the meeting started and I thought, well, I missed another one. My wife is having surgery today. I only tell you that because I wanted to let you know that this is serious to me. The last two things I got that said we recommend to close this case and now it's perhaps I committed a felony by being the chairman of the recall committee. I came today to answer any questions you might have and to ask you to close this matter. I don't see Mr. Brandon. I didn't see him in 2008. I don't think he was here earlier this year. The only people still concerned with this case was Ms. Boyd.

**SECRETARY KEMP:** Anybody have any questions for Mr. Pittman?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you, Mr. Pittman. Appreciate you being here today. Anyone here that wishes to speak in regards to this case? Any of the Board members have any comments or questions for Mr. Harvey?

**MR. EVANS:** I think 21-2-562 is broad enough to cover a recall. It addresses any document in an election and a recall election is an election. So I don't think we have a hole in the statute, otherwise I would suggest to Mr. Taylor that we try to clean that up in the next session. But I actually think it was broad enough. My belief is that the only one that would have potential application here would be 562-3, which is basically when you destroy documents in order to prevent them from being reviewed. But I don't think we have any evidence of the scienter requirement or the intent requirement or the purpose of the obstruction was to prevent review. It seems as though we've had an adequate explanation, which is, the purpose of the destruction was to protect the identity of the people who had included their confidential information as part of the recall effort. So I would move to close the file, not based on the fact that the statute doesn't cover this, because I believe that it does, but I would move to close it because I don't believe the evidence merits further investigation. So I would move to close it.

**SECRETARY KEMP:** Okay. We have a motion to close. Do we have a second?

**MR. WEBB:** I second.

**SECRETARY KEMP:** And a second. Any other discussion by the Board?

**MR. WORLEY:** Mr. Chair, I agree that the case should be closed, but for a different reason. I just don't think that the statute, I don't think the legislature could have intended to take away control of the process from the people circulating a petition. I think it is up to them to submit it or not. If they decide not to submit it and they can throw away the forms and do whatever they want with them. So, I just don't think there is a violation of the statute here.

**SECRETARY KEMP:** Okay. Any other comments?



**MR. EVANS:** Only because we are working on legislative intent here, I think if we had a recall petition where the purpose of destroying the document was to cover up fraudulent entries, we would have jurisdiction and we would have to pursue that. So I don't think that it is solely within the discretion of the recall petition chairman. I just don't think we have evidence up here.

**SECRETARY KEMP:** Any other comments by the Board? We have a motion and a second. All those in favor of closing, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries. McIntosh County.

**MR. HARVEY:** This case is another referral. I believe the Board handled all the issues of McIntosh County at the last meeting. They requested of Fulton County, which is listed as a respondent, that they provide a letter. There was a voter that was inadvertently transferred from McIntosh to Fulton County. The Board asked Mr. Garner to provide a letter to the Board explaining what had happened and what corrective steps had been taken. That was sent to Mr. Tailor. I am distributing copies of that letter to Board members now. It appears that Fulton County has complied with the Board's request and I would recommend that this case be closed. I think Mr. Garner is here.

**SECRETARY KEMP:** This is the same letter that is in our book, right?

**MR. HARVEY:** Yes, sir. I believe so.

**SECRETARY KEMP:** I've got it in mine. Okay. Any questions for Mr. Harvey?

(NO RESPONSE)

**MR. EVANS:** So, is this part of the consent order?

**SECRETARY KEMP:** That was my understanding, that that is what you were requesting as part of the consent order.

**MR. EVANS:** Right. I just want to make sure that the order incorporates this by reference so that if these protocols that we were relying on in order to take action are violated, we don't have to go back through a preliminary-hearing phase. We go straight to violations of SEB orders. So do we have the order handy?

**SECRETARY KEMP:** Do we have the order?

**MR. TAILOR:** I can have the order handy.

**MR. EVANS:** That was the purpose of this, was to make the corrective measures by -- to be part of the order of the State Licensing Board.

MR. TAILOR: Fulton County is present. I don't know. Could they speak on whether or not that is part of the consent order?

**SECRETARY KEMP:** Mr. Garner, welcome. Give us your name and address for the official record, if you don't mind.

MR. GARNER: My name is Barry Garner, or Director Fulton County registration and elections. Address, 10570 Wren Ridge Road, Johns Creek, Georgia. It is my understanding from this McIntosh County case that, you know, we had pulled a voter by mistake. The Board instructed us, do we have any procedures in place. In January of 2010, we put procedures in place, because before then there were no procedures in place, but as far as the consent order I don't know if the previous consent order has anything to do with this or not.

**MR. EVANS:** We can probably short circuit that. I hate Mr. Taylor left. Will you agree that the procedures that you have submitted to us are the procedures that are incorporated into our orders resolving the case?

MR. GARNER: That is correct. Yes, sir.

**MR. EVANS:** I am satisfied with that. I can't speak for the rest of the Board, but as long as we agree that this is a part of our order I'm good.

**SECRETARY KEMP:** Is everybody already with that, from the Board.

MR. WORLEY: Yes.

**SECRETARY KEMP:** Any other questions from Mr. Garner?

**SECRETARY KEMP:** Rhonda. Let Wes know we have resolved this.

**MR. EVANS:** If I might take one matter out of order, with the Board's consent, I am a little concerned about absentee ballots on Election Day processed in Fulton County for getting them counted timely. You don't have to answer today, but if you could give us a report on that. This is just one Board member. I will let the others speak to whether or not they have concerns, but it has become enough of a topic both among voters and the media that it's something I don't want us addressing on November 3rd. And so following my pattern of saying let's fix all of the problems way in advance, so that the election on November 2nd is only about counting the votes, is there a way you could give us a report back on what the procedures are for counting absentee votes in Fulton County timely. And, again, I'm only one. I will let my colleagues speak as to whether or not they echo that sentiment.

**SECRETARY KEMP:** Well, let me just say, I know that we have been discussing that in the office and I don't really want to get into other issues in this middle of this case, but we can follow

up with that point if you will allow us to.

MR. GARNER: Can I say thing on that?

**SECRETARY KEMP:** Yes, sir.

MR. GARNER: The reports on August 10th saying the Fulton County reported their results late was absolutely false. We had all results in at 10:00 o'clock. I called Wes and I said, I don't know where this media report is coming from. We are done. We was finished everything by 11:00 P.M. We started counting absentee ballots at 7:00 o'clock in morning and we have done everything possible to comply with the rules. So, I respectfully disagree that we held anything up.

**MR. EVANS:** Well, that's why I'm glad you're here. That's what we need. We need, at our level, to be able to say we had you here and you confirmed for us that, indeed, the reports are untrue. And, in fact, procedures are in place for timely counting of the absentee ballots and in the runoff they were counted by 10:00 P.M.

MR. GARNER: Yes, sir. Like I said, I called Wes at 10:00. I was, like, these news reports are killing me. As a matter of fact, Gary Smith, himself, is saying that. I said I don't know where the information was coming from because on our web site, we were done.

**MR. EVANS:** That is helpful. That is very, very helpful. I appreciate that. We will do our part. I know Chairman Kemp will do his part to dispel this idea that somehow Fulton County lags behind in counting absentee ballots, because I want us to deal with that before November. So that everybody doesn't think that this has just become commonplace. Thank you.

MR. GARNER: Thank you.

**SECRETARY KEMP:** Any other questions for Mr. Garner regarding this case?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Appreciate you for being here today. Okay. Is there anyone else that wishes to speak on behalf of this case?

**SPEAKER:** Well, it's not the case itself, but --

**SECRETARY KEMP:** We can't get into something that doesn't have to do with the cases now. Anybody else that wants to speak on case No. 2008-07?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, we have got a motion and a second, I believe.

**MR. WEBB:** I'm sorry. What's the motion?

**MR. EVANS:** I think the motion was a motion to accept the letter as part of the order confirming the corrective procedures that are being taken. Did I say that right? I think what we had done is before we had adopted the order subject to a receipt of a letter concerning the exact procedures that were being implemented in order to make sure the problem didn't happen again. We've received that letter. And this would be a motion to accept that letter as part of the order.

**SECRETARY KEMP:** We have Mr. Evans' motion cleared up. I want to make sure the second still stands. Mr. Webb, didn't you second earlier?

**MR. WEBB:** I did. I apologize. I'm sorry. I want to look at something.

**SECRETARY KEMP:** Sure. No problem.

**MR. WEBB:** So, at the last meeting a motion was passed, approved to, defer the case pending receipt of a letter from Fulton County outlining corrective measures.

**SECRETARY KEMP:** Right.

**MR. WEBB:** So, we now have that letter. So, now we are accepting it and it is part of the consent order.

**SECRETARY KEMP:** Correct.

**MR. EVANS:** We have to have a second motion to adopt the order. First, I think we have to accept the letter. Everybody has to satisfy themselves that --

**MR. WEBB:** Motion to second is where we are.

**SECRETARY KEMP:** All right. So, let the record show we have got a motion to accept the letter and we have got a second, Mr. Webb?

**MR. WEBB:** Yes.

**SECRETARY KEMP:** Okay. Any other discussion on that motion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. That motion carries.

**MR. EVANS:** Now, a motion to adopt the consent order.

**SECRETARY KEMP:** Mr. Evans moves to adopt the letter as being part of the consent order. Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** Mr. Webb seconds. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. That motion carries.

**MR. HARVEY:** The next case is another case that was referred back to our office for additional investigation. In this case, I believe the issue was that there were some respondents that had not been named as respondents and received notice. They were so noticed as respondents and the issues involved, involved two voters who allegedly voted in the Talbot County elections, when they were not Talbot County residents. The first is Stanchez Passmour. Our investigator went to his registered address and met a woman who claimed to be his mother. And she was told -- the mother told the investigator that he had moved to Atlanta years ago. And she wouldn't provide any additional contact information. Just this past Friday I got a letter from Mr. Passmour after sending out notice and I spoke to him on the phone. He said that at the time, in 2008 and 2009 he was living in Fulton County, and Clayton County, but he would go home on weekends. He still considered his mother's house his home. He said he had recently just declared his residency in Fulton County in June. He, however, is still registered to vote in Talbot County. Whether or not he was a resident of Talbot County at the time is sort of a he-said-she-said scenario. As far as Jimmy Raines. Jimmy Raines attempted to vote twice first. He first voted by mail. He then voted in person. His first absentee ballot was ultimately rejected; however, he was allowed to vote after sending in an absentee ballot. Therefore the Talbot County Registrars Office is named as a respondent. I'm not sure whether or not they were bound over. I believe they might have been bound over at last month's meeting. The last Respondent is Johnny Durham, who was in a similar situation as Mr. Passmour. Upon going out to his registered address they met somebody that claimed to be a relative that said that he had lived in Harris County for 2 years. Tax records show that Mr. Durham had gotten Harris County homestead exemption in 2008 and 2009. It is unknown definitively where his residency was during the 2008 election. It is recommended that these cases be bound over to the Attorney General's Office for resolution, possibly by a consent decree or declaration or formalizing where voter registration lies.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

**MR. HARVEY:** And I do have a letter that was sent by the attorney for Talbot County, explaining their position.

**SECRETARY KEMP:** Let me get a motion to accept the letter?

**MR. WORLEY:** I make a motion that we accept the letter on part of Talbot County.

**MR. EVANS:** Second.

**SECRETARY KEMP:** Motion and second to accept the letter. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

MR. HARVEY: I don't believe he is here today, Mr. Dodgin. If you'll notice at the bottom of the first page, he acknowledges, he believes the allegations concerning Talbot County election officials were very technical and don't deserve corrective action. He does say that he is ready to work with state election officials on any corrective action. So we recommend that this case be bound over to the AG's office for appropriate resolution.

**MR. WEBB:** Mr. Harvey, are you recommending the whole case?

**MR. HARVEY:** All the respondents.

**MR. WEBB:** All the respondents, which are Mr. Durham, Mr. Passmour, and Mr. Raines.

**MR. WEBB:** Correct. The Talbot County Registrar's Office. We might want to check the minutes to see if they were already bound over. It was a little confusing in reading the minutes. If there is a doubt, I suppose we could bind it over again, so it could be clear.

**MS. BRUMBAUGH:** My office doesn't have this case. So it wasn't bound over to me. So if you want to bind all of them over, that's fine.

**MR. WORLEY:** I make a motion that we refer all of the respondents in this matter.

**SECRETARY KEMP:** Hang on just a minute. Let's see if we have got anybody that wants to speak. Any other questions for Mr. Harvey?

**SECRETARY KEMP:** Anybody else that would like to address us on this case?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. No one wants to address us on this case. Okay. Hearing none, now I'm ready for your motion.

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

**MR. EVANS:** Second.

**SECRETARY KEMP:** We have got a motion by Mr. Worely, a second by Mr. Evans, any other discussion. Hearing none, all the in favor of binding this case over to the Attorney General's Office, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries.

**MR. WEBB:** Mr. Chair, can I ask Mr. Harvey, there was the allegations of -- Sorry I can't remember her name, Sugar Mama was her nickname that we know her by.

MR. HARVEY: Correct.

**MR. WEBB:** Was this an incident where she was in possession of absentee ballots when she shouldn't have?

**MR. HARVEY:** That's what I was saying before. I believe the Board voted to go ahead on those charges and then referred these additional respondents back, because they were not noticed as respondents. So, those should not be bound over at this point.

**MR. WEBB:** Great. Thank you.

AUDIENCE MEMBER: Can I address that. I'm from Talbot County. Can I speak?

**SECRETARY KEMP:** We have already voted.

AUDIENCE MEMBER: You already voted.

**SECRETARY KEMP:** Case 63. Quitman County.

**MR. HARVEY:** Quitman County is one more case that was referred back. The allegations in that case was the Board of Registrars was not doing an adequate job or complete job of updating their list of electors. Cheryl Butler was a complainant in that case. At the last meeting she brought to light there was a 2003 consent order that Quitman County had entered into with the

State Election Board. That consent order was sent back to us to determine whether or not they were in compliance with that consent order. The consent order had three portions to it. The first had to do with preventing assistance. There had been allegations of illegal assistance of voters in Quitman County. The second was to hold regular meetings and adhere to legal standards for the meetings. And a third was to provide an updated lists, an audited list of electors to the State Elections Board. On the first two counts, Quitman County appears to be in compliance with that. Judge Bennett sent a letter, the probate judge, which I will give to the Board.

**SECRETARY KEMP:** Do we have a motion to approve accepting the letter?

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

**MR. EVANS:** Second.

**SECRETARY KEMP:** We have a motion and a second.

**MR. HARVEY:** I also have a copy of the consent order that's with it. He outlined the procedures --

**SECRETARY KEMP:** Hold on, one second, Mr. Harvey. We have a motion and second to accept the letter and the consent order. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries. Go right ahead.

**MR. HARVEY:** Judge Bennett provided a, sort of detailed blow-by-blow account of everything that they do, how they go about their activities. As far as the updated, audited list of the State Election Board, nobody can find any record of whether or not that was actually completed. It is not the same Board as it was in 2002 or 2003. The State Elections Division doesn't have any record of receiving and audited elector's list. Quitman County and their county attorneys, the Board doesn't have a record of ever doing such an audit. It may have been done or it may not have been. There is simply no evidence. What we would recommend in this case is that it be bound over to the Attorney General's Office and that a new consent order be entered into in which they now provide an updated list of their voters to remedy the situation.

**SECRETARY KEMP:** Okay. Any questions from the Board for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, is there anybody else? Let me just remind everybody that we want to hear from you. If you would like to address us on any of these cases, but if you



want to speak, you have got to do it before we vote and move the case or close the case. When we start on these cases, we want to hear from you. If you want to speak, just come on up to the front. We'll let you have your say. Anyone wish to address the Board?

MR. CORLEE: Good afternoon. Chad Corlee, Attorney for the Quitman County Board of Registrars. Here to, kind of, clear up a few matters and I have Judge Bennett, the probate judge, here with me this morning, if you have any questions for him. I think you can see by his letter that the Board is following the procedures under Georgia Law. As stated, we have a different Board now. We have a different judge now. I think we have a clerk in common and that is about, that may be about it, in common from this prior order. And I would like to tell the Board about the prior probate judge, Robert Bennett. This is Judge Andrew Bennett with me here today, the current probate judge; no relation, small county, but no relation. Judge Robert Bennett was a fellow, very good judge and served the county well, but he handled matters on his own. I have been the county attorney since 2004. The first I heard of this consent order was here recently, within the last few weeks. So, I was not aware of it. He kind of handled his business in and to himself and in that regard we have an affidavit signed by our clerk who remembered the consent order once she read it and I have the original and I have just two copies. I apologize. I just have two copies of that. And I would like to read it to you if that's okay. Okay. To the Secretary of State, my name is Julia Floyd. I have been a deputy registrar for Quitman County since 1996. I worked as a Clerk of Court and a deputy registrar for the former election superintendent, Judge Robert Bennett, for 8 years. During this time, in July of 2003, the Board of Registrar signed a consent cease and desist order. I can vaguely remember this order. After recently reviewing and reading the consent ceases and desist order, it states respondents of Quitman County, Georgia shall cease and desist from failing to hold meeting of registrars on a monthly basis, as required by Georgia Law. According to Robert Bennett, Election Superintendent at the time, this was the only order for the Board of Registrars, as far as a consent (as stated) and desist order. All we had to do is sign and he would handle it. Judge Robert Bennett had each member of the Board of Registrars listed on the order and signed the order. Judge Robert Bennett stated that we would be on probation for a period of time. And make sure we had Board meetings every month and examine the qualifications of each elector on the list of electors. Judge Robert Bennett had several meetings with the State inspector, Mr. J. Adams -- J., being an initial. She cannot recall his first name -- before and for several months after this order was signed. The meeting was in Judge Bennett's office. I was not present in the office with the Judge and Mr. Adams during any of the meetings, but around this time the Judge Bennett found out he had cancer, shoo I helped him handle more of his workload. Again, as I stated, it was a long time ago and I can hardly remember every detail, but I remember asking Judge Robert one time if we needed to do anything with the order. He stated that he had handled it and all I needed to do was record it with the superior court and file it. So I feel sure that, at least, one of the meetings that the judge / superintendent had with Mr. Adams, the inspector, was to report and confirm that the Board of Registrars was complying with the order and had undertook and completed an examination of the qualifications of each elector on the elector's list and the Board was complying with the order and holding regular monthly meetings. Judge Robert Bennett was like most judges. He handled most of his business in the old-fashion way, by word of mouth and in person and not a lot of paperwork. He was a good man and a good judge, but very old fashioned. She has signed that under oath. And I think it addresses the concern. I would like to point out in the cease and desist order it does not say that the reporting has to be in writing. It is

not clear to me that it does. And what she is saying is she believes Judge Robert Bennett handled the reporting person with a State inspector.

**SECRETARY KEMP:** Anything else?

(NO RESPONSE)

**SECRETARY KEMP:** Anybody got any questions for Mr. Corlee?

MR. CORLEE: For myself or the probate judge?

**MR. EVANS:** I think the way we've handled this before Mr. Chair, is a certificate of compliance. Typically the investigator satisfies themselves that, in fact, the items in the consent order have been met and then issued to us a certificate of compliance, which we then accept if it is adequately supported. You can do it either way. What I would suggest is that if we can confirm regular meetings for the last 18 months, which I'm sure, counsel could probably obtain relatively easily, as well as the requisite case requirements of those who are currently handling elections, then I think we would be in a position to accept it. Those seem to be the ongoing items that relate to things that we needed confirmation of.

**SECRETARY KEMP:** Any other questions for Mr. Corlee?

(NO RESPONSE)

**SECRETARY KEMP:** One of the concerns I have with the voting list is the recommendation that the voting list be audited and maybe when we get to the conclusion of this if the Judge can let us know that the list is being kept up to date. I think that was one of the concerns. If we don't have any questions for Mr. Corlee, let's move on.

MR. CORLEE: I would like to point out one other thing. On page 4, I believe, of the consent order is where the issue of the voters list is addressed. And, of course, on the last few pages, beginning on page 9, I believe, page 9 is where the actual orders are entered. There is never an order entered in regards to the voters list. Now, on page 4 it does say there was insufficient information, on the other hand, to determine whether the official residency of said individuals, as distinct from the possible living location in Alabama, had continued as of July 2000 to be in Quitman County, as reflected by the County's list of electors, while no wise conceding the existence of any impropriety on its part respecting or to the merits of whether the husband and wife in question maintained their residence in Quitman County or in Alabama, and no basis for the matter being subject of a cease and desist order. I don't know that it was ever actually ordered that the Board audit the list. And I think that is what the Clerk's affidavit is pointing out. I think Judge Bennett handled that very, very informally. And I think that is, in fact, related back to the way it was put in the order.

**SECRETARY KEMP:** Okay. Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Did you want to address this?

MR. BENNETT: Yes, sir. I'm Andrew Bennett. I'm the election superintendent and probate judge of Quitman County. My address is 77 Ridgeview Street, Georgetown, Georgia. And I would not be a fact witness in the '02/'03 matter; however, I can testify to what happened from January 1, '05 on. We are holding regular meetings at the clerk -- the Board was not keeping minutes properly, but that has been corrected. We are doing that now. In '09 we did a thorough purge of the voters list. We only had like 1500 voters. When we got through, we had like 1400 or a little more. In fact we purged almost a hundred from that list. We went over it individually. I can't say it is perfect. I can't say that you would find a perfect list in the State, because people move every day and people die, and people move in and all that. But I would say that I feel that the list is in good shape, but we would be glad to do anything that this Board requires of us to get in compliance with what they feel like we need to do.

**SECRETARY KEMP:** Thank you, Judge. Any other questions?

**MR. WEBB:** I have a question. Judge, what percent of those hundred were dead versus those who moved in or out of the county?

MR. BENNETT: There were very few dead. In fact, most of them were people who had been on the list a good long time and needed to be purged because they passed the inactive date.

**MR. WEBB:** Do you receive timely information with respect to deceased voters?

MR. BENNETT: Yes, sir. I am the registrar for vital records, so anyone who dies in the county comes through my office. And I am aware of that. And I relay this information to the Board of Registrars, as they meet monthly. There are times now -- we live right on the Boarder of Alabama. There are times when somebody dies in Alabama, Dothan, Alabama, maybe in Eufaula and we don't know anything about it and can't find out anything about it unless we inquire or somebody brings that information to us. There has been times when someone died a year or 18 months ago, maybe, and we were not aware of it until it was brought to our attention.

**MR. WEBB:** Are you otherwise receiving timely information from the State of Georgia?

MR. BENNETT: You mean through the clerk's office, through the Superior Court Clerk's Office? We call and get the information from her, but it would be better if she gave it to us monthly.

**MR. WEBB:** Thank you.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, Mr. Corlee. Thank you, Judge.

**SECRETARY KEMP:** Anyone else wish to speak on this case? Thank you, gentlemen? Anything else, Mr. Harvey?

**MR. HARVEY:** Just in reference to the consent order, on page 4, the last line under paragraph 4 says to this end the respondent Board of Registrars agrees that it will undertake and complete an examination through qualifications of each elector and report results of its examination to the Secretary of State, as chairperson of the State Elections Board with 6 months of the Board's signing of the cease and desist order, under the settlement agreement. That appears to be a requirement.

**SECRETARY KEMP:** Okay. Board members, anybody got any thoughts, suggestions or motions?

**MR. EVANS:** I think we need to ask the investigator to determine whether or not we can issue a certificate of compliance. In order to do that, what he would have to do is satisfy himself that the provisions of the order have, in fact, been met. If they have not been met, then we have to have a plan of corrective action. If they have been met, then he issues a certificate, we accept the certificate and unless there is a reason for ongoing monitoring then the order will be terminated by the certificate. So I would move that we have the investigator determine or the IG's office determine whether or not a certificate of compliance can be issued.

**SECRETARY KEMP:** So that's a motion.

**MR. EVANS:** Yes, sir.

**SECRETARY KEMP:** We have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We have a motion and a second. Any comments?

**MR. WEBB:** Mr. Evans, what happens if the investigator cannot issue that certificate.

**MR. EVANS:** Then it is back before us to determine whether additional action should be taken. It is in the nature of a contempt proceeding where you have an order that's been issued and we decide the judge's order is not being complied with. And we decide to do something else.

**MR. WEBB:** Thank you.

**SECRETARY KEMP:** It seems to me that what we are wanting done has been done. We just need evidence. I think that's something that we could pass this motion and let the IG's office work out with the County and we will be good to go. So, any other comments?

**MR. HARVEY:** Mr. Chairman, just to clarify, based on what I read in the previous consent order, counsel for Quitman County said he didn't require a written certification. Today, I would say, my opinion is they have not complied, because there is no evidence that they have recorded

an audit of their electors list. If the Board will accept a verbal report from them versus a list-by-list audit, is there any direction on the type of audit they are requesting?

**MR. EVANS:** I think you would need to figure out what satisfies you.

**SECRETARY KEMP:** I think the County has shown that they want to work with us in this matter. And that we can get a pretty easy resolution.

**MR. HARVEY:** Okay.

**SECRETARY KEMP:** All right. We've got a motion and second. Any other discussion.

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. The motion carries. Mr. Harvey.

**MR. HARVEY:** The first new case is Twiggs County 2008-37.

**MR. MCIVER:** May I interrupt you just a moment? I own land in Twiggs County. I have a conflict of interest in that. I need to recuse myself.

**SECRETARY KEMP:** Let the record show that Mr. McIver is excusing himself of this case. Okay. Mr. Harvey.

**MR. HARVEY:** I'm distributing now, to the members of the Board a revised list of citations for this case. The original summary that went out included citations that upon further review, do not appear to be relevant. Twiggs County case November -- I'm sorry -- July 15th 2008 primary, the issue in this case is that race for sheriff. The incumbent Sheriff Daren Mitchum was being challenged by Greg Stone, who was the son of a former Sheriff, Mr. Doyle Stone. There were numerous complaints filed about vote-buying, interference with absentee ballots, absentee ballots being taken and delivered, family members working in the election office. Items getting mailed to the registrar's office getting lost. Allegations that members of the stone family were receiving absentee ballots, were delivering absentee ballots. The allegations were listed in the summary of the report. The findings of the report, and this investigation was done, largely by the agents of the FBI and GBI. Special Investigator Adam Pearlstein, who was the lead federal investigator was present. At the end of the investigation the conclusions were as follows. We found that respondent Doyle Stone appeared to be in violation of 21-2-574 in that he illegally possessed absentee ballots. There were at least five people who said that they gave him their absentee

ballots and he assisted them voting and that he left with their absentee ballots. In addition, absentee ballots envelopes were tested by the FBI crime lab in Quantico, Virginia and at least one ballot envelope had Doyle Stone's fingerprints on it. Doyle Stone was cited for 21-2-568(b) in illegal influence of voters while assisting voters; two women, Helen Wimberly and -- two women, and Syretha Baisley said that respondent Doyle Stone came to their house when helping them fill out their ballot without the request of assistance and without the need for assistance he asked them, said to them, you want to vote for Gregg, don't you. They both said that they felt like they had been coerced into voting for Gregg Stone, when he was not their choice. In addition, we had 3 people at a nursing home, Brian Center Nursing Home, who claimed that Doyle Stone assisted them, took possession of their ballots and that they did not need assistance. We also have him cited with 21-2-385, illegal assistance with absentee ballots in that he failed to sign as assisting in the case of the two women mentioned, Helen Wimberly and Syretha Baisley. 21-2-385(b), with illegal assistance of absentee ballots, in which case, in several cases he signed as assisting; however, he did not indicate any reason or eligibility of the voters to receive assistance. And in those cases the voters told to investigators they did not require assistance. They were not blind. They were not illiterate. They were not disabled. In fact, in one case, a voter's absentee ballot was rejected because it was listed that he was unable to read and write the English language. And the clerk knew the voter and knew that, in fact, that he could read and write. And then, lastly, 21-2-562 (a)1, for providing false information. Again, that is what I just referred to, indicating a voter he was assisting was unable to read and write. Respondent Gregg Stone was cited for 4 situations, 21-2-574, where he had illegal possession of absentee ballots. 15 of the ballots that were processed by the FBI crime lab, four of the absentee ballots came back with Greg Stone's fingerprints on them. Greg Stone did not sign as assisting any of these voters. In most cases, the ballots that had his fingerprints on them were alleged to have been taken by his father. So the voter alleged that Doyle Stone took the ballot and then Gregg Stone's fingerprints ended up on those absentee ballot envelopes. The allegation of vote buying and all other wrongdoing were essentially unsubstantiated. Frankly, there was a lot of smoke. There were a lot of allegations on going across on both sides. And none of that that was able to be substantiated. No one could identify a specific witness who could come forward and say I was paid to do this or I received money to do that. And that is something you will hear in some of our other cases and as you know is a very difficult thing to prove when allegations are made back and forth. Originally, Audrey Stone was listed as a respondent under the theory that she was illegally assisting voters while her son was on the ballot. Upon further review it appears that that code action is not appropriate. It was a federal election. There were federal candidates on the ballot. It does not appear that she was precluded from assisting those voters. The same goes for Mr. Doyle Stone. He was originally cited under the theory that he was assisting while his family members was on the ballot. Again, his illegal assistance is tied to assisting people that are not eligible to receive assistance and either not signing or not giving a reason for assisting while assisting. I do have a response that was issued by an attorney for Ms. Stones, who I believe is present today.

**SECRETARY KEMP:** We need a motion to accept the letter from the attorney.

**MR. EVANS:** So moved.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We've got a motion and a second. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion to accept carries.

**MR. HARVEY:** I imagine he will enunciate his letter and his points and some of it will come down to what witnesses said what. But unless the Board has other questions --

**SECRETARY KEMP:** Any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none; anybody else wish to speak on this case?

MR. JOHNSON: Yes, sir.

**SECRETARY KEMP:** Come on up. Give us your name and address for the record, please, sir.

MR. JOHNSON: Good morning. My name is Jess Johnson. I'm the attorney for Doyle Stone, Gregg Stone, and Elaine Stone. My address is Lynn Marietta Street, Suite 3300, Atlanta, Georgia. I have not been privy to this revised copy of the Investigator's summary by the IG's office. So I will assume not all charges against Ms. Stone have been dismissed.

**MR. HARVEY:** For the record, we are not citing Ms. Stone. The Board will ultimately have to make that determination.

MR. JOHNSON: Well, I would also ask for some additional time, considering that I am representing three individuals.

**MR. EVANS:** Are you requesting continuance?

**SECRETARY KEMP:** I think he is talking about time to speak, right?

MR. JOHNSON: Time to speak, yes, sir.

**MR. EVANS:** One of the issues that we have got very sensitive to is that when the report is supplemented whether or not you want a continuance. We automatically grant a continuance in the event the report is supplemented on the eve of the hearing. We would love a continuance, actually. We have not had time to produce the witnesses who will testify that they were not intimidated and that there was actually these voters that were, apparently not disabled, were, in fact, disabled. So we would appreciate a continuance, if that is possible.

**MR. EVANS:** So moved.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Let me finish hearing from anyone else that wishes to speak, I guess, before we continue. I if I can hang on just a second. Is there anyone else that wishes to speak that would be in disagreement with a continuance?

(NO RESPONSE)

**SECRETARY KEMP:** If you want to yield, it looks like you may get a continuance.

MR. JOHNSON: Thank you, sir. I will yield.

**SECRETARY KEMP:** We have a motion and a second to continue the case. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. The motion to continue carries.

**MR. EVANS:** I would be remiss if I didn't warn you, because I have been on your side of the table before, you only get one.

MR. JOHNSON: And I have received a continuance in the past. So I wanted to make the Board aware of that.

**MR. EVANS:** No, I'm just saying based on the fact that the report was supplemented.

MR. JOHNSON: Okay. Thank you.

**MR. EVANS:** Okay.

**SECRETARY KEMP:** Mr. Harvey. We are on to Coffee County.

**MR. HARVEY:** The next case is Coffee County, 2008-42. The attorney for the respondents has submitted a written response, which I have for the Board, if they want to entertain a motion to accept it.



**SECRETARY KEMP:** Have we got a motion to accept?

**MR. EVANS:** So moved.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** A motion and a second; all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries.

**MR. HARVEY:** Allegations in this case were similar to the allegations in Twiggs County. There were multiple allegations. Again, this involved a sheriff's election. This was a primary in July of 2008. Mr. Mitch McCrimmon was a complainant.

**SECRETARY KEMP:** Mr. Harvey, let the record show that Mr. McIver is back in action. Sorry about that. Go right ahead.

**MR. HARVEY:** The allegations were the four respondent's listed illegally possessed absentee ballots. There were allegations that the inmate at the jail was forced to vote. There are multiple allegations of voter intimidation. And multiple people were interviewed. After assessing the allegations, we found that the specific allegations of intimidation were unable to be substantiated. The inmate who was in jail, Ms. Poly Hughes, stated that she was brought to the jail and forced to vote. The records show that she never voted. Her husband, who she says she voted for, in fact, voted in person. There was no truth to the allegation, no substantiation of the allegation that she was forced to vote in the jail. Everybody that was listed that had complained about being intimidated, their allegations that sheriff's deputies had followed them home, meaning they had just driven by their house, some construed that as voter intimidation. There was nobody specific that could point to any specific sign of voter intimidation. There is one incident where a young woman -- I'm sorry, woman, I don't know her age off the top of my head -- was working at a restaurant. The sheriff came in and asked who had his opponent's sticker on the truck. She said she did. He is a family friend. He said, okay, that's fine. He, in fact, came back later the next day and apologized and said I hope I didn't intimidate you or I hope I didn't scare you by asking you that. I was trying to figure out essentially where people's political base was. So, all the allegations of intimidation were unsubstantiated. The allegation about absentee ballot improprieties were largely sustained. There were four women: Lou Baker, Patricia Brady, Gretta Brady and Jennifer Brockington. They are sisters. The four of them went to three different electors, the first being Lillian Pool. Lillian Pool reported that Lou Baker -- in some cases she is referred to -- her name is Louise Bailey Baker, so in some cases you will see Ms. Bailey. In some, you will see Ms. Baker -- said they came to her house and she and her sisters, in her words, harassed her pretty hard to vote for a specific candidate. Ms. Pool said that

Ms. Baker took her ballot, marked her ballot and then had her sign the absentee ballot envelope. There is no record of anybody assisting Ms. Pool on her absentee ballot. There is no reason for assistance. She claimed that all four of the women were there and that they left with her ballot. A second voter, Fannie Mae Warren, who is an elderly woman, was assisted by Patricia Brady, one of these four. She wrote on the ballot that Ms. Warren was illiterate, which is not true. She also wrote that she was related to Ms. Warren, which is not true. Ms. Warren did not need assistance. And Ms. Warren actually said that she handled her voting herself. So Ms. Warren might be sort of a dubious witness in that case, but her absentee ballot shows that she was assisted by Patricia Brady, who listed a familial relationship and that she was unavailable to read and write the English language. The third voter, he reported that Lou Baker, had him, and he is illiterate. He is unable to read and write. He reported that Lou Baker took his ballot, marked it, didn't ask him who he was voting for, didn't ask for his preferences, then gave him back the absentee ballot envelope for him to sign the back of and left with his ballot. In that case, he had said he didn't know who she was. She didn't ask him for his choices. And there is no documentation that Lou Baker assisted him with his ballot. Based on that investigation, it is determined that the four respondents all can be bound over on 21-2-603 in terms of a conspiracy to intimidate voter, even though two of them didn't actually handle ballots. Lou Baker possessed the ballot of L.C. Johnson and Lillian Pool. Patricia Brady fraudulently entered information on Fannie Mae Warren's absentee ballot saying that she couldn't read and that she was related to her. Ms. Warren denies that any of that is true and Patricia Brady is also in violation of 574 in possession of L.C. Johnson's absentee ballot along with Lou Baker. It is recommended that all four respondents be bound over to the Attorney General's Office for appropriate fines and sanctions.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

**MR. EVANS:** Who does Mr. Mitchell represent.

**SECRETARY KEMP:** He represents the four respondents.

**MR. EVANS:** All four of them?

**MR. HARVEY:** He does. And his response, as you can read, is essentially, his investigation, he spoke to the same people and they gave just wildly different versions of what happened.

**MR. EVANS:** So when we hear from counsel, if you would ask him to do a notice of appearance. The reason I raise that here is that I noticed that his correspondence was somewhat ambiguous about neither I nor my clients, and the clients were never identified. We just to know that procedurally --

**MR. HARVEY:** Yes, sir. I will do that. I, actually, spoke with him. He is having surgery, I believe, today. He had already requested a continuance and it had been granted.

**MR. EVANS:** We went through this. I don't know if there was anybody here before, but a few years ago when we left that loose end open and then we ended up having to have another hearing because we had thought that counsel represented all respondents and it turned out that he didn't

represent one.

**SECRETARY KEMP:** Anything else for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Is there anyone else here to speak on this case? Anyone else to speak on this case? (repeated),.

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none --

**MR. EVANS:** I move we bind it over to the Attorney General's office for all four respondents.

MR. WORLEY: Second.

**SECRETARY KEMP:** We have a motion and a second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all those in favor of the motion say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries.

**MR. HARVEY:** The next case is 2008-87. It is Toombs County. There are four female respondents in this case. Again, the allegations are with absentee ballot mishandling and fraud. The original allegation was made by the person who lost the election on unrelated allegations that the investigator looked and found were unsubstantiated. However, as part of that investigation, he identified a witness that said, oh, by the way, I saw a bunch of absentee ballots in Liz's (Fletcher's) car one day. So we proceeded down that investigative path and we got the absentee ballots and we determined that four women assisted a total of 106 voters. Liz Fletcher assisted eleven, Maudy White assisted four Caifornia Adams assisted 63 and Joanne Eason assisted 28. This again was in the 2008 General Primary. All four respondents admitted to taking possession of absentee ballots after voting them. Because of the number we were able to do a sampling of people that they actually assisted. And our results were that three out of four people that Liz Fletcher assisted were not eligible to receive assistance. Three of the four people that Maudy White assisted were not entitled to assistance. Caifornia Adams, out of 63 -- we didn't interview all 63, but we found seven that were not entitled to assistance. And on Joanne Eason, we found at least three that did not need assistance, were not eligible for assistance. She,

at first, denied taking possession of any absentee ballots, but then acknowledged that she took them to mail for the voters. It is recommended that this case be bound over to the Attorney General's Office for appropriate fines and sanctions.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

**MR. EVANS:** I had a question. I was curious about this one sentence that's in here. It says Threlkeld stated he did engage the services of Butts for his campaign.

**MR. HARVEY:** Yes, sir. He was a candidate for probate court judge. He bought her a tank of gas for her assisting voters. Ms. Fletcher also brought voters to the polls.

**MR. EVANS:** Were the service that he was buying transportation to the polls or was the services he was buying, services to assist people who don't need assistance?

**MR. HARVEY:** I don't know that that specific question -- the investigator is here.

INVESTIGATOR: It was my understanding that those services were for campaign assistance, strictly.

**MR. EVANS:** We just need to, because, to me, that goes to the heart of this issue about vote buying. Because, as you know, in Georgia vote buying can be two categories. On category is I will give you \$5. You have to vote for me. There is no way that, in fact, that can happen unless we invade the privacy of the ballot box. The way in which vote buying can occur is, I will deliver 50 people and I will help them fill out their ballots. And you pay me for those services. That's illegal. That's the one that we are really interested in getting to the bottom and creating very strong deterrent. That's the narrow issue. So, I'm sure the Attorney General will probably get into this in the event this matter is bound over. For further investigation, what would be helpful to the open-ended question, so what services did you engage her, that's what we are really interested in. This idea around the state that there are people who sell as part of their package, we will deliver votes. And the way that we will deliver them is that we will go into nursing home facilities and others and help them fill out their ballots to guarantee they voted for who, in fact, we told you we would deliver the vote for.

**MR. HARVEY:** Mr. Evan, to clarify, there was a written statement provided by Judge Threlkeld where he specifically addresses the issue. He alleges that his competitor offered him the opportunity to drop out, said he would drop out of the race if he was paid money. Judge Threlkeld said I feel this incident may have instigated his decision after the runoff election to withdraw from the November General Election and proclaim to the public and advertise that he was throwing his support to the remaining candidate.

**MR. EVANS:** That, too, is illegal. You cannot pay someone to leave the race.

**MR. HARVEY:** He did not.

**MR. EVANS:** My point is, this is a case study and exactly the kind of system politics that we

have become very sensitive to.

**MR. HARVEY:** And he goes on to say, let me be clear, I was never part of a vote-buying scheme. I did not engage anyone to buy votes to assist me in the election. I did not make any arrangements or special promises to anyone based on something I might do for them as a, quote, thank you for voting for me. The letter you received mentioned Liz Fletcher. Our family has known her for years. Our children attended Vidalia schools together and she was employed in the principle's office. Ms. Fletcher and I never discussed anything about her buying votes for me. I have never heard in the years that she has been part of elections that she has done anything improper. There were no conversations about how she did, quote, anything for the candidate.

**MR. EVANS:** We call that blind eye. So far, we have never had a candidate come in and say, oh, yes, I bought votes. What we normally have is candidates come in and say, I was Sergeant Schultz from Hogan's Heroes. I didn't want to know. All I know was campaign services get provided. People get assisted. Votes get cast. I am good with you. I am not overly persuaded by any candidate saying, oh, no, I was never part of a vote-buying. So that is why I am suggesting to our investigators, another route is to say, what did you hire them to do, as opposed to, now you didn't hire them to buy votes, did you? Because this is a real tough issue for us.

MR. HARVEY: Yes, sir.

**SECRETARY KEMP:** Point well taken. Any other questions?

**MS. BRUMBAUGH:** If I can just make a comment. In the past I have not assumed the authority of adding respondents that aren't named. And at the moment, Judge Threlkeld isn't named as a respondent. So, whatever the Board decides to do with this case, if we want to add Judge Threlkeld or give me some authority, that's fine, but I just wanted to let you know that in the past, if a person isn't named as a respondent, I do not say I am going to do this on my own.

**MR. EVANS:** No. I agree. I think you would have to come back to us. If you find evidence of other wrongdoing, you have to come back to us and say, in the course of doing this, we think you should have named John Doe, as a respondent.

**SECRETARY KEMP:** We are not going to add respondents to a current case. Any other questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Is there anyone here wishing to speak on this case? Anyone here to speak on this case? (repeated.)

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, I'm ready for a motion.

**MR. EVANS:** I move to bind it over.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Motion to bind it over to the Attorney General and a second by Mr. Webb. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of binding it over say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. Okay. Muscogee County.

MR. HARVEY: 2008-135, Muscogee County. I believe an attorney for, at least, one of the respondents is present. This involved the general election and the runoff election in November and December of 2008. The case involved two women, Vickie Stafford and Janice Bowden. Vickie Stafford was a deputy registrar. Janice Bowden was her cousin. Ms. Stafford went to Hamilton House, which is a nursing home in September and October of that year and registered voters and requested absentee ballot applications for them. On their absentee ballot applications, Ms. Stafford indicated all the ballots would be mailed to her address, Ms. Stafford's home address. When the ballots came to her home address, she returned to Hamilton House where she then met the individual voters, passed out their absentee ballots and assisted them with their voting. In one particular case, she was assisting a woman named Roxy Taylor when her daughter, Ruth Turner, came into the room. Ms. Turner was concerned that there was somebody she didn't know assisting her mother voting. She indicated that she took her mother to vote, that she helped her with that. And Ms. Turner at that point, took the absentee ballot and said I am going to handle my mother's voting. She held on to the absentee voting and didn't think much else about it. In December, for the runoff, the same thing occurred. The ballots were sent to the address of Ms. Stafford. She got the ballots, took them to the Hamilton House Nursing Home. And again went around assisting, and Janice Bowden assisted residents with their voting. Again, coincidentally, Ms. Turner saw Ms. Stafford assisting her mother. Ms. Stafford told Ms. Turner, hey, your mom just voted all democratic. And Ms. Turner said, I thought you were supporting the other side. And so at that point, Ms. Turner took that absentee ballot too, took it straight to the District Attorney's Office and made a report that she thought Ms. Stafford was illegally assisting absentee ballot voters. The District Attorney's Office in Muscogee County Board of Elections did an investigation and what they found were several things. They found that all the absentee ballots were, in fact, mailed to Vickie's Stafford's home address. There were several voters who claimed not to have known that they voted. When asked, they said I don't remember voting. I don't know if I voted. Granted, these are, in some cases, elderly people who may have memory issues. None of these voters were declared incompetent; however, some of them simply said they didn't have any memory of voting. When the Board of Elections opened Roxy Taylor's absentee ballot, the one that had been taken by her daughter, they found that all the candidates of

a particular party had been voted which were expressly against the wishes of the voter. The voter said that she never saw the ballot. She was just handed the envelope and asked to sign it, which she did in November but not in December when her daughter intercepted her. Bowden and Stafford took all of the absentee ballots after they were possessed, after they were voted, took them to the Board of Elections Office, where they turned them in individually. In addition, when Ms. Stafford realized that some of absentee ballots had not made it to her residence address on the first mail-out, she went to the Board of Election's Office and told one of the workers there, oh, yeah, those absentee ballots that are on the desk, that didn't get delivered, go ahead and give them to me and I will go ahead and take them out to Hamilton House and assist the voters. There was another voter that was present. Annie Jenkins, who, again, he says specifically that she was told to vote for a specific candidate by Ms. Stafford when she assisted her. There were three votes that were rejected because signatures didn't match or because on the absentee ballot envelope the voter marked an "X", when in fact they could sign their own name. There was some discrepancy with signatures. We had several voters who, like I said, had no memory of voting. It is difficult to determine in every case what their mental state was or what their mental facilities were. As far as the Muscogee County Board of Elections is concerned, there were two absentee ballot applications. The original report says five. It should be amended to read two absentee ballot applications that they could not locate upon request for the investigation. They said we don't know what happened to them. The other three were accounted for and were not a problem. So, the Board of Elections is being cited for failing to produce two absentee ballot applications on request. In sending the absentee ballots to a third-party address for somebody that may or may not have been disabled who lives within the county, they are being cited for that. And that is for both the November and the December election. There is sufficient evidence to show that Vickie Stafford completed two absentee ballots for Roxy Taylor without her knowledge, and had her sign the envelop after it was sealed, that she and Janice Bowden worked in concert to violate the laws of the State in 21-2-603 and that she engaged in political activity while operating as a deputy registrar in telling Annie Jenkins to vote for a particular candidate. Ms. Bowden is being cited for completing and absentee ballot for an elector and working in concert with Vickie Stafford to violate the election laws of this state. And we recommend that all the respondents, with the exception of Ruth Turner -- we actually cited Ruth Turner for illegal possession of absentee ballots in that she took her mother's absentee ballot, she took custody of them, however she delivered them to the District Attorney's Office, essentially, as evidence. So, while it is a technical violation, for the possession of an absentee ballot, I recommend that her violation not be bound over.

**SECRETARY KEMP:** Okay. Any questions for Mr. Harvey?

**MR. MCIVER:** Do we have a practice of not binding over cases for those who have violated the code. It appears you are engaging in an act of forgiveness here, but it does seem to be a violation of the code.

**MR. HARVEY:** Yes, sir. I think in this case there are extenuating circumstances. Certainly, that is just -- the Board obviously has discretion to back on its own. (as stated) I think in her case she was acting in the moment in, sort of, extreme circumstances to prevent what she thought was sort of an ongoing election law violation.

**MR. MCIVER:** I'm very reluctant to start engaging in exception. She can consent perhaps in this package or just one on her own. This does appear to me, at least on the facts you've stated, to be a violation of the code.

**MR. HARVEY:** Yes, sir.

**MR. MCIVER:** As one Board member only, I would not engage in that act of forgiveness but bind her over, as well.

**SECRETARY KEMP:** Anybody else? Any other Board member have any question for Mr. Harvey?

**MR. EVANS:** I tend to agree with Mr. McIver, only because we have gone to such lengths to make clear that this is a strict liability offense.

**SECRETARY KEMP:** Okay. Thank you. Anybody else wish to speak? Come forward. State your name and address, for the record, please.

MS. WILLIAMS: My name is Dorothy Williams. I represent Vickie Stafford. And my address is the Corporate Center Suite 208, Columbus, Georgia P.O. Box 1045. Just a few things. Ms. Stafford nor myself ever expected this proceeding to go this far. Ms. Stafford became deputy clerk and we want to Board to know that her mother was a resident of this particular nursing home at the time and had been previously registered and she, along with her cousin and a couple of other folks thought it would be a good idea to have a voter-registration drive. While the facility had something in place for family members who wanted to do that, the activities director allowed them to set up this drive in this open area. And there were a number of people that came through. At the time Ms. Stafford became a deputy clerk, of course, as a volunteer, she was simply sworn in. Now, many of you are lawyers. Everybody knows ignorance of the law is no excuse, but there was no training. She was simply sworn in and, of course, she followed what she thought was appropriate protocol. We take issue with some of the things that the complainant's mother is now saying. Ms. Stafford, at a previous proceeding wrote to this same Board about her conversation with this individual who indicated that my family thinks that I'm a republican, but I'm, in fact, a democrat. We also want this Board to know that Ms. Roxy Taylor has a son-in-law who has been a perennial candidate for Mayor for numerous years as well as city council. He has never won an election. And I am not saying that doesn't mean that he is not suited to win an election, but we would take the position he is a rebel-rouser much of the time in the community. Now she had -- there was no criminal contact. We understand that the recommendation is that this be forwarded over to the AG's Office for fines and whatever else is appropriate. We take the position that this would be a significant waste of the Attorney General's time. We believe that a number of people, the local Board was cited, Ms. Stafford, her cousin, and that this would be best left to, either to closing the case or sending these people letters of instruction. Every case doesn't warrant being sent over. We would ask you to listen intently to the results. There was a District Attorney's investigation. She appeared before the Board in December 2008. But we do understand this Board is interested in protecting the integrity of the voting process and we appreciate that, but we believe this would be better off left at this stage or, as I said previously a simple letter of instruction or reprimand regarding future



conduct. I don't think that Ms. Stafford wants to be a deputy registrar anymore if that makes any difference, as well.

**SECRETARY KEMP:** Any questions for Ms. Williams, by the Board?

**MR. WORLEY:** I had a question, Ms. Williams.

MS. WILLIAMS: Yes.

MR. WORLEY: What's the significant of this candidate being a rebel-rouser and --

MS. WILLIAMS: Let m say this --

**MR. WORLEY:** If I could finish my question.

MS. WILLIAMS: Yes, sir. I'm sorry.

**MR. WORLEY:** What, again, was the relationship between the candidate and persons in this case?

MS. WILLIAMS: He was not a candidate at that particular time. He did have individuals that he was supporting, I gather, but the candidate apparently was not -- the former candidate, apparently, was not supporting those persons that miss -- I can't think of the lady in the nursing home, the 93-year-old lady. And what I am probably suggesting more than I am laying out more specifically, it is our position that at that particular time, that there was a lot of emotion, that things could have been insofar as what Ms. Taylor, what people are saying that the resident at the nursing home is saying, it may not exactly be accurate. We are not taking issue with the results of any investigation that anyone has conducted. I am not saying that anyone has been involved in a conspiracy. What we are suggesting is that some of the individuals that have been talked to about what took place may have given two different statements, based upon the fact that they were trying to please all parties involved. I don't know if that makes it any clearer, but the record would reflect that, as I said previously, the resident of the nursing home engaged with Ms. Stafford in a conversation whereby she said that my family thinks I'm a republican, but I'm really a democrat. And now, if you don't go see -- I'm not saying her daughter, but we believe that there might be other individuals behind her daughter who have encouraged this complaint, in particular. I hope I'm somewhat clear. We are not suggesting -- I also want to make plain that I am not suggesting that this is all right. There must be integrity in the voting process, but what I'm telling you is that there was no intentional wrongdoing on the part of Ms. Stafford. And, of course, it's in y'all's hands and she has got the right as an American to address the situation with the AG's Office, but what I'm saying is that it would be better off if this matter is resolved at this stage and you are dealing with --

**SECRETARY KEMP:** Thank you. Mr. Worely, anything else?

**MR. WORLEY:** No.

**SECRETARY KEMP:** Anybody else?

MR. SAMRA: I'll speak.

**SECRETARY KEMP:** Yes, sir. State your name and address for the record, please.

MR. SAMRA: My name is Chris Samra. I'm an investigator with the DA's office in Columbus, Georgia. The address is 100 10th Street, 3rd Floor, Columbus, Georgia 31902. I'm the investigator that handled this case. Within the first little while of starting the investigation, I was able to determine that there was no way I was going to be able to prove anything criminal, just based on the facts of the people that I was interviewing. They couldn't remember what they had for breakfast that day, besides what happened 3 days ago. I could not determine that it was anything criminal. My Office has looked into it more and decided there was nothing we could find that was criminal. I am going to have to agree with Ms. Williams that we couldn't find anything wrong, other than some procedural issues. So, I am going to have to concur. I have a letter written by did DA, Julia Slater, by boss, who says that we have found nothing criminal in this investigation. So, again, there is no way, in my experience, that you can prove, if you take this in front of jury and try and prove -- I don't know if you have to take this stuff in front of a jury. If we took this in front of jury, there is no way we are going to be able to prove it. Okay. Like I said, I am going to have to concur with Ms. Williams on this.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Anybody else wish to speak?

MS. BOREN: Good afternoon, Mr. Secretary, members of the Board. My name is Nancy Boren. I reside at 7555 Jenkins Road, Upatoi, Georgia. I would just like to respond to a few of the issues noted in the complaint. Ms. Turner, actually, came to the elections office with her ballot. We initiated the investigation with the District Attorney's Office. Additionally, in the investigation it says that it could not be determined whether people were disabled or not. If you will look at the absentee ballot applications, which you have a copy of, you will notice that they have checked disabled on the reason why, except for five. Five of them checked elderly. As you know, the code section says that you can mail a ballot to a different address. Except in the case of physically disabled electors residing in the county, no absentee ballot shall be mailed. That is why the ballots were mailed to a different address. The Board challenged 23 of those ballots for the December 2nd election. They were not counted. Many of them were not counted. The Board determined which ones would be counted. As you know, it is a common practice among most counties to issue absentee ballots, kind of, in a provisional manner. You issue the absentee ballot, and then if you have question about it, you determine whether or not the count it once it comes back in. Ultimately, the verification for that ballot will be the signature that is on the back of that absentee ballot. I would like to say that we have put a corrective procedure in place for the two paper items that we lost. Our county has purchased an indexing and scanning system where we index and scan all of our absentee applications as well as our voter registration forms so that this doesn't happen again.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you. Anybody else wish to speak on this case?

(NO RESPONSE)

**SECRETARY KEMP:** Mr. Harvey, have you got anything you want to add?

**MR. HARVEY:** No, sir. I think it's all been said.

**SECRETARY KEMP:** One thing I wanted to ask you, was the signatures on the ballots?

MR. HARVEY: Yes, sir. It varies in some cases. I think Ms. Boren might be able to speak to some of this. You had some people who were asked to sign their names and they could sign their names, but on their ballot it was marked with an "X". Those were some of the challenged ballots. So, there is a question as to whether or not they were actually signing it or whether it was being marked for them and based on everything else that was going on, whether the voter actually signed the back of the ballot, or whether the signature was made with an "X". In a couple of cases, there were signatures that were different. I think there were two names where voters, when asked to sign their name, they signed a slightly different version of their name. They used a different middle name or they used a different last name. And those were all ballots that I believe were challenged by the Board.

**SECRETARY KEMP:** What about Mr. Samra saying they couldn't prove any criminal violations? I mean how would you compare our investigation to there's?

**MR. HARVEY:** Our investigation, we are going on what the witnesses reported, I believe, to Mr. Samra at the same time. When a voter said I didn't want to vote for -- or I would only vote republican and their ballot is checked and they are all voting democrat. In front of a jury that might be a question if there is a mental capacity issue. We, generally, go by the facts that the witnesses provide to us, barring some reason to believe they are not being honest. These were two cases -- I don't know anything about the rebel rouser aspect of Ms. Taylor or Ms. Turner's family. It doesn't seem to be incredibly relevant that she encountered her both times and the voter, herself, who is 93 years old and competent said she just had me sign the back of the envelope. I don't know who I voted for. To us that seems to be probable cause that the case gets bound over. The AG's Office will have the maybe difficult job of determining whose witnesses you believe and at what point you believe they begin to gain or lose credibility.

**MS. BRUMBAUGH:** If I may make a comment, I think it is important for the Board to remember that an administrative proceeding is considered a civil proceeding. So the burden of proof is only preponderance of the evidence whereas a criminal proceeding is a criminal proceeding and it's beyond a reasonable doubt. So my burden of proof is lower than the investigator's and the District Attorney's. Additionally, there is no jury trial. It is simply before a judge and there is a written decision with references to record, so it is a very different

procedural posture. And I think that matters when you are talking, I think maybe criminal proceedings and administrative proceedings are sometimes apples and oranges.

**SECRETARY KEMP:** Good point.

**MR. HARVEY:** The last thing I would say is in regards that Ms. Boren noted that most of the electors had been marked disabled on their application. The applications were filled out by the people assisting them. Their level of legal disability as far as voting goes might be questionable when the voter says I can mark my own ballot. I can read. I don't need help. I think, by definition, they are not disabled. Whether Ms. Stafford had an understanding of what disabled meant -- I mean, somebody in a wheelchair might be considered disabled by some people.

**SECRETARY KEMP:** Anything else for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Go ahead, ma'am.

**SPEAKER:** Can I make a comment. Mr. Samra and I actually went to the nursing home and interviewed each of the people whose ballots had been challenged. Many of those people had no, as Mr. Samra said, had no recollection of what they had for breakfast. And when we questioned one man about who he voted for, he said I voted for one of the Kennedy boys. They had no touch with reality, many of them didn't. All of them were there for some sort of disability, whether it be mental or physical. And Mr. Samra and I noted that in his investigation, that each of these did have some disability of some sort. The other thing, too, is the nursing home or the long-term resident facility is charged with having people cast their ballots, or helping people to cast their ballots. So, again, I'm sure that's what they were trying to do. Another thing that we found was with the turnover with the activities person, they work there two months and leave. So there was no one there consistently to keep up with the practice of registering, getting ballots and handling the ballots.

**MR. EVANS:** I don't know if that was supposed to make me feel better, but it didn't.

**SPEAKER:** No. I told you that so that you would not feel better, because that is a segment of our population that is totally ignored. Really they are liable or subject to issues like this, whether it be from family members, candidates, whoever.

**MR. EVANS:** Well, that's the reason why I think we have to take it so seriously. These are strict liability offenses. They don't involve them wanting to do anything other than touch the ballot. You aren't lawfully permitted to touch the ballot. You filled out the ballot. You weren't permitted to fill out the ballot. In my view, I don't think this is a close call. I would move to bind it all over.

**SECRETARY KEMP:** Before we get a motion, let's see if there is anybody else that wishes to speak?

(NO RESPONSE)

**SECRETARY KEMP:** Okay, hearing none, now I will take your motion.

**MR. EVANS:** So moved. I move that we bind it over.

**SECRETARY KEMP:** Okay. We have a motion by Mr. Evans.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We have a motion by Mr. Evans and a second by Mr. Worely to bind this over to the Attorney General's Office. I will let Mr. Worely have his minute and then we will of to Mr. McIver.

**MR. WORLEY:** I agree with Mr. Evans that this is way beyond the level of evidence that we have used in the past to bind cases over to the Attorney General. And I found the investigative report by the Attorney General or the Inspector General's Office particularly disturbing. I am very much troubled by Ms. Williams' attitude that, well, this is just something that we really shouldn't worry about. This is very serious, whether it is criminal or not is not the issue here, but I think there is some very, very serious violations here. And this is something that, from my part, not speaking for other Board members, but when it comes back from the Attorney General's Office, these are allegations that I would take very seriously. I am not sure whether it's appropriate to refer Ms. Turner, because I don't really see that she could have done anything else but take the ballot and take it to the voter registrar's office and do what she could to protect the integrity of her own mother's ballot. Although I'll agree to forward that over and have the Attorney General look at that, but, this is a very, very serious situation, and I am very concerned about it.

**SECRETARY KEMP:** Mr. McIver.

**MR. MCIVER:** As many of you would expect, we always want to look at what we have done in the past and we have, to Mr. Evans point been very, very strict about items such as this. I recall a case about 2 years ago where a very charming young 18-year-old blonde lady was the activities director in the nursing home when she, not having been fully informed, got her hands all over some absentee ballots. And I think I remember her crying, Mr. Evans, but we dealt with that very strictly. There are simply no exceptions to that. That's been our consistent practice. And that certainly will be my vote here, today.

**SECRETARY KEMP:** Mr. Webb.

**MR. WEBB:** I would like to add that in my short tenure as serving on this Board, I am greatly disturbed at the number of cases that we have involving nursing homes, and where you have people that go in and are deliberating taking advantage of an elderly person and using controls over them to influence their votes, whether they initially helped or set out to help them in good conscience or not, but there is just too much of this going on. And it just greatly disturbs me. And I agree with Mr. Worely and Mr. Evans that under strict liability this isn't even close. It

should be referred to Attorney General's Office.

**SECRETARY KEMP:** I agree. And I know that the Chair is concerned with absentee ballots and with the nursing home, as well. I wanted Mr. Taylor to give us a quick update. I know this Board, before I took this office, has been concerned about this. And I wanted to just let Mr. Taylor address you about a couple of things that we have been doing.

**MR. TAILOR:** Thank you, Secretary Kemp. I think our office obviously shares the same concerns with that particular community. Some of the steps that we have taken over the last couple of years have been, we have attended, I think every activity or coordinator or director's conference that's held in the state. We have been to, I believe, 6 or 7 of those conferences now when we actually discuss what you can do in assisting nursing home residence and what you cannot do. That does include assisted living facility folks, as well. We have also produced a video, which, in concert with Georgia Public Broadcasting and that video was distributed by DVD to every nursing home facility in this state. It was also distributed to every elections office in the state, as well as it is available on our internet web site. If anybody were to talk about that they didn't know what they could and couldn't do and how they were or were not supposed to do it, that information is readily available now and, actually, has been for a number of months.

**SECRETARY KEMP:** Thank you, Mr. Taylor. Any other discussion by the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. We have a motion and a second. Any other discussion on the motion and a second?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of binding this over to Attorney General's Office, says aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. I want to ask for a motion for the Board to go into executive session from now until 1:30. And then we will start back.

**MR. EVANS:** So moved.

**SECRETARY KEMP:** We have a motion by Mr. Evans. Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second by Mr. McIver. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. That motion carries. We will see you back at 1:30.

(EXECUTIVE SESSION-LUNCH RECESS 12:38)

(RETURN TO REGULAR SESSION AT 1:30)

**SECRETARY KEMP:** We will entertain a motion to resume.

**MR. EVANS:** So moved.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We've got a motion and a second to come out of executive session and to start back on our cases. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** We are back in session. We're going to jump out of order just briefly for one case, the Attorney General case, Ms. Brumbaugh, No. 2008-38. This is Tab No. 30, I believe it is.

**MS. BRUMBAUGH:** This is 2008-0038, Gwinnett County. The respondent is Bou Hun Nguyen. Ms. Nguyen has entered into a consent order for a \$2700 civil penalty, cease and desist and a public reprimand. Ms. Nguyen lives in Clarkston, Georgia, which is in DeKalb County. In the summer of 2008 she sent in absentee ballot applications for many members of her church to both the DeKalb and the Gwinnett County Board of Elections. DeKalb and Gwinnett noticed all these absentee ballot applications coming in over their FAX machine, all to be returned to the same address, got suspicious and contacted the Inspector General's Office. The investigation revealed that Ms. Nguyen was attempting to register to vote and vote many members of her church, this Vietnamese Faith Baptist Church. Unfortunately, she was disregarding the election laws in the process, regarding absentee ballot -- absentee ballot applications. The investigation revealed that she was reusing old ballot applications, sometimes whitening over information or dates and writing in new dates and that she was in possession of these absentee ballots for many electors, members of her church, even though they were not family members, they were not

physically disabled, and in a lot of cases, they didn't even live in DeKalb County.

The investigation, paragraph 6 of the consent order sort of breaks it down completely. Ms. Nguyen was in possession of 21 electors' absentee ballots and absentee ballot applications. She was in possession of 6 absentee ballots, but not absentee ballot application, and in possession of 15 absentee ballot applications for a total of 42 electors were affected and 42 votes. There were 27 total absentee ballots that she was in unlawful possession of and so she has agreed to a \$2700 fine. It is through a payment plan where she agrees to pay \$300 within 30 days and then a hundred dollars on a monthly basis after that.

**SECRETARY KEMP:** Okay. Any questions for Ms. Brumbaugh?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Does anyone wish to speak on behalf of this case?

**MR. FELLMAN:** My name is Ryan Fellman. I represent Ms. Bow Hun Nguyen. I'm an attorney in the State of Georgia, currently living in Texas. I just wanted to recommend that --

**SECRETARY KEMP:** Give us your address, for the record, please.

**MR. FELLMAN:** Sure. My address, for the record, is 10526 Barry Knoll Drive, Dallas, Texas 75230. As I said, I represent Ms. Nguyen. I just want to urge the panel to approve the consent agreement. While I know ignorance is no an excuse for violation of the law, there was no evidence, nor has there been any implication that Ms. Nguyen was in any way trying to influence votes, double-count votes, shift votes from any county or in any way trying to decide the outcome of an election or anything of that nature. On the contrary, she is, basically, a social worker for her church. He congregation are people of limited English skills and limited education, but had expressed to her an interest in voting. She had been doing this. And her sole goal was to assist them to fill out applications. When I informed her and she gave me the letter from the Office of the Secretary of State, and I have spoken with Ms. Brumbaugh on the phone a couple of times, the way that the election laws actually read about what kind of person can help an elector fill out an application, she was immediately surprised by that, but quite repentant. So, I just urge the panel to approve the consent agreement. And I think the interest of everybody will be best served.

**SECRETARY KEMP:** Thank you, Mr. Fellman. Any question from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wish to speak on this case? Last call.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. I'm ready for a motion.



**MR. EVANS:** I move we accept the consent agreement.

**SECRETARY KEMP:** We have a motion by Mr. Evans. Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second by Mr. McIver. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign. The motion carries. Okay. We will go back to our Inspector General Reports. No. 2009, No. 26.

**MR. BROOKS:** Yes, sir, Mr. Secretary, members of the Board, 2009-26 involves Forsyth County. There was not an election involved in this. The complaint and allegations were made against Mr. Gary Smith, who, at that time was the Director of Elections for Forsyth County. The allegations that were made in this case was that he had failed to hold to monthly meeting, as required by law. And that he had also attempted to remove Board members and did not follow the proper procedure for removing them. It was also alleged that he abused his position as the director in that he e-mailed poll workers and campaigned and urged them to lobby against House Bill 811. It is also alleged that Mr. Smith had published a newsletter with commentaries that had some legislative restrictions on them and it was also finally alleged that Mr. Smith had failed to maintain the confidentiality of electors. The findings and the investigation determined that most of the allegations that were raised in this were local ordinances and governed by local ordinances, as opposed to state election laws. Forsyth County had requested the Department of Justice to come in and audit and review their practices associated with their office. And Mr. Smith also served as the legislative chair of the Georgia Elections Officials Association. It was in that capacity that he sent the e-mail out, urging poll workers throughout the State of Georgia to lobby against the House Bill 811. Mr. Smith did cancel the monthly meeting in January of 2009. His statement to us was that he had had two meetings in December, that he had a lot of vacation time built up and he cancelled the meeting and that he informed other Board members of that. The allegation was that there was going to be some changes in the Board and the meeting was canceled in anticipation of those changes.

Again, the only potential violation that we could find was that he did not hold a meeting in January of 2009.

**SECRETARY KEMP:** Okay. Any questions for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anyone else wishes to speak on this case?

(NO RESPONSE)

**SECRETARY KEMP:** If you want to speak on a case, please come on up to the front. We have got a few chairs here. Let's try to be ready where we can move through this calendar. Thank you

**MR. TATUM:** Mr. Secretary, my name is Clifford Tatum. I am the attorney representing Mr. Gary Smith in this matter. My address is 3013 Silver Hill Terrace, Atlanta, Georgia 30316. And I would like to respond to the allegations or, at least, to the potential violation that I understood investigator to indicate was a violation of the election code. There are a number of allegations that's were made, specifically, that Gary campaigned on behalf of House Bill 811. The citation that we received in the allegation submitted to Mr. Smith suggested that the had violated code section 21-2-12. And as I take a look at -- excuse me 21-2-214 -- as I take a look at that particular code section it, specifically, addresses that an election official shall not campaign on behalf of a candidate or a question on the ballot. What we have here, in the form of House Bill 811, was federal legislation that was offered by Congressman Holt to implement a voter-verified paper audit trail, back in the year of 2008, I believe it was. And nationwide, I think a number of you are familiar with this, there was movement to prevent that legislation from being enacted. So, I think by the very definition of the statute we don't have a violation of the campaign, in violation of 21-2-214. The second issue, I think the only active issue that we have here is that Commissioner Smith did not hold a meeting on January 2009. Again, as I read the code section 21-2-12, 2-12 addresses specifically, Boards of Registrars. And what we have here in Forsyth County is a combined Board of Elections. Forsyth County's Board was created by local legislation, pursuant to the authorization Act in the code, 21-2-40. And under that code, the local legislation gave the Forsyth County Board Elections the authority to conduct the duties of the election superintendent as well as the authority to conduct the duties of the registrar. In Forsyth County, there is not a Board of Registrars. There is an election superintendent, a combined Board that conducts elections and that conducts voter registrations. By statute, the Board is not required to hold a monthly meeting. Yes, Mr. Smith held monthly meetings in December. I think the Board constantly holds monthly meetings. There were two Board meetings in December. There was a Board meeting in February. There was no business to be conducted at the January meeting, which is why there wasn't a January meeting. Assuming that all the allegations are true and assuming that you accept them as such, I don't believe that you would find that there is a violation of the election code here that would warrant this case being moved forward.

**SECRETARY KEMP:** Are there any questions for Mr. Tatum?

**MR. MCIVER:** First of all, we're honored to have somebody like you here, of your stature, Mr. Tatum, and we want to acknowledge positively your contribution to the SEB.

**MR. TATUM:** Thank you, sir.

**MR. MCIVER:** Again, are you attempting to argue that the code preempts local ordinances, our Georgia State Election Code?

**MR TATUM:** No, sir I don't think I am attempting to argue that. I think what the code provides

is that under local legislation there are certain entities that are established. And the entities govern themselves according to their local legislation. Now, obviously, the elections organization has to adhere to the election code itself. So, I am not suggesting the local legislation would preempt state code here, but what we specifically have in that code, that code specifically addresses Boards of Registration that generally don't meet on a monthly basis. If you take a look at the code, it specifically provides for what the minimum salary shall be. It provides for per diem rates. It provides for what other duties the Board of Registrars may actually conduct. In this regard we have got the local legislation that lays out how the entity is created, how the positions are named, how the salaries paid. That is why we argue that that particular code section doesn't apply to a combined rule. We aren't suggesting that the duties of the registrar should not be followed by the Board of Elections, but we are simply saying that that code provision, as issued, doesn't direct the monthly meeting of the Board.

**SECRETARY KEMP:** When you are talking about local legislation, are you talking about legislation the county passed or the local legislative delegation passed?

**MR. TATUM:** Thank you, sir, the local state legislation, local delegation. The general assembly, the specific delegates for Forsyth County drafted legislation that says in Forsyth County we will have a combined Board, as opposed to a separate elections superintendent and a separate Board of Registrars. Through that local state legislation, state legislation drafted specifically for the local jurisdiction, the Board was combined. Both Boards were combined into one and they facilitated or conducted elections.

**SECRETARY KEMP:** You are saying that in that legislation that it does not say that you have to have monthly meetings or is it at the discretion of the Board?

**MR. TATUM:** It would be at the discretion of the Board.

**SECRETARY KEMP:** Okay.

**MR. TATUM:** I am not attempting to argue to get rid of 2-12, but according to that code section, that code section would require the Board to hold a meeting whether it had any business to conduct at all, simply because the code section tells them to do so. Through a combined Board, you have the discretion because you are conducting business on a daily basis. Unlike these Boards, they are conducting business on a daily basis, whereas a sole Board of Registrars may not meet for a month or two months, because they don't have the daily activity going on.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, sir.

**MR. TATUM:** Thank you, sir.

**SECRETARY KEMP:** Anyone else wish to speak?

**MR. SWEENEY:** Good afternoon. My name is Terry Sweeney. My address is 1580 Turner Road in Cumming, Georgia, Forsyth County. I applaud this commission for its actions at the last meeting and this meeting also today. Mr. Kemp, thank you. And all of you, thank you. If you have a voter registrar which is appointed by a superior court judge, their job is to follow the law and not try to change it. Clearly, it is illegal to lobby or influence, from what I heard earlier today. They make claims that e-mailing poll workers is not illegal. That's influencing, but they forgot to mention that Senator Vernon Ellers was also e-mailed. That's influencing. The law was the law this morning and the law is the law this afternoon. Influencing, from what I understand, is a felony, especially, when willful intent is clear. Mr. Ellers has an e-mail. The poll workers have an e-mail. What was done in Forsyth County regarding influencing like we talked about all day today, is clearly a crime. Thank you, very much. Have a nice day.

**SECRETARY KEMP:** Any questions for Mr. Sweeney?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, very much. Anyone else wish to speak on this matter?

**MS. MAXIE:** Good of afternoon, Mr. Secretary and Board members. My name is Ricia L. Maxie. I live at 4845 Rose Arbor Court in Cumming, Georgia. And I'm here as the chairperson of the Forsyth County Democratic Party. I simply wanted to talk about Mr. Smith's professionalism and his assistance to our party in terms of education and information.

**SECRETARY KEMP:** Ma'am, let me just remind you that we need to be talking about the specifics of this case. Okay. Just on the allegations that are out there. The Board is not really concerned with the politics that are going on in the county. We just need to deal with the subject matter of the case. So if you can just make sure and address that for us, we would appreciate it.

**MS. MAXIE:** I don't have the one statement in front of me right now that states that he -- there was an allegation that he was having inappropriate meetings or something like that. Is that part of the allegation that you are looking at? That is why I wanted to speak to that. That is part. Okay. That's what I thought that is why I wanted to speak to it, but, obviously, I didn't address it accurately.

**SECRETARY KEMP:** Okay. Go right ahead.

**MS. MAXIE:** So, in speaking about his professionalism I just really wanted to let you know that I know that Mr. Smith is republican and in his position as chief registrar of the Board of Elections, he was very, very helpful to us as Democrats. I was new into the workings of the party and certainly brand new as chairperson. And he let me know that we had a post coming up, that we could replace now, a member of a Board of the Elections. We had no way of knowing that. As a matter of fact, the reason we didn't have any way of knowing that is because there had been a person appointed by the local Board of Commissioners where they appointed -- we think she was a Democrat. We don't know. She never reported anything back to us. I don't want to belabor that point. I just wanted to let you know that No. 1 he got a hold of us and let us know that. No. 2 at no time was he unprofessional. He was simply educating me and educating

other members of the Democratic Party. He was very neutral in his -- when he was conducting meetings, it was never a partisan type of situation. Oh, and the last thing that I wanted to mention was his education process was about policy and procedures, which I had known nothing about that. I simply wanted to let you know that he said that.

**SECRETARY KEMP:** Thank you, very much. Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you for taking the time to be here today. Anyone else wish to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, does anybody else have anything else for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Is the Board ready for a motion?

**MR. WORLEY:** I make a motion that we close this matter.

**SECRETARY KEMP:** We've got a motion by Mr. Worely to close.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We've got a second by Mr. McIver. Any other discussion?

**MR. WORLEY:** I think Mr. Tatum makes a persuasive case. There is not a violation of the code.

**MR. MCIVER:** I wish we heard more from Mr. Tatum from time to time to clarify our various issues. Anyway, that's the end of the plug for Mr. Tatum.

**SECRETARY KEMP:** Mr. Tatum, you may want to raise your fee over there, a little bit. All right. We have a motion and a second. Hearing no more discussion, all in favor to dismiss or close the case, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. All right. Let's see, City of Gillsville.

**MR. WORLEY:** Mr. Secretary, I unfortunately have a client matter that could not be rescheduled that is going to require me to be away from the Board, so I wish you well.

**SECRETARY KEMP:** Good luck and have a good afternoon. Let the record show that Mr. Worely is excused for the rest of the afternoon. All right. Mr. Brooks.

**MR. BROOKS:** Mr. Secretary, the next case is 2009-38 City of Gillsville located in Hall County. The election involved in this was the general election, November 3rd, 2009. The Original allegation in this case was that the City of Gillsville did not have three poll workers available during the absentee ballot voting. The Office of Inspector General sent and investigator to the City of Gillsville to make inquiry into that. Once they arrived there, they realized that the City of Gillsville was not conducting an election. The investigation subsequent to that allegation was that there were several violations of the election code. They failed to hold the qualifying for the candidates. The candidates paid the City clerk as opposed to the elections superintendent and that they also failed to hold the election in the manner prescribed by law and that the election superintendent had not been certified as election official as prescribed. Violations in this case, the City of Gillsville violated 21-2-132(d)3 by failing to hold the qualifying and failing to be certified as an election official and failing to hold a general municipal election.

**SECRETARY KEMP:** Any questions for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wishing to speak on this matter?

**MR. STIPEN:** Thank you. I am David Stipen. I'm the City Attorney for City of Gillsville. I live at 1899 Blue Ridge Drive, Gainesville, Georgia. I wanted to put the complaint sort of in context. Gillsville is a very small community that only has about 200 residents. We, literally, could get the whole town in this room. It's that small. It has no full-time employees. It has no full-time City Hall. It has no full-time business hours. It has one part-time City Clerk that works 3 or 4 hours or 5 hours a month. It is an affective community. The community wants to maintain the town. The town has done effective work. They have restored three buildings in the downtown area, but it is a small community. They don't even have a stop light. It's a community where everybody knows everybody, two churches. The Mayor makes \$600 a year. The council members make \$300 a year. They probably make a quarter an hour for all the time and effort that they spend. It is sort of like being on the Election Board. It is a community service with not much glory and not much power, but you do it because it's a community service. We would submit to y'all that the town attempted to be in compliance and tried to be in substantial compliance. For the November 2009 election, the Mayor's seat was up. Only the Mayor signed up. Post 1's seat was up was Roy Turpin. And then Post 2, seat, as I said, because they don't make any money, they don't have power, it is purely a community service. They couldn't find anybody to run for post 2. So the position I took is under City Charter, section 5.3, that there would be a vacancy in office and city counsel could, in effect, fill that vacancy pursuant the charter for Mayor and for Post 1, the position I took was under O.C.G.A. Section 21-2-291. We essentially had had uncontested elections and, therefore, those candidates were deemed to have

voted for themselves and therefore we didn't have to have an election. So, we thought we had been in substantial compliance. I also wanted to point out that this matter before you today is not here due to any complaint by any citizen or elector of the City of the Gillsville. No citizen or elector of the City of Gillsville has complained about our elections or about city council or the way that they were held. Regarding the qualifying period under O.C.G.A. Section 21-2-132 Subpart (d) part 4 part (b), what it says is for qualifying at the normal business hours or for a lesser period of hours, then you go by the lesser period of hours for the city. It doesn't really give you much guidance, what you do when the city doesn't have any business hours. And the way we try to handle that is we put the phone number for the City Clerk in the ad. Everybody knows the City Clerk. She has been City Clerk for years. If somebody wanted to run, all they had to do is call her, make an appointment and get signed up. Certifications, our election superintendent did let his lapse. We probably needed to try to get a waiver under 21-2-101(c)1 the election issue, as I said, we took the position it was uncontested and we didn't have to do it. And I will say to you that we were concerned about this. We take this seriously and when these issues came up the City Council agreed to hold elections again and even put those uncontested positions up for election again. So we had a special election in March of 2010, again. We think this time we did everything right, that we were in technical compliance with all the election requirements. Again, the Mayor was the only person to sign up. So he was deemed elected. Again, the post 1 seat was the only person to sign up, so he was deemed elected. So the special election and the election in question had the exact same result.

**SECRETARY KEMP:** Do we have any questions for Mr. Stipen?

**MR. EVANS:** I have one. So, what you are saying is the City acted on advice of counsel?

**MR. STIPEN:** At least, in the cure, yes. I have tried always to advise them how to be in compliance with the code and I do my best with that.

**MR. EVANS:** I am not questioning the merits of the advice they were given, but what I heard you saying was they were aware of the requirements of the code. They reached to you for you to help them sort through it. And you told them, based on your advice, the best advice you could give, this is the right answer. If I misheard that, that's fine too, but that's what I heard and I want to make sure I heard correctly.

**MR. STIPEN:** Well, I did give them advice as to the election code. I do think they were in substantial compliance with the code. I think given the context of the situation, they did hold a fair election. And I think the fact that we went back and tried to even cure the technical defaults and came up with the same result says to me that when you look at the substance of the situation it was a fair election.

**MR. EVANS:** Well, our job is to make sure that the requirements in the code are followed. And when we have small towns come in front of us and they say, we have this situation. We sought out a lawyer. The lawyer told us this is the way to do it and we did it that way. If it turns out that is not the right way to do it, my reaction, typically, is to say, well, you took a good step in trying to figure out the right way. You didn't get it right. So, here is what we need to do. You need to do it the right way, but given that you sought out a lawyer to try to help you sort through

this means that I don't conclude that you did anything intentionally or recklessly. If, on the other hand, you are saying they came to see me after this all kind of got messed up and I told them, here is how to fix it, that is a different issue. I am just trying to figure out which bucket it goes in.

**MR. STIPEN**: It would go in the first bucket in that I generally prepare an election time line. I prepare an election ordinance. I usually try to be sure that they order from the Secretary of State's Office, the election kit. So we tried to do the best we could in our circumstances to meet the requirements of the code.

**SECRETARY KEMP**: Mr. McIver.

**MR. MCIVER**: What was the source of the City's charter?

**MR. STIPEN**: The source of the City's charter, we are chartered by the General Assembly. I can't remember the exact year. It's an old charter. It's like 18-something. I mean it's really old.

**MR. MCIVER**: I assume it has been amended, consistent with GMA's guidelines, things of that nature.

**MR. STIPEN**: My understanding of that is general state law under to the election code controls over the provisions of the charter, but what state law says about a vacancy is that charter controls. And our charter said the council could fill the vacancy.

**MR. EVANS**: I think we will hear from the rest. We have a couple of legal issues we will have to address.

**SECRETARY KEMP**: One question I wanted to ask, the advice that you were giving the City, was that after the first election was supposed to be held or were you advising them before the election was supposed to be held?

**MR. STIPEN**: In that you have to run the qualification ad in the February of the year of the general election, I generally start advising the cities in November or December, prior to the year of the general election. November or December I usually do an election ordinance. I do the qualifying ad. I do the call of the election. I give them a whole packet. So, we do it basically the year before, because we have got to meet that February 1st deadline date for running an ad.

**SECRETARY KEMP**: Any other questions for Mr. Stipen?

(NO RESPONSE)

**SECRETARY KEMP**: Thank you sir.

**MR. STIPEN**: Thank you.

**SECRETARY KEMP**: Anyone else wishing to speak in regards to this matter?



**MR. POOLE:** My name is Larry Poole. I live at 6518 Highway 52 Gillsville, Georgia. I am the Mayor that David was talking about that's been a sucker all these years, I guess, and did the job, basically, community service is what I tell everybody. He is correct in everything he said. I think David probably didn't want to go into more detail on the notifying us, but he sends us a package every year that gives us the guidelines of the elections and the procedures we should follow and if any failed to follow those, the fault would be on the council. We are all, basically, volunteers. We Like being a city that can maintain responsibility for our area, for our citizens. We don't really want to get a whole lot bigger. We like just being a rural community. If you want to come out there and buy 5 acre with a stream and put a horse on it, that is fine with us, you know. We just like maintaining the status as a city because of that control that we have. A couple of issues I want to address, briefly. Jack Bryant, who was our election superintendent, was the election poll precinct superintendent for Hall County for many years and the only contested election we have ever had, we enlisted Jack's help in handling that for us. He did an admirable job with it. I guess that was about the same time he was ending his time with the County. Jack is up in years. He is probably close to 80. He and I teach a Sunday school class together and he would be here other than he is, basically, physical incapacitated. He has gotten real feeble in the past few months and actually broke his foot not long ago. And the last two times he has taught our class he has to sit in a chair. He can't even really get around and walk, but a great guy. Any fault there, again, would have been ours, because we, basically, just called Jack up after David sent us a package and said, you know, would you handle this election if we wind up having one. That's the other thing I wanted to mention, if we wind up having one. About 16 or 17 years ago a friend of mine on the city council call me up and said, Larry, we need somebody to serve on the council. We don't have anybody that wants the job. And I said, well, that's fine, I will consider it. I called him back later and said I would serve and then we go through the election sign-up and everything. We did. Nobody else signed up or we were getting ready to. At the last minute Rick called me and said, Larry, we need a Mayor. I said, What do you mean we need a Mayor. And he said, well, our Mayor has decided to step down. Why don't you just take that job. I thought take that job; I thought you ran for that job. I said you have council people that have experience. He said nope, none of them want it. I said, You have got citizens in your community that might want it. He said, we can't find anybody that will consider it. Would you consider being the Mayor. I signed up, ran unopposed and that was the case for three elections. We have a friends group that organized two elections back. They decided they could run things better than us. That was the only contested election we ever had. They did put forth there three candidates to run against myself and two other people. And the original council members all won. And I realize you guys have to follow the rules of law. We understand that. I appreciate David explaining the technical situation to you, but we had no intention of doing anything wrong. We, basically, were just reacting. If we had people to sign up and we did advertise, everybody knows everybody. If anybody had wanted to sign up, they would have told a council member or the clerk and then we would have kicked everything in motion and had the full election like we did in that one contested election. But I would appreciate it if you would consider like David said the situation we are dealing with as volunteers. And we don't intend to do anything wrong. And I assure you that we followed the letter of the law in the election that we did, the special election with David's counsel, and we'll continue to do that. I thank you for your time. And I want to commend you for having invocation before the meeting today. That's great. I appreciate you doing that.

**SECRETARY KEMP:** Thank you, Mayor. Any questions for the Mayor?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wish to speak on this matter?

(NO RESPONSE)

**MR. EVANS:** The difficulty is that we have to require every municipality and every county to follow the rules. The implications were quite serious for the State and for us and for you. I will give you an example. If you decide to dispense with qualifying, you have to get pre-clearance for that from the Voting Rights Division of the Department of Justice. If you make any changes to the way you conduct elections, it triggers all these pre-clearance issues. Why do I tell you that? Well, because the implication for the state is that if we have either a municipality or if we have a section of the state that doesn't get pre-clearance then under to U.S. Supreme Court decision, it could hold us into the Voting Rights Act for an additional 10 years. It places on us a great onerous to make sure that we are very meticulous. It places on you a great onerous because they take it very seriously and we take it seriously. And we have small municipalities come to virtually every meeting and they all say we are really small and we really don't, you know, it's a lot of expense. And the answer is that it is one of the necessary expenses of being a government, that is that we have to really strictly follow the rules. Now, I say all that, because -- and that is why I was very interested in knowing whether or not you had followed the advice of counsel, because the first thing we ask is that you follow to rule of law. The best way to follow the rule of law is to typically retain counsel or call the Secretary of State's Office. You don't have to hire a lawyer. You call Mr. Taylor. He is very helpful in terms of walking municipalities through it, but we do have to do that. So since you have counsel here, we have the option of expediting the whole process. So my recommendation and my motion is that we offer a consent decree that will resolve the matter. Note that there were violations of the specific provisions which the code has provided, but that appropriate remedial action will be taken to make sure that on a going-forward basis that the letter of the law will be complied with as it is specified in the code and you will get confirmation of that from either Wes or whoever is the head of the Election Division of the Secretary of State's Office and that we get a kind of a certification of that, for 2 cycles, two election cycles. And then we will be satisfied that you are on the right path. But I think that's the way in which we can confirm to the municipalities that we have to do our job, where we take into account the unique fact or circumstances that you have and that we help move the ball forward. But in order for this work, you would have to then agree that if that's the proposal of the Board then we will agree to that and then someone will prepare a consent decree that your counsel can then review.

**SECRETARY KEMP:** Before you answer that question, let me see if anyone else has anything?

**MR. MCIVER:** Your Honor, your counsel, my question would be, would you but willing to agree to a consent order?

**MR. STIPEN:** Yes, sir, we would.

**MR. MCIVER:** With that as a predicate, I would second to motion.

**SECRETARY KEMP:** Thank you. Anybody else? Mr. Webb, do you have anything?

**MR. WEBB:** No. I was just reviewing the code. Mr. Evans, a lot of the issues have to do with the qualification. If that had been done correctly, then I think they would be able to qualify under to exemption and not have to have the election.

**MR. EVANS:** That's exactly correct, but what we know from the Department of Justice is the one thing they will not approve is for qualifying by private appointment because they fear the intimidation factor, which is, there are people who won't qualify because they don't want to have to go to the existing structure, the existing government to tell them that they, in fact, are going to challenge. While it probably has no meaning in the context of your community, there are communities where that's a major concern and so it is the same rule for everybody. So, Mr. Webb, I completely agree you. It is the qualifying method.

**MR. WEBB:** Thank you.

**SECRETARY KEMP:** Any other comments or question from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Is there anyone else who wishes to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Mr. Evans, I've got one question for you. Your motion for the consent, will that deal with all three of the potential violations, even the certification of the election officials?

**MR. EVANS:** I would assume that what would happen is that Wes would have to confirm that they have complied with all the provisions.

**SECRETARY KEMP:** So it would. That was the only thing I had a question about. Any other questions or comments from the Board. We have a motion by Mr. Evans and a second by Mr. McIver for the consent.

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign. That motion passes. Thank you, gentlemen.

City of Temple.

**MR. BROOKS:** Mr. Secretary, the next case is 2009-45 City of Temple, in Carroll County. The election that was involved was the November 2009 Municipal General Election. The allegation in this particular case was that there was a city council member who was circulating a letter that the people making the allegations deemed to be intimidating to voters. The second allegations were that there were 11 people who were allowed to vote in the election who did not reside in city limits and, therefore, would not be eligible to vote in that election. The letter that was purported to be an intimidation of voters was simply a letter supporting specific or certain candidates in that particular election. It wasn't intimidating to anybody or we had no one come forward and say that they were intimidated not to vote on behalf of that letter. Of the 11 people who it was alleged did not live in the city the investigator was able to interview a majority of those individuals. There were three that did not respond to letters that we sent or phone calls that we made or any other kind of contact we made with them. There were a total of three people in the election who actually voted, who should not have been allowed to vote. Eddie Pennington, one of the respondents, lives in Bremen, Georgia, clearly outside the city limits of Temple.

**SECRETARY KEMP:** What was that name, again?

**MR. BROOKS:** Eddie Pennington, the first respondent. The two others, Joanna Tallent and William Tallent live in City of Temple. During the investigation we determined that the city limits sort of runs where the mailbox is and the house actually is in the county, but the mailbox is in the city. Over past elections the Tallents stated that they have gone to poll workers and told them that they live in the county. They don't live in city. And they have been assured that it would be fixed and it would be taken care of. After several times that it wasn't taken care of, they simply voted where they were told to vote, which was in the City of Temple. Those are the only three that we were able to determine did not actually live in the city. And we recommend that on the Tallents, we have been assured that that has been corrected and that they are now properly placed where they need to be placed, for voting purposes. We are recommending that the case on Eddie Pennington be bound over to the AG's office and on the Tallents, we are recommending that that case be closed.

**SECRETARY KEMP:** Any questions for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** One thing. On the Tallents, actually their house was in the county and the mailbox was in the city?

**MR. BROOKS:** Yes, sir.

**SECRETARY KEMP:** That's very confusing. Any questions from the Board for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wishing to speak on this case?

**MR. BIESS:** Yes, sir. My name is Jason Biess. I'm an Attorney. My address is 8701 Hospital Drive, Building-A, Douglasville, Georgia 30134. How this case came to see you was kind of interesting. It was a hotly disputed election. It came down to three votes. Mr. Harmon (phonetic), who was my client, contested the election and that's how we came to know that Mr. Pennington, as well as the Tallents, probably shouldn't have voted in that election. If it had not been for the research that this Harmons did, nothing would be changed at this point. It would probably still all be the same. In regards to the Talents, I agree that that needs to be dismissed. At this point there is no reason to believe that they had any wrongdoing. In regards to Mr. Pennington, let me say that he is a man of diminished capacity, a special person. We found that he voted from an address that he had rented from years and years ago from the Harmons and that is how they knew that he shouldn't have been voting from there. He obviously didn't live there. He didn't rent from them anymore. So we went forward and found that that's how they came to be. Actually, he bought some property outside or his family helped him by some property outside the city limits. It was being foreclosed on at the time. Now, it is not being foreclosed on, due to some type of federal plan. He is spending a great deal of time at his mother's house. He considers himself to be living there. Given those facts, the fact that Mr. Pennington is a man of diminished capacity, that where he lived at or where he didn't it is kind of arguable. We ask that that also be disposed of at this point, with maybe a consent order. We don't believe that that is the kind of thing that needs to be pushed forward to the Attorney General's Office.

**SECRETARY KEMP:** Mr. Biess, who are you representing?

**MR. BIESS:** I'm actually representing Mr. Harmon, who is not in the case. He was an interested party. If this goes forward to the Attorney General's Office who then forwards it on to the District Attorney, who decides to prosecute, we will probably represent Mr. Pennington pro bono at that point.

**SECRETARY KEMP:** So, you are representing the complainant, asking that the case be basically closed.

**MR. BIESS:** At this point we don't even know who the complainant is. We didn't receive any of that information. If you can tell me that. That --

**SECRETARY KEMP:** I will ask that question in just a second.

**MR. BIESS:** Thank you. In the meantime, we would ask that, regardless of what happens, that maybe there be an audit of the city and the county election list. So that that can be cleaned up for sure and make sure everything is taken care of, so that this doesn't happen again. We know, also, as of yesterday, maybe this process could have been circumvented a little bit. The District Attorney was at my client's address, questioning him about -- Excuse me. The District Attorney had alerted to GBI. It was actually the GBI was at my client's address, questioning him about whether or not he had approached Mr. Pennington to vote, knowing that he was outside the city limits and that type of thing. I believe that was kind of a circumvention of the Board. We want to respect what your decisions are and not go around you. We certainly hope the County will not do the same. Do you have any questions of me?

**SECRETARY KEMP:** Any questions for Mr. Biess?

**MR. MCIVER:** If I understand your argument with respect to Mr. Pennington, this has to do with his geographical residence and not diminished capacity, is that correct?

**MR. BIESS:** A little of both, actually, sir. I do not know if he actually understood that, actually, that he couldn't vote. He had been voting from this residence. He never changed his address. He always voted from there. He is in his 30s or 40s now. He always voted from there. I don't know if he knew he was not supposed to. Whether or not the Board takes that into consideration, I don't know. I don't believe if it was forwarded to District Attorney or Attorney General that they would do anything with it. I'm sure that they would be happy to work with them.

**MR. MCIVER:** There is no question he resides someplace else?

**MR. BIESS:** For purposes of the election, that's correct. I believe so. Since the election he has gained a stronger foothold and now is no longer in foreclosure. He was spending a great deal of time at his parents house, and back and forth. There is some question as to where he did live at.

**SECRETARY KEMP:** Anything else?

**MR. MCIVER:** No.

**SECRETARY KEMP:** Thank you.

**MR. WORLEY:** Thank you, sir.

**SECRETARY KEMP:** Anyone else wish to speak?

**MR. LEE:** Good afternoon, member of the Board. My name is Nathan Lee. I'm a lawyer in Newnan. I represent the Carroll County Board of Elections and Registration, who serves at the Board of Elections for all of the municipalities in Carroll County, including the City of Temple. This started out of the November 3rd election, as Mr. Biess said, between Rick Ford and Lester Harmon for Mayor for the City of Temple. It came down to -- three votes is what would matter before you had to have another election. And shortly after the election, Mr. Biess contacted me, telling me he was representing Mr. Harmon and there were 11 people that voted in the election that should not have voted. Myself, I have the elections supervisor and also the voter registrar with me, if you have any questions for them to investigate and try to find out if there was any truth to this. An elections contest was filed by Mr. Harmon at that time. We were able to get in contact almost everyone, except for Mr. Pennington. Mr. Pennington, we couldn't find him anywhere. Mr. Biess provided us with an affidavit of sorts that says, of Mr. Pennington, that says, I don't live in the City of Temple, but I voted in the election. So, I don't know how he was able to obtain that. I have no reason to doubt Mr. Pennington, but we were never able to find Mr. Pennington to confirm that. There are two other people, William and Jeff Tallent, who you heard of today, who I personally spoke to Mr. Tallent and he told me, yes, I voted in this election and I knew I didn't live in the City of Temple when I voted in it. I asked him why he would be

compelled to vote. He said it was his constitutional right. He wouldn't allow me to talk to his wife, but he assured me she also voted and knew she should not have voted. She did not live in the City of Temple. We corrected their address when we were doing our investigation and wondered how in the world did these people end up on our voter records and it turned out that city limit, indeed, run through their property line. And we became of the opinion that if the house was not in city then they probably don't need to vote in the city. The election contest was ultimately dismissed by Judge Sutton on a procedural defect, but based upon the affidavit we had from Mr. Pennington, and the statements we had, and directive from the Tallents to me -- we also had some statements from their neighbors, the Tallents' neighbors, where Mr. Tallent said I know I am not supposed to vote in this election, but I'm going to. We went forward with having the hearing to have their names removed from the listing of electors of the City of Temple. The rest of the 11 people that we were told that voted in the election that should not have, all checked out. We talked them. We got water records. We did all kinds of things to make certain they did live in Temple. We held the hearings to remove them from the list of electors. None of them showed. The Board of Elections voted to remove them from the list and also voted for the election supervisor to notify the District Attorney about these three individuals, who knowingly voted in this election when they should not have. We did that. It is my understanding that is with the GBI right now. We have some remedial actions, which we took to make sure we didn't have similar problems elsewhere in the county. What we did first is we got the county GIS to give us a list of each municipality and all the streets and addresses in the municipality. We then cross-checked that with what we call our street file, which contains all of our lists of the street addresses and voters and municipalities. Outside off the Tallents we found no other addresses that were in question. We then went a step further. We also sent these GIC maps to all the municipalities to let us know if they had any disagreements with us as to who, in fact, was a voter in their city. And then what we also did is we went to each municipality and for each street that was partly a municipality and partly in the county, we cross checked that with the county tax records and we went and we got the last city tax parcel on the tax records and we crossed checked it with the voter address records and we found no other problems. With respect to Mr. Pennington; other than -- I don't know how we correct somebody moving from the city and not telling us they had not moved and still maintained a P.O. Box there, but since he did not appear for his hearings to say he should not be removed from the list of electors, the Board thought it appropriate to remove him. And I have nothing further, unless you have questions for me or for my clients.

**SECRETARY KEMP:** Thank you, Mr. Lee. Any questions from the Board for Mr. Lee?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you. Appreciate it. Anyone else wish to speak on this case?

**MR. BIESS:** Can I have one more minute?

**SECRETARY KEMP:** Anyone else new wish to speak?

(NO RESPONSE)

**SECRETARY KEMP:** Yes, sir.

**MR. BIESS:** I wanted to point out that your investigator did not find any substantiation to the allegation that Mr. Tallent had told anyone that he knew that he was not supposed to vote and was going to vote anyway and that type of thing, that there was nothing that came forward in the report when investigated.

**SECRETARY KEMP:** Any other questions for Mr. Biess?

(NO RESPONSE)

**SECRETARY KEMP:** Mr. Brooks.

**MR. BROOKS:** Yes, sir.

**SECRETARY KEMP:** When we did our investigation, did we talk with Mr. Pennington and if we did, did you see his diminished capacity, I guess?

**MR. BROOKS:** I believe the investigator is here. I believe he did interview Mr. Pennington. And he can speak towards that.

**SECRETARY KEMP:** Hang tight, Lee, for just a second.

**INVESTIGATOR ZAGORIN:** Vincent Zagorin. 2 Martin Luther King Junior Boulevard, Atlanta, Georgia 30058 (as stated). I did talk to Mr. Pennington and I could tell in our phone conversation that there is diminished capacity. He basically said that there was issues in Temple that he wanted to vote on because his parents still lived there, but he did not live there.

**SECRETARY KEMP:** So, he knew enough to know that there was issues to vote on. But he wasn't in a diminished capacity where he didn't realize what was going on in elections, is that what you're saying?

**INVESTIGATOR ZAGORIN:** At that point, yes. He basically came right out and said, I don't live there. I voted there because of an issue, but speaking with him in just general conversation I could tell that there was some diminished capacity there.

**SECRETARY KEMP:** Okay. Anyone else got anything?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Anybody got a motion?

**MR. EVANS:** Yes. I move we bind it over to the Attorney General's Office, all four.

**SECRETARY KEMP:** We've got a motion to bind it to the Attorney General's Office by Mr. Evans. Do we have a second?



**MR. MCIVER:** Second. I agree on all four.

**SECRETARY KEMP:** Mr. McIver seconds on the motion. Any other discussion?

**SPEAKER:** I have a question. I thought -- my understanding is that there were three respondents. Who is the fourth respondent being bound over?

**SECRETARY KEMP:** The election superintendent is being bound over.

**MR. EVANS:** My thought on the election superintendent is that if the corrective measures that you've described have been implemented, we just need to get that confirmed and the type of remedial action plan that we have heard about earlier today.

**SPEAKER:** Is there anyone I can contact to facilitate that?

**SECRETARY KEMP:** Yes, sir, Mr. Biess.

**MR. BIESS:** A point of clarification, is it bound over on Mr. Pennington or is it bound over on the Tallents, as well?

**SECRETARY KEMP:** All four of them.

The motion is to bind over Mr. Pennington, both the Tallents, and then the elections superintendent. Any other comments by the Board?

(NO RESPONSE)

**SECRETARY KEMP:** We have a motion and a second all in favor signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. The motion is approved and it's bound over.

**SECRETARY KEMP:** City of Dahlonega.

**MR. BROOKS:** Mr. Secretary, the next case is 2009-46 City of Dahlonega, in Lumpkin County. The election that was involved in this was the City of Dahlonega Municipal Election and the City of Milledgeville, Municipal Election, November 3rd, 2009. The respondent in this case, Sarah Elizabeth Ariema is a college student in the City of Milledgeville. She maintains a permanent residence address in Dahlonega, Georgia. The allegations in this particular case is that she voted in person in the City of Milledgeville and also submitted an absentee ballot in the city of Dahlonega in their municipal election. The investigation in this case determined that an

absentee ballot was sent to the Dahlonga address for her in August of 2009. This ballot that was sent in August was actually completed and returned to Clerks office on October 23rd of 2009. We discovered during the investigation that she had transferred her voter registration in September of 2009 to the City of Milledgeville. She voted in person in the City of Milledgeville on October the 19th of 2009 and she returned the absentee ballot to the office in Dahlonga four days later, which was the 23rd. At that particular point in time she had been removed from that list of eligible voters in the City of Dahlonga. When the absentee ballot was requested in August, she was on the list of registered voters in Dahlonga at that particular time.

**SECRETARY KEMP:** Any questions for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone wish to speak on this case?

**MR. ARIEMA:** My name is Johnny Ariema. I live at 242 Baldwin Road North, Dahlonga, Georgia 30533. I am here to represent my daughter. She is away at college. I am an elected official in Dahlonga. I'm a City Councilman. You know, when you send your young kid off to school, a couple of things you can almost assume is going to happen, one, they are either going to get a tattoo. They are going to get a new pet or possibly change their registration. And that is what my daughter did. Now, knowing my daughter for 18 years, she is somewhat of a drama queen. When I had sent the absentee ballot to her, she had stated that she changed her registration. I said why, did you do that. She started talking about a gentleman, somebody at school trying to change the housing, there, on campus and what have you. And she went on and on. She really didn't make a whole lot of sense. I didn't have much conversation about that with her. It was almost a month later I checked with our City Clerk to find out if she, indeed, had changed her registration or, maybe, I was thinking she changed something at school. And she didn't. She actually knew exactly what she did. She did, indeed change her registration. Based on how she explained it, with somebody trying to change the housing at school that was somewhat of an administration thing or what have you. At any rate, you don't have this in front of you. Listed as a plaintiff, as you know is the City of Dahlonga. But Janet Gerrard our City Clerk had sent this document over to Jason O'Toole, the investigator. And I will not read the whole thing, but I will go on to say that -- it goes on to say that after her ballot was mailed, Lou Stewart, who, at that point in time, was our assistant City Clerk, received a call from Mr. Ariema, to check to see if his daughter was on the list of voters. He stated to her that his daughter said that she might have changed her registration. She goes on to say, again, I checked the list and verified that she was on a list of voters. Her ballot was received November 23rd 2009. Apparently, she transferred to Baldwin County on September 21st. There was a month lag there. That is one of the things that I was disappointed in. My daughter didn't do anything intentionally. I mean, she told me, Dad, I registered already. I changed my voter registration. I should have not dismissed her as and 18-year-old drama queen. I should have figured she indeed knew what she did. It wasn't a close vote. I won the election, 2 to 1. That ballot was never counted. So, one of the things I'm disappointed in, how on earth do we have one-month worth of lag time in the time that I called and the time that she changed her registration. I have a contract here of services delivered strategy from the county to the City. And, you know, it spells it out here that they handle the registration ballot for it. I can't fathom that they are over a month

behind. This City of Dahlonega is using a docket that is over a month old. So, again, I am here because I'm taking some of the blame. I should have realized, taken what my daughter said as factual. Instead, almost a month later, I confirmed with the City, just to be sure. And the City confirmed that, yeah, she was still registered in the Lumpkin County. I never would have thought in a million years that we're lagging behind a month. I am a newly elect official. I have only been on the council for about year now, a little over a year.

**SECRETARY KEMP:** Any questions?

**MR. MCIVER:** Yes.

**SECRETARY KEMP:** Mr. McIver?

**MR. MCIVER:** Is there any reason to believe that your daughter didn't realize she voted twice in the same election?

**MR. ARIEMA:** She told me she did. She said, well, she didn't vote in person twice. It was --

**MR. MCIVER:** She cast two ballots.

**MR. ARIEMA:** Yeah, she cast two ballots. She told me. She said, Dad, I've already registered. But, again, because of the situation with the school and all. I thought it was just really talking about someone at the school system there trying to change the housing or something like that. Like giggly girlfriends trying to get this guy out, because he is trying to change the housing at school. So, it didn't make sense to me. That is why, as time went by, a month went by, I made that call to City Hall. Then I realized, and then I thought to myself, I am right about my own daughter. She is not quite mature yet. I apologized a million times to her, because she is mortified about what happened.

**MR. EVANS:** She should be.

**MR. MCIVER:** She violated the Georgia Election Code.

**MR. ARIEMA:** No, there is no question about it. Again, the fault was, I would say, myself and that I have got to believe that -- I would like to change the process to where we have got a better, we don't have the kind of lag time in between a voter registration list because this could potentially happen, again. You know, you send kids off to school. They do things. You know, you don't really know exactly what they're doing. They're at school.

**MR. MCIVER:** Mr. Ariema, it is very noble that you would defend your daughter. But in the State of Georgia, at 18 she has reached her majority, as an adult.

**MR. ARIEMA:** I understand that.

**MR. MCIVER:** She has cast two to ballots in the election in the State of Georgia.

**MR. ARIEMA:** The City complained, as a plaintiff, the City confirmed. They wrote this letter that said, yes, Mr. Ariema did call to re-issue. I said if she hasn't changed her registration, if she did change her registration, throw that vote out.

**MR. EVANS:** Yeah, but that's not how it works. I want you to understand, there are two possibilities here. One possibility is that within 4 days your daughter cast two ballots in an election. We don't permit double voting and we take it really serious. In fact, Mr. McIver, on occasion, has urged that we adopt the thousand-dollar rule for double voting, that we have the hundred-dollar rule on absentee ballots. Cases like this make me think that should be the rule the. The other possibility is you mailed her absentee ballot and your daughter is, in fact, totally innocent here. So, that she is not here, I think the AG can deal with that, but I just want you to know that the one thing that won't happen is that you get to double vote and there is going to be a slap on the hand or it's going to go away. She is responsible. She voted twice in four days. She has got to be held accountable. There is no sword falling that will work. She voted twice in the election and we will deal with it.

**MR. ARIEMA:** With all do respect, the absentee, I don't have all the dates. In terms of when she received that absentee ballot, apparently, when he received that absentee ballot, she was already on the voters list.

**MR. EVANS:** Okay. I don't care how many voters lists you come to. You know if you cast two ballots in the same election. And they are 4 days apart. One was on October 19, which was 4 days prior voting in the City of Dahlonga. One of those votes was in person. And the other one is a ballot she made up. These are unequivocal dates and the one part that sends me in a different direction is to somehow blame this on the City or on the Election Division and they are the ones who are doing their job by reporting that we had a double voting. And the delay, one way or the other, if they had done their job we would have caught it soon, no, there is a the simple answer. You don't vote twice in the same election.

**MR. ARIEMA:** I understand, but I don't know how long the City actually had that vote, that absentee. I don't know when she actually mailed it. I know I mailed it a month in advance of that actual -- by the time they actually counted that.

**SECRETARY KEMP:** You mailed the ballot?

**MR. ARIEMA:** No, I mean I mailed here the absentee. I mean, as a father I am able to do that. But she did tell me she voted and I figured let the authority determine that and the City and the County determine that, because I was unsure. If I was more sure I obviously would have said don't send that vote in.

**MR. EVANS:** But do you realize where that would lead if we said to every voter in Georgia, vote as many times as you want we will let the system figure out which one is the right vote?

**MR. ARIEMA:** I understand that. I think the issue lies here, as well -- You have to take into consideration the fact that she voted in Milledgeville, which is 3-and-a-half hours away from Dahlonga, in person, and she sent a ballot in, within that given month or whatever time that

was. I mean, it is not like she went to Dahlonga and voted twice.

**MR. EVANS:** She voted twice. I am astonished that you're not shocked. Okay.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, councilman. Anyone else wish to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, do we have a motion?

**MR. EVANS:** Move to bind it over to the Attorney General's Office.

**SECRETARY KEMP:** Mr. Evans moves to bind over to the AG. Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** Second by Mr. Webb. Any other discussion?

**MR. MCIVER:** I have some discussion and need some direction from Ms. Brumbaugh. If this matter ends up in the form of a consent decree I would like to know the fine that is suggested is within the parameters that we regularly set from this Board and to the extent it's possible, I think the individual voter here should pay that fine and not her parents.

**MS. BRUMBAUGH:** I will make a note of that.

**SECRETARY KEMP:** All right. We've got a motion and a second. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries. All right. Let's see here, City of Boston.

**MR. BROOKS:** Yes, sir, Mr. Secretary, the Next case is 2009-48 the City of Boston in Thomas County. The election that was involved in this was the municipal election, November 3rd, 2009 for the City of Boston. The allegation in this particular case was that voters during the absentee period were not given the envelope to place their secret ballot into once they cast that ballot. And additional allegation was that voters were allowed to vote outside the hours that were established for the voting period. The investigation in this case determined that the voters were not required to complete the oath envelope after voting during the early absentee period. It was

also determined that voters were taken to City Hall on a Saturday to recast some of those ballots after it was determined that the oath envelope had not been signed. Further investigation revealed that the officials conducting the election had not signed their oath of office before they performed their duties. I also determined that the election officials did not receive the training or the certification as required by law prior to performing their duties. The violations in this particular case, City of Boston did not provide two poll workers during the absentee voting period. Tina Goodwin violated 21-2-93, performing the duties of poll worker prior to taking their oath of office and performing the duties of poll worker prior to receiving the training that is required by law. And there were six instances that were uncovered where they were not provided the two envelopes for the absentee ballots. And, again, Sidney Carsen also violated those same code sections.

**SECRETARY KEMP:** Any questions for Mr. Brooks?

**MR. HARVEY:** The Mayor of Boston sent a, essentially, a response and a remedial, he asked me to present to the Board.

**SECRETARY KEMP:** Move to accept the letter from the Mayor.

**BOARD MEMBER:** Second.

**BOARD MEMBER:** So moved.

**SECRETARY KEMP:** We have a motion and a. -- Second again.

**MR. MCIVER:** Now, I Second.

**SECRETARY KEMP:** Sorry about that. Okay. We have got a motion and a second to accept the letter. All the favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries.

**MR. EVANS:** I think we needed an amendment to add the City of Boston as the respondent, so that we can hold them to a remedial plan.

**SECRETARY KEMP:** The only concern I have is, are you talking about adding them now or a new case?

**MR. EVANS:** I would just add them.

**MR. MCIVER:** I think there is a notice issue here.

**MR. EVANS:** If they agree to the remedial -- I mean he has opposed the remedial plan, I would rather, if it meant that if they don't accept their own remedial plan that we then have to have another notice. I would be find with having another hearing to give them an opportunity to explain why they don't want to implement their own remedial plan.

**SECRETARY KEMP:** Is there anyone else here wishing to speak on this case?

**MR. MCIVER:** I just doubt this is constructive notice.

**SECRETARY HANDLE:** I guess the other thing, couldn't we bind it over and just let the AG's office work out the details of the agreement, and then it can just come back for us to accept.

**MR. MCIVER:** I think the Chair is right.

**MR. HARVEY:** For the record, the City was noticed as a respondent.

**SECRETARY KEMP:** Oh, they were.

**MR. MCIVER:** That is not reflected in your summary.

**MR. BROOKS:** That was an addition when we sent out notices. I apologize for that oversight. We notified them and their attorney.

**MR. WEBB:** Did you notify them that they were a respondent?

**MR. HARVEY:** Yes, sir. We have got a letter to the attorney that says our records indicate you represent the City of Boston, who is listed as a respondent.

**MR. MCIVER:** That is troubling to me, given these official reports that we've got here that don't reflect that. I just move that we bind it over.

**MR. EVANS:** Can we bind it over to the City if they are not listed as the respondent?

**MR. MCIVER:** Just to interrupt, for a moment, Mr. Evans, I think that the AG's Office can seek and obtain a waiver of notice and go forward.

**MS. BRUMBAUGH:** I'm a little less troubled in this case because the two respondents that are listed are both City of Boston employees. To discuss adding the City as an entity, as a respondent, we have already noticed two individuals who work for the City. I would say that is actually constructive notice to the City. You are not comfortable with that.

**MR. MCIVER:** That concerns me. How do the other members of the Board feel about a waiver of notice? We bind it over and she seeks a waiver on behalf of the City. The city, at that point, wins.

**SECRETARY KEMP:** I'm fine with that, but I think, too, if we have the letter that went out to City, even though it is not on this document, that they were aware of. I think we can always just bind it over, and let Ann work something out with the City, and if they don't want to, they can just bring it back.

**MR. WEBB:** I concur. We would need to have the waiver in the consent. If we get that, we can move forward.

**MS. BRUMBAUGH:** Okay.

**SECRETARY KEMP:** Let me make sure there is no one else here to spoke on this matter.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Now, I'm ready for a motion .

**MR. MCIVER:** I move we bind this case 2009-48 City of Boston over.

**SECRETARY KEMP:** We've got a motion by Mr. McIver to bind it over.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Second by Mr. Webb. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

**MR. EVANS:** No.

**SECRETARY KEMP:** Mr. Evans votes no. The motion carries. It is being bound over. Okay. City of Warm Springs.

**MR. HARVEY:** Yes, sir, the next case is 2009-50 City of Warm Springs in Meriwether County. Before I get into the allegations, let me apologize. The allegation says this is a continuation of an investigation. That is not correct. This is simply one investigation that was an initial investigation done on an original list that was provided and then there was a second list provided subsequent to that. So there were two separate lists that were given. The allegation in this particular case is that candidate for Mayor Sheila Lee and the Chief of Police, Charles Lee were paying electors for their vote in the November 3rd, 2009 municipal election. And that the second allegation was that the Chief of Police, Charles Lee had promised electors alcohol to support his wife for the office of Mayor. Through the investigate, there was a total of 16 names



that were furnished that supposedly had received compensation for their vote, however, the investigator used all the investigative techniques that he had and was not able to substantiate any of those allegation. There was a second list provided to the investigator and the investigator did the same thing with that list. He was unable to support any of the allegations as it related to people being compensated or paid for their vote in that particular election. The one thing that did come out of the investigation was that the respondent here, Gregory Guy Robertson, who is an inmate at Coastal State Prison used a cell phone to take a picture inside the polling place. And that is why he is listed as a respondent for that violation.

**SECRETARY KEMP:** Any questions for Mr. Brooks?

**MR. EVANS:** So, Carlos White, we never heard from; is that right?

**INVESTIGATOR:** I worked that case. We did not hear from him, sir.

**MR. EVANS:** Did you check the jail?

**INVESTIGATOR:** No, sir, but I left numerous cards at his residence.

**MR. EVANS:** I know, but this says he is in and out of jail. He deals with dope dealers. My guess is --

**INVESTIGATOR:** By the time I was working the case, my understanding was that he was not in jail.

**MR. EVANS:** I'll bet he is, just based on this report.

**MR. MCIVER:** As small as Warm Springs is, I would be inclined to think somebody would know that, wouldn't you think?

**MR. EVANS:** It is just that we have had befor us case of vote-buying and selling in Warm Springs before. The first time it comes up, I just attribute it to losing candidates. The second time it comes up, I start to think, that's unusual. And than the third time it comes up, I think, you know, this is exactly the pattern we saw in Dodge County and having lived through Dodge County and I remember how long it took us to actually get to the point where we found somebody who would, in fact, own up to selling their vote, because nobody ever just said, yeah, I sold my vote, because they all know what the implications are. The statute is both the person paying for the vote and the person accepting money are both guilty. So, that's the only thing that concerns me. I thought it was interesting that there were 16 names.

**INVESTIGATOR:** There were several people. It's in my report. There were several people I tried to talk with. But they either wouldn't return my call or they wouldn't come to the door.

**MR. EVANS:** I am not surprised by that.

**INVESTIGATOR:** I'm not either.

**SECRETARY KEMP:** I am trying to figure out is there a way? Do you have any thoughts about how we crack that knot and that persistence applied -- listen, this is a great report, very thorough and very well done.

**INVESTIGATOR:** Thank you.

**MR. EVANS:** It is not intended to be directed toward you in any way.

**INVESTIGATOR:** Yes, sir.

**MR. EVANS:** It's a frustration as somebody that has sat here and seen these allegations come in and out of Warm Springs before.

**INVESTIGATOR:** I spent numerous days, numerous hours out there. I tried to make contact. The people I did talk with that witnesses told me that had some information about it. They wouldn't come forward. I believe a lot of people were afraid of like you said about charges coming forward if they with come forward.

**SECRETARY KEMP:** Will you just state your name and address for the record.

**INVESTIGATOR ARCHEY:** Glenn Archey, Secretary of State, 237 Coliseum Drive, Macon, Georgia.

**MR. EVANS:** This is the first time we have actually had a witness who stayed firm all the way through the process. More often than not, what happens is as we work our way through it, the witnesses get squishy on us and say, well, maybe it wasn't. Maybe, I misheard that. This is first time we have actually had somebody that stayed firm all the way through. And said, no, I got 50 bucks for a vote.

**INVESTIGATOR ARCHEY:** I understand, sir. I tried to verify that, but I couldn't verify it.

**SECRETARY KEMP:** Anyone else. Any other questions for Mr. Brooks?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wish to speak on this matter? If you want to speak, come on up to the front please.

**MR. RAMSEY:** Good afternoon, ladies and gentlemen. My name is Michael Ramsey. I live in Warm Springs, Georgia, 147 Broad Street, 31830. I have lived there for 40 years of my life, besides the time that I did a tour in Vietnam, excuse me, Marine Corp. I have been there my whole life, 40 years. I know a lot of people. When things happen, people talk. It's a small town. A lot of people know me from all walks of life. When this started happening, it became a joke. People were coming up to me saying, yeah, you vote for Sheila, you get beer and cigarettes and gas down at the BP. Now, you have got to understand, this is a can of worms. This here is more like a 5-gallon bucket of worms, okay. At the BP, the owner wants a liquor store. And there has

been people trying to get a liquor store 40 or 50 years in Warm Springs. It's not going to happen, basically, because it's a Christian town. Franklin Delano Roosevelt had a lot to do with the development of the town with the polio treatment and everything there. And from what -- everybody has got opinions. Personally, I think that they got him on the vote promising him a liquor store. Therefore he started talking to all these people coming in as customers and everything, you know, giving them gas, cigarette, beer, doing favors like that for them to get them to vote. And that's when it was kind of a joke. Then it progressed. Everybody started taunting me, telling me all these stories, coming up to me telling me all the stories; Yeah, they give so-and-so 50 bucks. Yeah, they gave so and so \$25. This Carlos white was said to have said, hell, yeah, I voted form. He gave me \$50 buck. I went and bought a bag of dope. Now, the reason why these people won't talk, most of them are young, could care less about voting, probably never voted in their life, been in and out of jail and have been manipulated in some form or fashion to vote whether it be promised carry on your lifestyle, okay, I will leave you a alone or whatever the case may be. I, myself, have met with Mr. Archey 2 or 3 times. I provided him with pictures that I took myself of the Police Chief, Fred Wolfa, which is a council member, taking people to the voting polls, 12 miles from the town, when all they maybe had to do is drive a half a mile the vote. Now, You have the think logically behind that. Why would somebody jump in somebody's vehicle, drive them 12 miles down the road to vote when they could just walk to where they have to vote. You say, well, that is a whole lot of gray area. Well, maybe so. But that makes no sense to me. These people that have voted, like I said, are low income, most of them probably dropped out of school, been in and out of trouble with the law. You know, it's just crazy. It really makes me mad. You know you can't control the whole world, but when you live in a small town like we do, like the gentleman earlier was talking about, Gillsville, we live in a small town, try to handle everything ourselves, self-sufficient, always have been. Old school morals, country atmosphere. When something like this happened, it's a slap in the face to the voters and everybody else that doesn't know everything, that doesn't hear the whole truth. And I made a vow to the tax payers of Warm Springs and to myself, and to my mother that I am going to get to the bottom of this. And that's what I intend to do. Thank you.

**SECRETARY KEMP:** Any questions for Mr. Ramsey?

(NO RESPONSE)

**SECRETARY KEMP:** Thanks for being here. Appreciate you standing up.

**SECRETARY KEMP:** Yes, ma'am.

**MR. RAMSEY:** Well, I'm Hazel Ramsey. I live in Warm Springs, Georgia 28 Oak Avenue, zip code: 31830. And all of these things that my son has said is correct. It's true. It has happened in our city. And I can tell you why. Our Chief of Police has been double-dipping and I have been after him. I have been on his case to get him investigated. He has a full-time job with the City of Warm Springs and a full-time 8-hour job with the Roosevelt Institute. We have caught him over in the institute grounds when he is supposed to have been in the city. I went to the director of the Roosevelt Institute, brought the subject up to them, been over there three or four times. And he has been seen at the Roosevelt institute in the day time when he is supposed to have been on the city time and he has been seen by the city council members over there

because I informed them and told them that he was over there on our city time. So, that went on for a long time. And he got the word that I was investigating him about double-dipping. That is what made him want to get me out of office. I had the GBI in on it. So, he worked very hard to get his ex-wife as Mayor so he could control her. She has been married three times. Of course, that's nothing on this case. But anyway, he began working to get her in office immediately. And it worked, because he was hauling people to Greenville, Georgia to vote and receiving money, liquor or cigarette or fuel, whatever they wanted. They had their choice. And they admitted it. And if I had known that I was going to go through this today, I would have brought some more guys that heard them tell people the same thing, that they admitted to them that they had been paid. So, anyway it's a bad situation. I didn't mind losing, it was the way that I lost. I had been the city council 4 years, Mayor for 12 years and I did a lot for that little city and most of it was paid for. When I went in, the City was broke. When I got out we had new police cars, new fire trucks, new fire station, a whole bunch of things that had been gotten that I worked hard for, to get for the city, a new treatment plant. I went to the Governor, myself, and got \$1.3 million out of him and got 500,000 out of Governor Perdue. I was in the office everyday, except maybe for a doctor's appointment or something like that that was urgent, that I needed to do. Now, the new Mayor, maybe she doesn't have to go to the office. She very seldom goes to the office. But I guess she can run it without doing so because she is letting her ex-husband run the City, who is the police chief. And he is in a department all by himself. She is supposed to be over him. Anyway, it is mixed up. It is down and dirty, the way that it all happened. And I'm here to tell you I know what went on. I saw it. I saw him hauling them to Greenville. And plus he wasn't on duty with the City. He would call in and say I can't come in to work today, I've got something to do.

**SECRETARY KEMP:** Ms. Ramsey.

**MR. RAMSEY:** Sir.

**SECRETARY KEMP:** Is there anything else that you would like to add, specific to the case?

**MR. RAMSEY:** Well, I was just going to tell you the reason he wasn't on duty is he was hauling people to vote. And I asked him to come in and please sign for his annual leave. He never showed up. I mean, that is just a lot of stuff that went on. It's true. It happen. If it wasn't, I wouldn't even be here. I don't care about being in trouble all the time, but what I have said is true.

**SECRETARY KEMP:** Thank you. Any questions of Ms. Ramsey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you, ma'am. Anyone else that wishes to speak on this case? Come on up. Ms. Ramsey, you are welcome to sit back down if you'd like. Thank you.

**MR. RAMSEY:** Thank you.

**MR. RAYMOND RAMSEY:** I'm Raymond Ramsey. I live at 28 Oak Avenue, Warm Springs,

Georgia. And everything my wife and my son have said is true. I love this country. I enlisted when I was 18, during the Korean War. I would do anything for this country, but the people that are low enough to buy votes and do dirty are just undermining the whole system of the United States. And I am thoroughly disgusted with all of them and I know every bit of it is true.

**SECRETARY KEMP:** Thank you, Mr. Ramsey, for your service. Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wish to speak? Did you have something else you wanted to add?

**MR. MICHAEL RAMSEY:** I just wanted to say he investigated everything and no one wants to talk. You know, all this here.

**SECRETARY KEMP:** Hold on. Give us your name and address again, so we can keep it straight on who is speaking.

**MR. MICHAEL RAMSEY:** Michael Ramsey, Warm Springs, Georgia 147 Broad Street 31830. I had mentioned to Mr. Archey, these people will talk. They are scared of going to jail, because they have been in jail boarder line in-jail-out-of-jail. And I explained it to him. I said these people will not talk because they are scared of being locked up. They don't want to go back to jail. I asked Mr. Archey is there anything that can be done to reassure these people or give them some kind of satisfaction to the point where they will not go to jail and they will talk. And he told me that he can't do that. But there are people there that want to talk. The Chief has got them scared, got them ducking and hiding and dodging. They talked because of the fact that they are afraid of going back to jail.

**SECRETARY KEMP:** We have got to message. Thank you. Appreciate you. Anyone else wish to speak on this case?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Any other questions from the Board?

**MR. EVANS:** So, we sent notice to Sheila Lee and Charles E. Lee, Jr. the respondents?

**MR. HARVEY:** No, sir. We didn't, because they were not cited as having committed a violation.

**MR. EVANS:** Maybe I'm misunderstanding you. We have a complaint. You have done an investigation. It is your role to make a recommendation to us as to whether or not we find a violation.

**INVESTIGATOR:** I listed them as respondents.

**SECRETARY KEMP:** So were they given notice of today's hearing?

**INVESTIGATOR:** That's is not my arena, sir.

**MR. HARVEY:** No, sir, they were not. With the new format, we were noticing respondents that we had identified potential violations on.

**MR. EVANS:** I don't think -- I think if there is a complaint and we have a hearing, we have to afford a respondent an opportunity to be heard. If you think about it for a moment, I'm troubled by this, but now I'm in a box where I can't bind this over. I can't say refer this to the AG's Office, because we haven't given the respondents an opportunity to be heard. So, you are effectively making the decision for me by not giving the notice, because you conclude there isn't a violation and, necessarily, I can't, because we haven't given them notice.

**SECRETARY KEMP:** So, the only respondent we noticed was Gregory Guy Robertson.

**MR. HARVEY:** Yes, sir.

**MR. MCIVER:** We do have alternatives, Mr. Evans.

**MR. EVANS:** Yeah, we can table it. No, no. I am just making sure I understand procedurally where we are.

**SECRETARY KEMP:** Anything else from the Board?

**MR. WEBB:** I just have a question. Mr. Harvey, do you feel like we have done as much investigation on this as we can. I know Mr. Archey is probably rolling his eyes at me, but is there anything more we can do to look into this any further?

**MR. HARVEY:** Barring going back and possibly re-interviewing people, seeing if they will change their story, as far as asking for immunity, we don't give immunity from prosecution for cooperation. If we consult with the District Attorney and see if they want to open an investigation, possibly we can get a grand jury, the District Attorney, of course, could be in a position to offer immunity or compel testimony. I can certainly refer it to them, if you request. As far as on the ground actions, barring new names, barring new evidence, I believe we have done what we can do with our resources.

**MR. MCIVER:** What about the idea of a table with a suggestion of reopening the investigation, perhaps, ultimately noticing both Sheila Lee and Charles Lee and then, perhaps, a fresh attempt to find Mr. White .

**MR. HARVEY:** We can certainly do that, sir. You can either refer it back to us or table it. However you request, we are happy to proceed.

**MR. MCIVER:** I think we have to table it.

**MR. EVANS:** I agree on that. I think we have to table on that, because it would seem to me that, you know, we don't want complainants operating as private investigators. However, if Mr. Ramsey or anyone else has information about the whereabouts of witnesses they can certainly give that you.

**MR. HARVEY:** Absolutely.

**MR. EVANS:** If we don't get any additional information about the whereabouts of witnesses, then my guess is we will end up exactly where we are, and we will take it up at that time, based on the evidence we have. However, if Mr. Ramsey or Ms. Ramsey or Mr. Ramsey, Sr, if you know where some of these folks are, so that you can be helpful to our investigator -- we do not want you contacting them because then you would taint a witness. You would interfere with an investigation. That would be inappropriate. But if you have information and you say, well, you know, if you checked here, I'm sure you would find Mr. White that would be helpful. So, I would move to table it.

**SECRETARY KEMP:** We have a motion to table, do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Okay. We have a motion and a second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** All in favor of the motion to table to say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion to table it carries.

**MR. EVANS:** I will say this: We can't move forward without witnesses or evidence while, I think all of us are concerned about vote buying and we know that this is something we want to make sure that we clamp down on, our investigators are only as good as the witnesses and documents they have to work with and if we don't have evidence, we can't do more. And I appreciate your good work. I thought the report was outstanding. It was very detailed and contained a lot very helpful information.

**SECRETARY KEMP:** Mr. Harvey is back with us. Troup County.

**MR. HARVEY:** Yes, sir. 2009-56. The allegation in his case was that the probate Judge in Troup County and other election officials did not complete the sending of their election results to the state election office after the 2009 General Election. The complainant was the Georgia

Secretary of State's office. The findings were that Bruce Smith, who was a poll manager, failed to remove the memory cards from the DRE machines when he closed up the precinct. When he went to turn his election materials in, he realized he had forgotten them and had to go back and retrieve them from the school where they had been secured. They had been secured the entire time, but he left them there and didn't bring them to the election office.

The probate judge, Donald Boyd, reported that he thought that he had transmitted all of the election results to the Secretary of State Office before closing his office for the night. However, the Secretary of State's Office did not received them. It's recommended that Bruce Smith, the respondent Bruce Smith be bound over on violation of (21-2-79.11 - audience member coughing) paragraph 3 for the failure to remove memory card and that Judge Boyd and Amy Hyatt in the elections office violated 21-2-490(a) regarding rules of operation of the office, also SEB rules 183, 1-12-.025(d).

**SECRETARY KEMP:** Any question for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, anyone else wish to speak?

**MR. BOYD:** I'm Donald Boyd, Probate Judge in Troup County. I want to categorically deny that the memory cards were not turned in. We have a system. We only had 8 precincts for that particular election. Our system allows for advanced runners to come in with a memory card, so we can get item counted quickly. The advanced runners came in with the tapes, and not the memory card from Mr. Smith's precinct. When I discovered that Mr. Smith did not bring his memory cards -- he did seal the machines up and I told him he would have to go back and get them and I would go with him, so we could reseal the machines and I would sure two people were with him when we brought them back to be the probate court to be counted. So those memory cards were retrieved and were brought back to the probate office and were counted. They were not left overnight there. They were brought back and counted according to law. That was sent in my report to the investigator that came out. Also, as far as sending in the results, we also did that. We exported at 7:24, at 8:24, at 8:30, at 8:34, at 8:37 and at 8:50. I also have a letter and an e-mail from Brett Brammer that works with the Secretary of State's Office and a copy of the e-mail that he sent to me saying that he received all of our results for the Secretary of State's Office. And I have that letter with me. And it was also sent in to the report, and we also Faxed that in to Ann Hicks. When I discovered that the complaint was filed by Mr. Tailor at 10:05 P.M., we had finished sending our reports in. I have never ever left an election unfinished. I would never do it. I would stay up for 3 weeks before I would leave without finishing an election. We sent in everything we were supposed to send in. It was showing we sent it in. And I have the computer records showing that it was sent in. And we told the investigator that and the investigator come and wanted to know how to get in touch with Mr. Bruce Smith. I give him the address, the phone number, and Mr. Smith got a notice from y'all. Called me, wanting to know what was going on. I said did you talk to the investigator. He said no, no one has talked to me. I said it's up to you whether you go or not. I am going and I am going to tell them what we done. He is not here, but the memory cards were brought. They were late, of course. And we were late closing out. We left the office when we sent in our last report, at 8:51. We sent all the



workers home. We went home. I received a call before 10:00 o'clock from Ann Hicks. And she said, what are you doing at home. I said, I live here, I would like to go to sleep. She said, well, you are not finished. And I said, yes, we are. She said, no. I said, well, what's the problem. And she told me that they didn't receive the reports. I said, well, I will go back up there and see what the problem is. Brinetta Gamble, so called, liaison, called my assistant, Amy Hyatt? Where are you? Why are you not at the office? She said, well, we're through. No, you are not through. She said, where are you. What are you doing? We're at the Waffle House, eating with my husband. So the message we get is that we, as election officials, just closed down before we got through and decided to go to dinner. And I have never been more incensed about something because I take this stuff serious. I have been involved in elections for 10 years, since I have been here and I would never, ever do something like that. I was involved in the pilot project. I have helped every way I can. And you have never seen me up here before. And I categorically deny that those memory cards were left overnight. They were counted. I categorically deny that we did not send in the results. If you didn't get them, it showed that you got them. We also have a computer printout and e-mail from Brett Brammer saying he got them. So, that's why we're here.

**SECRETARY KEMP:** Any questions for the judge?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, Judge. Anyone else wish to speak on this matter?

**MR. HARVEY:** Mr. Chairman, just for clarification, if I mispoke before, I did speak with Mr. Smith. He did acknowledge he left them in the machines when he left the precinct and closed to precinct up. He did go back with Judge Boyd and get them that night. So they were ultimately returned; however, when he first closed up the precinct, he left them in the machines. He didn't take the memory cards out of the machines. So, I did not mean to imply that they were left overnight.

**MR. EVANS:** What about submitting the final DRE results. I don't know about the rest of the Board, but I was pretty compelled by what we just heard, in fact, there were regular reports and it was done before they left for the Waffle House, which I might add, is one of my favorite places to dine. They all serve a special I recommend highly.

**MR. HARVEY:** I'm sorry. Could you re-ask your question.

**MR. EVANS:** What is the bottom line?

**MR. MCIVER:** What is your response to this allegation that he sent everything in.. And he has got confirmation of it?

**SECRETARY KEMP:** Do we have the e-mail from Brett?

**MR. BOYD:** I have a copy of it.

**MR. EVANS:** That would be great. If you could give us the documents you referred to, I think

that would be very helpful.

**SECRETARY KEMP:** Do we have a motion to accept the documents.

**MR. WEBB:** So moved.

**MR. EVANS:** Second.

**SECRETARY KEMP:** Motion and a second, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries to accept the document. We will give you back your originals. We would just need a copy for our records.

**MR. BOYD:** I also have the other information.

**MR. EVANS:** While we are sorting through that, can I just ask a question?

**SECRETARY KEMP:** Let me get you to make a motion real quick to accept the second document.

**MR. EVANS:** Okay. So moved.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second -- Mr. McIver seconds. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion passes to accept the second documents passes.

**MR. EVANS:** Just as a normal procedure, I think I recalled we had a situation before where memory cards get left in machines. What is the appropriate process when you just have, you know, an inadvertent situation where the memory cards get left in the machine? What is that process? It is clearly a violation of the rules. I am not interested in whether or not we have a violation of the rule. I am just trying to make sure I understand what is the appropriate process that we have in place, given if you had a really close election. Let's all be real here. If we had a

really close election and there is a set of memory cards left in machine, everybody in this room knows that everybody would be accused of trying to fix the election. So, we have to have a zero tolerance for leaving cards in the machine. Now, with that said, which is that we don't want it to ever happen. We don't want the cards to ever get left, so we do things to try to make sure. So, with that said, what is it that we do to minimize suspicion, to increase confidence that when that happens, we have this system in place that says here is who we do to make sure everybody is absolutely confident that nothing's going on, other than trying to make sure the memory cards are never left.

**MR. TAILOR:** Right.

**MR. EVANS:** I assume it's what we did here, which is that you find an independent source that goes back with the poll manager to physically witness the removal of a memory card to certify that, in fact, this is not a situation where anybody had access to the machines or anybody could have gotten the memory cards, but given that we face constant challenges to the DRE system, we have to overcompensate on these kinds of issues.

**MR. BOYD:** Well, the first place, we have a check and balance to make sure we receive the memory cards. If for some ungodly reason it happens, which, in this case it did, on a small election, then the check and balance system worked. We realized we didn't have them. We didn't quit. We didn't stop. We didn't leave. We didn't say we're finished. I said hang on a minute. We are going to get them. The machines were sealed when he left. So they were secure. They were never unsecured. We went back, cut the seals, retrieved the memory cards, and resealed the machines, brought them back to the probate court office and they were counted. They were just slower than the average count. So the system worked. It wasn't like they were left there overnight and then discovered at some later time. When the manager come in, we sent him back to get them. So, he left them for a little while, but I don't think the code addresses that. It just says leaves them. And they were not left there.

**SECRETARY KEMP:** Basically, if Ann or Bermetta (phonetic) hadn't called, y'all wouldn't have realized they weren't in.

**MR. BOYD:** No, no, no. The only reason they even complained is because we told them we were slower, because we had to wait on memory cards. They didn't call and wonder why we didn't report them. We told them we were later than normal because we had to wait on the memory cards. The only reason they knew we were out to lunch is because we told them that. And at 10:05, we turned our last report in at 10:14. So 10 minutes later we had a complaint filed and 10 minutes later we sent them back again, repeat, again, the last report. We have from Brett Brammer saying they received the report. Then we come back at 10:14 and send it to him again.

**SECRETARY KEMP:** So, just to clear my mind up here, when did y'all realize that you didn't have all the cards in.?

**MR. BOYD:** When the precincts report. They come in. We have advanced runners. When the advanced runners come in with the tapes, but they didn't have the memory cards, we knew right then. And Mr. Smith come in shortly after then. And I said, Mr. Smith, we have got a problem.

We have got to go back. Well, I don't have a key. I said we have got to find the key, because it was this the schoolhouse. I am going to go with you so there will be two people with you.

**SECRETARY KEMP:** Right.

**MR. BOYD:** I went back with him. We got the school superintendent to open the school. We took new seals, cut the seals, got the card, brought them back and counted them. That was the last precinct we counted. Then we exported that report, the final results to the Secretary of State's Office at 8:51. Then we went home. And then we were called about 5 minutes till 10 and saying why are y'all at home. I said, we are through. They said, no, you're not. I said, yes, we are. We went back anyway and re-sent it again. We didn't put anything else in. We just re-sent what we had already sent the first time.

**SECRETARY KEMP:** So, did we not get what they sent the first time?

**MR. BOYD:** Brett says you did.

**MR. HARVEY:** I don't see that in the e-mail from Brett. I will say this. At the time that the complaint was made --

**MR. BOYD:** 10:05 P.M.

**MR. TAILOR:** Correct. At the time the complaint was made, we did not have all of the results from our office from the elections office. No one was available in Troup County and we were able to finally track them down and --

**MR. BOYD:** We were available, sir.

**SECRETARY KEMP:** Hold on. Judge, let me just let one person talk at a time. We will give you plenty of time to respond.

**MR. TAILOR:** What may have happened here, and I don't know, all we knew at the time, when we referred this down to the Inspector General's Office is that we didn't have the results. And they weren't there in the office. And so we referred that the Inspector General's Office as a potential violation. Actually, there are a number of these coming up in future meetings for other elections. So, this is not singling out Judge Boyd. I am not saying that Judge Boyd has done anything particularly egregious, here. The only thing is we did not have the results. If he had sent them in and somehow they weren't recognized by our IT Department -- I can't say that right here as I sit there. That could be the case. In that instance, obviously, then at least from my standpoint, but that is up to y'all, it would seem like that wouldn't be a violation, if that were the case. At the time that the complaint was made, what we had was they worked in the office. Troup County had left for the evening. We hadn't had a final on this. I believe. Judge Boyd says they did FAX in their final results. We did not have that at the time and we didn't have final results showing on the web site that had been uploaded from Troup County to the Secretary of State's Office. So that is where we were at the time. Now, Judge Boyd is showing us this.

**SECRETARY KEMP:** Any question for Mr. Taylor?

**MR. EVANS:** No. To me, Mr. Taylor did his job, which is we want to systemically promote the expeditious submission and transmission of his returns. Judge Boyd appears to have done his job by providing us the data to confirm that that happened. And this is what this process is for. This is why we have this day, so that we can sort out, make sure that the things we want to happen are happening and that we don't charge violations where we don't think there are any, but we do charge where there are. I do think on the memory cards when it is an incorrect citation in our report, I think that should be 21-2-379.11(c) 3. I think the (c) got left out. I do think that there is an issue there, that could probably be remedied by a letter of instruction. And the reason we do a letter of instruction is so that if it happens a second time we know that it is a pattern, as opposed to one time where it was inadvertent. So, I think we can probably resolve the 21-2-379.11(c)3 with a letter of instruction. And as to the second item, which is the timely transmission of the final DRE results, I don't think the evidence warrants anything other than that we appreciate the Judge providing us with the data we needed to help us make a decision.

**SECRETARY KEMP:** Judge, you have anything else you want to add?

**MR. BOYD:** Well, I just want to let the Board know that I did fire Mr. Smith, because it created a problem for us, but this information was sent way back when. And I don't believe that I should have been made to come up here and do this today, because you already had this information, but I respect whatever you want to do, but there it is. And that's all I can do.

**MR. EVANS:** Well, it is a great illustration where folks like you, who are so careful, actually, help us make really good decisions. And, you know, I apologize to you on behalf of the Board if any inconvenience is caused by having you come down here. But it has been, actually, great to have you here, because it has enabled us to hear from you in real time about how all these issues get resolved and how voters in Georgia should be entirely comfortable understanding that there are these cross checks to make sure, through redundancy of systems, that the kind of things everybody speculates about, in fact, the system is designed to prevent. If nothing else, your being here to talk about the memory cards was an invaluable assistance. I appreciate that.

**SECRETARY KEMP:** Well, I think that's one point that we will discuss in the future, if we didn't have the FAX confirmation on the night of election, you can see where our results. That is something we have got to figure out a way to confirm that what you're saying was actually done.

**MR. MCIVER:** I have a question of Mr. Harvey.

**MR. HARVEY:** Yes.

**MR. MCIVER:** Why was there a change in investigators?

**MR. HARVEY:** The previous investigator resigned and left the office.

**SECRETARY KEMP:** Anyone else wish to speak in this matter?

**MR. HARVEY:** Mr. Chair, I was going to see if we could get the investigator to make copies of Mr. Boyd's documents so that we could get them back.

**MR. EVANS:** It is very dangerous for me to be handling originals documents.

**SECRETARY KEMP:** Oh, sure, Judge. If you will give us just a minute, we will get your originals back to you.

**MR. EVANS:** So, Mr. Chair, I would just move for a letter of instruction on the memory-card issue and that we close the matter as to all other issues.

**SECRETARY KEMP:** We have a motion. Do we have a second?

**MR. WEBB:** I will second. I think that's the right action.

**SECRETARY KEMP:** We have a motion and a second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, all in favor of the motion say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed.

**MR. MCIVER:** Aye.

**SECRETARY KEMP:** Mr. Webb, did you vote?

**MR. WEBB:** I did. Aye.

**SECRETARY KEMP:** Motion passes. McIver voted no. Motion passes 3 to 1. All right. Let's see here. City of Jefferson.

**MR. HARVEY:** Yes, sir. City of Jefferson, Jackson County. Two complaints in this case: the first is that a voter was voting in the City of Jefferson Election when he was not eligible to vote. That involved Elector Richard Langley. The investigation into that allegation showed that Mr. Langley had been registered in the City of Jefferson, Jackson County since 1999. He shares a home there with his wife, who was a candidate for Mayor. He owns property in Madison County where he has a homestead exemption on the property, however, he has maintained that he has permanently and continuously resided in Jackson County, City of Jefferson. His registration has never been challenged. There is no indication that he has violated any election law by voting in the City of Jefferson Election. The second allegation is that a specific voter, Mr. Andrew Woodrum was placed in the wrong voting district. That allegation was actually sustained. When he went to vote, he complained that he was supposed vote in precinct 4 and not 1. When he completed his ballot, he voted and he let the poll officials know. They did some

research. They found out that a new road had been built in the area and that he should have been in the proper district. He was not. My understanding, through counsel for the City of Jefferson, that has been remedied, so there is sufficient evidence to show that City of Jefferson, Brenda Fulcher violated 21-2-226 in that she failed to place the voter in the correct precinct. And I believe they're present.

**SECRETARY KEMP:** Okay. Any question for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none.

**MR. HULSEY:** My name is Julius Hulsey. I'm the Jackson County Attorney. My address is 200 E.E. Butler Parkway. Gainesville, Georgia 30501, P. O. Box 1457. I am here today representing Brenda Fulcher. Ms. Fulcher is the deputy registrar for Jackson County. Jefferson -- the City of Jefferson had an election in November of 2009 and previous to that, in '08, specifically February of '08, a Lisa Woodrum was changed to precinct 1. She had been in precinct 4, or ward 4. Later, July 24th of '08 her son, William Woodrum, her son, shown as the complainant, I guess, in this case was also changed, because they live at the same residence. What had happened is that a new street had been created by the City of Jefferson. The house was the same house. It is just that you got to it through another street, as opposed to the way they used to. And, basically, the ward should have been in ward 4 and in '08 they were put in ward 1. This, basically, was a typographical error put into the computer, clearly unintentional. The code should have been 323. And Ms. Fulcher punched in 321 by error. They were both sent registration cards showing that they had been put in a different ward, but, of course, no response from them. Later in June or July of '09 Ms. Fulcher sent the City of Jefferson a cleanup list. The last response that they ever got from the City of Jefferson was 5 years earlier, I believe, or something in that order. They did respond to this cleanup list, but only as to people who had moved out of the city limits. They never checked the street addresses, which they are required, under 21-2-224(e), they are required to do. So, then in August of '09 is when the City challenged these five people. They are not at issue here. We had the election in November of '09 and the City Clerk, who is also the City Registrar, Elizabeth McDonald, called Ms. Fulcher and told her that Mr. Woodrum had come to the polls. He had voted, even though there are signs all around, saying if you are given the wrong ballot you don't vote; you contact a poll official. He went ahead and voted and then after he voted told Ms. McDonald or someone there at the polling place that he had been placed in the wrong ward. So, then, Ms. McDonald contacted Ms. Fulcher immediately on that same day and a correction was made in the county records.

Additionally, the GIS man with Jackson County worked with Ms. Fulcher and, basically, went street by street by street and made sure that there were no other errors in their records. Subsequent to that -- of course, that day new cards were issued, putting them in the correct city ward. Then in January of 2010, Ms. Fulcher sent a second cleanup list to the City of Jefferson. And as has been the problem many times in the past, she had never gotten that cleanup list back. Had the City done it's job -- and I am not here to put all the blame on City. We freely acknowledge we had a typographical error that initial created this problem, but had the City checked it's records then this error would never have happened.

**SECRETARY KEMP:** Mr. Hulsey, we have run out of time here. Have you got anything else you need to add real quick?

**MR. HULSEY:** Very quickly, Ms. Fulcher has never been cited for something like this. She has never been before this Board. I will say that Mr. Langley, the other issue, he was challenged. Ms. Fulcher allowed him to vote, even though that family was claiming two homestead exemptions, but we do have records from Madison County saying that he has never voted there, and, of course, you all have the records that he has always voted, at least back to '99, in Jackson County where his home is. I think your office has agreed with Ms. Fulcher on that. This other case had arisen only because Ms. Fulcher reported this to your investigator. So, the only other statement I would make is the code section under which she is charged refers to the Board of Election. And she is not a member of the Board of Election. She is a deputy registrar. Thank you. I know it is late in the afternoon. I appreciate your patience. Ms. Fulcher is here if you all would like to ask her any questions.

**SECRETARY KEMP:** Thank you, Mr. Hulsey. Does anybody have any questions for Mr. Hulsey?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wishing to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you.

**MR. HULSEY:** Thank you.

**SECRETARY KEMP:** Anything else you want to add, Mr. Harvey.

**MR. HARVEY:** No, sir.

**SECRETARY KEMP:** What's the will of the Board?

**MR. EVANS:** It just looked a little sloppy to me.

**MR. HULSEY:** Mr. Chairman, may Ms. Fulcher speak, briefly.

**SECRETARY KEMP:** Absolutely. Sure. Sorry to make you have to walk to the microphone.

**MS. FULCHER:** My name is Brenda Fulcher, 67 Athens Street, Jefferson, Georgia 30549. I have in the voter registration office for 8 years. This is the first time anything like this has happened. We have -- Wes will know what I'm talking about -- automatic precincting in our county and have for many years. Automatic precincting is done when you put a road in. I build my (web) on spring 10. Whatever put on spring 10, that is what is automatically given to voter at the time of the change of address or anything. As Mr. Hulsey said, I took full responsibility



when Elizabeth called me. My first question was, they haven't voted, have they. And she said yes. I said, Elizabeth, if they had not voted, we could help them. It was my error. I went to their (amounts). I looked at it. I can't even say it was close to the ward line of city ward 1. I just did a typo when I was building it in my automatic precincting. She said they had already voted. I said then there is nothing I can do for them except put them in correct ward so that when the next election comes up they will be eligible to vote in the correct ward again. The outcome of the election was not based on these two people. The gentleman lost by 5 votes. So, even though they were in the wrong ward, it would not have changed the outcome of this election one way or the other. You kind of get a little lazy with the automatic precincting. Once you get it in there, you start allowing it to do the work for you. I should have looked, again. I was the first one to admit my error. And I was the first one to correct it.

**MR. EVANS:** I can't speak for the rest of the Board, but I appreciate your coming to talk to us, because it is very helpful to hear from you.

**SECRETARY KEMP:** Let me ask you one question. The lack of response from the City of Jefferson on the list, do you have anything you would like to add in that regard.

**MS. FULCHER:** Elizabeth, I'm not sure how many years. It hasn't been many years that she has been the City Clerk. There was a lady named Brenda Duncan. Year after year I did as the law requires me to do, sent them a cleanup list. Year after year they said I don't have time to do it. I meant Brenda; I'm sorry. When I sent the first one to the Elizabeth, I said Elizabeth, this list hasn't been cleaned up in over 5 years. I fully expected to get back, at least, 200 names to challenge, at least, because that is the average for commerce and commerce in Jefferson submitted five names. I said you have got to be kidding me. You are only challenging five people when this list hasn't been cleaned up in over five years. She said those were the only ones I know for a fact don't live there. I said, okay. When this mishap happened, as Mr. Hulsey said, I got in touch with the GIS Department Director. He came in for several dates. I requested a printout of all the roads, street, and avenues in Jefferson City Wards. We went street-by-street, ward-by-ward to make sure this hadn't happened in one of the other wards. I also sent another cleanup list to my largest municipal commerce. She reacted. She did another cleanup list for us, which has challenges on it. I told Elizabeth, you need to take the second list I'm sending you. You need to sit down and compare it to your city map to make sure that we have not overlooked anyone, again. As of today I have not gotten a response.

**SECRETARY KEMP:** Any other questions for Ms. Fulcher?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you for being here. Okay. All right. We are ready for a motion.

**MR. MCIVER:** Unless there is any discussion I am going to move that a letter of instruction be issue and this matter be brought to a close.

**MR. WEBB:** Mr. McIver, does that include the case against Mr. Langley would be dismissed?

**MR. MCIVER**: Correct.

**MR. WEBB**: Second that.

**SECRETARY KEMP**: All right. So we have got a motion to do letter of instruction for Ms. Fulcher and to dismiss the Richard Langley matter, is that correct?

**MR. MCIVER**: Correct.

**SECRETARY KEMP**: And we have a second by Mr. Webb. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP**: All opposed, same sign.

**SECRETARY KEMP**: All right. Motion passes. Move on to -- thank y'all for being here today. Cobb County, Hamilton.

**MR. HARVEY**: This case involves complainant and respondent Ms. Rowena Hamilton. She went to vote in the November 3rd General Election. She went to the City of Powder Springs to cast her vote. When she got there she was told that she was not registered in Powder Springs, She was registered in Smyrna. She left the precinct at that point, did not cast a provisional ballot, went to the Department of Driver Services that day, changed her address to her Powder Springs address and then went back to Powder Springs and attempted to vote. She was given a provisional ballot, which she cast and it was rejected. The investigation revealed that on March 31st, 2009, Ms. Hamilton went to the Department of Driver Services and did a change of address to an address in Smyrna, 1724 Cumberland Valley Drive, in Smyrna. Her previous address had been the address in at Powder Spring at 4345 Steeplechase Drive. They changed her voter registration, as she requested on the DDS form. On Election Day she went to what she thought was her precinct, although, she had changed it, attempted to vote, was not allowed to and had the back and forth. She ultimately, like I said, was allowed to vote provisionally, but the ballot was ultimately rejected. There is no indication that any election official or poll manager did anything illegal. It's possible that Ms. Hamilton violated 21-2-571, by attempting to vote in an election in which she was not eligible. She was not registered at that precinct at the time.

**SECRETARY KEMP**: Okay. Any questions for Mr. Harvey?

**MR. MCIVER**: What was the basis for the ballot being rejected?

**MR. HARVEY**: She was not properly registered.

**MR. MCIVER**: That's the way it was recorded.

**MR. HARVEY**: The recommendation is that this could be bound over possibly and handled with a consent order that she straighten out her proper voter registration.

**SECRETARY KEMP:** That's for Hamilton?

**MR. HARVEY:** Yes, sir.

**SECRETARY KEMP:** There is no recommendation on the poll manager?

**MR. HARVEY:** No, sir. The poll manager directed her to her proper precinct, in the first place. Then when she came back, after changing her registration address that day, said the best I can do is offer you a provisional ballot. She did. And she voted. And it was rejected. The poll manager appeared to do everything properly.

**SECRETARY KEMP:** Any other questions for Mr. Harvey.

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wish to speak on this matter. Anyone else?

(NO RESPONSE)

**SECRETARY KEMP:** All right. Hearing none.

**MR. EVANS:** I move we bind it over.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Are we binding over --

**MR. EVANS:** Just Rowena Hamilton.

**SECRETARY KEMP:** Do we need to dismiss?

**MR. EVANS:** Close the case as to Joyce Corn.

**SECRETARY KEMP:** Is that part of your motion, as well? Okay. We have got a motion to bind over Ms. Hamilton and to dismiss on Ms. Corn. Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second by McIver. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. All right. Bibb County.

**MR. HARVEY:** This case is 2010-12 Bibb County. This case involves an individual that's registered to vote three times, with three different names. The individual is Debrezion Monte Harris(phonetic). He first attempted to register in September of '08. He used the name Debrezion Javante Harris (phonetic). At that point it was a mailed in voter registration card with no ID. On Election Day, 2008, 11/04/2008 he went into the office, completed a voter registration card and had a voter identification card issue on the name of Javonta Debrizion Miller (phonetic), again using the same social security number, but a different date of birth. And then in August of 2009 he returned to the voter registration office. He completed a voter registration card had in the office. He requested another voter identification card, but he was denied because there was discrepancy between his name. This time he used the name Debrizion Monti Harris (phonetic). He used the same social security number, which comes back to a Debrizion Monte Harris, with a different spelling, M-o-n-t-i versus M-o-n-t-e. He admitted -- he was eventually questioned or reported by Bibb County Election Office. It was also reported to the Bibb County District Attorney. The District Attorney's Office did a parallel investigation. They learned that Mr. Harris is being treated for some type of bipolar mental issue. He refused to acknowledge that the picture in the ID was, in fact, him, when you could look at it and see that it appeared to be the same person. He used similar addresses, similar telephone numbers in common addresses and telephone numbers in the different voter registration applications that his grandmother recognized. He would invert numbers and things like that. The District Attorney's office has declined prosecution and his current registration status is he is not active. He has been removed from the voter list. His grandmother says that she has had multiple problems with him. He has been in trouble with the law. And he doesn't have a good explanation for why he has done this. It is recommended that this case be bound over to the Attorney General's Office for appropriate fines and sanctions.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wish to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, I will accept a motion.

**MR. EVANS:** This is the one area where, if we could add one remedy to the list of options that are available to us, if we did housekeeping legislation next year, it would be to figure out is there a way where we could actually remove their ability to vote, which is to say, if you don't follow the rules to get one vote, but that's a topic for another day. I vote that we refer it over to the AG's office for prosecution.

**SECRETARY KEMP:** We have a motion to refer it over to the AG's Office, do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second by Mr. McIver. Any other discussion. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries. All right. Haralson County.

**MR. HARVEY:** This case is 2010-22 Haralson County, Tim Clark. Very similar to the previous case, Mr. Clark is on probation serving a felony sentence for serious crimes. He is on probation until 2014. He registered to vote at in the Haralson County Food Stamp Office. He signed his voter registration application saying he was eligible, when, in fact, he is under a felony sentence. He then later attempted to register again when he was getting his driver's license through the Department of Driver Services; however, this time he used a different name. His birth certificate has the name Kim Clark, K-i-m. He goes by Tim Clark, T-i-m. When he applied in person on his voter registration application the first time, falsely, he used the name Tim Clark. When he attempted to register through the Department of Driver services, he used the name Kim Clark. In both cases, he was ineligible after serving a felony sentence. His probation officer, I believe, has been notified and is awaiting to results of the Board. It is going to be recommended that it bound over to the AG's Office and referred back to the probation officer for possible criminal prosecution or revocation of his probationary status.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, anyone wish to speak on the case?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, I'll accept the motion.

**MR. EVANS:** So moved.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** I've got a motion to send to the AG. What was the second part of that?

**MR. HARVEY:** Actually there were three things, the probation officer -- we can also, this

would not be a bad case to send to the District Attorney's Office to contemplate a new prosecution. Probation is already set. If it's the Board's desire, we can always refer it to the District Attorney's office for new criminal charges.

**MR. EVANS:** Well, I'm moving as to notifying the probation officer and referring it over to the AG's office.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** That's the motion and a second. Any other Discussion?

(NO RESPONSE)

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

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries.

**SECRETARY KEMP:** All right. We have got the Attorney General's Report. I suggest we take just a 5-minute-or-so break and then we will reconvene, let's just say at 4:10.

(BREAK AT 4:00 UNTIL 4:10 P.M.)

**SECRETARY KEMP:** Okay. We are going to go ahead and get back to the Attorney General Reports. Ms. Brumbaugh, glad to have you back?

**MS. BRUMBAUGH:** Glad to be back. The first case we are going to do is Tab No. 27. That's Chattooga County, 2006-50. Chattooga County came over to my office about a year ago after going through a criminal jury trial against Carleton Vines the main respondent in this case that ended in a hung jury to convict him of felony election fraud. But backing up, there were originally 12 respondents in this particular Chattooga County Case. I am presenting for the Board's consideration consent orders for 11 of them. The consent orders are for Carleton Vines and the 5 people who directly helped him commit election fraud in the November 2006 General Election. That was his secretary Dorothy Gilreath who is present today, and four runners, Toni Sparks, Lois Reed, Steve Chappelear -- and the last name escapes me -- and Sidney Johnson, as well. The basis of the case was that Mr. Vines, who was running for state court judge recruited these four runner, Steve Chappelear, Sidney Johnson, Lois Reed and Anthony Sparks, to obtain absentee ballots for him. And so these four people went into the community, obtained absentee ballots from people who were not illiterate or disabled and brought them back to Mr. Vines' law office in Summerville. The either gave the ballots to Ms. Gilreath or they gave them directly to Carleton Vines and then Ms. Gilreath took her ballots and made sure they were mailed to the

Summerville Registrar's Office and Carleton vines took his ballots and allegedly walked across the street to his friend, Albert Palmour's Law Office and ran 18 ballots through a postal meter at Albert Palmour's Law Office. Albert Palmour is the one respondent from this group not to enter a consent order for your consideration today. Once the election results for were totaled Carleton Vines had won state court judge, and he had won, based on the margin of absentee ballots. The investigation began by Ralph Wright, who I believe is here today, as well, going over to the Chattooga County Registrar's Office and looking at some of the documentation. Mr. Wright brought what he found to the attention of the Inspector General's Office and that was that there were some ballots that looked like the had false signatures. Signatures didn't match up. So, the Inspector General's Office went out and did some more digging and found that that was true. What the Inspector General's Investigation determined was that Candice McHutchins had signed ballots for three people and the names are -- any way there were two people who had signed ballots. One had signed for her son. Tommie Cheryl Eskew had signed the absentee ballots for her son. Candice McHutchins was working with Sidney Johnson, who was working one of Carleton Vines runners and had signed three of the absentee ballots. The investigation also ended up including the registrar from the Chattooga County Registrars Office. Those three women, that Betty Owings, Jeanette Parham, and Kimberly Moses, those three women are no longer registrars in Chattooga County, but because they allowed these absentee ballots with really obviously forged signatures to be submitted and counted they were bound over to my office, as well. Carleton Vines has submitted a consent order for a \$15,000 fine. This is to include Ms. Gilreath and four runners and those five people will not pay anything, as well as a cease and desist and a public reprimand. Candice McHutchins, who worked with Sidney Johnson and forged three people's signatures on ballots, has submitted a consent order for a \$300 fine, public reprimand, cease and desisted. Tommie Cheryl Eskew wasn't really involved in a campaign. She simply sent in the ballots of her sons. She has signed a consent order for just a cease and desist and public reprimand. She no longer lives in Georgia. She has moved to Florida. And the three registrars also signed a consent order for a cease and desist and public reprimand and stated that they are not and will not become in future registrars again for Chattooga County. They have signed consent orders as well for public reprimand and a cease and desist.

**SECRETARY KEMP:** Any questions for Ms. Brumbaugh?

**MR. WEBB:** Ms. Brumbaugh, how was the \$15,000 amount arrived?

**MS. BRUMBAUGH:** Candidly, Mr. Webb, Mr. Vine, through his attorney, approached me and began the negotiations and there was simply some negotiations. And \$15,000 was what we ultimately agreed on. This a case that doesn't have lot of precedent procedurally before you. We have had some cases with some much bigger fines, but they haven't been consent orders. So, here, we have the opportunity to close the case and recover the civil penalty and not be litigating this case up through the superior courts and possibly the appellate courts, should this go to a hearing. But it was Mr. Vines who approached me through his attorney.

**MR. WEBB:** Could you give us the position of Mr. Palmour.

**MS. BRUMBAUGH:** Mr. Palmour, I believe is uninterested in admitting to anything. This

seems to be a pattern of Mr. Palmour. He has had, at least, two reported decisions as he has litigated various issues in the courts of Georgia against one that would be Perdue versus Palmour. So, he doesn't seem to be interested in agreeing to anything. He did testify at Carleton Vines' trial and he did make some admissions that I think will be very helpful in our prosecution of him. So, that is how I will handle that case.

**MR. WEBB:** If I'm understanding you correctly that case is still open against him.

**MS. BRUMBAUGH:** That case is still open.

**MR. WEBB:** And pending. Thank you.

**SECRETARY KEMP:** Are you done, Mr. Webb or do you have something else?

**MR. WEBB:** No, I'm fine.

**SECRETARY KEMP:** Anybody else wishing to speak?

(NO RESPONSE)

**MR. WRIGHT:** I'm Ralph Wright, 3255 Shinbone Valley Road, Menlo, Georgia. Maybe this don't need to be said. In her report, Ms. Brumbaugh, whom I appreciate, she left out a part that I think is important and maybe she didn't mean to. I'm sure it was incidental. And I'm very nervous, but the way the voter fraud was discovered, we reviewed. In reviewing the in ballots that the absentee ballots were sent in, we discovered the sequential postage meter report. So, I thought that that's a matter that probably should be made of record if it's not already. We actually made the discovery. It was sequential order of the ballots. I suppose that might be important for people that might want to look into situations such as this in the future, to know that that is something.

**SECRETARY KEMP:** We appreciate that Mr. Wright. Any questions for Mr. Wright?

**MR. EVANS:** No. I wanted to thank him. It was diligence and staying on it that has gotten us to where we are. I don't know where we would go for here, but if we don't have honest people holding dishonest people accountable, then the system fails. Part of what sometimes gets lost in these meetings is that we, as the Election Board, rely on literally millions of private attorney generals, whose job it is to go check every vote, check every signature. It is that check and balance that makes the system work. And sometimes, you know, we get in the process of doing these cases and we lose sight of the fact that regardless of the motive, regardless of the reason, the fact is that every candidate and every campaign worker and every election worker has to know that everything that are going to do will be second guessed. And that is a good thing. The reason it is a good thing is it keeps everybody else in check. That is how a Democracy works and I just wanted to tell you I appreciate you. I appreciate you doing what you did and staying with it and not, kind of, giving up and throwing your hands up and giving up on it.

**MR. WRIGHT:** I might say that it has been a very long process from 2006 until today. And I



was thinking about it this morning, we have been through three Secretary of State's and several investigators. And we appreciate it and I am no authority on what the proper punishment would be, as I stated before, so I defer to your judgment on that matter, but we appreciate the diligence with which you pursued the case and we just hope that it will have its intended affect on the process, at least, in Chattooga County and thank you.

**SECRETARY KEMP:** We appreciate that.

**MR. MCIVER:** I will say, sir, we have been waiting on this case for a long time.

**SECRETARY KEMP:** We appreciate your diligence. I know our office, even this year, with our elections, has been working on things that are going to make our citizen rate have a better opportunity to participate in helping stop voter fraud. And this is a prime example of the public can help, even though it took a long time, it's a good day, I think, for our state.

Anyone else wish to speak on this case? Yes, ma'am.

**MS. GILREATH:** I didn't come here to make a speak to start with.

**SECRETARY KEMP:** Ma'am, if you don't mind, pull that microphone down a little bit and just state your name and address for the record. Thanks.

**MS. GILREATH:** My name is Dorothy Gilreath. My address is 1399 Highway 337, Summerville, Georgia 30747.

**SECRETARY KEMP:** Thank you.

**MS. GILREATH:** Like I say, I didn't come here to make a speech, but I think I'd better defend myself. First of all, I never saw a ballot that was in the sealed envelope. I never signed anyone's name. All I did was put a stamp on the proper envelope that was to be mailed. I saw nobody's ballot. And I did not use the postage meter. We didn't even have one in the office. That was not of my doing. I will admit to taking some and putting the stamp on it and taking it to the post office. That is the furthest extent that I had in it. And I realize now that it was wrong. I will never do that again. I even hesitate, myself, to even vote absentee for myself. That is what kind of thought it has put in my mind, but that was my doing and I admit to that, but the postage meter was not mine.

**SECRETARY KEMP:** Thank you. We appreciate you being willing.

**MR. EVANS:** I want you to know that we are not singling you out.

**MS. GILREATH:** I know, but I thought I had better defend myself.

**MR. EVANS:** Mr. McIver can attest that if you touch an absentee ballot in Georgia illegally, we will find you, hold you accountable, and it is going to cost you \$100 for every time.

**MS. GILREATH:** First of all, I did not touch the actual ballot. I touched the envelope. Like, Mr. Vines, it would be on my desk and I assumed, you know, mail this, so I did.

**SECRETARY KEMP:** We appreciate that ma'am. Anyone else wish to speak? Ms. Brumbaugh we have got a few question for you. Mr. McIver.

**MR. MCIVER:** What is Mr. Vine's status right now?

**MS. BRUMBAUGH:** Mr. Vines is a citizen. He signed after the hung jury about a year and a half ago April 2009. He did sign a deal with the prosecuting attorney's counsel. He prosecuted him and he agreed he would never run again for judicial office. He has adhered to that part of the bargain, but he is still a private citizen. They agreed not to re-prosecute criminally and he agreed not to run for judicial office.

**MR. MCIVER:** Is he a practicing attorney?

**MS. BRUMBAUGH:** My understanding is he is, but I am not entirely sure on that count.

**SECRETARY KEMP:** Okay. Anything else for Ms. Brumbaugh?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. I'm ready for a motion if y'all are.

**MR. MCIVER:** I guess I have a question. Is the 15,000 consistent -- I guess Mr. Evans is our current historian -- this outrageous violation of the code, clearly done with intent.

**MR. EVANS:** I think our highest fine for an individual with the Atkinson County Registration, was 80,000. Obviously, as to Fulton County, which is not an individual, it was, by the time you added everything together, close to a million. So, that's the other end of the spectrum. On the flip side, anything over 10,000 is, as you know, viewed as severe. It's the highest level that any time we cross that threshold, that is a clear signal, especially, when it's against an individual, that the matters involved are egregious and merit the harshest types of penalty that we can impose. I don't know if that's helpful, but that's some data.

**SECRETARY KEMP:** Any other comments or discussion from the Board?

**MR. EVANS:** I think it's low, but I am going to support it, because I think it's important that we bring this matter to closure, we do it in an way that involves the admission of violations and liabilities and that we do it in the context of a cease and desist and a reprimand so that in the event we see any of these kinds of abuses again, we have set the floor for what the penalties would be and we would be entitled to, as you know, Mr. Chair, we would be entitled to a multiplier of 15 in the event we saw any of this coming again from Chattooga County involving these folk.

**SECRETARY KEMP:** I agree with that and will second that motion. I did want to ask

Ms. Brumbaugh one question. What about payment from Mr. Vines, do we have anything worked out on that or how does that process work?

**MS. BRUMBAUGH:** Typically, he will get a letter, I believe, saying that the payment needs to be made within 30 days. Should he not honor his obligation you could refer that to our office and we would begin a collection proceeding against Mr. Vines.

**SECRETARY KEMP:** Okay. Any other discussion? We have a motion by Mr. Evans and the Chair seconds it.

**MR. EVANS:** I just searched and my report on the numbers was right. It was 80,000 for Atkinson County. I just wanted to make sure I got that number right.

**MR. WEBB:** Mr. Evans, is your motion for all of the consent orders?

**MR. EVANS:** Yes, with the full understanding that we will march steadily forward on the one.

**MS. BRUMBAUGH:** Absolutely.

**SECRETARY KEMP:** Hearing no further discussion, we have a motion and a second. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed same sign.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries.

**MS. BRUMBAUGH:** The next case is Tab No. 28, City of DeSoto, 2009-41. This is another case where the City of DeSoto is a very small city in Georgia. They have 204 people total and 100 active voters. They failed to hold their general municipal election in 2009 and failed to follow to prerequisite steps, such as publishing a notice of election and publishing qualifying fees. There was some question as to whether City of DeSoto had failed to hold previous elections, as well. They contend they did hold the November 2005 and November 2007 elections, but they have admitted that they did not provide the paperwork to the Sumpter County Registrars Office, the checklist of voters to verify that. They have agreed to a \$500 civil penalty, cease and desist and a public reprimand. This is consistent with other small towns that have found themselves in the same positions, such as the was City of Tiger, \$500 civil penalty.

**SECRETARY KEMP:** Okay. Any questions from Ms. Brumbaugh?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, is there anyone else here that wishes to speak in regards

to this matter?

**MR. EVANS:** My only regret is that the two small cities that were before us earlier today were not here to hear that this costs money.

**MS. BRUMBAUGH:** They will hear soon enough.

**MR. EVANS:** You can send them a courtesy copy of this consent decree.

**MR. MCIVER:** I wonder about public reprimand for public entities, but flogging would be nice.

**MR. EVANS:** I would move we accept the consent order.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Okay. We've got a motion and a second. Any further discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of the motion say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries.

**MS. BRUMBAUGH:** The next case is Washington County, City of Tennille 2009-39. You have two consent orders before you. One is the City of Tennille Election Superintendent Patti Burgami. And then the second one is the Washington County Board of Registrars, signed by Tom Brett, who, I believe, is the Chief Registrar. Basically, the City of Tennille is holding it's municipal election last year, November 10th, 2009. They had help from the Washington County Board of Registrars to help with the checking of signatures, verifying of signatures etcetera, etcetera. The person that was helping them took sick and sort of took off. Additionally, Tom Brett, who signed this consent order was on vacation during the City of Tennille's early and absentee voting. So, as far as Ms. Burgami, who was running a city election, knew, there was nobody in Washington County who could check her absentee ballot applications or absentee ballot signatures. So, Ms. Burgami, in fact, there were people in Washington County, in the county government who had been deputized as deputy registrars, who, had Ms. Burgami picked up the phone, could have checked signatures, but Ms. Burgami, with the knowledge she had, simply didn't make the phone call, and as a result she did send out some absentee ballots without verifying the absentee ballot application signatures. She has signed a consent order for a \$100, based on this and the Washington County Board of Registrars have signed a consent order for

\$500 because, even though they did have people who could check the signatures, they didn't have any registrars available for actually registering eligible voters, working the photo machine to create the voter IDs. There were a number of things that a registrar is required to do and they had no one on hand. So they have signed a consent order for a \$500 civil penalty, cease and desist, and public reprimand.

**SECRETARY KEMP:** Any questions from Ms. Brumbaugh?

(NO RESPONSE)

**SECRETARY KEMP:** Is there anyone else here that wishes to speak on this case, or this consent, proposed consent order?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, any other discussion or motion from the Board?

**MR. EVANS:** I move we accept the consent order.

**SECRETARY KEMP:** Most to approve. We have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** McIver seconds. Any other discussion?

**MR. WEBB:** Yes, Mr. Chairman. Ms. Brumbaugh, I was looking at the consent order for Washington County and noticed that Mr. Brett is actually signing it personally. Shouldn't he be signing it on behalf of the Washington County Board of Registrars.

**MS. BRUMBAUGH:** Probably, that would have been the cleaner more precise way to do it. I think that it is pretty obvious within the consent order who it is. If you are uncomfortable accepting it, we can fix it and re-present it.

**MR. EVANS:** Or you may want to just ask him if he objects to us adding below the signature that he is signing on behalf of the County.

**MS. BRUMBAUGH:** That's fine. I can do that. I'm sure he will not have and objection. I'm sure he would much rather sign in his official capacity.

**SECRETARY KEMP:** Well, on the front page, it mentioned for the County. Okay. We had a motion and a second. Any other discussion? All in favor of the motion aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries.

**MS. BRUMBAUGH:** The next case is tab 30, which we concluded earlier. So, I will move on to tab 31. This is also Gwinnett County. This is 2009-60. This is another voter-changes-her-address situation. In this case, Katina Wafford registered to vote in 2004 while living at 3560 River Summit Trail, in Duluth, which is in Gwinnett County. She moves to 112 Ivy Chase Lane, Norcross, also in Gwinnett County and then continues to vote based on the registration at the 3560 River Summit Trail address. This is an issue of, she has now moved. By moving from Duluth to Norcross, she has moved out the precinct. She hasn't moved out of the county. She voted three times November 2nd, 2004, November 4, 2008 and December 2nd, 2008 at the precinct corresponding to the Duluth address. Each time she writes 112 Ivy Chase Lane on her voter certificate. She was permitted to vote at the old precinct at least one time. She says that she called the Gwinnett County Board of Registrars and they told her it was okay to keep voting at the old precinct. However, she did have an independent duty to re-register with her new address and she failed to do that. So she has signed a consent order admitting to a public reprimand and a cease and desist for failing to affirmatively re-register after she moved out of the one precinct into the other one. The Board had also referred the two Gwinnett County poll workers Monica Wiler and LoComal Strain for permitting Ms. Wafford to vote. They can't really force her to reregister and the code section 218 (d) says specifically say that if you move precincts within a county you can vote at the old precinct. I am asking that you accept the consent order signed by Ms. Wafford and dismiss the cases against Ms. Wilder and LoComal Strain.

**SECRETARY KEMP:** Any questions for Ms. Brumbaugh?

**MR. EVANS:** No. I think there should be a financial penalty.

**MS. BRUMBAUGH:** Okay.

**MR. EVANS:** Had she not showed up and wrote down the wrong address repeatedly, I might feel differently, but there is point where you can blame other people all you want, but you are actually doing it yourself. So, that was my comment on this one. The number of cases that we got today, that deal with this very same issue just tells me that I believe the Board needs to ratchet it up a notch to say we are not going to let do you this, no slap on the wrist. It is going to cost you money if you do this.

**SECRETARY KEMP:** Any other comments? Is there anyone else here that wishes to speak on this matter.

**MR. WEBB:** I concur with Mr. Evans that there should be some financial penalty associated with this behavior.

**SECRETARY KEMP:** Okay. Any other discussion? Do we have a motion?

**MR. EVANS:** The motion would be to reject the consent order. I would rather us just send it back with further instructions so that we don't tie counsel's hands.

**SECRETARY KEMP:** Do we have a motion to send it?

**MR. EVANS:** I think we just don't act on it and she will bring it back up to us.

**SECRETARY KEMP:** All right. We will move on to the Bulloch Nursing Home, case 111.

**MS. BRUMBAUGH:** Bulloch County Nursing home, this came before the Board at the last meeting. The respondent submitting a consent order today is Pamela Hobbs, who is the administrator for to Heritage Inn Health and Rehabilitation. She actually signed on behalf of the Heritage Inn Health and Rehabilitation Nursing Home. In this case there is a second respondent who is not submitting a consent order today, named Valerie Luckey-Merritt had gone into the nursing home at night when patients were asleep, staff was, you know, not as on as they are during the day and had gone into people's rooms, woken them up and registered them to vote. Ms. Merritt then brought these registrations to Ms. Hobbs and Ms. Hobbs' staff and asked for the last four social security numbers of the residents so that Ms. Merritt could then submit the registration forms. Ms. Hobbs was very suspicion and concerned about this situation and declined to give Ms. Merritt that information. She did, at this point, have possession of the registration cards. She went back to these residents who had allegedly filled out these the late-night voter registration applications and asked, did you really want to do this. There were some who either didn't what to do it or didn't know that they had done it. So, with those people, who could not show intent to register, Ms. Hobbs and her staff sort of tore the voter registration cards. And at the last Board meeting the Board was just concerned about this and wanted to ensure that Ms. Hobbs and her staff would take the elections division's nursing home training and be up to speed on all the rules and issues regarding nursing homes and voting. So, Ms. Hobbs, on behalf of the nursing home, has signed this consent order. She agrees to cease and desist from any violations of the election code and to view the videos, training, and instructions for nursing home administrators. That was consistent with what the Board had recommended at the meeting in June.

**SECRETARY KEMP:** Any questions for Ms. Brumbaugh?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Is anyone else wishing to speak on this matter? Yes, sir.

**MR. GARDNER:** Rich Gardener on behalf of the nursing home, 1001 Burnwick Road Northeast, Atlanta, Georgia 30319. As the attorney for the nursing home, I just wanted to say thank you to the Board and thank you to Ms. Brumbaugh. We ask that this consent order be accepted and we think that there are, out of the two respondents, one of which is the nursing home and the other is this individual who came into the facility and took these actions, the facility actually took the right actions in questioning the registration cards. I believe that the ones that were not ratified by the residents couldn't be considered legally obtained or the entries legally made therein. So, we felt like there wasn't a violation. We certainly want to put this

behind us and the administrator, Ms. Hobbs, has already viewed the videos. And the management company that oversees this facility and many other facilities in the state has asked to have some training for all of their facilities. And we are helping them with that.

**SECRETARY KEMP:** Any questions for Mr. Gardner?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you for being here. Anyone else wish to speak in regards to this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, we ready for a motion.

**MR. EVANS:** Move we accept the consent order.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We have a motion and a second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of the motion say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries.

**SECRETARY KEMP:** Camden County.

**MS. BRUMBAUGH:** This case, you may remember from the June meeting is the case with all the similar names, Cruise and Flowers and Fowlers and Screws, Ms. Screws --

**MR. EVANS:** Mr. Chair, Can I interrupt. I defer to my colleagues, but I remember this case I am prepared to move to accept the consent order. I will be happy to hear the facts on every case, but I think there are probably those that we want to talk about and those that --

**SECRETARY KEMP:** If there is no objection from the Board, I'm ready to move on, unless there is someone else who would like to speak on behalf of the Camden County Case.

**MS. BRUMBAUGH:** There were two additional respondents who had lost their jobs as a result



of this. So, with this consent order in mind, I was asking that those two respondents, the case be dismissed against them, They wre Ms. Cruise's subordinates. I just would like that wrapped up in the motion.

**MR. EVANS:** Right. You've put it in your summary for us. So, I was prepared to move that we accept the consent order for the \$300 penalty, cease and desist and public reprimand and we close the cases against Screws and Flowers.

**SECRETARY KEMP:** We have a motion do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** Second by Mr. Webb. He beat you there, Mr. McIver. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of the motion say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, same sign?

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries.

**MS. BRUMBAUGH:** The Next case is City of Clayton, 2008-16 the respondent is Pat Bussierre.

**MR. EVANS:** Mr. Chair, I'm prepared the vote if there is no objection.

**SECRETARY KEMP:** Okay. Is there anyone else here wishing to speak on behalf of this case?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, we have got a motion to accept the consent order.

**MR. EVANS:** For a \$200 penalty, cease and desist and public reprimand for Pat Bussierre.

**SECRETARY KEMP:** Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have a second by Mr. Webb. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of a motion to accept, signify by saying aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries. Elbert County. I'm sorry.

**MS. BRUMBAUGH:** Yes, right.

**MR. EVANS:** This is one where we ordered training, wasn't it?

**MS. BRUMBAUGH:** This is case where Maebelle Davis was the former Election Supervisor. She was the former Chief Registrar of Elbert County. She lost her job. There is a new Board. You referred Ms. Davis over to my office, as well. Ms. Davis is not submitting a consent order at the moment. Her case is still open and pending, but you did ask that the new Elbert County Board of are registrars sign a consent order indicating that it understood the seriousness of Ms. Davis's transgressions and as Mr. Evans remembered, training. And so the Elbert County Board has signed a consent order. They agreed to desist from future violations of the election code to comply with all training requirements and to ensure that all present is future staff comply with all training requirement and they agreed to ensure, specifically, that Maebelle Davis comply with all training requirements should she become employed by or volunteer for the respondents.

**MR. EVANS:** And we did not want a reprimand?

**MS. BRUMBAUGH:** Well, they hadn't done anything. Ms. Davis had.

**MR. EVANS:** Right, but I thought we had made a finding as to the old Board for which they were responsible.

**MS. BRUMBAUGH:** This is the new Board?

**MR. EVANS:** I know but this will close and address both, right?

**MS. BRUMBAUGH:** No. Ms. Davis's case is still open.

**MR. EVANS:** Right, but we won't be proceeding or having anything against the old Board, right?

**MS. BRUMBAUGH:** You didn't refer the old Board to my office.

**MR. EVANS:** I looked back. I don't want told hold it up, but I think, in fact, we did talk about

the need to have the Board's made a party. I'm fine. I will move to accept the consent order. I would note a point that Mr. Webb has raised, which is that I probably would, on the signature page, since this is action by the Board, that we, in fact, make it clear that this is being --

**MS. BRUMBAUGH**: -- in their official capacity.

**MR. EVANS**: Well, that the Board is doing this.

**SECRETARY KEMP**: That will be actually better for the individuals that are signing, as well.

**MR. EVANS**: Yes.

**SECRETARY KEMP**: That's a motion, correct?

**MR. EVANS**: Yes.

**SECRETARY KEMP**: I'll second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP**: Hearing none, all in favor of the motion say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP**: All opposed, same sign.

(NO RESPONSE)

**SECRETARY KEMP**: Motion carries.

**MS. BRUMBAUGH**: Montgomery county. This was also referred to my office at the June meeting. Montgomery County there is 3 respondents; Lynette Coleman, her husband Gary Coleman, and the Probate Judge Ruby Nell Sanders. Lynette Coleman is the Mayor of Tarrytown. Gary Coleman is her husband and he was on the ballot for the November 4th, 2008 General Election. Apparently, Ms. Sander, in, I think, Mount Vernon, Georgia got the absentee ballots for the Tarrytown City Election. Gary Coleman, for one reason or another, ended up being in Mount Vernon one afternoon and Judge Sanders said, hey, Mr. Coleman why don't you bring the absentee ballots back to Tarrytown, save me a trip. So, that is what Mr. Coleman did. Additionally, Mayor Coleman failed to -- actually she published the notice for the November 2008 election, but she published the date incorrectly and she said it would held on November 11th rather than November 4th. At that meeting the Board, actually, suggested that the Inspector General's Office simply negotiate a consent order, but I recommended it come to my office just in case something didn't work out. It did, in fact, work out. The Board had just recommended the cease and desist and they were aware or they were interested in further training and the respondents have taken corrective action, such as attending government training at the University of Georgia. And they have also agreed to appoint an election superintendent and a registrar for

the City of Tarrytown in advance of the 2012 elections.

**MR. EVANS:** I think my worry was that the Judge had told them just have the ballots brought back to me. Whether or not it was enough -- I just worry when judges get it wrong. If somebody who is not in some official capacity gets it wrong, how do we address that narrow issue?

**MS. BRUMBAUGH:** I share your concern, and candidly, had the Board not been so explicit in their expectations at the last meeting I probably would have drafted it a different consent order. Maybe this was an issue we didn't fully address at the last Board meeting. But this was my understanding of what came out of the last Board meeting. I think the evidence is that the problem arose, the transportation of blank ballots.

**MR. EVANS:** My point is the Probate Judge has to know better than that.

**MS. BRUMBAUGH:** And I agree.

**MR. EVANS:** You can't give blank ballots out.

**MR. MCIVER:** I would ask, Mr. Taylor, are her training records up to date?

**MR. TAILOR:** I don't have that off the top of my head. Mr. McIver, I can certainly find that out for you. I believe, though, Ms. Brumbaugh usually checks with our office. I believe so, if it's in the consent order, but I will check.

**MS. BRUMBAUGH:** It is my understanding. They have taken, I discussed with their attorney in depth some of the things that they had done and that they were willing to do.

**MR. EVANS:** It's a great illustration at Mr. McIver's behest once we held the State Election Board Meeting at the Georgia Election Officials Association Convention.

**MR. MCIVER:** In Savannah.

**MR. EVANS:** In Savannah. The purpose was so that election officials could actually see what happens at the Board meetings and understand what happens if you don't follow the rules. In the abstract, most folks never hear until they are before us and they are all of a sudden surprised that we are imposing civil penalties and cease and desists and civil reprimands. There may be a good argument for doing that again, because I worry about situations like this one, where the Probate Judge is sending a couple of ballots off to be carried by somebody. And that's one of our most inviolate issues.

**MR. MCIVER:** It reflects no training me. That is the reason for the question. If she has not been (credulous) credigious about her training obligations --

**MR. TAILOR:** Oh, are we talking about the Montgomery County Probate Judge or are we talking on the training or are we on the City of Tarrytown.

**MR. MCIVER:** Ruby Nelson.

**MR. TAILOR:** I don't believe we have any counties right now who are out of compliance with their training requirements, but I can find out, specifically.

**MR. MCIVER:** I guess that makes it worse if she has had all her training.

**SECRETARY KEMP:** Mr. Evans, did you make a motion?

**MR. EVANS:** No, because I'm worried about there not being a reprimand in here. It's troubling me on that part.

**MS. BRUMBAUGH:** Again, that was my understanding, based on the discussion at the last meeting. Certainly, if the Board is reconsidering, that is entirely within your authority.

**MR. MCIVER:** I think we can just not take action on it. That can be corrected.

**MR. EVANS:** Yeah, I think that's right.

**SECRETARY KEMP:** Y'all just want to move on?

**MR. EVANS:** And then you will bring it back to us. Just tell them that we think you have to say, as to the Probate Judge, there will have to be a reprimand.

**MS. BRUMBAUGH:** Okay. That's fine.

**MR. EVANS:** I thought I will give you a little direction so you are not marching around in the dark.

**MS. BRUMBAUGH:** Hopefully that will be no problem. All right. The next case the Wilkes County case 2008-75. There were multiple respondents in this case. All of them, save Ms. Turner, were presented at the last Board meeting you all accepted all of the other consent orders. This arose out of the 2008 August 5th General Primary Runoff regarding the sheriff of Wilkes County, that election. Ms. Turner took unlawful possession of an elderly electors absentee ballot. She did it according to witnesses at the request of the elector. This was not on her initiative. She did deliver to the Wilkes County Registrars Office. And she also assisted her aunts with their absentee ballots, but failed to sign as assisting. And she signed a consent order for a cease and desist and public reprimand.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE) .

**SECRETARY KEMP:** Anyone here wishing to speak on this matter?

**MR. MCIVER:** Why wouldn't this be a case for a hundred-dollar fine?

**MS. BRUMBAUGH:** Basically, there were, it's kind of a judgment call. Again, because the evidence seems to indicate that she hadn't taken possession of the ballot, it wasn't her idea. She was trying to do a favor and make sure this ballot got voted. Again, she is helping her aunt, trying to get the ballots voted. She is not working for a campaign. The evidence doesn't suggest she is working for a campaign or she is trying to get someone elected. She is simply trying to get these The elderly people's votes to the registrar's office. We had four people. Three of them were presented last time. There was two people who were clearly working for campaigns and were, sort of, conspiring to collect absentee ballot and they paid fines. Then we had another respondent, closer to Ms. Turner, who was helping his next-door neighbor who was 95 years old, and he just signed a cease and desist and a public reprimand.

**MR. MCIVER:** So we have a precedent for this.

**MS. BRUMBAUGH:** Yes.

**SECRETARY KEMP:** Yes, ma'am.

**MS. ANDERSON:** Debbie Anderson, Deputy Registrar, Wilkes County. My address is 559 North Alexander Avenue, Washington, Georgia. In this case I think it's Tashawn Turner. When she brought the ballot in she stated this was an aunt. Now, if she had it illegally she wouldn't have had a relationship, if she was picking up a ballot. But we do ask anyone that brings a ballot in, what the relationship is. And this one was it's my aunts. We wondered why the daughter had not brought it in. She said, oh, she had to stay with her. This is my answer. I would like to add a couple of other things. I know the others have signed some consent orders, but there was a deputy that picked up his neighbor's ballots. He was currently working with the candidate that was running for sheriff in Toliver County. They work together in Toliver County. He is now working in Wilkes County with new sheriff. I believe one of the others, McWilliams may possibly may also have a job with the Sheriff's Department in Toliver County, now. We are already getting applications in. We have a lot of disabled people wanting to get in to neighbors and get into all these disabled people, already getting phone calls.

**SECRETARY KEMP:** Any questions for Ms. Anderson?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wish to speak on this matter?

**MR. MCIVER:** Move we accept the consent order.

**MR. EVANS:** Second.

**SECRETARY KEMP:** Mr. McIver moves to accept. Mr. Evans seconds. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign.

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries.

**SECRETARY KEMP:** That wraps us up. Have we got any updates on open cases or anything else we need to discuss?

**MS. BRUMBAUGH:** Nothing we need to discuss. I will be having three hearings in the next 6 weeks on three cases. I'll be having hearings in Tailor County next Tuesday. I will be going to Franklin County on the Ludwig-Medlin Case at the end of the month. And I'll be going to Green County at the first week of October. So I will probably have some initial decisions to report back at some point.

**SECRETARY KEMP:** All right. Anything else are from the Board?

(NO RESPONSE)

**MR. MCIVER:** I move we adjourn.

**MR. EVANS:** Second.

**SECRETARY KEMP:** Great motion and a great second. All in favor of adjourning, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed; same sign?

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries. We're adjourned. Be careful going home everybody.

(HEARINGS CONCLUDED AT 5:04 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  
5th FLOOR, WEST TOWER, ROOM 512  
ATLANTA, GEORGIA 30334

WEDNESDAY, JUNE 9, 2010  
10:00 A.M.

PRESIDING OFFICER: BRIAN KEMP  
SECRETARY OF STATE



PANEL MEMBERS PRESENT FROM LEFT TO RIGHT

<b><u>MS. SHAWN LAGRUA:</u></b>	Inspector General
<b><u>MR. LEE BROOKS:</u></b>	Assistant Inspector General
<b><u>MR. WESLEY TAILOR:</u></b>	Director of Elections
<b><u>MR. L. KENT WEBB:</u></b>	Board Member
<b><u>MR. TEX MCIVER.</u></b>	Board Member
<b><u>CHAIRMAN BRIAN KEMP:</u></b>	Secretary of State
<b><u>MR. DAVID WORLEY:</u></b>	Board Member
<b><u>MR. J. RANDOLPH EVANS:</u></b>	Board Member
<b><u>MS. ANN BRUMBAUGH:</u></b>	Assistant Attorney General

**SECRETARY KEMP:** Good morning. Welcome. We are glad to have you this morning. I'm going to go ahead and call the June 9th, 2010 State Elections Board meeting to order. I will get Mr. Worley to give the invocation for us today.

(INVOCATION).

(PLEDGE).

**SECRETARY KEMP:** Thank you, gentlemen, for that. A couple of quick notes I wanted to mention to everyone and the Board members. Chris Harvey is not with us today, who works in the Inspector General's Office. His mother passed away this week, after a long battle with MS. We just wanted to make sure to mention that and let everybody know why he wasn't here. And, certainly, his family and him are in our thoughts and prayers. Also Ms. LaGrua, this is her last meeting with us. I guess the next time you come in the room, we all have to stand. We know you are going to be taking the oath to be on the bench here, soon. I know for myself, in our short time working together, I appreciate, certainly, all your hard work on behalf of the Secretary of State's Office and your leadership in our cases during the Board meetings that I observed when I was on the other side and now in this role. I just want to let you know how much we appreciate your service and this State appreciates your service. And we wish you the best in your future endeavors. And certainly, if we can ever help you with anything I hope you will let us know.

**MR. MCIVER:** Mr. Chair, may I add to that, please. General LaGrua and I go back to the very first days when Ms. Handle was elected to Secretary of State. And I know right now she is cringing, thinking about what I'm about to say about her, but I will do my best to be polite and, above all, to be short. Although she is a dainty lady, there are large, large, shoes to be filled here. She is a tireless worker who rarely goes homes. Ask her husband. He will tell you about that. Georgia has been the benefactor of a lot of the hard work and organization by a very, very skilled legal practitioner. By the way, I can think of no greater candidate to be on the superior court bench. And I look forward to practicing in front of her at some point. In fact, maybe you owe me a motion or two, if I think about it. Nonetheless, Mr. Chair, the loss of General LaGrua is a great one and this is going to be a tough job to fill. And I know you will do that with great wisdom and encouragement as we go forward. I, for one, am going to miss her greatly.

**MS. LAGRUA:** Thank you.

**MR. WORLEY:** Mr. Secretary, if I could just concur in those comments. Ms. LaGrua has done an outstanding job as Inspector General and she will be missed. And I am sure she will be missed and I'm sure she will do an outstanding job on the bench.

**SECRETARY KEMP:** All right. We will go ahead and call the roll before we get started. Rhonda, do you need me to do that or do you do that?

**MS. BROWN:** You do that.

**SECRETARY KEMP:** Okay. Mr. Webb are you in attendance?

**MR. WEBB:** I am. Present.

**SECRETARY KEMP:** Mr. McIver?

**MR. McIVER:** Yes, sir.

**SECRETARY KEMP:** Chairperson Kemp is here. Mr. Worley?

**MR. WORELY:** Here.

**SECRETARY KEMP:** Mr. Evans?

**MR. EVANS:** Here.

**SECRETARY KEMP:** Okay. All members are present and accounted for. Okay. Now, we will move on to public comment. I wanted to remind everyone that for public comment, you need to sign a comment card, if you haven't done that already, so we know who wants to give public comment today. So, if you haven't done that, please do so now. Public comments should not include comments on individual cases that we are going to be hearing today. Individual matters should be made at the time the matter is presented, and the comments will be limited to 2 minutes unless someone else yields their time to you. With that I will call Garland Favorito. If you are planning on making a comment, if you can, kind of, be making your way up to the front. We have got a very busy agenda today. So we want to try to keep things moving. Make sure that you give us your name and your address. If you have anyone yielding time to you, this morning, we would like to know that.

**MR. FAVORITO:** Okay. Thank you, Mr. Chair. I think Guther Ruckle is going to yield his two minutes to me.

**SECRETARY KEMP:** Okay. I have that, so you will have 4 minutes. Name and address, please.

**MR. FAVORITO:** Garland Favorite 220 Tallo Box Drive, Roswell, Georgia. I submitted two letters to the Board, one in regards to the Douglas County case that was discussed on. August 26th, and another one regarding the Lowndes County Consent Order that y'all signed. I wanted to point out to the Board that I believe there is some fairly clearly false information in that consent order that you previously signed. It states on election night 947 test votes were accidentally uploaded into the gem servers. If you recall, that was previously blamed on Laura Gallegos; however, now it is stated it's an accident; however, the testimony, according to Mr. (Long), the State's own witness, from KSU, stated that the operator has to avoid a prompt, that it warns them that test votes are going to be loaded into the system. The operator, whoever that was, ignored that prompt and loaded the test votes into the system. Not only that, the officials involved also failed to reconcile the poll book totals to the voting-machine totals to detect the discrepancy. Again, in information from the Deputy Attorney General's Office, it said that the audit records were impaired. They could not detect that. However, Mr. Long testified all the totals were in the package sent by Lowndes County to the Secretary of State's Elections Office, and, in fact, Director Tailor's Office did find that discrepancy, based on the same information. So, the reconciliation was not performed. The cumulation was performed in error and the certification was improper and Mrs. Gallegos, had absolutely nothing to do with that, despite what you heard at the February 24th board meeting. That was done by the elections officials in

Lowndes County. It also states that the testing for early and absentee voting was incomplete. Again Mr. Long testified that Mrs. Gallegos's testing had nothing to do with the actual election results discrepancy. On the statement of matters asserted against her stated that steps 11 through 66 on the logic and action testing was bypassed. Again, Mr. Long testified that Ms. Gallegos did, in fact, perform Automatic Logic and Action Testing. Those steps are not cited, as required, by the code or the rules and Mr. Long and Mr. Harvey have found that Mrs. Gallegos had always followed instructions, as required. So there was no evidence that Lowndes County ever published or distributed those steps to the voting machine technicians. And I want to point out that the Superintendent is responsible for ensuring that testing is performed correctly, not the voting machine technician. And that was performed according to instruction. So, Mr. Chairman, I believe that this is a clear case, that this was a manufactured case. And I am greatly concerned about it, against Mrs. Gallegos to cover up violations committed by the supervisors and some officials, who we still don't know who they are, down in Lowndes County. So the question here is: What is the Board going to do about this, because there is still some other matter still pending on this? I don't think Mrs. Gallegos's investigation and her charges have ever been properly considered or prosecuted. So, I want to thank you for your time and also I want to mention a grave concern about the Douglas County Case, 2008-136, according to the August transcript. So, I think Mr. Bell and some others are going to address that. Thank you.

**SECRETARY KEMP:** Thank you. Next up we have J., first initial, Fortune. If you would, please, state your name and address for the record.

**MR. FORTUNE:** Hi. My name is John Fortune. And my address is P. O. Box 808, Decatur, Georgia 30031. I have some copies I would like to distribute to the Board members and have entered into the record. I'm a computer programmer and consultant and professional. I have 20 years of experience in this field. And based on my experience, like 95 percent of the computer professionals out there, I'm opposed to evidence free paperless electronic voting systems. I am here representing Defenders of Democracy, a non-partisan group of thousands of Georgians who want our elections to be auditable, recountable and based on paper ballots that can be optically scanned. It greatly saddens me to come before the third administration since my attending these SEB hearings to go over these same issues that scientific record has shown that the equipment that we use in this state is unauditable. And in 31 states they have banned the systems that we use in the State of Georgia. And testing done by academics and a number of universities have shown that the equipment that we use in the State of Georgia can be manipulated and can be manipulated without leaving a trace of evidence for investigators to prosecute the perpetrator of elections fraud.

**SECRETARY KEMP:** Your time is up. Thank you. Do we have a motion to accept the information?

**MR. MCIVER:** I so move.

**SECRETARY KEMP:** We have a motion. Do we have a second?

**MR. WORLEY:** Second.

**MR. FORTUNE:** Can I have two sentences?

**SECRETARY KEMP:** (Nod.)

**MR. FORTUNE:** The documents that I have distributed to you include a conviction record for computerized embezzlement by the lead programmer at the company that became Diebold Election Systems.

**SECRETARY KEMP:** Okay. Thank you. We have motion and a second. All those in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed?

**MR. EVANS:** No.

**SECRETARY KEMP:** Let the record show the motion carries with Mr. Evans voting, no. And the information is accepted.

**SECRETARY KEMP:** Next we have Renee Barback. Name and address, please, ma'am.

**MS. BARBACK:** Renee Barback, 3555 Old Chamblee-Tucker Road Doraville Georgia. John Fortune mentioned many of the things that I have on my list of what I would like to speak to. The main thing that I am concerned about is that we do not have verifiable paper ballots for a recount. We have been told, the citizens of Georgia, that our electronic voting machines are working perfectly fine; however, back in December 2002, on December 3rd, there was a letter from the Secretary of State, sent to Bob Urosevich, the President of Diebold, listing 29 problems that we have with our Diebold voting machines. I have it right here. I have turned these in at another Election Board Meeting about 5 years ago, to the counsel for the Election Board. So you all should have these. Those 29 problems included votes jumping right in front of people's eyes, computer chips coming back empty, computer chips that did not have enough memory that were filled, and 26 other problems, all of which are defined here. We have never been told, the citizens, whether or not any of these problems have been fixed. We are voting in 2010 on these exact same machines that have been banned in all states that use them. We have the distinction of being the only state in the United States that votes exclusively on these very hackable these Diebold Machines. Maryland also will be voting on them. They have legislation passed to change them. My question is: When are we, according to the HAVA Act, going to have a verifiable paper ballot for a recount? When can we, as citizen, be assured that our vote is going to count, because right now we are very, very insecure? And I would like these the Election Board to make sure they have seen all 29 of the problems. There is a letter here to Bob Urosevich that is from Robert Ray. He was the Assistant Secretary of State at the time. And following his letter are all of the complaints from our Election Board and how they hoped they would be changed. Thank you.

**SECRETARY KEMP:** Thank you. Okay. James Bell.

If you are scheduled for public comment, please make your way to the front. Thank you. Name and address, please.

**MR. BELL:** My name is James Bell. I live at 6334 Ansley Circle in Lithia Springs, Georgia. I am here to address a situation and a hearing that took place in August of last year. And I will just read my statement, to make it brief. My name is James Bell, a life-long resident and voter of Douglas County, Georgia. I am here today to express my concerns over alleged violations of state law, discovered at previous hearings and investigations into the officials of Douglas County, namely, Lori D. Fulton and the Douglas County Board of Elections. On July 20th, when the citizens of Douglas County go to the polls and vote, there will be a cloud over our heads, over the election results, because few in our county, and I personally, have little confidence that our votes will be counted accurately. In November of 2009, \$150-million SPLOST referendum passed by only 32 votes. Voters had no confidence that the vote was counted accurately, and we will never have the confidence, as long as these officials continue to serve our County. When misfeasance, malfeasance, and potential criminal acts are alleged and proven against elected officials, there comes a time when voters must call for punishment and removal of these officials. As a victim in this case, and that is as a voter of Douglas County, I am here, today, seeking justice. And I seek a remedy to the clouds that hang over our heads in Douglas County. I ask that you use the powers vested in you, to bring about this justice, so that we may reestablish integrity and confidence in our voting process that is our right. Mr. Chairman I ask that my comments be submitted for the record. Thank you, Sir.

**SECRETARY KEMP:** Thank you.

**MR. WORLEY:** I make a motion to accept the comments for the record.

**SECRETARY KEMP:** I have a motion to accept the comments. Do I have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** I have a second. All in favor, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed.

(NO RESPONSE).

**SECRETARY KEMP:** Motion carries. Thank, you, Mr. Bell. Susan McWethy.

**MS. MCWETHY:** I'm Susan McWethy. I live at 2852 Delcourt Drive, Decatur, 30033. I wonder how many of us in the room are using computers that we purchased as far back as 2002. My guess is, very few of us, if any. We have to replace technology because it breaks down. It becomes unreliable. And new technology allows us to have more security and better features. Georgians will vote next month on computers that were purchased in 2002 and probably should already have been replaced, but now we are in a historic economic crisis and, as far as, I know HAVA is not offering \$54-million to help us out a second time. In spite of the claims of the 2003 State Plan for Election Reform, Georgia is egregiously in violation of the HAVA Title 3 Section 301 standards. For example, they require voting systems to produce a permanent paper record with a manual audit capacity available as an official record for any recount conducted. Where is that? So we are stuck with deteriorating voting machines that need

to be replaced and I am very concerned about what that means. Our track record is shameful. Georgia purchased flawed voting machines from a company, Diebold, that just last Wednesday had to pay \$25-million to settle fraud charges brought by the SEC. Oh, yeah, unlike Drag-net they had to change their name to protect their lack of innocence. They are now Premier Elections Solutions. I am asking the State Election Board to learn from past mistakes and make better choices the next time around. Consider the consequences of establishing voting systems that do not last, are too expensive, cannot guarantee accuracy, enable elections officials too easily to commit fraud, as in Lowndes and Douglas Counties and that support company as much as Diebold Premier. Thank you.

**SECRETARY KEMP:** Thank you, very much. That's all the public comment we got. We will now move on to the approval of the minutes. Is there a motion to approve the minutes?

**MR. WORLEY:** So moved.

**SECRETARY KEMP:** We have a motion. Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second by Mr. McIver. Is there any discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all those in favor of approving the minutes, please signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. The minutes are approved. We will now move on to Inspector General cases. I wanted to just make a few comments real quick. I just wanted everyone to understand that this part of the meeting serves as a probable cause inquiry. The Board will only decide at this point whether there is enough evidence to refer a particular case on to the office of Attorney General where they will afford the parties an opportunity for a hearing on the matter. Now, the Inspector General will have 15 minutes to present the case to the Board. The respondent will have 5 minutes to reply in front of the Board and then, be aware that although you may present argument or evidence you wish at the time allotted, this is not the time for respondents to argue their cases. They will be provided ample opportunity to present their side of the story at a hearing which is afforded to each respondent who wishes one of the following referral of the cases in the AG's Office. We do have a very busy agenda today. We are trying to get finished up with most of the 2008 cases that we have that have been pending. So as we call these cases, if you are a respondent or complainant or want to speak on the case, please move to the front of the room. I remind you that to speak on a case you need to be a complainant, a respondent, or a fact witness. So just keep that in mind, as we move forward. Ms. LaGrua.

**MS. LAGRUA:** Thank you. And I will try not to take the 15 minutes of the calendar we have today on each case.

**SECRETARY KEMP:** That will be greatly appreciated.

**MS. LAGRUA:** The first case is 2008-60. It occurred in Jackson County. We had a complaint from a Deputy Sheriff that he had received a ROBO Call that he thought was intimidating. You have in your summary the text of that call, essentially telling voters that they had not voted today, that they needed to keep their voter eligibility and should go ahead and vote, so they could continue to vote. There was nothing in the ROBO call that was improper or illegal. And I recommend the case be closed.

**SECRETARY KEMP:** Okay. Any questions by the Board?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, is there anyone that wishes to speak in this matter? Anyone wishing to speak on the Jackson County Case?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, do we have a motion?

**MR. EVANS:** So move.

**SECRETARY KEMP:** Mr. Evans moves to dismiss. Do we have a second?

**MR. WEBB:** Second.

**MR. EVANS:** Actually, I move to close.

**SECRETARY KEMP:** Move to close. I'm sorry. Mr. Evans moves to close. Mr. Webb seconds. Any discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed?

(NO RESPONSE).

**SECRETARY KEMP:** No. The motion passes unanimously.

**MS. LAGRUA:** The next case 2008-65 City of Greenville in Meriwether County. This is a continuation. This case was heard in a previous board meeting. During that morning meeting, and I believe it was the last meeting, Rodney Garrett made additional allegations of folks on the



challenged voters list, as well as allegations about the Mayor's criminal history. We have done the additional investigation on this case. None of those claims are substantiated and I would make a note that Eula Mae Caldwell, as well as two others, whose residency was challenged, but it was a superior court hearing in front of a specially designated judge who found that they were properly resided. So I recommend that this case be closed.

**SECRETARY KEMP:** Thank you. Is there anyone else here that wishes to speak on this matter?

**MR. GARRETT:** Yes, sir.

**SECRETARY KEMP:** Can you come forward, sir. If you are going to speak to a case, when we call it, if you would just move to the front. State your name and address for the record. And let us know if you are a respondent or complainant or fact witness.

**MR. GARRETT:** I am a witness and a complainant too. My name is Rodney Garrett. I live at 1227 Terrell Street, Greenville, Georgia. I understand like, you know, this is trying to be dismissed, but I would like to go to -- I met with Mr. O'Sullivan, Mr. O'Toole and Mr. Taylor a couple of months ago on the Constitution of the State of Georgia, about people not eligible to hold office. I'm having a hard time figuring out how to uphold this Article 2 Section 2 Paragraph 3 of our Constitution. The Mayor in our City has not paid taxes since 2001. And he owes for them right now. And these are mobile home taxes. He was elected in election 2007. It states that no person can hold office, if they owe any of these taxes. Also it states in there you can set up a payment plan. Well, let me go into that. In July of last year we put this in the newspaper, showing all the people that owed tax who were in office illegally, according to this, according to our Constitution. All right. One of them came in and paid. There were only two. The only one, our Mayor, no. He signed all the notes, made an agreement to start monthly payments, has not been back in. We have been through everybody there is, Mr. West Taylor asked me to go to the Sheriff's Department. I went to the Sheriff's Department because the Tax Commissioner is an ex-officio officer. He said he called the attorney for the Sheriff's Association. They said you don't have anything to do with it, because she is an ex-officio officer. We went to every single solitary counsel member, every attorney, the city attorney, the county attorney, the county commissioners, everybody. We have been to everybody, trying to figure out why this man has not paid his taxes in 9 years. It is in excess of \$5,000 now. Just a week and a half ago, I met with the Tax Commissioner. She said she did not have the heart to collect for taxes anymore. Then she said, well, another thing is I don't think I can collect from him because he is a public official. Then she said another thing is I can't go back but 7 years. We have already lost two years, so what's the purpose. It says here it has to be adjudicated by a court of law. I have tried my best to figure out what in the world that means. Mr. Taylor, Mr. O'Sullivan, and Mr. O'Toole tried their best to explain it to me, but when you can't get the Tax Commissioner to do anything, where do you go? And when the sheriff's office says they don't have any part in it -- and when I talk to the county manager and the Tax Commissioners, now they say she is a constitutional officer of the State; is that right? I don't know, now, the Tax Commissioner of the county. And they say what that does is relieves everything. The county is not responsible for it. The reason I'm on one person is because he is an elected official. Even when he was elected he wouldn't pay all of his property taxes. They wouldn't let him sign a ballot. I'm going to go a little bit further into this, which I understand there is nothing to be done, but in 1996 he was Mayor in

Greenville. He was charged with felony charges, theft by receiving stolen property. He was found guilty in a court by a jury. He was sentenced to 6 years, removed from office.

All right, and he finished his sentence in 2002. It says 10 years must have elapsed from the completion of your sentence. Here is the kink -- I understand -- it was an offense of first offender, but his felony was a felony of moral turpitude, not only that, he was in office when this happened. And 10 years haven't elapsed since the completion of his sentence. And I realize the first-offender law and everything else, but I'm just saying there's loopholes in all this, gigantic loopholes, especially when you are in office and you are convicted of these felonies. This is our constitution. And how can you, with the taxes, get it adjudicated by a Court when the Tax Commissioner will not even put it on a docket. All they say is, well, so he owes money. We can get it from the State.

It's ridiculous. The State is paying out all the tax payers are paying out for things that nobody will take into consideration and try to help. And I have tried and tried and tried.

**SECRETARY KEMP:** All right. Thank you. Your time is up. Do any of the Board members have a question?

**MR. WORLEY:** I don't have a question, Mr. Secretary, but I am going to recuse myself from this case.

**SECRETARY KEMP:** Okay. Mr. Let the record show that Mr. Worley is going to recuse himself. Any other Board members have a question.

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you sir. Anybody else here wishing to speak on this case? If you are going to speak on a case, please, come forward. We have got a long agenda. If you are planning on speaking, please come to the front when we call a case. We need your name and address, please, sir.

**MR. MURPHY:** My name is John Murphy. I'm at 499 Calvin Murphy Road, Grantville, Georgia, Meriwether County. I'm going to follow up on what Rodney started with. There are more underlying problems created by this. The election that we had, the man should have been disqualified, because he does not live inside the city limit. He lives in another town, completely. The residence that he called for and said that he lived in has not had utilities in years, has not had power, water, etc. So its kind of hard for somebody to live in a residence that he calls his home.

**SECRETARY KEMP:** Let me ask you, were you a complaint in this case or a witness?

**MR. MURPHY:** My wife, who is recovering from surgery; is one of the complainants.

**SECRETARY KEMP:** I will allow you another minute or two.

**MR. MURPHY:** Okay. The bottom line is that after all the processes that we have been through, by the rulings of the Courts and by the rulings of the Boards, basically, what this is saying is that I can call a place my home and say I'm going to intend to move to the City of

Atlanta. So, I want to run for Mayor of the County.

**SECRETARY KEMP:** Sir, we need to keep it to the facts of the case, not the speculation on people moving around for other races. So, if you will finish your point that specifically deals with this case, because we need it to move on.

**MR. MURPHY:** The point is, by the rulings that we are giving on this case, it opens a door that allows me to do that very thing. It allows me to run for office in any town, any county, or any city. It allows me to vote in any election, anywhere simply by saying I intend to.

**SECRETARY KEMP:** Let me stop you right there, because we need to keep the specifics on this case. Anybody have any questions for Mr. Murphy?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Is there anyone else that wishes to speak on this case that is a complainant or fact witness? Any of the Board members have any questions for Ms. LaGrua about the case?

**MR. MCIVER:** I have a question, perhaps to investigator O'Toole, are there any responses to some of these allegations, lack-of-residence requirements and so on?

**MS. LAGRUA:** Mr. McIver, we reviewed all of the challenges in the original hearing on this case that have been challenged. The list was checked with the clerk and they were reviewed. The ones that were actually challenged went to a hearing shortly after this in front of Judge Downs, who was sitting by special designation. She determined that they were valid residents of Meriwether County. We went back after the last SEB meeting. Mr. Garrett made some additional allegations. We went back and looked at all of those, and none of those were substantiated. A number of those things were touched on; the Mayor's criminal history, as you understand the first offender; his residency was challenged and determined by superior court, after the presentation of evidence, to be valid. Is there anything specific that you are asking?

**SECRETARY KEMP:** What about the taxes?

**MS. LAGRUA:** The tax issue had not been adjudicated at the time of this election. There was not final adjudication, so the allegation that he owed back taxes may -- I am not going to not make a comment on whether or not that's true. I don't think we have the jurisdiction to act without an adjudication.

**SECRETARY KEMP:** If it has been adjudicated since then there could be a new case potentially.

**MS. LAGRUA:** Potentially.

**SECRETARY KEMP:** Any other questions?

**MR. EVANS:** Mr. Chair, I move that we close the matter. Just so the record is clear, I believe that there is an adequate remedy at law for the challenge of the residency of a candidate. That

procedure was followed here. If someone is unhappy with the ruling on residency, the appropriate technique is to take that up to the superior courts and challenge the decision on residency. We do have a final adjudication requirement in terms of a tax issue, which is that a Court must have concluded that, in fact, the taxes were owed and have not been paid. In the event your Tax Commissioner refuses to enforce the tax law, the appropriate remedy is to either take that to your local grand jury or you can file a petition with the superior court seeking to compel the Tax Commissioner to perform her or his duties. It is called a writ of mandamus; but that's the way in which you do that, which tax payers can protect themselves. The qualifications, in terms of the criminal felony, the felony had to have existed involving moral turpitude at the time of the qualification of office; however, again, we are not the right body for that. The right body for that would have been to challenge the qualifications within the statutory time period immediately after the person qualifies. So, there are ways to do exactly what you were concerned about and you were well within your boundaries to challenge all those and I encourage every citizen to do that. Unfortunately, our jurisdiction is more limited to election contest issues.

**MR. MURPHY:** The main thing was to adjudicate it. It's been so much problems. She says I'm not going to --

**MR. EVANS:** You now know your remedy. So, I would move to close, based on those grounds.

**SECRETARY KEMP:** Mr. Evans has a motion to close. Any other discussion? Do any other Board members have any questions? Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Mr. McIver seconds. Any other discussion on this matter?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, we've got a motion and a second. All those in favor of closing say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, say, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries.

**MS. LAGRUA:** The next case is case No. 2009-6. This, again, is a case that is back in front of this Board. It's on the Cook County situation. You will remember we had a situation where a candidate had a sign. Y'all closed that case, but asked that we go back and look at the actions of Faye Hughes. In the Elections Office, the allegations were that she refused to provide a voter list to the campaign and that she did not enforce the 150-foot rule. What we found out was, and the records were all there, that the campaign never had to wait more than 24 hours to get the list that

they requested. And that is by their own admission, as well as the documentation that Ms. Hughes had. And further, the alleged signs that were complained about were the same size and in kind that this Board determined were not sanctionable in this same case. And Hughes never saw any of them and there is no indication that there was a complaint made to her that she could have followed up on. We would ask that this case be closed.

**SECRETARY KEMP:** Thank you. Any questions? Is there a respondent or complainant that wishes to speak? Welcome. Name and address, please.

**MR. COLEMAN:** Mr. Secretary, my name is Tommy Coleman. 212 North Westover Boulevard, Albany, Georgia. I represent the respondents in Cook County and Ms. Faye Hughes. And in the interest of brevity, you have a long agenda, we concur completely with the recommendation in this case.

**SECRETARY KEMP:** Thank you, Mr. Coleman. Any questions for Mr. Coleman?

(NO RESPONSE).

**SECRETARY KEMP:** No questions. Anyone else here to speak on this matter?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, do we have any other comments from the Board or a motion?

**MR. EVANS:** Mr. Chairman, it strikes me that this issue of providing lists and the timeliness of providing lists is an issue that every election year we hear repeatedly. And it would seem to me that it would be appropriate to give some guidance and, obviously, 24 hours is, I think, more than a sufficient time period. I would recommend that we provide some guidance to our election official to say they have to provide the list or should attempt to provide the list within 72 hours of the request. If there are extenuating circumstances why they can't do that, they should explain that to whoever is asking for the list. The reason I favor an objective number is because in a highly charged, partisan atmosphere, there will always be the perception that if somebody gets it faster or slower than the other, that there is some improper motive attached. And you and I both know, having been in this business long enough, there is no motive. The election officials are doing absolutely the best they can. I think if we were to give that guidance that would be a helpful thing to them. And that can come from just the Chair. I think if you sent out a communiqué --

**SECRETARY KEMP:** Let me do this. I think that is a wise suggestion. I will get Mr. Taylor to look into that after this meeting and we will report back to the Board after getting some buy-in from the local elections folks and, kind of, see where we are on things and we will try to come up with a good time frame, and we will get back to the Board on that.

**MR. EVANS:** I move to close this particular matter, because it is, obviously, within the 72 hours and I think, here, you had pretty prompt action, actually.

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

**SECRETARY KEMP:** Okay. Mr. Evans moves to close. Mr. Worley seconds. Any further discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of closing, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES) .

**SECRETARY KEMP:** All opposed, no?

(NO RESPONSE).

**SECRETARY KEMP:** Motion carries.

**MR. COLEMAN:** Thank you very much, Mr. Chairman.

**SECRETARY KEMP:** Thank you.

**MS. LAGRUA:** The next case is 2009-43 City of Franklin Springs. This is a college town, gentleman. The allegations were that intimidating subpoenas were sent to college students, and then Mr. Moore, a mayoral candidate had a threatening conversation with a student. The subpoenas were not threatening. They were subpoenas. There was a challenge to residency. They sent out subpoenas for the residency hearing. That's the sum total of it. Mr. Moore was the mayoral candidate and ran into a Mr. Phillips in a restaurant. They were standing in line. He overheard them discussing the election. Mr. Moore indicated to them that if a student voted illegally, they could go to jail and went on to have a religious conversation between them. We interviewed the student, as well. The student did not feel threatened, so we recommend this case be close.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, anyone else wishing to speak on this matter?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, do we have a motion?

**MR. EVANS:** I think that the question of the appropriate residency of college students is one that we also address every election year. And I would think that if we could do the same kind of, really, all we need to communicate is that the same residency requirements that apply to you as a person, apply regardless of whether you are a student or not. I am a little worried about the fact that I could easily see how subpoenas issued would be intimidating. And that concerns me a little bit, especially given that they were, you know, delivered here in connection with the idea that people could go to jail or those kind of things. I was a little troubled by that component of this complaint. I didn't quite follow exactly what was the legal basis for the subpoenas. Was it

in connection with the civil case, a criminal investigation or something else?

**MS. LAGRUA**: No. There were residency challenges to the students and the students were subpoenaed to the actual residency hearing was the basis of the subpoenas.

**MR. EVANS**: Whose authority? I didn't follow whose authority were the subpoenas issued? Was it subpoena as a respondent, where you are compelling other witnesses? Is it a subpoena in connection with an administrative proceeding?

**MS. LAGRUA**: It was the administrative proceeding conducted by the elections office on the residency was my understanding.

**MR. EVANS**: Was there an objection to the subpoena filed?

**MS. LAGRUA**: I don't believe so. I can check the file, Mr. Evans.

**MR. EVANS**: Well, if there is no objection to the subpoena, then that would be a waiver. I would agree that we should close the file. If there are objections filed to the subpoenas I think we probably need to know what happened with the resolution on the objections.

**SECRETARY KEMP**: Investigator Zagorin is here on the front row, and he is indicating to me there was no objection. It was just known that the students had been subpoenaed; is that correct, Investigator Zagorin?

**INVESTIGATOR ZAGORIN**: Yes, ma'am.

**MS. LAGRUA**: Thank you.

**MR. WEBB**: Was the subpoena issued in response to the students trying to register to vote?

**MS. LAGRUA**: I don't believe. I believe it was sent to the students whose residency was questioned. Mr. Webb, as Mr. Evans indicated, we have had a number of cases, and I believe there are one or two more on this calendar today, where, for whatever reason, the one that stands out in my mind was Statesboro, that we had about a year ago. There was an issue on the ballot in Statesboro that college students became very involved in. All of a sudden there was an allegation that you had numerous college students, all of a sudden, registering to vote in Statesboro, so that they could have an impact on the question on the ballot. So, the side on the other side of the question started challenging the students' residencies as not being appropriate because they were there in Statesboro for school and that wasn't their real residence. They were there 8 months or 9 months out of the year and then went back to wherever they lived. And again, I think this is a question for the local Elections Office as to whether the challenge is valid. What can they show to prove that they are true residences of either the college town they live in or whether they go home? Have they registered their car in the county where they are going to school? Again, I think it will be a totality of the circumstances for whoever the finder of fact is to look at and see what the evidence is, that you are (A) a resident of Fulton County or (B) a resident of DeKalb County. I think it would be the same as any challenge to any voter. It comes up more frequently in college towns because of the transiency of the student population. I don't know how far this Board wants to get into looking at those local decisions.

**MR. EVANS:** So, if I understand, there was no objection to the subpoenas. So I would move it closed.

**SECRETARY KEMP:** Mr. Evans moves that it close. Do I have a second?

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Mr. Worley seconds. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of moving to close, signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries.

**MS. LAGRUA:** The next case is actually an old case. It was 2007-13. It was previously before this Board a couple of years ago and was deferred to wait for the GBI investigation and the District Attorney's investigation. There were allegations of -- it all involved a recall petition, and the signatures on those petitions not being valid, as well as allegations that petitions were circulated where alcohol was sold, that the petitioners were harassed and that free food and drink were provided and there were dead people on the recall petitions. The allegations as to the alcohol being sold were not substantiated. They were in a parking lot outside a grocery store inside of which alcohol was sold. The problem in this case is that they're false signatures as well as signatures of dead people. The unfortunate part about this case, and I have spoken just recently to the GBI and confirmed with the District Attorney's Office, the GBI and the DA are not proceeding with this case. And, unfortunately, I don't think we can proceed, because while there were signatures that are not accurate signatures and signatures of dead people, we don't know who signed them. And the petitions that had those on there were withdrawn and they were not notarized and signed by a circulator. So, we don't even have a situation, where we found before, where we can even go back to a circulator to see how the names got on there. There were also petitions. A number of petitions were destroyed when they found out they couldn't get enough signatures to get the requisite amount. And so they had told the folks that if they didn't get the requisite amount, in order that they not be exposed to retaliation, those petitions would be destroyed. So some of those petitions were destroyed. There is no question here that there was some nefarious conduct. I can't tell you, and even more importantly, the Georgia Bureau of Investigation can't tell us who engaged in the conduct. Because of that, at least at this juncture, I recommend the case be closed.

**SECRETARY KEMP:** Any questions?

**MR. EVANS:** What about 21-2-562(a)?



**MS. LAGRUA:** I agree, Mr. Evans, completely, that 562 would apply if I could tell you who did it.

**MR. EVANS:** My only worry is that what I'm hearing is that we know there is a crime but because we don't know who did it, we need to let it go. On the flip side, we know who had the documents. It seems to me that person would be in a pretty precarious position of explaining under oath why it is they had these documents that contained fraudulent entries.

**MS. LAGRUA:** The document that contained the fraudulent entries had no circulator name on them and that person was interviewed by GBI. And the GBI felt there was insufficient -- we can go back and re-interview view that individual. I have no problem with that.

**MR. EVANS:** Didn't we get this from Mr. Pitman?

**MS. LAGRUA:** We did.

**MR. EVANS:** So, and from your prosecutor days, I'm sure that you were well aware that sometimes whenever you put the person who has the illegal and fraudulent certificates on the stand, they have a couple of bad choices, one is, I guess, they can always invoke the 5th amendment, the other is they can tell us where they got them. It would just seem to me that this is significant that dead people's names are appearing on petitions, that but for the fact that this all kind of got coiled in mid-stream could have resulted in a recall petition, which would have been a violation of our election process. I just think we have been very, very tough over the years of the State Election Board on fraudulent documents. We have been very unrelenting. I don't know that I would stop here. I think I would refer the matter over to the Attorney General for today. We obviously have to have a notice for the report, with a violation attached, to say we think you should prosecute this and the guy who had these can have one of two choices. He can either defend himself or give up who did it.

**MS. LAGRUA:** I'm not comfortable with the outcome of this, as you can imagine. I am happy to reissue notice, name Mr. Pitman as a respondent. I'll have one of our investigators re-interview him, see where it goes, and bring it back to the next SEB meeting for your referral to the AG, after hearing from him, if that's agreeable to the State Election Board.

**SECRETARY KEMP:** What's the story on the DA? They just wouldn't move on it?

**MS. LAGRUA:** The DA has declined to prosecute or take the case. That's correct. We did contact Buzz Franklin.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE).

**SECRETARY KEMP:** Is there anyone else who wishes to speak on this matter?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, do we have a motion?

**MR. EVANS:** I would move that we re-notice and name a respondent.

**MR. WORLEY:** I would second.

**SECRETARY KEMP:** Okay. We have the motion by Mr. Evans, a second by Mr. Webb. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** All in favor of motion will say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries.

**MS. LAGRUA:** The next case is 2008-16 the City of Clayton, Rabun County. Actually, this was before the Board back in October of '09. It was deferred at that point to the Sheriff's Office to look into a possible burglary, in this case. This case involved ballots not being marked as to eligibility, date, and time received. The concern of this Board in referring it back was that the box containing the unused and used ballot stubs came unsealed prior to the 24-month requirement. We could not tell how it became unsealed, because it was kept in a closet in that common area of the building of the courthouse. We did speak to a Captain Gerald Johnson of the Rabun County Sheriff's Office. They are at a dead-end. There was no one they could find who had any specific information over the period of time that this could have happened. The police were notified, initially, when this occurred. Unfortunately, again, though, in this one, Mr. Evans, I think has some folks that are responsible, ultimately, but, again, in terms of a burglary, there was no one that could be identified; however, my recommendation remains the same, that the rest of the case be forwarded to the Attorney General's Office for the appropriate sanctions and fines. We did have the respondent, Pat Bussiere, the City Clerk, who is the election superintendent. So I do think she is responsible for the non-security of the box, even though we can't tell you, specifically, who caused the box to become unsealed. So, I would recommend that it be referred.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Is there anyone here wishing to speak on this matter, the respondent?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, do we have a motion?

**MR. EVANS:** I vote we refer it.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Mr. Evans moves we refer it. Mr. Worley seconds. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** Motion.

**MS. LAGRUA:** Next case is 2008-44 Gwinnett County. Lynn Ledford, the Director of their elections.

**SECRETARY KEMP:** What about Coffee County?

**MS. LAGRUA:** I'm sorry. Coffee County was continued at the request of the party. I apologize. The attorney in that case had another appearance.

**SECRETARY KEMP:** That's all right.

**MS. LAGRUA:** Gwinnett County, the respondent is Daniel Connell. Essentially, he offered his vote for sale on e-bay. Our investigation was that he offered his vote for sale on e-bay. He admitted to it, said it was a joke. It was not sold. He said he set the, whatever it is, reserve, so high that it wouldn't be bought. It was not bought, however, in this day and time, and these allegations, I recommend it before referred to AG's Office.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Is anyone wishing to speak on this matter?

**SECRETARY KEMP:** Mr. Connell here?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, do we have a motion?

**MR. EVANS:** Mr. Chair, this is like kidding around with a TSA at the airport. There are no jokes. Motion to refer it.

**MR. WORLEY:** I second.

**SECRETARY KEMP:** We've got a motion by Mr. Evans to refer to the Attorney General. Seconded by Mr. Worley. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** Motion carries.

**MS. LAGRUA:** The next case 2009-60. This is another Gwinnett County case. Again, the ever diligent Ms. Ledford was the complainant on the case and brought it to our attention. The allegation was that Katrina Waford had fraudulently registered to vote. Essentially, what happened was a notice went out to a Mrs. Haze's residence. She called the office asking about a summons, saying that Waford never lived there. Waford registered at Haze's address in 2004, which is at River Summit Trail, in Gwinnett County. She now lives at 112 Ivy Chase, in Norcross. When she went to the precinct, to vote, she actually put her current correct address, which is 112 Ivy Chase, in Norcross, not in that precinct. She was allowed to vote, even though her address was not correct and she had moved out of the proper location. So we have two violations here and I believe the poll worker violation in your summary is incorrect. I think you can argue that as a party there, 431(c) violation. I think Ms. Waford is 431(c), which is voting in the wrong precinct. But I think the poll workers are actually in violation of 590. So I would recommend that this case be referred to the AG's office on those two separate issues.

**SECRETARY KEMP:** Any questions?

**MR. EVANS:** I have one. Can we Clone Lynn Ledford?

**SECRETARY KEMP:** We appreciate the job she does. That's for sure.

**MS. LAGRUA:** Even when it's a problem within the office, she immediately lets us know about it.

**MR. EVANS:** I would move that we refer it over.

**SECRETARY KEMP:** Is there anyone else wishing to speak on this matter?

**MS. LAGRUA:** I would just let the members of the Board know that Ms. Ledford is here and present.

**SECRETARY KEMP:** Okay. Hearing none, we have got a motion to refer. Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Mr. McIver seconds. Any discussions?

**MR. WEBB:** Just a point of clarification, the referral is made for both the poll worker, poll official, as well as the elector.

**MS. LAGRUA:** That's correct. There were two poll workers because there were two different elections; November election and a run-off and the voter. So, correct; two poll workers and Ms. Walker.

**SECRETARY KEMP:** Well, when you say poll worker, I guess you are counting the watcher too, right? Either way, all three of them were referred.

**MS. LAGRUA:** Yes.

**SECRETARY KEMP:** Okay. We have a motion and a second. Any other discussion?

(NO RESPONSE) .

**SECRETARY KEMP:** Hearing none, all in favor of referring say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries.

**MS. LAGRUA:** The next case is 2008-49 Camden County. And this gets a little confusing, so let me say at the outset, that there is a Kay Screws, and Alice Crews, a Darlene Flowers and the Foulers are the folks getting the ballots. So, as I speak, I'm not crossing those up. I don't know how it happens in one case, but it did in this one. The allegations were improper handling of absentee ballots; that a Deputy Sheriff delivered absentee ballots to the Foulers; that Flowers, Darlene, delivered absentee ballots to a nursing home and a hospital; and that the voters were not allowed to vote for a particular candidate, due the party affiliation. Let me deal with the last one first. And this won't be the only case on this calendar when you hear this. As the Board may remember, oftentimes in a primary, when voters go to the polls, they don't understand that they have to vote in one primary or the other. They complain to us that they are having to declare a party affiliation versus just having to choose which primary they're going to vote in. That is actually what happened here, on that issue. Improper handling of the absentee ballots is substantiated. What happened was Kay Screws, the assistant registrar, sent absentee ballots to the Foulers. When she received the absentee ballots back, they were unsigned. She then gave them to Darlene Flowers to deliver back to the Foulers to sign. She indicated she did not know what was in the envelope when she took that back.

**MR. WEBB:** I'm sorry, she?

**SECRETARY KEMP:** Ms. Flowers did not know what was delivered in the envelope delivered to the Foulers. We do have a violation here that is not noted. I think the investigator, I noticed when I was re-reviewing these, there were two deliverance of ballots to folks that were disabled, one in a nursing home and one in a hospital. Obviously, under the case law, the one in the hospital was handled properly. The delivery to the nursing home was improper. So there would be a violation on Flowers' part in that instance. And there was no evidence that a Deputy Sheriff delivered any ballots. So, I would recommend that the violations involving the ballots, involving Ms. Screws and Darlene Flowers and Alice Crews, be referred to the Attorney General's Office. I will say that Ms. Flowers thought she was acting legitimately in delivering it to the nursing home, under the hospital exception, even though I don't think that that's covered in the hospital exception.

**SECRETARY KEMP:** Okay. Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, do we have any of the respondents or complainants that would like to speak on this matter? Anyone here to speak on this matter?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none do we have a motion?

**MR. MCIVER:** Move to refer.

**SECRETARY KEMP:** Mr. McIver moves to refer. Do we have a second?

(NO RESPONSE).

**SECRETARY KEMP:** I'll second. We have a motion and a second, any other discussion?

**MR. EVANS:** That's as to Lois Edwards?

**MS. LAGRUA:** We're on Camden. This is as to Screws Crews, and Flowers.

**MR. MCIVER:** All three?

**MS. LAGRUA:** Correct.

**MR. MCIVER:** (unclear) my motion.

**SECRETARY KEMP:** You with us, Mr. Evans? Okay. We have a motion and a second. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of referring, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed?

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries.

**MS. LAGRUA:** The next case is 2008-54, Telfair County, concerning Ms. Patsy Padgett. The allegations were that Joe Hamilton unlawfully assisted voters and that Telfair County did not provide adequate privacy to voters. Both of those were substantiated. In fact, there were a number of witnesses that indicated Joe Hamilton was in the voting area pointing out who to vote for at the table the voters were using. On top of that, there was no private area for them to vote. I do have members and I would like to submit this in letter, if I could read it quickly, from Joe Mershon, the attorney for Telfair County, indicating: Dear Ms. Lagrue, I am in receipt of your letter concerning the above-referenced case. Please accept this letter in lieu of an appearance. Telfair County takes this matter very seriously. It has taken steps to ensure that it complies with 21-2-385(c). The Telfair County Courthouse was under construction during the incident complained about and all county offices have been relocated. The space provided for the registrars office was adequate. Advanced voting July 2008 primary took place on tables in a hallway just outside the registrars door. Subsequently cubicles were brought in to ensure a degree of privacy. Cubicles were in place for the primary runoff and the general election. Additionally, under the leadership of Cathy Towns, our new chief registrar, the County has had a wall built across the four-centered hallway, to form additional space for the office of registrars. The space will be utilized for advanced voting. In all future elections only 4 voters will be allowed to enter the room at one time and cubicles will be used for privacy. It is my hope that the State Election Board will accept the efforts made by our new registrar to comply with Georgia Law. And I will tender this to the State Election Board. So, it's our recommendation that it be referred.

**SECRETARY KEMP:** Motion, do we have a motion to accept the letter?

**MR. WEBB:** I make the motion to accept the letter.

**MR. EVANS:** Second.

**SECRETARY KEMP:** We have a motion and a second. All in favor of accepting the letter say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. The motion carries. Mr. McIver's got a question.

**MR. MCIVER:** Ms. LaGrue, I guess I'm a little confused. You're asking that we refer this matter. Is there anything in contest here, perhaps the actions of Mr. Hamilton, that would require a hearing or can we go to a consent order?

**MS. LAGRUA:** I think you can probably go to a consent order. My indication in referring was, probably, I don't know whether Joe Hamilton would consent or if he is here. I expected the Telfair County Board, as you indicated, would probably enter a consent. They admitted, essentially, that it was a problem and that they have taken steps to correct the problem.

**MR. MCIVER:** Clearly, the Board, through this letter, seems to indicate that. In the interest of saving tax-payer dollars, I guess I'm just concerned about Mr. Hamilton. Do we know anything about his opinion or his position in this matter that will allow us to go straight to a consent?

**MS. LAGRUA:** He refused to make himself available for an interview in this case. So we don't know what his contentions are.

**MR. MCIVER:** I move to refer.

**MR. WORLEY:** Second.

**MR. EVANS:** I agree. And the reason I agree is because Telfair County has been before us, and they have been before us more than once. In fact, the one that I remember is the one where we ended up with double -- people were permitted to vote twice on the DRE. It was only through the final tabulations that we were able to detect that. Any time there is a County that's appearing before us on multiple occasions, it tilts the balance in favor of being more oversight, more aggressive, in terms of working out these kinds of details.

**SECRETARY KEMP:** Any other questions for Ms. LaGrua?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Is anyone else here wishing to speak? Is there a respondent or a complainant here that would like to speak?

(WITNESS WALKS UP).

**SECRETARY KEMP:** Morning. Name and address for the record please.

**MS. PADGETT:** My name is Patsy Padgett and I'm the Magistrate Judge in Telfair County. My address is 2307 East Golden Isles Highway, (inaudible) Georgia 31055. I am not here today to cause problems. I am here today because I'm on behalf of the honest hard-working citizens of Telfair County. In this last election I witnessed things that I cannot, in good conscience, let go without further investigation. This is the reason for my former complaint that brought me here today. Telfair County has always had a bad reputation for corrupt politics. I can remember my daddy telling me, in the old days, the best way to get a vote was a half-pint and a \$5 bill. Apparently, things have not changed that much, just the amount that you have to give. During the days when the cast of the absentee votes at the courthouse, I witnessed behavior that I thought was outrageous, even for Telfair County. I watched a man bring people in by car loads to vote. He would speak to certain candidates who were loitering around the hallways and he would pass, with this group, by them slowly and let them speak and then he would sit them at a table, four or five at a time, on a flat table, just like this. And there was no partition, no privacy, nothing. They just sat down. And she stood over them at that point and he sat down beside



them. He would point and say this one, this one, this one, this one, so they would know which one to vote for. Different people would come to my office and they would complain. They brought ballots to me and gave to it me, that were marked and highlighted with the names that the people were supposed to vote for. One lady demanded to speak to whomever was in charge to see whoever was over the elections. I found out who was in charge and took the lady, myself, to his residence. I then contacted this office to let them know what was going on. An investigator came shortly afterwards and spoke to many people. When the votes came in on Election Day, the chaos continued. Ballots were counted by the Probate Judge's Office. People helping to count the votes included a candidate for Probate Judge. Her husband was also a candidate for Superior Court Clerk. They both won. Also in the counting area was the current Probate Judge's husband, who was a convicted felon. The crowds, we looked through a large window where everybody could see what's going on in amazement. Telfair County had an extremely large amount of absentee ballots. Telfair.

A. County has a population of around 12,000 people. More absentee ballots were placed in Telfair County than Bibb County, who in 2007 the census was 154,709. The voters at the poll did not correspond with the absentee votes. A couple of candidates were ahead by a significant margin at the polls, but the absentee ballots were counted and the candidates fell behind their opponents. Some felt robbed of their election and some demanded recounts. The complaint that I have brought to your attention today needs to be answered. I cannot believe that this can be legal, but I am not an expert on the subject. I went to the registrar's office, myself, and I spoke with the new assistant, which is now the registrar herself. And I told her that I did not feel what was going on was legal. And she stated to me that she was not the registrar and her hands were tied. I went to the registrar and the registrar told me that she had called Atlanta, and it was legal. I stated that I did not believe it was legal and that what was going on in the hallway of the courthouse was not right. I walked away and observed further down the hall -- I did not speak to any voter and I did not make eye contact, but I went down the hall. As it was stated, we are in new construction so things were kind of offset. It was an old hospital, but I had good visual as to what was going on. And I saw many, many things that was not right. And I ask that -- I do thank y'all for sending it on forward, because Telfair County needs to be attended to. If I lose an election or any other candidate loses an election because that's the will of the people, then I'm satisfied with that, but you do not steal it. You do not do things that are illegal, just so you can win. That's not right.

**SECRETARY KEMP:** Thank you, so much, Judge. Does anybody have questions for the Judge?

**MR. EVANS:** I appreciate you taking the time to come out and share us. My concern, Mr. Chair, is that the issues that have been raised in the statement far exceed those that are contemplated by the referral. I wonder if it would be appropriate to, if we need to, and I defer to the Attorney General's Office, we don't need anything from the witness, but whether or not we would need, in order for you to have the appropriate boundaries, given the issues that the Magistrate has raised for us are not -- extend well beyond that contemplated in this matter before us. I think we would have the re-notice it, give anyone that was referred to in her statement an opportunity to respond, but I could be wrong.

**SECRETARY KEMP:** Mr. Evans, if you don't mind, let's hold that thought. Let's see if we

have anyone else that wants to speak. And we will get the whole story and we can assess where we go.

**MR. SMITH:** Yes, I'm Johnny Smith. I'm the Sheriff of Telfair County and I'm not talking about and Crews, Crews, Flowers or Flowers. Thank God, but everything the Judge said I witnessed on that. It's terrible. I'm here to speak for the honest people of Telfair County and the honest candidates. We have a terrible history down there, as y'all well know. Y'all spent a lot of time in Dodge County, which is our neighboring county. They have many more voters than we do, many more. We had more absentees than they did. It was much worse in our county than it was in their county. And they are the ones that are in all the trouble. We're asking. We're begging for y'all to please stop this theft. The gentleman that's going to get up after me, he has got some figures for you that will blow your mind about what happened. I told your investigator. He called me when he was down there. I talked with him. I told him, look at the absentees. They will be voted the same way all the way down. That don't happen. People have different opinions. Like the Judge says, if they vote me out, fine, but these people are financed by the drug people in my county. Ex-federal felons. They are financing these people. They are putting the money out. To beat me, they spent over \$100,000. It is the first time they have ever lost. As soon as I won, I started getting death threats. They weren't used to losing. If we had not had such a high turn-out at the polls, I would not have won; not that I'm any kind of savior or nothing. I'm just saying they had had the deck stacked so thick against us, they thought there was no way we could win, but we did. I am going to be it honest. And honest people don't hardly have a chance in Telfair County, so please, please send somebody down there to do something and stop this insanity down there.

**SECRETARY KEMP:** Thank you, Sheriff. Any questions to the Sheriff? Anyone else wishing to speak?

**MR. OWENS:** Mr. Chairman, my name is Russell Owens. I live at 142 Owens Road, down in McCrae. I'm not a politician. I'm a concerned citizen. And this -- the only time I have ever written a letter to the editor of our paper, I did concerning this election they spoke of. If it pleases you all, I would love to read the letter to you. It has got a lot of facts in it that I feel compelled to share. My whole point in writing the letter, to get something off of my chest that was really bothering me, but, more importantly, to get a message to the honest people of Telfair County and let them know how serious this was, that they need to do their part.

**SECRETARY KEMP:** Let me ask you a quick question. Were you a witness to what was going on?

**MR. SMITH:** I guess, as far as a witness, I would only be to the facts of the election, the numbers or the results of the election.

**SECRETARY KEMP:** I will give you a couple of minutes to give us that and then we need to move on.

**MR. SMITH:** I will just give you a couple of paragraphs here. The democratic election is held to determine the will of the people. In our county, we, apparently, have two polar opposite groups of people; the will of those who voted at the polls on July 15th was vastly different from

those who voted absentee and early. The most glaring example of that was the District 2 Commissioner race. Cole Dean won the poll vote by a landslide 70 percent to 30 percent, although he ended up losing the election because in the absentee and early vote, Annie Void Strong won by 91 to 9 percent. So you go from 70/30 to 91/9 percent. So you go from 70/30 to 91/9, the opposite direction. So, Ms. Strong received 126 live poll votes, but almost double that with early and absentee votes. I'm not an investigator. I don't have the authority to go out, but it's clear to me there is a problem.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Is there anyone else who is a respondent or a fact witness to this case? Would they like to speak?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none. We have got a motion to refer and a second. Do we have any other discussion from the Board?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none. Well, let's see. Mr. Evans, how would you like to proceed? Sorry about that.

**MR. EVANS:** I think we need, given the breath of what we have heard, I think we have to, actually, re-notice, based on the information. Obviously, we will have the benefit of the transcript of the Magistrate Judge's comments and the Sheriff's comments, unless the Inspector General thinks that the referral that we already have is sufficiently broad to capture, but, candidly, I heard -- I could be wrong -- I just heard a breath of conspiracy that extended well beyond that which was in the report we received.

**MS. LAGRUA:** And I have heard some additional complaints that we have not received. Respectfully, it would be my suggestion, at this point, if Ms. Brumbaugh concurs, that it be referred back or that it remain with us and you defer this for consideration for additional investigation.

**MS. BRUMBAUGH:** I agree with that. I heard two additional respondents, two candidates for office, the superior court clerk and his spouse that are not listed on the report. So I think that additional investigation would be warranted in this case.

**SECRETARY KEMP:** Okay. So, Mr. McIver, your motion, would you consider withdrawing that?

**MR. MCIVER:** Yes, sir.

**SECRETARY KEMP:** Mr. Worley.

**MR. WORLEY:** I don't think we need to withdraw the second if the motion is withdrawn, but I will.

**SECRETARY KEMP:** Just in an abundance of caution. All right. We have the motion withdrawn. Do we have a new motion?

**MR. EVANS:** I move to defer, so that it can be resubmitted to us in the context of all of the information heard today .

**MR. WORLEY:** Second that.

**SECRETARY KEMP:** Okay. We've got a motion and a second. Any other discussion?

**MR. WEBB:** I'm sorry, Mr. Evans. For clarity, the motion is to refer back to the Inspector General for further investigation.

**MR. EVANS:** Defer, just so that it pops back up on the agenda automatically.

**SECRETARY KEMP:** Okay. Is everybody clear, a motion to defer back. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of motion, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All Opposed.

(NO RESPONSE).

**SECRETARY KEMP:** No, the motion carries. Thank y'all for being here today. We appreciate it.

**MS. LAGRUA:** And if I could ask Investigator Zagorin to make sure you have contact information for the folks that were here. The next case is 08-58 Tattnall County. The complainant was Anne Holland. These allegations were numerous allegations against the Sheriff, Quinton Rush. Only one of the allegations had any factual basis whatsoever. All of the other allegations were unfounded. The only allegation that had sort of a he-said/she-said to it involved a Reggie Cook. Mr. Cook indicated that the Sheriff had told him that he was not going to support the charity that Mr. Cook worked for and that he better be careful what you do in my county. This is another one of those difficult he-said/she-said situations. Based on the fact that all of the other allegations were unsubstantiated and there is no independent evidence of this, my inclination would be to close the case, unless there is additional evidence or additional facts that can be brought forward. There were just numerous allegations and when we went to look at them, none of them could be substantiated. In fact, one witness that we were directed to that was supposed to have evidence about verbal and physical threats, that witness actually told us that just wasn't, at all, true.

**SECRETARY KEMP:** Okay. Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none. Is there anyone here wishing to speak on this case?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing and seeing none, do we have a motion?

(NO RESPONSE).

**SECRETARY KEMP:** I move we close. Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We have a motion and a second. Any further discussion?

(NO RESPONSE).

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

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries.

**MS. LAGRUA:** Mr. Chair, if I could, at this time, since Investigator Harvey is out with his family, after the death of his mother, Lee Brooks is going to assist us this morning with some presentation of cases.

**SECRETARY KEMP:** Very good. Welcome, Mr. Brooks.

**MR. BROOKS:** Thank you, Mr. Chairman. Mr. Secretary, Members of the Board, the next case is 2008-62, involving Quitman County. There were multiple allegations in this particular complaint. The allegations was that there was a raffle that was going to be held to support or fund the Sheriff's race. It was going to be held out of the Sheriff's Office. There were allegations that voters were intimidated. They were trying to get them to change their votes. People were improperly using cell phones in enclosed areas. There were improper names on the voters list. The voting machine selected wrong candidates. And voters didn't know they had to pick a party in the primaries. And the tabulation of the votes was not done publicly. The investigative findings were that the raffle never took place. The GBI did an investigation. There were people charged with illegal gambling and actually pleaded guilty to that. One person, Solon Warren, was confronted by Lewis Edwards, who told him he was going to have to change his vote or he was going to be hurt real bad. The witness to this was the wife of Mr. Warren. There were no independent witnesses. That threat was communicated to the FBI and GBI.

Because there were no independent witnesses to that, they chose not to pursue that. Mr. Edwards is, actually, not available today. He is at Emory Hospital receiving treatment for a serious injury. He denies the allegation and says that it didn't happen. However, Mr. Edwards did make inquiries to the Probate Judge about how a person could have a vote change or make the absentee ballot change and a person could come back in and vote differently. So, there is some indication that Mr. Edwards did make, at least inquiries, as to how to make those changes. There was a poll worker who had a phone in the area, but denied using it improperly. There were no other witnesses to that. There was a maiden name that appeared, instead of a married name, on one of the voter registration lists. It was corrected. There was one person who had problems with voting, and a poll worker demonstrated how to correct that or reset that ballot. That was corrected and it was reset immediately. And then the tabulation was actually done publicly. The recommendation of the Inspector General's Office is refer to the Attorney General's Office and the District Attorney's Office.

**SECRETARY HANDLE:** Any questions for Mr. Brooks?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, is there anyone else here that would like to speak on this case that is a complainant, respondent, or a fact witness?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, do we have a motion?

**MR. MCIVER:** So move.

**SECRETARY KEMP:** Mr. McIver moves to refer to the Attorney General's Office. Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** Mr. Webb seconds, any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of referring, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

**MR. EVANS:** No.

**SECRETARY KEMP:** The motion carries with Mr. Evans voting no.

**THE WITNESS:** Next case Quitman County 2009-63. The allegations in this particular case was the Board of Registrar was not removing unqualified voters from the list and the Board was not holding hearings on challenged voters. The investigative findings of this case were that the

Board was reviewing the list and hearings were being held as appropriate. the Board was not posting an agenda or minutes from the meeting, but that has since been corrected. The investigator cited Title 40-14-1(e) on public meetings, in terms of not posting the minutes for the meeting. I am not sure if this is the appropriate place for that, or if it is a jurisdictional issue, but that is where it was cited at.

**SECRETARY KEMP:** Okay. Any questions? What about the recommendation?

**MR. BROOKS:** The recommendation from Inspector General's Office is a letter of instruction or a reprimand be issued.

**SECRETARY KEMP:** Any questions from the Board?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, is there anyone here wishing to speak on this matter?

**THE WITNESS:** My name Cheryl Butler. 93 Main Street, Georgetown, Georgia, Quitman County. And I hold the title of jury commissioner. I want to take this opportunity to tell you that it is a privilege to be here today. Chairman Kemp and the Board, thank you for allowing me to speak. I am the person responsible for bringing these complaints to the Inspector General's Office. Quitman County has a history of voter fraud and ignoring state election laws. If any of you have read the book, Turn Point by President Jimmy Carter, you understand the lawlessness and corruption that occurred during his election in Quitman County. I have to admit things have gotten a little better since, but the current Board of Registrars, then Deputy Clerk and the Election Superintendent continue to ignore state election laws. I attended the Board of Registrars meeting and was told by Chairperson Adams and the Election Superintendent, Andrew Bennett, that it is my responsibility, as a citizen, to check the qualifications of voters. I told them it is their responsibility and gave them a copy of O.C.G.A. 21-228 (sic). I, as a citizen, should not have to tell them how to do their job. I have attended several Board of Registrars meetings and was met with hostility. I know that several things like: No agendas, no posting of minutes, no reading of minutes, ignoring residency rules, these are some of the issues I brought to the attention of the Inspector General's Office. There was a consent order issued back in 2002 that specifically stated they must follow this law. It is now 2010. They are as complacent as they were back then. I, as a citizen and a jury commissioner, find their actions deplorable. As a voter of Quitman County, I have a right to a clean voters list and to be concerned about the integrity of this list. I challenged three voters, conducted a hearing on my own, with no help from the Board of Registrars or the County Attorney. the Board of Registrars didn't ask one question and the County Attorney was actually defending the voters I challenged. This was a travesty of justice. I provided enough proof to show these three voters resided in Alabama. the Board, under the direction of the County Attorney voted to keep these three people on the voters list. It is a known fact that people who live in Alabama have voted in federal elections in our county. As a matter of fact, the Deputy Clerk of the Board of Registrars said in the meeting, where I was present, "Everyone knows my daughter lives in Eufaula, Alabama, but I am not taking her off the list. Cheryl, you won't win this one." This is their attitude. They do what they want, when they want, and no one can tell them any different. The good citizens of Quitman County deserve better than this and are entitled to fair and honest elections. I have done what I

can to ensure a clean voters' list; however, the next step is in your hands. The 2002 consent order issued by the Attorney General's Office is being ignored and has had no impact at all. I urge this Board to take significant action against them. Secretary Kemp, I applaud your initiative to stop voter fraud. Let's start today, with this case and take every measure possible to ensure the integrity, security, and fairness of the election process in Quitman County. The good citizens of our county are not only entitled to this, they demand it. Thank you.

**SECRETARY KEMP:** Thank you, very much. Do we have any questions from the Board?

(NO RESPONSE).

**SECRETARY KEMP:** Is there anyone else wishing to speak in this matter?

**MR. CONLEY:** Good morning. I'm James Conley from Georgetown, Georgia, in Quitman County. As Cheryl Butler just alluded to, Quitman County has a long documented history of fraudulent misconduct.

**SECRETARY KEMP:** Mr. Conley, are you a complainant or a fact witness?

**MR. CONLEY:** Yes, sir. In fact, I was the one that in 2002 the consent (as stated) and deceased order of these improper voting practices, I initiated it.

**SECRETARY KEMP:** I wanted to make sure you were a fact witness to this case. That is the only folks we can hear from.

**MR. CONLEY:** Yes, sir. In fact, I was in the Board of Registrars meeting when that Deputy Clerk told Cheryl that.

**SECRETARY KEMP:** Okay. Go right ahead.

**MR. CONLEY:** As Cheryl just alluded to, Quitman County has a long documented history of fraudulent questionable voting practices. In 2002 the Board of Registrars signed a cease and desist order from such practices. The irony is that they let people vote who shouldn't vote, and then they make it hard for some legitimate voters to do so. In fact, they kept me from voting on the machines to make me vote provisionally. And I was the only provisional voter, so in essence my right to secret ballot was null and void. There was one provisional ballot. It was mine. They knew how I voted in a very highly contested election. What I'm asking this Board to do is refer this case to the Attorney General to impose legal proceedings against the Board of Registrars, since they have knowingly and willingly ignored the cease and desist order that they willingly signed. And they were lucky to be able to sign that and not have legal proceedings back then, but they are ignoring it. In fact, most of the original Board that signed the cease and desists order are still on. I thank you for your time and we wish you would do what we need.

**SECRETARY KEMP:** Any questions?

**MR. WORLEY:** I have some questions.

**MR. CONLEY:** Yes, sir.



**MR. WORLEY**: The cease and desist order or the consent order, was that issued by this Board or some court.

**MR. CONLEY**: It was ordered by -- Ms. Cheryl has a copy of it. It was signed by Cathy Cox. It was the Election Board, I believe. And they knowingly and willingly signed it. There was numerous violations, including these, letting people from Alabama, in essence, vote and they are still doing the same thing. They obviously don't want to follow this cease and desist order. They want legal proceedings, apparently.

**SECRETARY KEMP**: Anything else, Mr. Worley?

**MR. WORLEY**: No.

**MR. CONLEY**: Thank you.

**SECRETARY KEMP**: Thank you, very much. Anyone else wishing to speak?

**MR. ARNDT**: My name is Terry Arndt. I live in Dawson, Georgia, which is in Terrell County. I don't live any Quitman County. I don't have a dog in that fight; however, I am a 17-year, law enforcement veteran and I'm here because --

**SECRETARY KEMP**: Sir, excuse me one minute. Are you a fact witness?

**MR. ARNDT**: Yes, sir.

**SECRETARY KEMP**: Okay. Go right ahead.

**MR. ARNDT**: I'm here because January 12, 2010 I was in the Quitman County Courtroom, when I witnessed, first-hand, what I consider good-old-boy political corruption. Ms. Butler was attempting to conduct a challenge hearing, where the County Attorney acted as the defense attorney for the former Sheriff and his wife, who both reside in Eufaula, Alabama. The former Sheriff, Mr. Mean (phonetic), didn't even come to the hearing. And when Ms. Butler called his name, the County Attorney stated, he called me and couldn't make it today. Ms. Butler presented her evidence to a voter Board that appeared to be uninterested and asleep. One of the voters being challenged, Ms. Mean (phonetic), acted belligerent and almost violent while on the witness stand. She then refused to answer any questions and left the witness chair. The election registrar, who is also the probate and magistrate judge, Andrew Bennett, did nothing to gain control as the witness and the County Attorney verbally attacked Ms. Butler for exercising her right as a citizen of Quitman County. It is my belief that the actions at this hearing were nothing more than the belittlement of a citizen in order to continue unethical business as usual.

**SECRETARY KEMP**: All right. Thank you. Any questions?

(NO RESPONSE).

**SECRETARY KEMP**: Okay. Hearing none, anyone else wish to speak on this case?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, do we have a motion?

**MR. EVANS:** I don't think we have the ability to enforce Title 50. I think we have addressed that, the issue of having an agenda summary notice. I could be wrong, but my recollection is that we addressed that issue a couple of times in the past and concluded that compliance with, basically, the Administrative Procedures Act doesn't fall within our jurisdiction?

**SECRETARY KEMP:** Shawn, have you got any thoughts on that?

**MS. LAGRUA:** I agree. I think we just noted that there was a possible violation of that code section, because it appears that they had violated the Open Meetings Act. I agree with Mr. Evans. I don't think we have any jurisdiction in that regard.

**MR. WORLEY:** That may be true, but it seems to me that the other allegations that were made, apparently, in the complaints that have been testified to here today, in particular, not following the standing order of this Board, at least, raises enough allegations that we ought to refer it on to the Attorney General's Office for more investigation.

**SECRETARY KEMP:** That's more on the lines of voter rolls.

**MR. WORLEY:** Along the lines of the other portion of the complaint that was made.

**MR. MCIVER:** If that's a motion, I second it.

**MR. WORLEY:** Yes. That's a motion to refer it on to the Attorney General.

**SECRETARY KEMP:** Mr. Worley moves and Mr. McIver seconds. Any other discussion?

**MR. EVANS:** I just don't see that in what we have before us. I agree that if there is a violation of an existing consent decree the appropriate remedy is to file a complaint we have, actually, a different kind of hearing. It's an enforcement hearing because it is opposed to deciding whether there is probable cause to believe a violation's occurred. We are actually holding a hearing to enforce an existing order. In judicial terms, it is like a contempt proceeding, which is you either did comply or you did not comply. And there is not the referral process. So, I don't know. I think procedurally we may be a bit out of kilter here.

**MR. WEBB:** I agree with Mr. Evans. My question was, was the complaint, specifically, about not posting the notice on the agenda.

**MS. LAGRUA:** There were two. It is the not posting the notice of agenda and holding hearing and not removing unqualified voters from the list.

**SECRETARY KEMP:** Wouldn't that be in our jurisdiction?

**MR. WORLEY:** Yes, the second part.

**MR. WEBB:** The second part.

**MR. WORLEY:** I am not talking about the violation of O.C.G.A. 54-14-1. I'm talking about

the other portions of the complaint.

**MS. BRUMBAUGH:** I believe that O.C.G.A. 21-2-33.1 Subsection (d) addresses this. And it says any order issued by the State Elections Board ordering compliance or to cease and desist from further violations shall be brought in the superior court of the county residence of the party against whom relief is sought. That would be the proper procedure. I think you all could refer this to my office and then instead of going through OSAH, the way we used to do for fact finding, we would just go straight to the Quitman County Superior Court for enforcement of this 2002 order. Now, it may be, just from a sort of presentation point of view, that further investigation is needed in order to be able to make that argument to the superior court. But that would be procedural in how we would -- the road we would take.

**MR. EVANS:** I think, first, we have to decide if an order has been violated, which is not --

**MS. BRUMBAUGH:** Well, that's my concern, what evidence --

**BOARD MEMBER:** That's a condition preceding going to Superior Court.

**MR. EVANS:** I think what we would have to do is we would have to have it brought before us as a violation, that our 2002 consent decree was not being followed or is being violated or not enforced. And we would decide, either it is being violated, in which case we ask you to enforce it in superior court or we decide it is not being violated. I don't think we have that in front of us.

(inaudible discussion).

**MR. WEBB:** There are three options here: One is with regard to the posting of the minutes. I think we are going to say it falls within our jurisdiction. Second, it is not clear in the voter list. I think Mr. Worley's motion clears that matter. And then No. 3, the third action has to do with the 2002 consent order, in which we would want to ask the Inspector General's Office to investigate.

**BOARD MEMBER:** I think we need to do that by motion. First we should deal with Mr. Worley's motion, then we certainly can go forward with the issue of whether or not there has been compliance with the cease and desist order.

**MS. LAGRUA:** Mr. Chair, can I make a suggestion before you make a motion. If this needs to come back or remain with the Inspector General's Office to see if there is a violation of a consent order, I'd request that you let the whole case come back, let us review the other witnesses that have testified here today, and their testimony, to see if there are other allegations and be able to make a full presentation to the Board on both situations. I think they are going to be somewhat intertwined. I hate to bifurcate this at this point, if we are going to have it come back and we have now heard from two witnesses that I don't believe we had previous to today.

**SECRETARY KEMP:** Very good. Mr. Worley.

**MR. WORLEY:** In that case, Mr. Secretary, I withdraw my motion. Mr. McIver seconds.

**MR. MCIVER:** I withdraw.

**MR. WORLEY:** And then I would make a motion instead that we defer this to the Inspector General's Office for further investigation.

**SECRETARY KEMP:** Motion by Mr. Worley to defer back to the IG and a second by Mr. McIver. Is there any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** Okay. It's deferred back.

**MR. BROOKS:** Mr. Secretary, the next case is 2008-70 McIntosh County, involving the 2008 general election. There are two complainants in this case, Dana Dalby and Griffin Watson. The allegation in this case was that Dalby was not provided with nomination petitions when requested, that Gale purposely provided incorrect information to Dalby about required percentages of signatures, and voters received absentee ballots with misspelled names. The voters were threatened and intimidated, that the Board of Election employees were in their offices after hours. The voters were denied the ability to vote. The voters were not advised of how to follow up on provisional ballots and that Gale did not follow poll-watcher rules. In the investigative findings, it was determined that Dalby did provide incorrect information about the percentages of signatures that would be required. She gave the number of one percent, when, actually, 5 percent was the number that was required. That was corrected the very next day. She made phone calls to two other candidates, as well, and gave them that information. The investigation in this particular allegation, there was no evidence that would substantiate any of the charges except the information that Latitia Armstrong's voter registration was transferred by Fulton County to Fulton County without her request. It is recommended that Fulton County be issued a letter of reprimand in this particular case.

**SECRETARY KEMP:** Okay. Any questions for Mr. Brooks?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, is there anyone else who wishes to speak on this matter?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, do we have a motion for discussion by the Board?

**MR. EVANS:** The difficulty is that we have entered an oversight order as to Fulton County. And so it is not as simple as there is yet another Fulton County violation and we issue yet

another reprimand.

**MR. MCIVER**: Didn't this predate that, Mr. Evans.

**MR. EVANS**: It does, but it doesn't supersede the fact that they're under our -- If I recall correctly, I think they have to give us a report of corrective action taken to prevent a recurrence of violation.

**MR. MCIVER**: Haven't we had, at least one of those, Mr. Tailor?

**MR. TAILOR**: Yes, sir. I can go back, but I believe that consent order has ended. There was a time period in which that was that case and they were under review and there was a --

**MR. EVANS**: I think that extends to this cycle, but I could be wrong on that one. Let me ask this question, has corrective action been taking to prevent this from happening again?

**MS. LAGRUA**: I believe Fulton County is here, Mr. Evans.

**MR. EVANS**: Well, that kind of says something to me right there.

**SECRETARY KEMP**: Would you like to address that question?

**MR. GARNER**: Sure.

**SECRETARY KEMP**: Come up and state your name and address, for the record?

**MR. GARNER**: Good morning, Board. I'm Barry Garner, the Director of Elections for Fulton County. This happened, I think, in 2008 when we made a mistake in entering the voters. We did not verify that. We owned up to the mistake. It was a mistake made by our office. We've put corrective measures in place, as we speak. When a card is entered it is verified by two people before we send it out now. So, basically, one person enters it and another two people verify it, just to make sure we have got everything accurate. That started back in 2009, when I was hired.

**MR. EVANS**: So, I think what we would need, Mr. Chair, is we would need, if I understand the way the procedure was, is that we would need for them to submit as part of the consent order package a confirmation of the corrective action taken, so that we can act in reliance on their representation that a corrective action was taken. Then we could accept an admission of a violation, combined with a reprimand and a consent decree, then making their corrective action our rule, as opposed to relying on their voluntary compliance. I think that is how we set up this review process, to pay particular attention to Fulton County because of the problems that they have had in this past. That sounds largely administrative, but it's extremely important because it permits us, then, if the problem reappears, to jump over the preliminary-hearing phase and go directly into the enforcement phase. So, what I would ask is that if, Mr. Garner, if you could reduce what you just said to us, to writing, send that to Wes or to whoever is the chair designate, and say we all agree there was a violation. This is the corrective action that was taken and this will confirm that that corrective action is part of the practices and protocols and procedures for Fulton County. We can then accept that and then adopt a consent order, making that our rule, as well.

**SECRETARY KEMP:** If we have an agreement there, do we need to defer this back now.

**MR. MCIVER:** Yeah, I think just pending receipt of that correspondence.

**MR. GARNER:** Is there a time frame that you need it in.?

**MR. MCIVER:** Do you agree?

**MR. GARNER:** Yes, I do agree. But I think it was an administrative mistake. Granted, mistakes happen. I don't make any excuses for what happened, but I think it happened in other counties, also.

**MR. EVANS:** The difficulty we have is that it was just a mistake that voter ID was thrown in dumpsters, which was then made immediately available. And it was just a mistake that we didn't have appropriate valid handling procedures. And there is a point at which a County moves from being it was just a mistake to this is a pattern that we have to pay particular attention to. It doesn't make it any more significant, but Fulton County, obviously, is our largest county and has the most voters and so we are very sensitive to it to begin with, but it is the pattern that makes the Board much more aggressive in dealing with even administrative mistakes, as they occur?

**SECRETARY KEMP:** Any of the Board members have a question for Mr. Garner?

**MR. MCIVER:** So we should defer this matter pending receipt of this, right?

**MR. WORLEY:** Should we close the matter against McIntosh County while we leave the Fulton County one open? There don't seem to be any violations by McIntosh at all.

**SECRETARY KEMP:** That's a good point.

**MR. EVANS:** I agree.

**SECRETARY KEMP:** We want to put all this in one motion?

**MR. MCIVER:** I'd rather handle it in separate motions.

**MR. WORLEY:** Well, then, if I might, I make a motion to close the complaint against McIntosh County.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** I have a motion to close the case against McIntosh County. Mr. McIver second. Any other discussion?

**MS. LAGRUA:** Mr. Chair, could you just clarify that that's 2008-70 and not McIntosh County, because our next case is also a McIntosh County case.

**Secretary KEMP:** Very good. Case 2008-70 McIntosh County, motion to close and a second. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** All in favor of the motion say, aye .

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** Okay. That motion carries. Do we have another motion?

**MR. MCIVER:** I move to defer the Fulton County aspect of this particular matter pending receipt of the letter from Mr. Garner, who has been described earlier in our proceedings here, today.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Okay. Mr. McIver's got a motion to defer back. Mr. Webb seconds. Any other discussion.

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** That motion carries. Thank you.

**MR. BROOKS:** Mr. Secretary, the next case is McIntosh County, 2009-5, involving the 2008 General Election. Respondents in this case are Boyd Gault, Cornell Hawkins, and Nathaniel Grovner who were on the Board of Commissioners there in McIntosh County. The allegations are that Hawkins and Gault illegally possessed absentee ballots and that Grovner owed back taxes and illegally assisted a voter. The investigative findings in this case were that Gault admitted to possessing his wife's absentee ballot because she is unable to mail it. And he didn't sign it as assisting in that particular case. His wife suffers from an illness. She is in a wheelchair. There is no mailbox at the house for them to mail it. He did attempt deliver it. He was told to take it back and mail it. In that much that he did actually deliver that particular ballot. Grovner claims that he never possessed Wilson's Ballot. Ms. Wilson has deceased, so we are not able to interview her. There was a private investigator who was hired who did a lot of investigative work on here. The investigator says that he can provide witness to the fact that Grovner was in possession of one of the ballots after he had submitted his. Hawkins was seen and videotaped leaving the elections office with an absentee ballot, after he turned his absentee ballot in. The recommendation of the Inspector General's Office is that the Golf case be closed

and that Hawkins and Grovner be referred to the Attorney General's Office for further sanctions.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Who hired the private investigator?

**MR. BROOKS:** Mr. Steve Jessup, who was the candidate for sheriff-elect in that county.

**SECRETARY KEMP:** Anyone other questions.

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Anyone else wish to speak?

**MR. MUCHA:** Yes.

**SECRETARY KEMP:** Please state your name and address for the record. Thank you.

**MR. MUCHA:** My name is Robert Mucha. I am chairman of the Board of Elections and Registration of McIntosh County. My address is 1414 Plantation Drive, Southwest, Darien, Georgia 31305. Talking about Mr. Gault, specifically, he did have a ballot and he has also been before this Board before in December 13th of 2006 in which you issued a cease and desist order against him for handling absentee ballots.

**SECRETARY KEMP:** And who are you talking about, now, Mr. Mucha?

**MR. MUCHA:** Mr. Gault. The facts of that circumstance is that Mr. Evans is the one who was talking about the possession of theft and it carries with it, for the first offense, unless there are egregious circumstances, \$100 fine or \$100 civil penalty. Mr. Evans and Mr. Worley say that seems to be what we are doing. So let's say, as to Mr. Gault, we will have a civil penalty and a cease and desist order. Mr. Gault has a reputation, really, of bringing in and carrying absentee ballots. His wife and the information that we had on the ballot indicated, first of all, that she was not disabled. She did not mark it as disabled. He was told that he could not present that ballot and continued to bring in the ballot. In turn, he was also seen by this investigator in a parking lot, passing over this absentee ballot to somebody in a car who was later identified as the then incumbent Sheriff of McIntosh County, Mr. Tom Jones. This is all on the video. I think it is has been turned over to the GBI and also to the -- Investigator, what's your title? Ms. Gale is our elections supervisor and she can inform you on this.

**MS. GALE:** My name is Elenore Gale. I'm the elections supervisor for McIntosh County. My address is 1150 Yocan (phonetic) Avenue, Darien, Georgia, 31305. The day that Mr. Gault came in with his wife's ballot, I told them that I could not accept it because she was not disabled. She is not in a wheelchair. And she didn't check anything on the application saying disabled. I told him to walk across the street and put it in the post office. That is the only way we could accept it. He left out of the office after. He does have a cease and desist order. He is still doing the same thing.



**SECRETARY KEMP:** Okay. Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you. Anyone else wishing to speak on this case?

(NO RESPONSE).

**SECRETARY KEMP:** Any further discussion or motion?

**MR. EVANS:** I move we refer it.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Motion to refer by Mr. Evans and Mr. Worley has a second. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of referring, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed?

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries.

**MR. BROOKS:** The next case is Lanier County, 2008-99. It involved a 2008 election. The complainant in this case is Sharon Griffin, who is the Chief Deputy Registrar. The respondent is Tommy Gene Minor. The allegation is that Tommy Gene Minor, attempted to register under two different names. The investigative finding are that Tommy Gene Minor registered on July 26th, '08, as Tommy Gene Solomon and two months later, on 9/30/08, registered as Tommy Gene Minor. His explanation for that is that his grandmother enrolled him in school under the name of Tommy G. Solomon. Solomon is his father's name and Minor is his mother's name. But as you look at the history and the summary there, you can see that he has registered in two different names, several different times. It is recommended that this case be referred to the Attorney General's Office for further sanctions.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE) .

**SECRETARY KEMP:** Hearing none, anyone else here wish to speak on this case? Anyone else wishing to speak on this case?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none --

**MR. MCIVER:** Motion to refer.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We have a motion to refer by Mr. McIver. Mr. Worley seconds. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of referring, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES) .

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE) .

**SECRETARY KEMP:** Okay.

**MR. BROOKS:** The next case is 2008-11 Bulloch County Nursing Home. It involved a 2008 general election. The complainants in this case are Mary Rucker and Valerie Luckey Merritt. The allegations are that employees of the Heritage Health and Rehabilitation Center did not turn in voter registration application and change of addresses for Mary Rucker. The investigative findings were that Mary, who was the deputy registrar at the time, without that permission of the facilities, withdrew after residents were asleep and then woke them up and had them sign the voter registration applications. Merritt then left them in the Director's office to have them place the social security numbers on them. The recommendation is that the case be referred to the Attorney General's Office for appropriate sanctions and civil penalties.

**SECRETARY KEMP:** Mr. McIver has a question for you.

**MR. MCIVER:** Mr. Brooks, is this facility owned by Bulloch County or is that simply one of the titles of the private entity that either owns or manages the facility?

**MR. BROOKS:** It is not owned by Bulloch County.

**MR. MCIVER:** The reason I ask is that my law firm represents Bulloch County. I was considering recusing myself. But if they are a private business operating in Bulloch County, I intend to proceed.

**MS. LAGRUA:** Investigator McNeil is here, the investigator on the front row. He is indicating that it is not county owned.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, is there anyone else wishing to speak in this matter? Yes, sir, come right ahead.

**MR. GARDNER:** My name is Rich Gardner. I'm an attorney with the Law Firm of Arnold, Golden Gregory, 171, 17th Street, Northwest, Suite 2100, Atlanta, Georgia 30363. And the reason that I'm here, I represent who is also listed as a respondent, although it wasn't mentioned in this summary, I don't believe, the nursing home as well as the administrator of the nursing home. There was an allegation in the case summary that there had been a violation of 21-2-562(a)2, which had to do with the destruction of registration cards. That's in the case summary that I received. It wasn't mentioned today, so I guess I should ask if that is still something that is before the Board, before I proceed.

**SECRETARY KEMP:** Hang on one second. Ms. LaGrua.

**MS. LAGRUA:** It looks like y'all may not have gotten an updated summary. I apologize for that. I just realized that even Mr. Brooks didn't have one. It appeared that Ms. Hobbs, when she realized a number of these applications were for individuals that she and her staff determined they did not believe were competent to vote, they destroyed the applications. I think there is a technical violation there, potentially, because they are not in a position to decide those issues on competency. This is the situation we run into so often with the nursing-home cases that we have heard over and over. And we are back to the legal definition that Mr. Evans asks about routinely on declarations of incompetency by the probate court versus nursing home staff. There is no indication that the staff of this nursing home was doing anything except what they thought would be proper. Technically, I think it still may be a violation, but that's for the Board to decide how you handle that, whether that is through a referral or potentially through a letter or instruction reprimand or consent to get the training that Mr. Taylor has so diligently put together for our nursing home community. And I apologize if that summary was not updated and you did not get that reference.

**SECRETARY KEMP:** Go right ahead.

**MR. GARDNER:** To that point, the registration cards that were obtained by Ms. Luckey Merritt, we do believe were obtained unlawfully. So it wouldn't necessarily be in that definition that I said has been violated; however, the facility has its own policy in complying with state residence, rights, laws, and federal laws also, to go to each resident, inquire to them and ask them if they would like to vote. And if they do, ask them if they are registered. And if they are, ask them what county they are registered in. So, a lot of these cards have been obtained by Ms. Luckey Merritt. The facility also got its own registration cards. They sorted out, through the cards obtained by Ms. Luckey Merritt, which is the subject of most of the summary, they went back to each resident that she had gotten a card for and asked them if they desired to vote. If the resident expressed that they did not wish to vote, they set those cards asides. If the resident could not express a desire to vote, they didn't make a determination that they weren't mentally competent to vote. They made no determinations about competency. But if the resident could not express that they desired to vote, then they didn't proceed with the registration for those residents. They took all the registration cards of residents who expressed a desire to vote, whether they got the registration cards or Ms. Luckey Merritt got the registration cards, and they were subsequently ratified by if residents. They took all of those to the registrar and registered

those residents. Some of them, however -- let me just back up. Of the cards that were retained by the facility, whether gathered by Ms. Luckey Merritt or by facility, there are 92 beds in the facility, roughly 80 residents, 22 cards, 15 of which were from residents who either expressed that they did not desire to vote or could not express a desire to vote. 7 cards were from residents who were already registered. So they brought all of these cards back to the facility. This is during the process where they are still interviewing residents, because there are a lot of residents to interview. Some of the cards, only a handful, were torn in half because they either were foreign residents that couldn't express a desire to vote, had expressed they did not desire to vote or were already registered. They kept all of the cards. Some of the cards were torn in half, simply because they didn't want to get them back into the pile, the next pile that they were taking to the registrar. So, we don't feel like the statute was violated. (as stated) We don't feel like the cards obtained by Ms. Luckey Merritt were lawfully obtained and all the cards of residents who could express a desire to vote were submitted to the registrar.

**SECRETARY KEMP:** You said you felt like the cards were lawfully.

**MR. GARDNER:** Were not, because, as mentioned in the case, she came in in the middle of the night, you know, went to the residents, woke them up and registered them to vote. She did turn those cards in to the facility and then there was a big scene where she demanded them back. She wanted the facility to write in the social security numbers. The facility refused to do that. They took the cards, along with the blank cards, and went around to each resident. In some cases, those cards obtained by Ms. Luckey Merritt were ratified and they did use those.

**SECRETARY KEMP:** Any other questions?

**MR. GARDNER:** If you want to talk to the administrator and one of the people who assisted in that process, they are both here.

**SECRETARY KEMP:** Any other questions from the Board?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you. Is there anyone else that would like to speak in regards to this case? Anyone else?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, any other questions from the Board or do we have a motion?

**MR. MCIVER:** I move to refer, pursuant to the recommendation of the Inspector General.

**MR. EVANS:** I second, because, I think we have to give more direction on the nursing home area. Every year, every election year we get these. And, honestly, I think it would be very helpful in fashioning whatever relief, if there is a content decree that we can actually give some flesh, which is to say here are increasingly the boundaries of what we can do and what we can't do. And it would be very helpful.

**SECRETARY KEMP:** We agree, and Mr. Taylor is going to address that later today. We have a motion to refer by Mr. McIver. Do we have a second?

**MR. WEBB:** Just for a point of clarity, is that for the case against Luckey Merritt, as well as the actions of Pamela Hobbs?

**MR. EVANS:** My intent on the second was that I want to be able to fashion the broadest relief possible.

**SECRETARY KEMP:** On your motion, Mr. McIver, will you name who we are referring, just to make sure we're clear.

**MR. MCIVER:** Those who were identified as respondents.

**SECRETARY KEMP:** So all of the respondents.

**MR. MCIVER:** Yes.

**MR. EVANS:** That's what I intended.

**SECRETARY KEMP:** We have a motion to refer to the Attorney General, all the respondents. Do we have a second, Mr. Evans?

**MR. EVANS:** Yes.

**SECRETARY KEMP:** Mr. Evans seconds. Any other discussion?

**MS. BRUMBAUGH:** Can I just -- my list of respondents on my paper is Valerie Luckey-Merritt and Heritage Inn Health and Rehabilitation. Is there anyone else?

**MR. GARDNER:** Board, I think Ms. Hobbs is an employee of Heritage Inn.

**SECRETARY KEMP:** So we are including Mrs. Hobbs too, or not?

**MS. LAGRUA:** Just for clarification, that was noticed in the summary and actually went out to the respondent. That notice was in the summary.

**MR. WEBB:** Is she listed in as a respondent?

**MS. LAGRUA:** Yes. She is in the body and Heritage Home Health and Rehabilitation is in the actual respondents and Ms. Hobbs is identified in the violations in the body of the petition.

**SECRETARY KEMP:** So we have two respondents and then including the Heritage; is that correct?

**MS. LAGRUA:** Correct.

**SECRETARY KEMP:** Okay. Any further discussion?

(NO RESPONSE).

**SECRETARY KEMP**: Motion to refer, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP**: The motion carries. Let's go ahead and break for executive session. We will get a motion to go into executive session and we will return at 10 after 1:00. Can we have a motion?

**MR. EVANS**: So moved.

**MR. MCIVER**: Second.

**SECRETARY KEMP**: Motion and a second. All in favor say.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP**: Motion carries.

(EXECUTIVE SESSION FROM 12:10 P.M. TO 1:10 P.M.)

**SECRETARY KEMP**: Do we have a motion to close executive session?

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

**MR. MCIVER**: Second.

**SECRETARY KEMP**: We have a motion and a second. All in favor, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP**: Let the record show that Mr. Evans was not present -- he will be joining us shortly -- for that vote. Ms. LaGrua.

**MS. LAGRUA**: Thank you. The next case on the calendar is 2008-115, Bleckley County. This is another situation involving students at a local college or students there, in Bleckley

County. The allegations were that students were voting improperly and that one student voted twice. In fact, Ms. Muftau provisionally voted in Bleckley even though she was registered in Hancock and had been notified by Bleckley that she could not register. When she insisted on voting, they allowed her to vote a provisional. When they researched it, it they did not count the provisional ballot. Mr. Johnson voted provisionally, both in Bleckley and by absentee in Hancock. Again, his provisional ballot did not count. His Hancock County Ballot did. It is recommended that the case be referred to the Attorney General's Office, and in particular, in the case of Mr. Johnson, potentially, the District Attorney's Office for attempting to vote twice.

**SECRETARY KEMP:** Any questions of Ms. LaGrua?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, anyone else a respondent, complainant or a fact witness that would like to speak on this case?

**MS. JOHNSON:** I think we need a correction.

**SECRETARY KEMP:** Ma'am, if you don't mind, would you state your name and address.

**MS. JOHNSON:** Mary Johnson, 1098 Credit Hill Road, Townsend, Georgia, McIntosh County. On the sheet, I think I heard Terrance Johnson, another county is -- (cell phone rang behind the court reporter and cell phone conversation made comments from the podium inaudible).

**MS. LAGRUA:** I believe Ms. Johnson is correct. I misspoke and said Hancock. He voted by absentee in McIntosh.

**SECRETARY KEMP:** Okay. Thank you.

**MR. JOHNSON:** I will let him tell you why he voted twice. Then I will come back up and explain my part.

**SECRETARY KEMP:** If you don't mind, state your name address for the record.

**MR. JOHNSON:** Terrance Johnson, 1098 Credit Hill Road, Townsend, Georgia.

**SECRETARY KEMP:** Mr. Johnson, let me just advise you of something, as we get going, here. There is the potential that this case could get referred to the Attorney General or the District Attorney. So anything you say here is a matter of public record. It can be used in those cases in the future. So, I just want to make sure you understand that. You can go ahead if you would like.

**MR. JOHNSON:** Around election time I had came back home one weekend and my parents gave me some papers to fill out, which I didn't know was the absentee ballot, because that was my first time voting. So I filled out the papers and when I went back to school, I think it was election time then in Cochran. So my friends, they was telling me that -- they asked me did I register to vote. I was like I registered. That's what I thought that I filled out when I was back at home. So, they was like okay, let's go down to the voting polls. So I went down to the polls and

I voted. I filled out everything they asked me to do. So I went back to the school. And so I was, I had called my mom and told her I had voted. She told me you already voted. I was like that was first time I voted. She told me, no, the things that you had filled out when you was home was the absentee ballot and that was your vote. So I went back down to the election thing and I let the people know, that was there, what I had done. So I told them. I spoke to one man. I don't know his name, and he told me that my vote was going to get canceled. So that was how I voted twice.

**SECRETARY KEMP:** Did you have anything Ms. Johnson that you wanted to add?

**MS. JOHNSON:** Really, my thing was it was really an error on my part because he was just getting into school and we had all kind of papers and stuff to sign to get him in school. It was a human error on my part because we should have explained to him that whatever you do when you go back to school you don't vote again because you already voted absentee. It was really an error on my part, because we should have explained that to him.

**SECRETARY KEMP:** Okay. Anybody got any questions? Okay.

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you. Anyone else wish to speak on this case?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, any other questions by the Board or I will entertain a motion?

**MR. MCIVER:** Again, the recommendation from the Inspector General's Office is what?

**MS. LAGRUA:** My recommendation remains that it be referred both to the AG's Office and the District Attorney's Office. Mr. Johnson would have had to fill in his votes on two different occasions for the ballots to have been submitted. Unless his mother is indicating that she filled out his ballot, put it in an envelope and just had him seal it, he would have had to individually fill out two ballots indicating his choices for elected office in the November Presidential Election.

**MR. WORLEY:** Ms. LaGrua, was there any indication from the election office that he had gone back in Bleckley County and attempted to cancel his vote?

**MS. LAGRUA:** Investigator Archey, is there any indication?

**INVESTIGATOR ARCHEY:** He told me the information about after departing that location he went back to tell them that he had already voted. I wasn't able to determine who that person was. It was back in 2008.

**MR. WORLEY:** Did they have any record written record of that?

**INVESTIGATOR ARCHEY:** I never received any information on that information.



**MR. WORLEY**: You asked them if they had a written record?

**INVESTIGATOR ARCHEY**: This was later, after I had already issued a subpoena to get some other documents.

**MR. WORLEY**: I just want to be clear. You have not asked the Bleckley County Registrar whether they had any documents.

**INVESTIGATOR ARCHEY**: I can issue a subpoena if y'all wish for me to issue a subpoena for some additional documents.

**MS. LAGRUA**: Mr. Worley, I would let you know that Mr. Johnson was sent a letter from the Bleckley Board of Registrars informing him that his application for voter registration had been denied and he still went and voted provisional.

**MR. WORLEY**: But I guess he was disputing whether they were correct in denying his application for voter registration.

**MS. LAGRUA**: I agree.

**MR. WORLEY**: I don't know that that's any kind of violation.

**MR. MCIVER**: What's probative to me is it takes time to cast a ballot. You have various decisions to make and all kinds of things to read. That is far more complex than just completing a registration form. I am inclined to refer this over and let the administrative process determine exactly what's there and resolve any fact questions that may exist. With that, I will move to refer.

**SECRETARY KEMP**: We have got a motion to refer. Do we have a second?

**MR. WEBB**: I'm going to second.

**MS. BRUMBAUGH**: Are you referring just to the AG's Office or to the AG's Office and the District Attorney's Office.

**MR. MCIVER**: I'm accepting the recommendation of the Inspector General and would refer both matters, only one of which we have talked about, which is Johnson; Muftau, I would refer that as well, to the AG and the DA.

**SECRETARY KEMP**: With that clarification, Mr. Webb, do you still second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: Any other discussion? Mr. Evans, do you want to vote on this?

**MR. EVANS**: I do. I studied this. I am very interested.

**SECRETARY KEMP**: All right. Let the record show that Mr. Evans is back with us and will be voting.

**SECRETARY KEMP:** Okay. We have got a motion and a second. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all those in favor to refer to AG and the DA, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed?

**MR. WORLEY:** No.

**SECRETARY KEMP:** Okay. The motion carries.

**MS. LAGRUA:** The next case is 2008-132 Montgomery County. This case was previously presented to the Board. You have referred it back to us to add the city of Tarrytown as a respondent. This was -- the wrong date was, for the general election, was published. Absentee ballots were not available and that Gary Coleman, the Mayor's husband and a candidate for City Counsel had possession of absentee ballots. In fact, the wrong date was published and never corrected. The ballots were available. The complainant just never requested a municipal absentee ballot. So that allegation was unfounded. And, in fact, Judge Sander asked Gary Coleman to deliver the ballot box with unused ballots to City Hall. Both Judge Sanders, the Probate Judge and Gary Coleman admitted they knew the box had unused ballots. Further, during our investigation, we found that there was no registrar appointed at the time. So I would note that the violation, I think, is deemed correct. In the summary, it cited 286. I think it will be 283 and/or 584, illegal possession of ballots. I would just recommend that this be referred to the AG's office. I believe Mr. Pallet, the attorney for Tarrytown, is here and would like to address the Board.

**SECRETARY KEMP:** Any questions for Ms. LaGrua?

(NO RESPONSE).

**SECRETARY KEMP:** Anyone else wishing to speak on the matter?

**MR. PALLET:** Mr. Secretary, I believe the complainant is here. She stated that she wishes to speak after me. I will leave that to the Board's discretion.

**SECRETARY KEMP:** Do you want her to speak after you?

**MR. PALLET:** I would rather, so that I would have time to respond to any additional allegations she would make.

**SECRETARY KEMP:** Okay. So you want to go ahead or -- why don't we hear from the complainant first. Welcome and state your name and address for the record, please.

**MS. WARNOCK:** I am Mae Warnock. My address is 496 (unclear) Street, Tarrytown, Georgia

30478. There were ethical and legal violations on the election done. We felt like the lady that was in charge of the election did not investigate. She was not prepared to do the election. At that time Mr. Pallet was -- well, after I started suing the town, Mr. Pallet was the lawyer. They got him just to do this case. I pursued this case. I went before a lawyer. And he told me my instances of what would happen. I decided that I was going to drop the case because I was running out of money. I felt like it should have been the State's place to investigate this case, because it was done illegally. I didn't feel like I should personally put my own money into it. Since then, they have fired Ms. Pallet. Since then, he has been rehired. So there is still a little bit of discretion in between there. I feel like there was illegal fraud with Mr. Coleman, who was a candidate, having the ballots his hands. I am a former counsel member. First, we were told there were no absentee ballots to be voted at the election. The night before the election I asked her, the Mayor, who was in charge of it, if it was going to be paper or machines ballots. She did not know. She was the in charge it and she did not know. There was just a lot of irregularities done. She did not listen to the counsel. We offered help. We offered advice. We called the Secretary of State's Office, a couple of people did. There have been a couple of other letters written. I don't know if you are in possession of them yet or not, but there were some more letters written. There were other things that have been investigated. She did not request help. She said she knew what she was doing. To me, it is not a matter of whether or not you know what you are doing. If you are hired as an official by the people, not hired, but elected, if you have been a Mayor for 4 years you should have the knowledge, the forethought to plan for an election coming up 4 years later. If you don't know how to do it, in this technical world today, there are ways to find out how to do it. You can call and ask questions or you get somebody that is qualified to do it. Mrs. Coleman, who is the Mayor, is also the business manager of the town. Her husband, who was in possession of the ballots, empty absentee ballots, was one of the candidates. The votes were not counted openly. They were counted behind closed doors. There was just a lot of little things that had never been done before that were done differently this time. It just seems like it was a cover up. I appreciate your time. I appreciate your investigating this. I'm very nervous.

**SECRETARY KEMP:** Don't worry about that. Hold on one second there. Anybody got any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you, ma'am. No questions. Name and address, for the record, please.

**MR. PALLET:** Mr. Secretary, members of the Board, my name is Keith Pallet. I'm an attorney. I live in Soperton, Georgia. My practice is in Vidalia, so I will provide that address. It is P.O. Box 28, Vidalia, Georgia 30475. I'm here on behalf of the respondents in this case and, basically, in order to streamline everything and to not waste anybody's time, I will go ahead and tell you that I am here to admit all of these violations with a couple of exceptions. First of all, let me explain that with regard to the first allegation, which was that the Mayor violated O.C.G.A. 21-2-9, initially, I sent a letter, whenever this matter came before you. In that letter, there was a question as to whether or not that allegation was being admitted or denied. It is being admitted. At the time I wrote the letter, I was under the impression that a corrective notice had been published in the newspaper. As it turns out, it was not. So that allegation is admitted. Of

course, No. 2 and No. 3 are admitted. Let me just, with this caveat, explain that, Mr. Evans, I read the transcript from the last meeting and I saw your comments on there that you were concerned that this was another municipal election where nobody knew who was in charge. I am afraid to tell you that you are absolutely correct.

**MR. EVANS:** It accidentally happens every now and then.

**MR. PALLET:** Yes, sir. Theoretically, the election superintendent of the county was functioning as the election superintendent for the city. This was the first contested election in Tarrytown, which has approximately 50 registered voters in it, in 20-plus years. Things fell through the cracks. It was not done correctly. And for that, on behalf of my clients, I apologize. I have, since the time of learning of these violations of becoming the City's Attorney, I have advised the Mayor and Counsel and referred them to the Carl Benson Institute of Government. I have also referred them to the Georgia Municipal Association. And I have also told them that they need to be in constant contact with the Secretary of State's Office when they have questions regarding elections. They have assured me, the Mayor and I had a conversation by phone, last night, assured me that all pertinent rules and laws will be followed from now on, that they will make sure that the election superintendent is duly appointed for every election from here on out. Registrars will be appointed and everyone will have the appropriate grant. I would also note that Judge Sanders, who is the Probate Court Judge in Montgomery County, served as the election superintendent in this case without any compensation. As it happens, a lot of times in rural counties in Georgia, the Probate Judge does fill that role. And a lot of times I don't think that anybody realizes that the Probate Judge doesn't have to be an election superintendent, when you are talking about a municipal election. But she did fill that role. She did lend help and support as best she could. She did refer the Mayor to pose any questions that she had that she couldn't answer to the Secretary of State's Office. But again, making no apologies, there were mistakes that were made here. With regard to Mayor Coleman, the only place that she is mentioned in the allegations is with No. 4, that she permitted Gary Coleman to take possession of the absentee ballots. With regard to that, I don't believe there is any evidence in the record to show that Ms. Coleman had any personal knowledge that her husband transported the absentee ballots to City Hall, at the request of the Probate Court Judge. Regardless, however, you may find in your ability as a probable cause fact-finder, that in her official capacity, she may, very well, be responsible. The buck has to stop somewhere. I just wanted to point out that I don't believe that there is any evidence that she had any personal knowledge that he had the ballots. I would just like to point out, in summation, that although there were several mistakes that were made, I don't believe that any of these mistakes affected the outcome of the election, reason being that most of the allegations are centered around the fact that absentee ballots were given and received and taken unlawfully. There were no absentee ballots that were cast. With regard to Ms. Warnock's allegation that the absentee ballots were not made available, that allegation was made to the Inspector General's Office. I believe it's already been investigated and been found to not be true. So in summary and in conclusion, I would like to request that the Board consider the possibility, because Tarrytown is admitting the violations -- Tarrytown is not someone who is up in front of you on a regular basis. In fact, I would probably guess it is probably the first time they have been in front of you. We ask for a letter of instruction to include a cease and desist and reprimand, rather than referring the case to the Attorney General's Office. However, should you all decide that you want to refer any part of this to the Attorney General's Office, we would stand ready to negotiate with the Attorney General's Office on a consent agreement. Thank you.

**MR. MCIVER**: Mr. Pallet, what were outcomes of the election?

**MR. PALLET**: The outcomes of the election were that Mayor Coleman, who was challenged by Ms. Warnock's husband, David Warnock, was voted back in. Mr. Coleman, who was the one who transported the ballots, was also elected on the council. Ms. Warnock, who was on the ballot, was not reelected. She had been on the council since --

**MR. MCIVER**: Do you remember the vote counts? Do you have that in your notes?

**MR. PALLET**: 80 percent turnout of the, approximately, plus or minus 50 --

**MR. MCIVER**: About 40 voters and none absentee.

**MR. PALLET**: No absentee. And the evidence showed that there was one person who came to the probate judge and asked for an absentee ballot, but by the time he got there the absentee voting was over with. So he was told, sorry we can't give you one, so you can come back and vote in the general election. I don't believe that person did come back and vote in the general election, though.

**MR. MCIVER**: I want to ask a question of Mr. Evans? Has Tarrytown been before us before? I have no recall of that.

**MR. EVANS**: No. And I remember, because, as you know, I'm born in Laurens County and spent a fair amount of time in Soperton and that whole area. And I remember when this first came up, you and I were both interested that there were 50, give or take a little, but 50 registered voters and we were talking about how municipalities think that being a municipality is cost free, but it's not, because if you are going to have an election we do require you to do it the right way.

**SECRETARY KEMP**: Any other questions?

(NO RESPONSE).

**SECRETARY KEMP**: Thank you.

**MR. PALLET**: Thank you.

**SECRETARY KEMP**: Anyone else here wishes to speak on this case, a respondent, complainant, or a fact witness?

(NO RESPONSE).

**SECRETARY KEMP**: Hearing none, any other discussion by the Board or do we have a motion?

**MR. EVANS**: I would follow Mr. Worley's comments earlier today, which is, there is no reason why we do things, just for the sake of doing them. We have an admission of a violation on the record, which is the necessary predicate to do a consent decree. I would propose that Ms. LaGrua or whoever her successor is, work with Board counsel to reduce that to a consent

decree that includes a cease and desist that would include, you know, a confirmation of corrective action, which is, in fact, these things that we have heard about today happen. And the only issue in my mind is that we have vacillated, to some extent, on whether or not we insist on a reprimand. Here, given that there have been no prior incidents, I don't know that we need a reprimand to start with. But that would be the only issue. So my motion would only entail the cease and desist with confirmation of corrective action.

**SECRETARY KEMP:** Mr. Evans moved. Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Mr. McIver seconds. Any other discussion?

**MR. WORLEY:** Well, since there is an allegation of unlawful possession of absentee ballots, which was, in fact, the case, and because our practice is to generally impose a \$100 fine per ballot, I would just like that to be included in whatever resolution is reached.

**MS. LAGRUA:** I think if there is going to be a consent order with any binding sanctions, it is probably more appropriate and it's been our practice to let the Attorney General's Office handle that. I think this would be a very easy one for them to get worked out in an order. It's going to be hard to have -- I think Ms. Brumbaugh is nodding her head, any legality to any sanction comes from IG's Division or the Secretary of State's Office, even on a consent.

**MR. EVANS:** I don't know if I understand that. I think a consent decree is an order of the Board. The only thing that you are obviating is the need to have a referral. If counsel could agree, but it may be that he can't agree today, but if he could agree, then we can do it by consent decree and it is the same legal effect as if we did it after a referral. So, I don't see that difference, although I completely agree with Mr. Worley that we have been very strict about if there are absentee ballots involved. And I think that does have to be addressed. Do we know how many ballots?

**MS. LAGRUA:** I don't believe. I would have to go back to the report. There were unused ballots that were in the box.

**MR. MCIVER:** The reason that I didn't think a fine would be in order since the ballots hadn't been cast, I agree it could appear to be a departure from a relatively strict position that we have taken, but my view of this was that a fine simply wasn't necessary. That is the reason I so quickly seconded your motion.

**MS. LAGRUA:** If we could have -- may Investigator Williams answer that question. He's actually been and saw the --

**SECRETARY KEMP:** Absolutely.

**INVESTIGATOR WILLIAMS:** I don't have a specific count of the number on absentee ballots; however, they were still in the original package like they received them. They were still wrapped in the cellophane shrink wrap, had never been opened. Like I said, I don't know how many are shipped at a time. That is the way they were during my investigation. They were still

wrapped up.

**MS. BRUMBAUGH:** If I could provide my opinion, I think the better course of action would probably be to refer this to me. I agree with Mr. Evans on one hand that there is -- I do agree with what Mr. Evans has said, but when I look at the code section about the civil penalties, civil penalties will not be assessed against any violator except after notice of hearing, as provided by the APA. And while, obviously, you waive that when you have a consent order, it does seem like a cleaner document if it's being negotiated through the office that can, actually, waive that and the office that would have the jurisdiction to go out after the person under the APA. I think Mr. Evans's suggestion, there is nothing prohibiting what Mr. Evans suggests, but perhaps a better course of action, if a fine is imposed, would be to keep it going through our office, just in case there are wrinkles down the road.

**SECRETARY KEMP:** Okay. Any other discussion?

**MR. EVANS:** On that point, I will just say, being the longest serving member of the Board, we have routinely accepted consent decrees that involved fines, without a referral. So, that doesn't move me one way or the other. Mr. Worley's point, I think, is what gives me some pause as to whether or not this was appropriately a referral or a consent decree, but I think the additional evidence from the investigator, confirming that the ballots remained, in fact, sealed up in the packet, as opposed to being, which is what we are really about, which is any time somebody has either filled out or handled the ballot is a sufficiently distinguishable characteristic. I think I will just stick with my original motion.

**SECRETARY KEMP:** We've got a motion and a second. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all those in favor of the motion to consent with a cease and desist and issue a response, I believe is the way he put it, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

**MR. WORLEY:** No.

**MR. WEBB:** No.

**SECRETARY KEMP:** No. All right. The motion fails. Do we have another motion?

**MR. MCIVER:** I move that we, in light of this vote, I move that we refer to AG's Office.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have a motion to refer. Mr. Webb seconds. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** All right. We have a motion to refer. All in favor, say, aye.

8(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed?

**MR. EVANS:** No.

**SECRETARY KEMP:** One no. The motion carries.

**MS. LAGRUA:** The next case has been continued, Muscogee County. This is the first continuance at request of counsel. The next case is 2009-7, Elbert County. The initial allegation in the case was that there was an absentee ballot that was uncounted for. Our investigation found that, initially, there were actually 5 unaccounted for absentee ballots. Two ballots were issued to the wrong precinct. One issued to a military voter and then canceled in the office and 3 were not reported in the sub system. Ultimately, after the entire investigation was complete, all of the unaccounted for ballots were accounted for and no ballot was not voted that should have been and none that we are aware of should not have been voted were voted. Maebelle Davis was the former registrar, was the registrar at the time this had happened. In the meantime, Susan Sexton, the probate judge, to come in, when she saw the problem, she, initially, asked Ms. Davis to try and figure them out. Ms. Davis was unable to give satisfactory answers. Ms. Sexton's group then was able to figure out where the ballots had gone and what had happened and accounted for them. Ms. Davis is no longer employed by the Elbert County Elections Division or Elbert County. Judge Sexton has spoken to our investigators at length, is confident that these issues have been addressed. The attorney for Elbert County, Bill Daughtry, was unable to be here. I spoke to him at length. However, he indicated that he no longer represents Ms. Maebelle Davis. Head does currently represent Elbert County. He is, again, confident in Ms. Sexton's ability and the changes that she has instituted since she has taken over. I believe she is here to address those concerns this afternoon. If the Board is satisfied with the investigation and Judge Sexton's explanation, my recommendation, only because Ms. Davis is no longer there and will not be acting in that capacity, is that we issue her a letter of reprimand, to Ms. Davis, since she is no longer there.

**SECRETARY KEMP:** Any question?

(NO RESPONSE).

**SECRETARY KEMP:** Anyone else wishing to speak on this case? Good afternoon. If you will state your name and address, for the record, please.

**MS. SEXTON:** My name is Susan R. Sexton. I live at 1420 Mineral Springs Road, Elberton, Georgia 30635. I serve as Probate Judge and Election Superintendent for Elbert County. Since this incident the grand jury recommended 10 people for the Board of Registrars. The chief of the superior court, Judge, in turn has appointed all new members to the Board. These are people that had worked with me in elections in the past. They know a little bit about election laws. I believe when we had this problem all the votes were counted and even though some voters received the wrong ballot the outcome of the election would not have changed. Problems arose, due to the poor management, lack of attention to details, and inability to comprehend the importance of



election procedures. At no time do I believe the Chief Registrar Mae Davis or anyone working with her intentionally did anything wrong. Because of willingness of the new chief registrar, Charlotte Ward, and her ability to help me locate where the problems existed, I am confident that this should not happen again. That's all I have to say.

**SECRETARY KEMP:** Thank you, Judge. Appreciate you being here today. Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. No questions. Thank you.

**MS. SEXTON:** Thank you.

**SECRETARY KEMP:** Anyone else here wish to speak on this case, Elbert County?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, any other questions from the Board?

(NO RESPONSE).

**SECRETARY KEMP:** If not, I will take a motion.

**MR. MCIVER:** May I ask again, the recommendation for the inspector general?

**MS. LAGRUA:** I recommend in this case that a letter of instruction be issued, only because Ms. Davis is no longer active in elections. I suppose it could be referred for some sort of a consent order. My guess is the consent will end up being to cease and desist, since she is no longer there.

**MR. EVANS:** Well, I think what we have done before is have a cease and desist that provides that the person is no longer involved in elections. And before they can get re-involved in elections, they have to get approval from the Board and have to have satisfied us that they have been properly trained, educated, and understand the rules and procedures. I think we, in fact, have a template of that somewhere, because we have had before where it is, kind of, the agreement which the JQC uses for judges, which is, the deal is, okay, you stop being the judge and you agree never to be a judge again. And we agree that that is the corrective action.

**MS. LAGRUA:** I think that would be completely appropriate, Mr. Evans. Ms. Davis, as this Board is aware, has been in front of this Board numerous times, just in the time I have been serving.

**MR. MCIVER:** My question to you, is your recommendation limited to Ms. Davis?

**MS. LAGRUA:** It is. My thinking on that, Mr. McIver, was that Judge Sexton took charge of this. They immediately appointed new members and remedied the problem and, in fact, corrected the problem.

**MS. LAGRUA:** I think clearly that the Board as well and the registrar could be referred, as

well, as part of an order. It might be appropriate under a consent order if there is going to be a consent order, to make sure there is appropriate training and they don't have this problem again.

**MR. MCIVER**: That's my view. It seems to me that a cease and desist needs to go out to the Board. And, obviously, incorporated within that could be admonitions about the future use of Ms. Davis. There is always the next Ms. Davis, as far as I'm concerned. I would rather have the Board with that particular obligation.

**MR. EVANS**: So, I guess the easiest thing is just to refer it over and have the AG create an agreement consistent with what Mr. McIver has outlined.

**MR. MCIVER**: I move to refer to the AG.

**MR. WEBB**: Second.

**SECRETARY KEMP**: Okay. We've got a motion and a second. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP**: Hearing none, all those in favor of referring to the AG, signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP**: The motion carries.

**MR. BROOKS**: Mr. Secretary, members of the Board, the next case is Chattooga County, Case No. 2009-27. This involved a November 2006 General Election. This case was referred to us by the GBI from a previous investigation they were involved in. They referred it to our office. The complainant in this case was Joe Burford, Prosecuting Attorneys Counsel. The respondents in this case were Barbara Reese, Clemmy Black, Leonard Smith, (Hoyt Harden) and Brenda Burk. The allegation in this particular case is that it was improper assistance with absentee ballots. The investigative findings were that Hoyt Harden did not properly sign as assisting. Two of the electors were blind and one was illiterate. He did not properly sign as assisting. Barbara Reese did not sign as assisting and was not eligible to assist anyone of her family members because she was on the ballot at the time. Brenda Burk did not sign as assisting. Leonard Smith improperly assisted an elector because the elector was not disabled or illiterate. So the recommendation of the Inspector General's Office is to forward this to the Attorney General's Office and the District Attorney's Office.

**SECRETARY KEMP**: Any questions for Mr. Brooks? Mr. McIver.

**MR. MCIVER**: Ms. Reese's attorney, Chris Corbin, although he is mentioned as a respondent here, you didn't comment. Did he or she, depending on their gender, have any involvement?

**MR. BROOKS:** None, other than would not allow people to make statements or comments to us or cooperate with the investigation. It may have been a procedural issue.

**MS. LAGRUA:** I think he was listed to make sure he got notice, Mr. McIver, and he is not listed as a respondent. And I verified that notice with Mr. Brown.

**MR. MCIVER:** No other questions.

**SECRETARY HANDLE:** Any other questions?

(NO RESPONSE).

**SECRETARY KEMP:** Anyone else wish to speak on this case?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, no further discussion. Ready for motion.

**MR. EVANS:** So moved. Move to refer it to the AG.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We've got a motion and a second. All in favor of referring to the AG -- Mr. Evans did you want to include the District Attorney, as well, or just the AG?

**MR. EVANS:** That's a topic that is a little more difficult for me than some of my colleagues on the Board, because early in my tenure to agree to a referral to the District Attorney became such an issue for the Board, I think I will save for someone to make a second motion on the referral to the DA. My motion is just to the Attorney General's Office.

**SECRETARY KEMP:** Okay. And we have got a second. Any discussion, Mr. Worley?

**MR. WORLEY:** I just would make the point that this is a case in which one of the respondents is a sitting state representative who is represented by counsel. And I think it's bothersome to me that neither the State Representative nor their counsel are here today to respond to this, particularly given the issues that have been involved in Chattooga County. I just wanted to say, for the record, that I think it is very unfortunate that none of the respondents are here to comment on these charges. And I think it should be referred over.

**SECRETARY KEMP:** I agree. Any other discussion? Okay. We've got a motion and a second to refer to the AG. No further discussion. All in favor of referring, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** Referred to AG.

**MR. BROOKS:** The next case is Case No. 2009-29, Talbot County, involving the 2008 General Election. Mr. Secretary and members of the Board, I have to ask that one of the respondents in this case, Jimmy Raines, did not receive proper notice of this particular hearing. We would ask that his portion of this case be continued to a later date, but we continue with the rest of the information that is in the allegations in the file.

**SECRETARY KEMP:** Okay. Go right ahead. Do we need to go ahead and move on that? We will just go ahead and hear the rest of the case. If he is not listed and didn't receive notice, we don't need to address it.

**MS. LAGRUA:** The point is Mr. Chair, that he came up during the course of the investigation and allegedly committed an elections violation and because he was not initially identified as a respondent or given notice, I don't think you can proceed today, but it would leave allegation in this case unanswered after today.

**SECRETARY KEMP:** Okay. Go ahead, Mr. Brooks.

**MR. BROOKS:** Okay. The complainant in this case are Calvin Willis and Allen Biggs. The respondents are Herman Howard, Freeman Montgomery and Joe Slade. The allegations in this case were that the candidates were allowed to qualify without proof of a high school diploma or degree. Absentee ballots were not properly handled. Unqualified persons were allowed to vote. Deceased persons were on the voter's list. People were not allowed in the room while votes were being counted, and, in general, voter intimidation. The investigative findings in this case were that the allegations, in terms of the high school diploma were not substantiated. The person did have a high school degree. It was verified through Peace Officer Standards and Training that this person did have a high school degree. Five ballots were mailed to physical addresses, returned and then properly mailed to Post Office Boxes. Sanchez Passmore and Johnny Durham voted in Talbot, when they did not reside in Talbot County. Ms. Ford was listed as an active voter but did not vote, and there was no other evidence of any unqualified voters or convicted felons voting in this particular election. There was a Kristina Leonard that was on the list, not a Christine Leonard who had passed away. So, there was a mistake with the identity on that. Any request to be in the tabulation room prior to the election night was honored in this particular case. I will leave out the information about Jimmy Raines. The recommendation of the Inspector General's Office is that it be referred to the Attorney General's Office.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, anyone else wish to speak? Is the complainant here?

**MR. WILLIS:** Yes.

**SECRETARY KEMP:** Would you like to speak to us?

**MR. WILLIS:** Yes.

**SECRETARY KEMP:** Come on up. If you would state your name and address for the record, please, sir.

**MR. WILLIS:** My name is Calvin Willis. I reside at 215 Power Church Road, Mailing address, P.O. Box 915 Talbotton, Georgia. I would like to, about the accusation that Mr. Howard has a high school diploma or a GED, that has been verified by POST; that is not the case. Mr. Howard, after the election, I confronted the superintendent of the election, which is Mr. Slade Johnson, in reference to his qualification. He issued me documentation from POST, just a letter stating that this will suffice, which is his years of training as a peace officer, for him to be allowed to qualify. There was no GED at that time or high school diploma presented to me. Recently, it had just been discovered from POST and (PACE- unclear) that Mr. Howard has two GEDs. Neither GED has been substantiated by the State Board of Education. They both have the State seal on them, saying that the State Board of Education issued him this GED. Neither one of them, the State has not substantiated this. Not only that, but those seals have state seals on them, saying that he was issued a GED by the Board of Education. Now, if that's the case, then that is fraud. That is fraud.

**SECRETARY KEMP:** Anything else?

**MR. WILLIS:** No, sir.

**SECRETARY KEMP:** Any questions?

**MR. EVANS:** Do we have those documents that he is referring to?

**SECRETARY KEMP:** Sir, hang on one second.

**MR. EVANS:** No, actually, I'm asking the Inspector General.

**MS. LAGRUA:** I don't believe so, Mr. Evans. Investigator Harvey, and, obviously, he isn't here so he can't speak, did follow up, but I asked him to follow up with POST standards, Police Officer Standards and Training, and was told by POST that they have verified, that, in fact, he had a high school equivalency diploma. If there is a remaining question about that, I have no problem with deferring this until our next meeting and we can actually get copies of those documents, if the Board would like.

**MR. EVANS:** Or we can make it subject to confirmation.

**SECRETARY KEMP:** Did you have something you wanted to say?

**MR. WILLIS:** Yes, sir. Both of those documentations, they have two different dates on them. They have two different dates. That is fraud, sir, two different dates.

**SECRETARY KEMP:** Okay. Any other questions? Anyone else wish to speak? We have another complainant that wishes to speak.

**MR. DODGER:** Mr. Biggs is present. I don't think he wants to speak.

**SECRETARY KEMP:** Okay.

**MR. DODGER:** I'm Andy Dodger, and I'm County Attorney for Talbot County. The office address is P. O. Box 1297, Columbus, Georgia 31902. This is Cheyenne Pinkston. She is Chairman of the Talbot County Board of Elections and registration, which was formed during the 2009 Legislative Session and is presently in charge of elections in Talbot County. Also present, I am here for Slade Johnson, our former Probate Judge. He was present here in the hearing room. I'm going to let Ms. Pinkston respond to allegations regarding the three absentee ballots. That is the only positive finding that we saw in the IG's report. As to County, we did want the Board to be aware that in January of 2009 election challenges were filed by both of these complainants in the Superior Court of Talbot County. Those election challenges were heard by Judge L.A. McConnell and they were denied on all counts, in early 2009. Part of the allegations of that complaint, since it was raised by Mr. Biggs, was this business about the Sheriff's educational qualifications. After that he has filed a second lawsuit in the Superior Court of Talbot County that is presently pending and the Secretary of State's Office is actually a party to that lawsuit, raising this same issue, but trying to file it in the nature of a (poll veronto - phonetic) type of a proceeding to challenge his qualifications, and that is still pending in Superior Court of Talbot County. As a fact witness, I can state in my place, I have seen the POST certification. And Judge Johnson can testify that he saw the post certification and POST has certified him to meet the standards required by the code section. And we can provide a copy of that to you very easily or to the IG's investigator. We have that stuff. And we have it available. So if you want to see it, we can certainly get that to you. In terms of the other facts, somebody else is here to speak to Sheriff Howard today. I did want Ms. Pinkston to address the issue on the three absentee ballots that she raised in the report.

**SECRETARY KEMP:** Any questions for the Counselor? Thanks. And welcome. Let me get you to, for the record, state your name address, please.

**MS. PINKSTON:** Cheyenne Pinkston. I live at 619 George West Town, Talbotton, Georgia 31827, and as Mr. Dodger was saying, those particular applications are in question. What happened was, we are a newly formed Board and recently, about a year ago, we relocated into another building. What happened was the original application got separated from the application that the investigator viewed. The application was for an elder person, a person who a (uacarver - phonetic) voter and an elderly person. What we did was, and we have changed our procedure since then, was attach a new application to the application that was -- when they were requesting the data for the rest of the year. In other words, it was an elderly person who initially requested a ballot. They checked the section that said I want a ballot for the rest of the year. What we were doing is attaching a new application to that so you could see that we had the original signature. And I do have the applications here, if you would like to review them. Would you like to review them?

**MR. EVANS:** Mr. Taylor.

**SECRETARY KEMP:** Go ahead.

**MR. EVANS:** Did we get back from Talbot County, the confirmation on the oaths?

**MR. TAILOR:** Yes.

**MR. EVANS:** My only point, Mr. Chair, is that maybe what we should do is, on each one that comes before us, add that oath part, because one of the issues that we are focused on is making sure that we fix that problem.

**MR. TAILOR:** I will let you know.

**SECRETARY KEMP:** Are there any other questions?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you.

**MR. DODGER:** Thank you, sir.

**SECRETARY KEMP:** Anyone else. Yes, sir.

**MR. GRAHAM:** I'm Neil Graham. My address is 200 Third Street, Macon, Georgia. I'm here on behalf of Councilman Raymond Montgomery. Very briefly, in reviewing the IG's report, there were a few allegations that touched on Mr. Montgomery's commission rates. All were without any justification or evidence. Just on his behalf, so he can sleep at night, I would ask that he be dismissed or the investigation closed as to Councilman Montgomery, as the IG's report doesn't have anything further to do with him. I do have a copy of Judge McConnell's order where these same issues were tried before Judge McConnell and were found to be meritless in an order issued by the Superior Court Judge, by the same parties involved in the matter here today. So, again, on behalf of Councilman Montgomery, I would just ask that it be dismissed as to him or closed, however the terminology needs to be.

**MR. EVANS:** I move we accept Judge McConnell's order.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have a motion and a second. All in favor of accepting the order, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** It's accepted. Okay. Have we got any other questions for Counsel?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you. Anyone else wish to speak?

**MR. BROWN:** My name is Virgil Brown. My address is Post Office Box 388 Courthouse

square in Zebulon, Georgia.

**SECRETARY KEMP:** Mr. Brown, if you don't mind, if you can speak into that mic where we can get all this on the record.

**MR. BROWN:** I would like to file certified copies of the answer to the offense of Karen Handel, by and through Thurbert Baker, Attorney General. They have taken the position that once the case was settled that Herman Howard was cleared and it is in res judicata and collateral estoppel and cannot be pled otherwise. I would argue that this Board can't take a position against the Secretary of State or the Attorney General. One is where we are today and the other is where it will be referred to. The Secretary of State Attorney was present in Talbot County yesterday. And this would be the second time. The first one was ruled in our favor and a copy of the certified order is attached to Karen Handel's answer to this case. I would ask that Herman Howard be completely dismissed out of this. There is one letter in the file that probably was not completely investigated. And that is the letter from the NAACP. Shortly after this election, Mr. Willis and several other members of the NAACP went to a meeting where there was not very many people present, took a vote and elected themselves as President and another officer, Mr. Biggs being one and Mr. Willis's uncle being the president. That letter was written without a vote of the Board. I was present at the NAACP meeting where the State NAACP declared the election void and held a new election and put some of the old officers back in. With that said, I would argue that Sheriff Howard should be dismissed out of it today and cleared. He has already been through one complete challenge in superior court and won it, and yesterday, the Secretary of State, as well as us, filed a motion to dismiss, because of collateral estoppel and res judicata. It has already been adjudged, done been to Court, twice in superior court, and the Secretary of State has adopted that in her answer. And I would ask that Sheriff Howard be dismissed out of it. He had a lot of duties to do today, so he couldn't be here. So I came for him.

**SECRETARY KEMP:** Hold on Mr. Brown, if you don't mind. Do we have a motion to accept the documents? Have y'all seen those?

**MR. EVANS:** Yeah, I so move.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Okay. We've got a motion and a second by Mr. Worley. All in favor of accepting the document, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries. Okay. Any questions for Mr. Brown?

**MR. WEBB:** Mr. Brown, who are you here representing?

**MR. BROWN:** Sheriff Howard. And I represented him in the first challenge in Talbot County.



I believe the County Attorney picked him up once he it got (unclear).

**SECRETARY KEMP:** Any other questions for Mr. Brown?

**MR. EVANS:** Has there been a ruling in the Willis v. Howard case?

**MR. BROWN:** Yes, sir. And there is a certified copy attached to the back of one of those documents. The Secretary of State filed it with her response, to say it was collateral estoppel.

**SECRETARY KEMP:** Wait a minute, now. Mr. Evans I'm going to let you do the question and answer or asking, rather.

**MR. EVANS:** Thank you. I was just trying to figure out here. It appears, and maybe I'm reading this -- it appears that a complete copy of the order from Judge McConnell is attached to the motion to dismiss and brief. Did I get that right?

**MR. DODGER:** Yes, sir. That is the order from Willis versus Howard, one. And also Mr. Johnson was a defendant in that case. I believe the chief registrar was the defendant in that case, also, if I'm remembering right.

**MR. EVANS:** Let me make sure I understand this. The narrow issue in the election process dealt with whether there was sufficient irregularities to set aside the election; is that right?

**MR. BROWN:** That, among other things. He claims he did not have a high school education. Horace has been a deputy 22 years. To be certified, he was probably under the grandfather clause. He had to go to mandate school, so he had to go and take the GED in 1985. He failed it once in, I believe, Columbus, passed it in LaGrange and POST has a certificate. And it does have the State seal on it. And the Court accepted that the first time and overruled them on all grounds. The elections were then certified. He took office as Sheriff and has been Sheriff since that time. Shortly after, once some of the people present today went to NAACP and wrote this letter and without a vote or without any approval, they filed a second suit, and supposedly the NAACP was going to fund it, but the State NAACP invalidated that election and came down and held another election.

**SECRETARY KEMP:** Are there any other questions for Mr. Brown?

**MR. EVANS:** I'm just trying to understand, but the narrow issue in the election contest litigation was whether or not the election should be set aside and the narrow issues before us are whether or not the rules and regulations relating to elections have been complied with. How do you see them being the same?

**MR. BROWN:** They claimed in their allegation in No. 14, in the first suit, that he did not have a high school education.

**MR. EVANS:** Put aside the qualifications, because that is not jurisdictionally before us. We don't decide whether people meet the qualifications.

**MR. BROWN:** Allegation No. 1, your investigator said no evidence to support it. Allegation

No. 2, no evidence to support. No. 3, no evidence to support.

**MR. EVANS:** Which allegation are you talking about? Apparently, what I'm trying to understand is, apparently, there is an allegation that you think that we are collaterally estopped from considering here, other than the ones in which we have concluded there is no evidence to support a violation. Is there one?

**MR. BROWN:** Not -- other than that, Horace (as stated) is not involved in any of the ones you found any evidence in, so I'm just asking that Horace (as stated) Howard, the Sheriff, be excluded from this, from this point on. He has been under a cloud ever since he has been in office. A superior court judge looked at him yesterday and said Sheriff Howard, I'm sorry, you will probably be retired before we can quit hearing this case. We've heard it once. Now they've heard it twice. And there will be some (Yo-as stated) claims filed after this second suite and certainly, if it's a third one filed, there will be some significant (Yo- as stated) claims filed. Sheriff Howard has been a deputy 22 years. He has been a sheriff this year. He deserves to be able to sleep at night. This investigation, in my opinion, has cleared him. The Secretary of State has taken the position that it's res judicata, as well as Thurbert Baker, the Attorney General and all the people whose names appear on this document have taken that same position. And I'm asking this Board to adopt all of those positions and dismiss Herman Howard from this.

**SECRETARY KEMP:** Anything further from Mr. Brown?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you, Mr. Brown.

**MR. BROWN:** Thank you.

**SECRETARY KEMP:** Anyone else wish to speak on this case?

**SECRETARY KEMP:** Do you have something else?

**MR. WILLIS:** Yes, sir.

**SECRETARY KEMP:** Come on back up here so we can hear you. State your name and address again for the record, please.

**SECRETARY KEMP:** Yes, sir. I would like to ask anyone that did the investigation did they authenticate his GED with Georgia Department of Education.

**SECRETARY KEMP:** Okay.

**MR. WILLIS:** If not, how can they say that the record is clear that he does have it, because I, myself, had to go? I dropped out of high school, went and got my GED. I had to take a curriculum course, Math, English, all that, to get my GED. Mr. Johnson, during the election qualification, when I presented by certificate to him, he refused it. He said go to Atlanta and get -- I cannot accept that. I had to go to Atlanta to the Department of Education, prove to them, well they said what are you doing here. I said that the election superintendent stated that this is

not an authentic GED.

**SECRETARY KEMP:** Okay. Let me stop you right there. If you would, just state your name and address for the record, again.

**MR. WILLIS:** My name is Calvin J. Willis. I reside at 215 Power Church Road, mailing address, P.O. Box 915, Talbotton, Georgia.

**SECRETARY KEMP:** Very good. Any questions?

**MR. EVANS:** The qualifications issue is really not before us. We don't have jurisdiction.

**SECRETARY KEMP:** Thank you. Appreciate that.

**MR. WILLIS:** Thank you.

**SECRETARY KEMP:** Okay. Anyone else wishing to speak on the case?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, the Chair will entertain a motion or discussion.

**MR. WORLEY:** Mr. Secretary, in looking at the Inspector General's Report, maybe Ms. LaGrua can confirm this for me, the report indicates that there may be several violations here: violations by the Talbot County's Registrars Office, violations by a Stanchez Passmore and a Johnny Durham, and violations by Jimmy Raines, but none of those persons or entities are respondents in the action; is that correct?

**MS. LAGRUA:** The answer to your question is, sort of. I think you are correct that none of them were identified as respondents. I think what happened, it is something that we need to correct and potentially defer to the next meeting on those three individuals in the Registrars' Offices. They were not initially named as respondents, and for some reason, did not get added, but the investigation revealed that they committed violations, Passmore, Durham, Raines and the Talbot County Board. So they were not noticed as respondents, even though the body of this investigation would indicate that there were violations. So, I would ask an opportunity on those particular incidences to notify them appropriately.

**MR. WORLEY:** Okay. And the three people who are listed as respondents, Sheriff Howard, Freeman Montgomery, and Jocelyn Johnson --

**SECRETARY KEMP:** We did not find violations.

**MR. WORLEY:** You did not find violations on those three.

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

**MR. WORLEY:** Okay. Then I would make a motion that we close this matter as to Sheriff Howard, Mr. Montgomery and Joe Johnson.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We've got a motion and second to close on the three individuals that were named in the motion. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, all in favor of closing, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** Motion carries.

**MR. MCIVER:** Procedurally, I move that we refer the remainder of the matter back to the Inspector General's Office for further investigation and bring it back.

**SECRETARY KEMP:** We've got a motion to defer. Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have a second. Any discussion?

**MR. WORLEY:** I don't know that there is anything left to defer. Maybe we should have a motion to open the matter and have the inspector --

**SECRETARY KEMP:** There weren't any? What do you think, Shawn?

**MS. LAGRUA:** You have Mr. Raines who voted twice.

**MR. WORLEY:** None of those people are named yet.

**MR. MCIVER:** That's what I meant by deferral, go back to complete the investigation and bring it back.

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

**MS. LAGRUA:** We can handle it that way.

**SECRETARY KEMP:** Okay. We've got a motion and a second. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of referring back to the IG's Office, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** Motion carries.

**MR. BROOKS:** The next case is case number 2009-57 involving the city of Reynolds and the 2009 General Election. The complainants in this case were Cybill Willingham and Don McFail. The respondents were Everette Carson and Gene Slaton and Elaine Patterson. The allegation is that the City Clerk allowed two candidates to qualify who did not meet the requirements for the position. Investigative findings were that the City Clerk mistook Mr. Carson's name for his son's name, who was a registered voter and allowed him to qualify for that election. The second allegation was made anonymously. And there was nothing to dispute Ms. Slayton's residency at that particular time. It is recommended that this case be referred to the Attorney General's Office.

**SECRETARY KEMP:** Okay. Any questions for Mr. Brooks?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, is anyone here to speak on this case?

**MR. LIIPFERT:** Yes, sir. My name is Jeff Liipfert, gentlemen. My address is 202 Central Avenue, P.O. Box 1147 Fort Valley, Georgia.

**SECRETARY KEMP:** Could you spell your last name, please?

**MR. LIIPFERT:** I get that question all the time. It's L-i-i-p-f-e-r-t and the next question is how do you pronounce it. You pronounce it like it's one. I am the City Attorney for the City of Reynolds and I'm here with Ms. Patterson. The two allegations are that two people were allowed to qualify to run for office in the City election, the City Counsel in 2009. We readily admit, as to Mr. Carson, that an error was made at that time, when he was allowed to qualify for a position of city counsel. Ms. Patterson did mistake his son for him. And it was not discovered by her until Election Day, when Mr. Carson went to the polls and registered and the poll manager could not find Mr. Carson on the registration list there and contacted Ms. Patterson at that time. She contacted the Secretary of State's Office and called my office as to what needed to be done. This was an uncontested election at the time. Therefore a second election was set for later time. Mr. Carson was told he was not qualified because he had been purged early from the voter list. Now, the lady that filed this complaint, as to this particular charge, is the county voter registrar. What we do dispute is the allegation that, apparently, at some point that she was contacted by Ms. Patterson, prior to the election and told that she could not find Mr. Carson on the registration. Ms. Willingham told Ms. Patterson, the City Clerk and Voter Election Superintendent, that he wouldn't be qualified and, apparently, she didn't do anything about it. That's in the IG's report that I have in my hand. Ms. Willingham's complaint that was forwarded to me indicates that she had no knowledge of this until the day of the election herself, when it was reported to her by the poll manager that Mr. Carson appeared to vote and they couldn't find him. And then she did a background check and it came up that he had been deleted or purged in 2002 and not reregistered since. Ms. Willingham has, apparently, contradicted herself as to those

facts, if she did, in fact, make those statements to Inspector General's Office, that there was contact beforehand. This was an error on Ms. Patterson's part. As I said, she readily admits the error. It was a mistake. As to Ms. Slayton, the other person, she had been a resident in the city. She was registered in the city. She qualified. She filed the papers. Apparently, in the Inspector General's report, Ms. Willingham indicates, well, she had gotten numerous anonymous phone calls that he no longer lived in the city. Ms. Willingham, the complainant, states she made her own investigation and couldn't verify it. No formal complaints were filed or challenges were filed. The election went on. Ms. Slayton was elected that day. It was another uncontested election. And that night she e-mailed Ms. Patterson and told her she was, in fact, living with her mother out in the county now and was no longer a city resident and resigned. I got a call from Ms. Patterson the next day saying we've got another problem. And I said, well, we will just have two special elections on the same day, and for those two posts. As it turned out, one person qualified for each of those posts when the qualifying opened up and they turned out to be uncontested elections at that time. Ms. Patterson would like to address you, though. And I will step aside.

**SECRETARY KEMP:** Let me see if anybody has any questions for you, before we get started with her. Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, Ms. Patterson.

**MS. PATTERSON:** Yes. My name is Alane Patterson. I live at 8 Lee Street, Reynolds Georgia. And I would like to say that I did make an honest mistake and I take my job as election superintendent very seriously. Everything I do with the City, I take it very seriously. The fact that I made a mistake, you know, I just hate that it happened. When I looked at the registered voters' list, they have the name as Everett Carson and the son's name is Derrick Carson and I was not careful enough in comparing the social security number and date of birth. As far as Ms. Willingham, the County Registrar, we never had that conversation. I don't know why she is saying that we had the conversation. And she told me to disqualify him, because we were all surprised when he went to vote and we realized at that time he was not a registered voter. And even he was surprised. And I called the Secretary of State's Office and they checked and they said, yeah, we just cannot find him. And I talked with Ann Hicks and she told me that we would just have to have a special election and I would have to disqualify him, which I did, and he was not upset or anything. And he just thought that he was registered and he said that he voted in the Presidential Election, but in checking they said, no, he had not voted in seven years. And so I just ask that you take into consideration that it was an honest mistake.

**SECRETARY KEMP:** Thank you, Ms. Patterson. Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, anyone else wish to speak on this matter?

**SECRETARY KEMP:** Ms. LaGrua, what was the recommendation, again?

**MS. LAGRUA:** After we looked at this, Mr. Secretary, and after we looked at the history and

understood why this happened, we were recommending a letter of instruction. I am not sure that there is a need to refer this. Ms. Patterson has admitted her mistake. It is understandable. She needs to be more careful. I think a letter of instruction would probably accomplish that, if that is the pleasure of the Board. I just want to make sure the Board, kind of, realizes we had two trends of thought at one time, but I think, anyway -- any other questions or discussion?

(NO RESPONSE) .

**SECRETARY KEMP:** Hearing none, anybody got a motion?

(NO RESPONSE).

**MR. MCIVER:** With the lack of a motion, I have a question. I understand about Ms. Patterson. Can somebody comment about your potential violation with respect to Everett Carson? Do you have a recommendation there? My next question will be a run-on with Slaton.

**MS. LAGRUA:** The Slaton question, I think, is fairly easy to answer. There was nothing to substantiate. They did check her residency. There was an anonymous complaint about her residency. When it was checked, there was nothing to indicate that she was not properly a resident of the City or Reynolds. So that was unfounded.

**MR. MCIVER:** Did I understand the she sent the e-mail out the night of the election?

**MS. PATTERSON:** No, it was after the election.

**MR. MCIVER:** 1 week, 2 weeks, a month. She is sworn in.

**MS. PATTERSON:** It was like within a week. No, she was never sworn in. It was like within a week; I'm not sure, exactly. She said she was offered a mobile home to live rent free outside of the City and she moved there temporarily.

**MS. LAGRUA:** I believe, Mr. McIver, she moved after the election. So she was no longer -- I don't fully recall, but my recollection is she was no longer eligible to hold the office, and when confronted about that, she resigned. If we could hold a minute, I could verify that, but I think I looked at that and checked.

**MR. WEBB:** Are you going to respond to me on Carson? In other words, what is the recommendation of your Department on Carson, the potential violation?

**MS. LAGRUA:** I think that the appropriate remedy on that, Mr. McIver, would either be to refer it to the AG's office for consent, that he not qualify for office or not attempt to run for office until he is qualified or issue a letter of instruction or letter of reprimand. It appears from everything that Ms. Patterson has said, as well as his actions surrounding this, that -- and I find this difficult, but I am trying to give deference to the folks that were involved, that he thought he was registered, wasn't registered.

**MR. WORLEY:** Ms. LaGrua, as I understand it, he had been a registered voter, then he was later purged, but he wasn't aware that he wasn't aware that he was purged.

**MR. LIIPFERT**: My understanding is that in 2002 he was purged. Now, whether he actually got some notice of the purging, I have no idea.

**MS. LAGRUA**: And as soon as -- when he found out he did not contest. He did not try to run. I think it could be handled either way at the Board's discretion. I think Mr. Evans had indicated earlier that his preference and the Board's preference is that there be some kind, sort of binding order that he get the qualifications necessary before he were to qualify again, which might be accomplished with a consent order. I don't believe he is here --

**MR. EVANS**: He has to do that anyway. I think I would just favor a letter of instruction to, be honest with you.

**MR. MCIVER**: I'm trying to determine.

**MR. EVANS**: I'm agreeing with you, actually.

**SECRETARY KEMP**: Is the recommendation now a letter of instruction?

**MS. LAGRUA**: Yes, sir.

**SECRETARY KEMP**: Do we have a motion in regard to Mr. Carson?

**MR. WEBB**: I will make a motion in regard to Mr. Carson that we issue a letter of instruction to have him qualified before he run for office.

**MR. MCIVER**: Second.

**SECRETARY KEMP**: And we have a second. Any discussion on that?

(NO RESPONSE).

**SECRETARY KEMP**: All in favor of a letter of instruction for Mr. Carson, signify by saying aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP**: Do we have a motion on Jean Slayton?

(NO RESPONSE).

**SECRETARY KEMP**: I move that we close the case on Jean Slayton.

**MR. WORLEY**: I second.

**SECRETARY KEMP**: Okay. We've got a motion and a second. Any discussion?



(NO RESPONSE).

**SECRETARY KEMP**: No further discussion, motion to close the case on Jean Slayton, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP**: That motion carries. That leaves us with Mr. Patterson.

**SECRETARY KEMP**: Ms. LaGrua you want to fill us in, again, on the letter of instruction on the final.

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

**SECRETARY KEMP**: Any discussion or a motion?

**MR. MCIVER**: I so move.

**SECRETARY KEMP**: Moving for?

**MR. MCIVER**: A letter of instruction.

**SECRETARY KEMP**: Mr. McIver moves for letter of instruction.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Second by Mr. Worley. Any discussion?

(NO RESPONSE).

**SECRETARY KEMP**: Hearing none, we have a motion to issue a letter of instruction for Mr. Patterson. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP**: Okay. That motion carries. Does that cover everybody?

**MS. LAGRUA**: Yes.

**MR. BROOKS**: The next case is 2009-59 Athens-Clark County. It's a voter identification card case. The complainant in this case is Gail Schrader, the supervisor of elections. The respondents

are Julia Forsierre and Christanine Simion. The allegation here is Forsierre obtained four voter identification cards under four different names, and that Simion registered with a false name, social security number and date of birth. The investigative findings were that Forsierre did register under 4 different names. The police were involved in this investigation and confiscated the identifications from her. The information from the police department up there is that she is known to use false identifies in the past. The GCIC record shows an arrest record for Ms. Simion using different names and different aliases, as well. It is recommended that this case be referred to the Attorney General's Office, as well as the District Attorney's Office.

**SECRETARY KEMP:** Any questions?

**MR. MCIVER:** Just a quick one, only because I consider myself the Godfather of photo ID and where these cards come from, but I will ask this to either General LaGrua or to you, Mr. Brooks, but how in the world do they qualify for four of those things? I recognize their names may be different. I recognize they may have found in their Post Toasties, one morning a social security number, but with all the validations that go with that, how could that have occurred? We set up a much better system than that.

**MS. LAGRUA:** I believe this individual was assisted by four different individuals. And the fourth one, as I recall, actually -- no. The police were the ones that brought this to our attention. She was assisted by four different people, using four different kinds of documentation when she came in, to get the voter identification card. I am not aware and I could be ignorant of a part of the system, but I am not aware that the system has any facial recognition. So, If I come in to Mr. McIver and I have documentation appropriate to register as Shawn LaGrua, and then tomorrow I come in to Wes Taylor, and I have appropriate documentation as Kayla Ott, and then 3 weeks later I come in to Kent Webb and I have appropriate documentation as Chris Brown, unless one of those individuals -- and, thankfully, many of our registrars' offices are small enough that they, actually, somebody picks up on a recognition, which is how we usually get these cases. Somebody picks up on it, but I am not aware of any check and balance that automatically would pick up, unless you are using repeat social security number or date of birth. In particular, Ms. Forsierre's case, she used different social security numbers, different dates of birth, different identifying information. That may be something that we should look at going forward or see if there is a way for check and balances. I, candidly, don't know what it is, unless we go to some kind of fingerprint.

**MR. MCIVER:** Of course, you have answered, but I guess my question goes to, did the falsified name match the social security number? Do you know? I mean, we are in litigation now, through the Chair here, to verify citizenship for voters, which is further refinement of the process. I am a little astonished that this could be so easily done. I guess we're lucky that an election official spotted what was going on and, perhaps, the City spotted it first, since this is Clark County and the City of Athens. It is troubling to me that it is so easily done. I will say that we have seen in South Augusta, that area where individuals would come in and repeatedly get a card. They will lose one and then they use it for ID, or for some purpose that I don't even want to think about, but they come in repeatedly and say I lost my card, and we reissue those cards. I mean, they are not cheap, but we reissue them, which we always saw to be the obligation of the State. In this case, it is troubling to me that it is easy, seemingly easy, to obtain fraudulent cards. So, I gather, each of these cards had a picture of the woman we are talking

about.

**MS. LAGRUA**: Yes.

**MR. EVANS**: Why would we (inaudible) under 562?

**MS. LAGRUA**: You could clearly charge them with 562, as well.

**MR. EVANS**: I would want to charge them with everything we can charge them with.

**BOARD MEMBER**: I think we ought to refer both.

**MR. EVANS**: I'm just saying, I just want to give my colleagues in the Attorney General's Office as many vehicles as possible.

**SECRETARY KEMP**: I agree with that. What about the other four people they were assisted by? Do we know who they are or where they are?

**MS. LAGRUA**: When I say assist, I mean they were identified in the report and the registration office assisted them.

**SECRETARY KEMP**: Okay. So it wasn't outside?

**MS. LAGRUA**: No, no, no, no, in the registration office.

**SECRETARY KEMP**: Okay. Any other questions?

(NO RESPONSE).

**SECRETARY KEMP**: Anyone else wishing to speak?

**MR. EVANS**: One more question to the investigator. When they applied for each of these, would they have made a representation as to their identity? They were a different person each time.

**MS. LAGRUA**: I believe so. You might also have a 16-10-20, which is a criminal felony violation.

**MR. EVANS**: -- or 21-2-560.

**MR. MCIVER**: They filled out an application --

**MS. LAGRUA**: Correct.

**MR. MCIVER**: -- where they certify a number of things.

**MR. EVANS**: I would move that we refer it over with a notice of charges under 21-2-560, 21-2-561 and 21-2-562. Also, felonies with a fine not to exceed a hundred thousand a piece and that we refer it over to the District Attorney's Office.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Okay. We've got a motion and a second. Any other discussion?

**MR. MCIVER:** Just to preach only for a second, but individuals like this, seek to cheapen the strength of the ballot of everybody in this room. This is one of the most serious violations we've come upon in some time. I am very enthusiastically supporting Mr. Evans's motion and intend to vote for it. This is an outrage, to think that my vote might be diminished by somebody like this trying to cast additional votes.

**SECRETARY KEMP:** Any other discussion. We have got a motion and a second on the table. All in favor, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries. It's referred.

**MS. LAGRUA:** The next case is case No. 2008-101. Paulding County.

**SECRETARY KEMP:** Ms. LaGrua, do you realize what this is; your last case?

**MS. LAGRUA:** I was going to ask the pleasure of the Board, at my conclusion, if I might just have a word or two.

**SECRETARY KEMP:** Very good. You're deserving of that.

**MS. LAGRUA:** And probably applause from everybody else in the room.

**MR. EVANS:** I don't know. I would say that it is not over until we say it's over.

**MS. LAGRUA:** I concur completely, Mr. Evans. This case, actually, has 51 respondents. This is a case, Diedre Holden, the Elections Supervisor in Paulding County has, for some time, been forwarded both to my Division as well as the District Attorney's Office, when she receives it, evidence of convicted felons registering to vote. We have gone through the 51 cases that have been referred to us and confirmed -- the ones that you have in front of you actually are 51 convicted felons. At the time these 51 individuals registered to vote, they were still under sentence and ineligible to vote. 31 were registered through the Department of Driver Service. And 20 filled out registration by hand. We sent out inquiry asking to speak with each of these individuals. 30 respondents did not respond to our inquiry at all. 10 did respond and indicated to our investigator that they did not know that they were not eligible to register to vote, because of their status as a convicted felon. One indicated he knew that he was not eligible, but claims he did not ask to be registered. One registration was submitted by a Deputy Sheriff for an incarcerated inmate. And 24 answered yes to the question, do you want to register to vote. I should let the Board know that since notices have gone out on this, I have received a letter from

Chris Whitmore indicating that he did not know he was not eligible to vote. He says he was asked the question, while obtaining his driver's license, do you wish to register to vote, to which he answered yes. "Because I was never asked if I was a convicted felon" and was not affirmatively told he was not eligible to vote, he thought when he was asked the question, that he was. I would submit that letter. I have followed up with the Department of Driver Services to see what information they have. I'm sorry. There is one other letter from Sandy Bennett. She said she was released and she, again, did not know that she was not allowed to register to vote. And I do have the one application that can be provided that was actually a written application from DDS where Felicia Durham actually signed the documentation indicating she was not a convicted felon on that documentation. It is my recommendation at this point that this be referred, in its entirety, to the Attorney General's Office. Let me follow up, because I know the question is going to come, should we refer to the District Attorney's office? And it has already been declined by the District Attorney's Office.

**MR. MCIVER:** I have a question General LaGrua; you, as a former prosecutor, probably know better than civil practicing lawyers like myself, but when there is a discharge of somebody from a our correctional system, is there a briefing or exit interview of some sort, where they are advised of their lack of rights, in other words, they are not entitled to a hunting license. They can't carry weapons. They're not entitled to vote, so on and so forth.

**SECRETARY KEMP:** I know that probation generally informs them of, at least, the fact that they are not entitled to carry a firearm while they're under conviction and until any rights are restored. I am assuming again, though, I did not follow up with every single one, but these reports came to us from the probation department, which is where we usually follow up. I can't tell, and there may be a policy. It is going to be one of those situations where I can't tell you on every situation whether they are advised or not. I know that, at least, for instance, the 20 that registered by hand, on the registration they attest to the fact that they are not a convicted felon.

**MR. EVANS:** So, how did this all come about, in terms of Paulding County figuring this out?

**MS. LAGRUA:** Ms. Holden is here, so I'll invite her to correct me if I am wrong in stating, but my understanding was that she would get the list and she compared it with her list of convicted felons, verified specifically with her Probation Department that, in fact, these folks are still under active sentence, before she referred them to us.

**MR. EVANS:** So I am just worried about the other 158 counties, of which, if I did my math correctly, 8,268, people if we assume that Paulding County is in the mean, which it is. It is not a large county. It is not a small county. So how do we check on that? I don't think we can just, kind of, look the other way. We now know that one person took the initiative, which we are greatly appreciative for, of detecting a flaw in the system that permitted 51 convicted felons, here, to be the subject of this inquiry, some of whom successfully registered to vote illegally. We know that this was of her initiative. And we need to figure out how we make sure that's not a problem anywhere else? How do we do that?

**MR. MCIVER:** Excuse me, Mr. Evans. Mr. Taylor, we cross-matched for deaths and for other such situations where individuals should not be entitled to vote; is there any effort to do that here?

**MR. TAILOR:** Yes, sir, that is correct. And, I believe that is 21-2-231, but I could be wrong on the cite. Currently where our office -- yes, it is -- the Secretary of State's Office, every month runs a match against the Department of Corrections database. We are then informed of all of those individuals who have been convicted of a felony and are serving their sentence. We transmit that information to the counties every month in various reports and those counties remove those and then those convicted felons are removed from the voter registration rolls. One of the issues, however, is that the reports are designed from the standpoint of picking up people who have previously been registered and are then convicted of a felony and so they need to be removed from the rolls, because they haven't taken an active stance.

**MR. MCIVER:** That would be no different than somebody that was dead. They might have previously voted and they have expired and they should be purged from the list.

**MR. TAILOR:** That's correct. And so what we have talked about, I know, from, at least, the last couple of years is that if you find people who have proactively registered to vote under a felony sentence that the best practice is to inform the local DA. Inform the Probation Office and officers, and let the Inspector General know when you have that situation arise. And that is how I think this situation came up.

**MR. MCIVER:** Could this have been, to Mr. Evan's point, could this have been a failure to take the data sent to you, by you, to Paulding County and they are simply not doing the cross referencing of the data you sent them, for those that are still under sentence, most likely like in a case of a death?

**MR. TAILOR:** I think what came out of this is that Paulding County was doing the data matching and what they discovered were these individuals who had registered to vote during their felony conviction. So it wasn't a situation where they were previously registered and then committed a felony and then were no longer eligible and remained registered. These were situations where folks actually registered during their felony sentence.

**MR. MCIVER:** This is a 2008 case, so we can assume they have done that in the previous years, and the next question would be subsequent -- I mean, in one effort they find 52 names.

**MS. LAGRUA:** Well, this is -- if I could get Ms. Holden to come up, and I can clarify that. We were getting these in batches from Ms. Holden. We have brought it as one because when we were getting them, not only were we filing them, we were referring them, as well, to the District Attorney's Office, in the hopes that we could get some indication from him. When they indicated to us that they were not going to proceed at all, we decided then to bring all of them to the Board as one case versus piecemeal. It seemed to me more expeditious to bring it as one case than individual cases against each one. But I believe Ms. Holden actually has a system that she follows when people register, which is how she picks up on the convicted felons. The difference from the list that Mr. Taylor's indicating is that's someone that's been convicted that you are purging. What Ms. Holden is dealing with is folks that are coming in to affirmatively register, because they have to reregister after being convicted felons, affirmatively reregister to be able to vote versus purging a list of folks that are previously convicted. If I could defer to Ms. Holden for a minute, so she could address this.

**MS. HOLDEN:** Good afternoon. Diedre Holden, I'm the Elections Supervisor for Paulding County. My address is 240 Constitution Boulevard, Dallas, Georgia 30132. The process that I have, and on a weekly basis Paulding County receives anywhere from 200 to 400 new registrations or duplicates, we go through that. It is nothing to me to have at least anywhere from three to ten applications that's put on my desk, that are felons that are attempting to register to vote.

At that time that I receive those, I contact my county probation office, which you know is also a state office, and I verify if the people are still, in fact, felons. If they do verify that they are active, they give their expiration date and then I take those felons before my Board to reject those applications and I forward those to Ms. LaGrua, as well as my District Attorney. I also work the report that Mr. Taylor is referring to on a monthly basis, because that, to me, is one of the most important documentation that we have. The last thing that we want is for a convicted felon to be able to vote. We are actually talking about two different procedures that we have, because, basically, what Mr. Taylor is speaking of, there are several different pieces to that report. There are reports that are 100 percent that these people are felons, but then there are reports at the end of that that we have to do the ground work and realize and confirm if these people are actual felons, because they match through date of birth, name, social. It is our job to do that. So throughout, basically, the past year and a half I have been communicating with Ms. LaGrua, as well as the District Attorney, because the code section directs me to do this. 21-2-220 tells me that if someone falsely registers, it is my job to refer these people to the District Attorney. And that is what I did, because my job, as the elections supervisor, is to uphold this code section. My District Attorney and I seem to disagree on how this should be handled. He feels because these individuals registered through the Department of Motor Vehicle that they are not really sure what they're doing. I had a conversation with our District Attorney yesterday, and I informed him how the State has worked diligently with the Department of Motor Vehicle now that when you go in to register that you are given a receipt. That is going to help us when it comes to provisional voting, because a lot of people come to vote on Election Day and they will say I registered when I went to the DMV. Now, they have a receipt, and, Wes, please correct me if I'm wrong, they are now receiving that receipt when they go to the DMV. My District Attorney was not aware of that, because he feels he should have something in his hand showing that that individual said, yes, I'm not a felon; I want to register to vote. When you have a handwritten application, you have that. He doesn't feel with the Department of Motor Vehicle, that he has anything to stand on. It is not my job to tell the District Attorney what to do. My job is to do what the code section says. And I feel that is what I have done.

**SECRETARY KEMP:** Thank you. Any questions?

**MR. EVANS:** I would just note that you have very different jobs. He has a job that involves the science or the state of mind. He has to show that they intended to violate the law. Whereas, our job and your job is like running a traffic light, which is, that it doesn't matter whether you had a good excuse or intended to run it. The fact is, if you do it. So the statute here, which is 21-2-216(b), basically says if you are a convicted felon involving moral turpitude, you are not eligible to either be registered or to register to vote; it doesn't matter whether you intended or didn't intend or whether you knew that was the rule or didn't know that was the rule. All of that's -- so I wanted you to know that I can see both sides, which is I understand his job and what he has got to do. And I understand our job and understand our job. Our job is -- there is no gray

area, here, but I am still worried about the other 158 counties and the other 8,000 potential people.

**MS. HARDEN**: If I may, I would like to add that all of the training that we received through the Secretary of State's Office, through our associations that we have, it is stressed to us the importance of working our felons. I have turned the television on, as many of you have, and seen counties on the news because they have let convicted felons vote. It is not because we haven't been told to do this. We have been told to do this. The Secretary of State's Office is very good at getting us the most current information. We have e-learned now. And there is so much we can go out there and get. I don't know if it's a time issue. I have almost 80,000 voters, but there are things that take precedence with me and this is one of them. And I just think that all the other counties need to be doing this. And I feel strongly they are doing some kind of verification process, but it is important, because 52 people, to me, is a lot of people that registered to vote that shouldn't have.

**SECRETARY KEMP**: Thank you Ms. Holden. Anybody else have any questions?

**MS. LAGRUA**: Mr. Mr. Kemp, could I clarify one thing?

**SECRETARY KEMP**: Sure.

**MS. LAGRUA**: In doing this, as I indicated, a number of these were through DDS. There were three individuals that actually, even according to DDS, when they were asked the question, do you want to register to vote, they said no, but were subsequently registered by DDS. And those were Richard Cochran, Shelly Anne Jordan and Vickie Elane Spice. In those instances, while they got registered to vote, I don't think they did anything. And I would encourage the Board to look at those more closely as to whether or not we should close those cases, because they did nothing affirmatively. It is not that they said, they didn't know or didn't realize. They actually told Department of Driver Services, no, I don't want to register to vote.

**SECRETARY KEMP**: That is part of the old system they had, that has now been changed.

**MS. LAGRUA**: Correct.

**MR. MCIVER**: I have yet another criminal law question. That goes to the nature of this. If we determine that this should be referred to the AG's Office and they determine there has been a code violation, does that rise to the level of a probation violation, when they go back in?

**MS. LAGRUA**: Yes. And, in fact, the standard on a probation revocation is preponderance versus beyond a reasonable doubt. And all of these, again, with the exception, I think, as to the three I just identified, all of these would be subject to probation violations and they would rise to more than technical violations, which are not reporting or not paying a fine, where there is a limited amount of the probation that can be revoked. So one of the things we were going to ask the Board, if you wanted us to do, was to encourage the probation office to look at these violations through the District Attorney's Office as a probation violation versus a new charge. The one other thing I should point out is that one of the folks, Stacey McAfee, not only registered, but also voted as a convicted felon.



**MR. MCIVER:** So a violation of the election code is strong enough to support a revocation of probation.

**MS. LAGRUA:** It's a crime.

**MR. MCIVER:** I understand that with respect to firearms and things like that.

**MS. LAGRUA:** Any misdemeanor felony or any violation of the law, ordinance or otherwise is sufficient to invoke the probation revocation.

**MR. MCIVER:** To Mr. Evans point, if this is running a traffic light as opposed to a heavy intention to violate the law and weaken the strength of all of our ballots, where they might say I didn't understand the question asked of me by DDS when I was applying for a driver's license.

**MS. LAGRUA:** They could give an explanation to the sentencing judge. And the judge could choose to do one of a number of things. The judge could choose to find a violation and revoke a portion of the probation, to find a violation and add a subsequent condition to the probation, i.e., that you can't vote until whatever date the probation is over. They could institute any other conditions of probation that they would determine appropriate, attendant to the finding of the violation.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE).

**SECRETARY KEMP:** Anyone else wish to speak on this matter?

**MR. AKINS:** Yes, sir. My name is James Akins.

**SECRETARY KEMP:** Come on up here to the microphone. Welcome.

**MR. AKINS:** I'm a patient at the VA Hospital and I'm from Paulding County. I have been a patient there about a year. I did go to the DDS to get my motorcycle license renewed.

**MS. LAGRUA:** Would you state your name and address, please, sir.

**SECRETARY KEMP:** Yes, please.

**MR. AKINS:** James Akins, a patient at the VA Hospital, down on Clairmont. I went to get my license renewed. She asked me if I wanted to vote. I told them I'm a felon. I can't vote. I'm 50 years old. I voted three times in my life. I don't really care about voting, but there's another James Akins in Paulding County. The reason I know is on my taxes when I got them, we've got everything except the same race and social security number. So, but I didn't vote or nothing like that. She just made a mistake.

**SECRETARY KEMP:** Any questions?

**MR. MCIVER:** You are not this James Akins that is listed there?

**MR. AKINS:** They have got it spelled wrong, A-T. My name is A-k-i-n-s. They have right here A-t-k-i-n-s. I don't know if that's it. I did go to DDS to get my motorcycle -- and the same lady messed up on my CDL. I had to go back and correct that. I got my motorcycle license. They had took my commercial license off. I am trying to work this program at the VA. And now this comes up that I'm trying to vote. They are just trying to mess my whole life up, the way I look at it.

**SECRETARY KEMP:** Okay. Any other questions?

(NO RESPONSE).

**SECRETARY KEMP:** Thank you, sir. Anyone else need to speak? Yes, sir.

**SPEAKER:** I just have a question.

**SECRETARY KEMP:** Are you a party or respondent or complainant or a fact witness.

**SPEAKER:** No, neither. I just want to ask a question to that issue.

**SECRETARY KEMP:** Well, we really, really can't allow you to speak, unless you are part of the case, sir.

(DISCUSSION OFF THE RECORD) .

**SECRETARY KEMP:** Okay. Anyone else wishing to speak to this case?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, Ms. Lagrue, what's your thoughts on the Akins situation.

**MS. LAGRUE:** I believe Ms. Holden checked all these by social security number and date of birth, but if the Board has a question, I have no problem, if you want us to verify that before you do anything. If I could get some direction that if, in fact, we verify it is this individual that referred that, if for some reason we don't, we report that back to the Board. Whatever the Board's Direction on that is.

**SECRETARY KEMP:** Any other questions or discussions by the Board?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Anybody got a motion?

**MR. EVANS:** I would move, with the exception of the three individuals that Ms. LaGrue identified, that we refer them to the Attorney General's Office. I think we need to figure out, proactively, what it is we do to check in. I know that you do this already, with the rest of the counties, to see if there is something here that we should check into as to the other counties, as well.

**SECRETARY KEMP:** I have already got that on my list of things for us to discuss after the

meeting, to have us work with the counties on. So, we will be glad to get started on that and report back to you at the next meeting.

**MR. MCIVER**: I second the motion.

**SECRETARY KEMP**: Okay. We've got a motion and a second. Ms. LaGrua, we've got three we're not including in this motion; is that correct, like Mr. Evans stated?

**MS. LAGRUA**: Correct.

**SECRETARY KEMP**: Okay. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP**: All in favor, say, aye,

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP**: The motion carries.

**MR. EVANS**: And I do think we should let Mr. Akins know, because I think he deserves peace of mind, one way or the other, and I think we should get him a letter, just so that --

**MS. LAGRUA**: We will do so. Actually, Mr. Evans, as we speak, I have an investigator copying all of his documents and making sure that we have all the information that he brought here to give to the Board today. And we will follow up on that both with the Department of Corrections, Ms. Holden, and verify all the records to determine if, in fact, there has been a mistake here and that it's verified that -- exactly, what happened, make sure that there are no mistakes in that.

**MR. EVANS**: We are where the buck stops.

**MR. MCIVER**: Mr. Chair, I have one last question of Ms. LaGrua.

**SECRETARY KEMP**: Absolutely.

**MR. MCIVER**: Now that you have completed your last case, would you like to tell us how much you're going to miss us.

**SECRETARY KEMP**: With the Board's indulgence, if I could have just one brief minute, I realize it's been a long day and we still have quite a number of items on the Attorney General's Report. The last 3-and-a-half years have been a very distinct pleasure and honor for me to serve the citizens of Georgia and this Board. I have learned an enormous amount from the members of this Board. I can't thank you enough for your guidance, your support, your engagement on legal issues over the last number of years that, I hope has helped keep me, at least, somewhat engaged

in the discussion of laws as I go forward. Thanks to all of the elections officials that I have had the pleasure of working with. When I started this job, I didn't know a whole lot about election law. I don't think, by any means, I am an expert, but I have so enjoyed the dedication of all the folks in the State of Georgia that contribute so much to making sure that we have fair and safe elections. And while I realize mistakes are made, I think it is a very dedicated group of citizens in our registrars and our Boards across the State of Georgia. And it truly has been my pleasure. And most importantly, if I can thank each and every one of you for your professional support, but even more importantly to me, on a personal note, your friendship and guidance. I will miss being in front of all of you and I hope you will allow me to come back and visit. And I will see you in my future endeavors, so thank you, very, very much.

(APPLAUSE).

**SECRETARY KEMP:** We all wish you the best. Certainly hope we do not end up in front of you. Now that you're a judge, you know Mr. Evans comes in your courtroom you can always recuse yourself.

**MR. MCIVER:** Or punish him.

(LAUGHTER).

**SECRETARY KEMP:** We wish you the best and, again, appreciate the job you have done over the last 3-and-a-half years. Mr. Akins, did you come back in the room? I just wanted to let you know that while you were out -- we are going to make sure that one way or another we are going to verify your situation. We will definitely be in touch with you to let you know that.

**MR. AKINS:** You are going to be saying innocent, right?

**SECRETARY KEMP:** We are going to verify the information and we will let you know what we find. Appreciate you being here today. Okay. Ann, you ready.

**MS. BRUMBAUGH:** I'm ready.

**SECRETARY KEMP:** Ms. Brumbaugh, Attorney General Reports.

**MS. BRUMBAUGH:** The first case is 2008-0034. This is out of Clayton County and the respondent was the Neighbor Assistance Corporation of America. This case was referred, I believe at the October meeting last fall. It was send to OSAH which is the Office of State Administrative Hearings, under a motion for summary determination. There was no hearing in this case. It was all done on motions. There was a, sort of, status conference, but no evidence was taken at that time. The facts of the case are that the Neighborhood Assistance Corporation would help people either get mortgages or refinance mortgages that had become too onerous. In their workbooks they stated that to receive their help they required their clients to register to vote. Some of the clients did register to vote and then NACA, in violation of State Elections Board rules, held 13 voter registrations and they held those voter registrations for 4 months. State election Board rules required the applications be turned in within 10 days. The issue regarding the fact that the voter registration applications were held for too long were never in dispute and NACA admitted to that. What was in dispute was the extent to which this rule,

which was in their workbooks, regarding requiring their clients to vote was enforced. It appeared, after investigation with the Inspector General's Office and then in our office, that we do not have evidence to bring to and Judge, that that rule had been enforced, that people were, in fact, required to register to vote in order to receive assistance from Neighborhood Assistance Corporation. The NACA (as stated) did voluntarily change their procedures regarding requiring people to vote and no longer put that language in their work books. The Judge, on June 2nd, issued an order finding that NACA was in violation of holding these voter registrations applications for more than 10 days and recommended training to ensure that this does not happen again. And so, as the APA specifies, we are bringing this initial decision, which is non-binding, back for your consideration. You can accept it, reject it, or modify it. Mr. Joe Chancey, who represented NACA at OSAH is also present today.

**SECRETARY KEMP:** Any questions of Ms. Brumbaugh?

(NO RESPONSE).

**SECRETARY KEMP:** Thank you. Anyone else?

**MR. CHANCEY:** Good afternoon. I'm Joe Chancey. I'm an attorney with the law firm of Drew, Eckle and Farnham at 880 West Peachtree Street, Atlanta. I represent the Neighborhood Assistance Corporation of America or as it's commonly known, NACA. I'm here this afternoon primarily to communicate that NACA is in agreement that that administrative order that was entered fairly and accurately reflects the circumstances and the factual background of this particular situation. We also believe that it fairly and appropriately recommends a corrective action of counseling. The judge recognized the undisputed fact, which has been confirmed by the Attorney General's Office, actually, that NACA took immediate voluntarily action to correct what, I believe, was an isolated error in this particular situation. I'm mindful of the fact that the Board has a crowded docket this afternoon. That's the primary message, but I did want to be here to make sure, in case anybody has a question about the circumstances, the background hearing concerns that I can address, I can do that.

**SECRETARY KEMP:** Thank you. Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, anyone else wish to speak on this case?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, is there any other discussion or I will entertain a motion.

**MR. EVANS:** I move we accept the administrative order.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We've got a motion to accept and a second. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of accepting, please, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion passes. I'm going to turn the meeting over for just a minute, to the Vice Chair.

**MR. MCIVER:** Let the record reflect the Chair is stepping out of the room.

**MS. BRUMBAUGH:** The Next case is Lowndes County. This is 2008-0093. This was referred to the Attorney General's Office at its December 16th, 2009 meeting. This case involves a legal alien, but not a citizen, named Juan Rodriguez. Mr. Rodriguez registered to vote by hand and where it says, are you a citizen of the United States; yes or no, he simply didn't answer and then signed underneath that everything was true. Mr. Rodriguez is not a citizen. The Lowndes County Board of Elections caught this and made a complaint. Mr. Rodriguez has entered a consent order and agreed to pay a \$500 fine, as well as accept a public reprimand and cease and desist from further violations of the election code.

**MR. MCIVER:** Any questions by the Board of Ms. Brumbaugh? I have a question of Mr. Evans is this consistent with our general punitive actions in the past, when we have a single individual doing this?

**MR. EVANS:** I think it was 500, to my recollection.

**MR. MCIVER:** Do you join in that, Mr. Tailor? Do you remember that?

**MR. TAILOR:** I believe that is correct.

**MR. MCIVER:** Again any questions of Ms. Brumbaugh?

(NO RESPONSE).

**MR. MCIVER:** Okay. Anybody in the room wish to comment as a witness?

(NO RESPONSE).

**MR. MCIVER:** All right. I will entertain a motion.

**MR. EVANS:** I move we accept.

**MR. MCIVER:** I have a motion that we accept the administrative findings.

**MR. WEBB:** Second.

**MR. MCIVER:** This is a consent order. Thank you. Any questions to that point?

(NO RESPONSE).

**MR. MCIVER**: All right. I will call for a vote. Those in favor of Mr. Evans's motion, signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**MR. MCIVER**: Those opposed?

(NO RESPONSE).

**MR. MCIVER**: No. All right. The motion passes unanimously. The record should reflect that the Chair has stepped back into the room.

**SECRETARY KEMP**: Thank you, Mr. McIver. Next case Ms. Brumbaugh.

**MS. BRUMBAUGH**: The next case is also Lowndes County. This is 2010-0007. This is a companion case to two cases that the Board had considered at its February 24th, 2010 meeting. All of the cases arose from the November 2008 General Election in Lowndes County where the Board certified the election. There were 947 test votes that were accidentally uploaded into the system. This particular consent order you have before you is the consent order signed by Deb Cox, who is the Superintendent of Elections in Lowndes County. She has signed a consent order for a cease and desist and public reprimand. This is consistent with the two previous consent orders, the one against Lowndes County which is also for a cease-and-desist and a reprimand. And then the third situation did not result in a consent order. It was against Ms. Laura Gallegos. And the Board voted not to take any further action. Ms. Cox has admitted that she failed to reconcile the absentee ballot recap. She, with the statement of votes cast, had she reconciled these two documents, she would have realized there was a discrepancy of 947 votes and that she was improperly certifying the election. Because of the fact that we have handled the two companion cases, especially the case against the Board of Elections, consistent with this, I would recommend that you accept the consent order?

**SECRETARY KEMP**: Are there any questions?

**MR. FAVORITO**: Mr. Chairman, I have a point of order.

**SECRETARY KEMP**: Any questions?

(NO RESPONSE).

**SECRETARY KEMP**: Anyone else who is a complainant respondent or a fact witness to this case who would wish to speak?

(NO RESPONSE).

**SECRETARY KEMP**: Okay. Hearing none --

**MR. FAVORITO**: Point of order.

**SECRETARY KEMP:** Point of order.

**MR. FAVORITO:** Mr. Chairman, as you know, there have been several letters written about other allegations in regards to how this particular supervisor has handled --

**SECRETARY KEMP:** Mr. Favorito, what is your point of order?

**THE WITNESS:** My question is, is this part of the investigation? There is no evidence that any of this has been investigated, yet you're entering into a consent order.

**SECRETARY KEMP:** So, what is your specific point of order?

**MR. FAVORITO:** I'm asking whether or not those investigations are included in this consent order.

**SECRETARY KEMP:** Okay. I'm sure the Board will take your point of order in consideration when we consider the information we have before us. Anyone else wish to speak on the case?

(NO RESPONSE).

**SECRETARY KEMP:** Any questions from the Board or discussion?

(NO RESPONSE).

**SECRETARY KEMP:** If not, I will entertain a motion.

(NO RESPONSE).

**MR. EVANS:** I move we accept the consent order.

**SECRETARY KEMP:** We've got a motion to accept. Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Second by Mr. McIver. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of accepting, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries. Okay. Ms. Brumbaugh.

**MS. BRUMBAUGH:** The next case is Carroll County 2009-0003. This case comes before you



in a slightly different procedural posture than the rest of the cases, because you have never actually voted to refer this case to the Attorney General's Office. This case originally came before the Board on October 26th, 2009. Neither the Carroll County NAACP nor its legal representation were here. And there was some concern regarding that fact. Since that meeting I have been in contact with the Carroll County NAACP. I have had a meeting with the Carroll County NAACP. They have become much more cooperative regarding getting to the heart of the matter in this case. And, in fact, they are here today, and I believe, waiting to speak. The facts of this case are that the Carroll County NAACP on November 4, 2008, went into different voting precincts in Carroll County. They were identified as NAACP members with clip boards and asked precinct managers questions about the course of Election Day. Along the way, they noticed that there were some policemen at these various precincts, and they asked the policemen -- at one precinct, they asked the precinct manager to move the policeman to the front of the line, so that he could vote and then leave. They were concerned about the presence of policemen in the precincts on Election Day. Their presence also created a certain amount of consternation amongst some voters and so there were some phone calls made to the Board of Elections in Carroll County afterwards regarding this presence. The case came to us as interference, intimidation type charges. Unfortunately, the statutes involved, that's 567, 566, and 569 all involve a very high level of proof, especially the interference of voters -- the intimidation of voters -- excuse me, but in that case there were reports that people were fearful. Unfortunately, we don't have the actual voters. I don't have a witness to bring into court to say, yes, on November 4th, 2008, I was at this precinct and these men came in and this is what they did that made me intimidated. Because of the lack of evidence, my recommendation is the same as the recommendation that was originally made by the Inspector General's Office, which is that a letter of instruction be issued to the Carroll County NAACP, especially regarding their conduct towards a police officer who's voting. There was nothing wrong with police officers voting. It was Election Day. They get to vote like everyone else and the Carroll County NAACP probably could do with a little instruction regarding letting that happen and not turning it into a situation.

**SECRETARY KEMP:** Any questions for Ms. Brumbaugh?

(NO RESPONSE).

Okay. Hearing none, anyone else wish to speak?

**SECRETARY KEMP:** Yes, sir.

**MR. WALDROP:** Good afternoon. Thank you for your time. My name is Johnathon Waldrop. I'm with the firm of Sutherlin Asbill and Brennan, 99 Peachtree Street Northeast, Atlanta, Georgia 30324. I'm here on behalf of the respondents of the NAACP, Mr. Sims, Mr. Jackson and Mr. Ferris. Members of the Board, we became involved in the case as counsel after the October 2009 meeting. Since that time, we have taken a very cooperative and assertive opportunity to meet with Attorney General Brumbaugh, Director Tailor and a member from the Inspector General's Office. We believe that the case should be closed. We understand the recommendation of Ms. Brumbaugh and we appreciate her. The NAACP is very involved, as you know, in monitoring elections throughout the State and in other states as well, to ensure that voters have equal access and are allowed to vote without intimidation. The respondents have been trained in election protection. They have been trained in the monitoring of elections. Their

job is on election dates, such as the one that happened in 2008, to go out and fill out forms that have been cleared by the National Organization of the NAACP to interview poll watcher, poll managers, not to contact voters, not to have any intersection with voters, but to assess what is going on in the precincts, collect that information and report it back to each home office. On Election Day 2008, that is just what they did. They did it with a spirit of inclusion, a spirit of ensuring that people were allowed to vote. As I said before, since the October meeting, we have met with Director Tailor and Ms. Brumbaugh to voice our concerns and the concerns of respondents in terms of including voters and protecting the right to vote. We have talked about commitment to working better with the Secretary of State or the Board in terms of ensuring that these kind of concerns that the Board may have, that the Attorney General may have, are met and dealt with appropriately. We believe and suggest that no organization in the country has done more, we think, to include voters and to protect the voting rights in the country as the NAACP. We will continue that, and the respondent's will continue those efforts and want to do so in a matter that is cooperative and does not create confusion or charges that we think, are not appropriate. As I said before, these individuals are long-standing members of the community. Mr. Ferris, who is not here today, was a Sheriff Deputy for many years. Each of them is highly committed to the inclusion of voters and the protection of voting. And they will do so in the future. And these charges are very hurtful, of course, to them, people whose passions are as committed to these rights as they are; however, they understand this is a process and the Board has to take any charge or allegation very seriously. That is why we are here today and we think that going forward this will be handled and dealt with in a much more positive or manner and a much more helpful manner. And we will continue to be involved with the NAACP with situations like this going forward. And we've had a commitment from them and recommended that they better and more with the Secretary of State to avoid these situations. Thank you.

**SECRETARY KEMP:** Any questions?

**MR. WEBB:** I have a couple. First of all, Inspector LaGrua, I thought the NAACP had received notice of the hearing in October and did not show. Am I correct?

**MS. LAGRUA:** That is correct.

**MR. WEBB:** So, I ask you if you had notice, your clients had notice, why wasn't there an appearance in October, at the hearing?

**MR. WALDROP:** Thank you, sir. The notice that was sent out to the NAACP said that your appearance is not required. As such, they believed, at the time, that they were not required to show up. It does not say your appearance is not required, but highly suggested. They know that it would have been better if they had attended, but they did not think it was required, so they did not show up. As I said before, subsequently we got involved and have been very involved with Attorney Brumbaugh and Inspector General LaGrua.

**MR. WEBB:** At that hearing, there were poll officers who were here who said, undoubtedly, they were intimidated and that they had to be pulled away from their duties as poll officers to attend to the disturbance that was caused over the police officer. If you had been here, you would have heard that. I guess I'm a little surprised. I understand -- I went back and read the code section on intimidation and understanding what those were, but Ms. Brumbaugh, I was

surprised that something more -- it would have been better addressed with section 21-2-569.

**MS. BRUMBAUGH:** Would you like me to take the stand?

**MR. WEBB:** Yes.

**MS. BRUMBAUGH:** 21-2-569 states that any person, including any poll officer, who willfully prevents any poll officer from performing the duties imposed on him or her by the chapter shall be guilty of a felony. That is willfully and preventing the duties. I reviewed the transcript last night from the October hearing. And the testimony of those poll officers, it did not rise to that level. I have it with me, if you want to take another look at the transcript, but based on my review of what was in the file, what was in the investigative report and the transcript of those witnesses, we did not get to that level of -- we couldn't meet that level of proof. Would you like to?

**MR. WEBB:** No. I'm going by memory, so I will trust your reading of it. What was our action with the Carroll County Board of Elections? Didn't we give them a reprimand for allowing themselves to be disturbed?

**MS. BRUMBAUGH:** I know they didn't come to me. So you either closed the case or you gave them a letter of instruction. I don't remember offhand, but I have it. I can look.

**SECRETARY KEMP:** We are going to get an answer to that question here in just one second.

**MR. EVANS:** I have a couple of questions.

**MR. EVANS:** Would you agree the standard in 21-2-567 is substantially lower than that in 21-2-569?

**MS. BRUMBAUGH:** Well, in 567 you don't have the willful, but you have to use or threaten to use force and violence or act in an --

**MR. EVANS:** I agree. Any person who in any others manner intimidates. Now, we are at a bit of a disadvantage, because we have a disconnect here, which in the last hearing we had the people who were, in fact, intimidated, saying on the record that, in fact, they were intimidated. And I think we have the other folks here saying, well, we didn't intimidate them. In fact, we were just trying to facilitate good elections. Now to me, just as one member of the Board, that is the perfect case to have a fact-finder figure out who is telling the truth, because the standard of 21-2-567 is very low, which is, if you have any manner of intimidation, then that is a violation. Now, the gravity of that violation, what kind of penalty we might impose, might vary depending on the level of intent or willfulness or other things, but the existence of the intimidation is, itself, a violation by 21-2-567. So what I'm confused by is that we now have your recommendation that, I assume, because this is before us on a decision of whether to refer or not refer, that there is not enough evidence that you could present to a fact-finder of the existence of intimidation, after we heard from people who, in fact, were intimidated. So, I'm just confused by it.

**MS. BRUMBAUGH:** Well, first of all, as to the law, if you look at sub-section (b) of 21-2-567, it says as used in this code section, the term acts in any other manner to intimidate means to

undertake or pursue a willful course of conduct. So, while if we are using or threatened to use violence, it is not willful or knowingly, but when we get back to this broader standard of acts in any other manner, we once again have the requirement that it is knowing and willful. Secondly --

**MR. EVANS:** But didn't we have -- I may have this wrong, but didn't we have the people who were intimidated who said this was not an accidental, it is not like somebody accidentally intimidated. It wasn't like they inadvertently -- that is why I was confused. I too went back and looked at the transcript. And candidly, you and I read it very differently. I read a person who said I was intimidated.

**MS. BRUMBAUGH:** Why don't we get the transcript?

**MR. EVANS:** Okay.

**SECRETARY KEMP:** I tell you what let's do. We need to take a quick break while we're getting that together. Can we get a motion to have a 5-minute break?

**MR. MCIVER:** I move that we take a 5-minute break.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Return at a quarter till 4:00. All in favor, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed?

(NO RESPONSE).

(AFTERNOON BREAK).

**SECRETARY KEMP:** We are reconvening. Okay. Ann, where were we?

**MS. BRUMBAUGH:** We were discussing the transcript. I have pulled the transcript from the first hearing, October 26th, 2009. And what I'm going to do is just read a colloquy that occurred regarding intimidation. For references to the record, etc., I am starting page 55 of the transcript that day. This was 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. Then there is a more extensive answer to that, then Mr. Worley follows up, can you tell me what it was that made you feel intimidated? MS. CHAMBERS: Making me ask the Chief of Police to move his car and he did not want to move his car.

MR. WORELY: Okay. MS. CHAMBER: 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. WORELY: Then did you feel that by them doing that they were willfully preventing or attempting to prevent you from holding the election? MS. CHAMBERS: No, I wasn't going to let them do that. I kept my polls running as smooth as I could. MR. WORELY: I know you wouldn't allow that to happen. My question was did you feel like that is 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. WORELY: They certainly weren't using or threatening violence to you based on that. MS. CHAMBERS: No. MR. WORELY: Were they trying to block the door? MS. CHAMBERS: No. I heard they were posted on his car. When he went out to get in it they were standing around his car, waiting on him to come move it. MR. WORELY: The Chief of Police, do you think he felt intimidated? MS. CHAMBERS: He was upset. He called Patti. MR. WORELY: Do you think he would say he was intimidated. MS. CHAMBERS: I don't think Mark would be intimidated. So, the colloquy that we have, the evidence that we have on intimidation is does she feel sort of threatened and bothered by what's happening; absolutely. Does it rise to the statutory level as outlined in 566 and 567, and 569? My legal judgment would be no.

**SECRETARY KEMP:** All right. Any questions?

**MR. WEBB:** Can I point you to page 49?

**MS. BRUMBAUGH:** Sure.

**MR. WEBB:** When Mr. LaGrua was giving her report, starting with the third sentence, during our investigation, what we found was that several voters had called Patty Brown and expressed that they felt intimidated and frightened by a presence of NAACP. Reading on a little bit, further, there were, at least, one or two voters in Villa Rica North that said they were intimidated. So, I'm not sure exactly -- what is the poll that Ms. Chambers works at? Is she in the Villa Rica North Poll?

**SPEAKER:** Bowdon.

**MS. BRUMBAUGH:** Mr. Webb, I went back and reviewed that too. I don't dispute that there is some evidence of that. That is what I stated earlier. I don't have bodies to bring into court on that part. I don't have voters who identified themselves and identified themselves further up the chain in this investigation. So my response to you, there, is I think that is a very important point, but without names and addresses, I can't prove that part of the case.

**SECRETARY KEMP:** Anything else Mr. Webb?

**MR. WEBB:** Yes. If you would give me a second. I don't know if anybody else has anything else.

**SECRETARY KEMP:** No, take your time.

**MR. WEBB:** Mr. Waldrop, I wanted to address you, as counsel.

**MR. WALDROP:** Yes.

**MR. WEBB:** So here is my issue, you have a very proud organization, like the NAACP, who has done a tremendous amount of great work in getting people to the polls and being able to allow people to vote. You have a national organization that trains people to monitor polls to ensure that things are going well, but yet, now, we have a disturbance. A scene was created over a police car incident. People felt intimidated, for whatever reason, and it just doesn't flow. You

have got dichotomy. Look at the organization, who they are and the respect that they get, and then you have got this scene. I doubt the national chapter is training people to go in and create these types of disturbances. I don't think it's good for the organization. And I guess I'm a little mystified by what happened. That is where I'm coming from. Do I think there was some intimidation? I believe there was. Does it meet the code section? No, I don't think it does. Did they interfere with a poll worker? In my opinion, absolutely. That is what bothers me. If this had been anywhere else, by anybody else it would be the same issue. They interfered with a poll worker, causing a disturbance at the poll that made people feel uneasy about voting. It just doesn't mix with who the organization is. It is troubling and I appreciate everything that you said that you are training people to look forward to, to get it resolved and I hope we never see the Carroll County group in front of us again, but I think it should be taken very seriously.

**MR. WALDROP:** Yes, sir we take it very seriously. And thank you for your remarks. I only have three things for to Board's consideration, which is, the context this, of course in the context of the history of this country and the history of the State of Georgia with the use of police, officially or unofficially, to keep people from voting. We know that is not the case now. We believe that is not the case now, but we have a very long history of those kind of activities. There is nothing in the code that prevents or suggests what happened. Since 1998 the Douglas County NAACP has been doing this type of monitoring. Before this occurrence they had routinely contacted the Secretary of State Cathy Cox about police presence, without an activating event, meaning there is no disturbance, but there are police gathered here without any apparent needs. And that is because voters and this has been documented in the studies, feel intimidation when police are at polls. Sometimes there is misinformation about whether or not they are going to check your background if you haven't paid child support. Those things have been reported in the news. So, that was one of the concerns. We understand there are two competing concerns here; one, intimidation by police and now this alleged intimidation by NAACP. We would submit to the Board that there is no action that is stated. There was no intimidating behavior by the respondents. There was a question asked. Even the record shows that there was no threat of force or threat of repercussion if that did not take place. I think that it is also in the record that the precinct workers knew the response. We take it very seriously. We have had long discussions with Director Tailor, Attorney General Brumbaugh and someone from the Inspector General's Office about a process they can put in place, going forward, to deal with these competing deterrents, (1) the need to have safe polling booths, (2) to deal with intimidation, sometimes by police. And those are the competing concerns. We look forward to working with the Secretary of State and this body to make that that doesn't happen, but those are two competing very legitimate concerns, one by history, one by law, both just as real. And we look forward to dealing with that in the appropriate way. But that was clearly not the intent. We produced documentation to Direct Tailor and Attorney General Brumbaugh about the training that takes place that these individuals have to go through and the mission of the NAACP. That was not our intent. We take it very seriously. We look forward to this not happening again. That being said, as you know, anyone can make a complaint. Anyone can say they were intimidated. Some may say they feel intimidated by the ability of this Board to address certain situations, but without an activating event or facts that support such intimidating feelings, we don't believe that exists here, but we look forward to working with the Board and the Attorney General and with the Inspector General to deal with the issues going forward.

**SECRETARY KEMP:** Any more questions for Mr. Waldrop?

**MR. MCIVER:** Yes, I do. First of all, Mr. Waldrop, I would commend your clients for being wise enough to hire somebody as skilled as you to come in here today and convince us of your position. Let me ask for moment: Let me assume your position, you assume mine. Our role is to determine whether or not there is probable cause and should this be referred to the AG's Office, as you know, very well, to determining fact questions and things of that nature. The question I put to you is were you sitting here, how would you view this, and do you believe there is probable cause to refer this over simply for a hearing and let the people speak their piece, under oath, of course?

**MR. WALDROP:** Your Honor -- I always feel like I'm in court. In my communications with Attorney General Brumbaugh, I am very mindful of this body's obligation to deal with every complaint that comes before it in a serious manner. Having sat here since 10:00 o'clock, and saw the cases that you have dealt with very seriously. So, I understand it. My concern with this case would be due process. Notice, for instance, one factual dispute that would easily come to my mind is the description of what they were wearing on the day they were present on Election Day does not match what they actually indeed were wearing. There is no identifying person.

**MR. MCIVER:** Isn't that a fact question that perhaps should be resolved by a fact-finder, not to interrupt, but isn't that is a classic example of why you would refer this over?

**MR. WALDROP:** But who is the individual who is making the charge? It is not clear from the record to me that there is anyone identifiable who is saying that I was intimidated and can point to an act that rises to the level of intimidation or an intimidating act, to state, look, I am the party who has been injured. That is my concern. And if I can divorce myself from knowing these individuals and representing them, that would be my concern; that, okay, maybe next time there may be somebody who is. And we may have a very different situation if there is someone who will say, I felt intimidated. This is what they did to make me feel intimidated. They grabbed my arm. They screamed at me. They approached me very -- that does not seem to be here in these facts. That next time that may be the case, but in these circumstances I do not see that. I see cursory allegations, people saying they felt a particular way without identifying an activity. That would be my concern and I think that would not rise to the level; however, next time it may be more complicated, but not under these facts.

**MR. MCIVER:** So you vote from this chair would be not refer.

**MR. WALDROP:** Not to refer.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none -- thank you. Anyone else wish to speak on this matter?

**MS. BROWN:** I'm Patty Brown, election supervisor for Carroll County, 352 West Club Drive, Carrollton, Georgia. I just wanted to say, I have been election supervisor for 36 years. I have always had a very good working relationship with County NAACP. Mr. Sims, Narva Farris, I consider Narva Farris a very close friend of mine. He has helped me and in return I have helped them. But there was some things that went on, on Election Day, that was reported to my office,

the situation at Bowdon, as well as one in the Villa Rica Precinct. I did have a name and a phone number of one of the ladies that called in and I did give that to Harvey. Also, we were not issued a reprimand or whatever, because we weren't involved in this situation, only as to report it. And I also went to my County Attorney on Election Day about the police cars. And he informed me that the policeman not only have a right to be there, but they have a duty to be there. So I just wanted to make that clear.

**SECRETARY KEMP:** Thank you. Any questions?

**MS. BRUMBAUGH:** Can I just clarify one statement? There was one person who did leave Ms. Brown her name. Unfortunately, she was reporting on somebody else's feelings of intimidation. So she didn't have direct feelings of intimidation. And she didn't ever get the name of the person who she was consoling. I think in the transcript there is something about she was consoling this woman in the parking lot or something, but she didn't have that name to report. So, we are, sort of, in this evidentiary box.

**SECRETARY KEMP:** Okay. Anyone else? Thank you, Ms. Brown. Anyone else wish to speak?

**MR. AGNE:** My name is Terry Agne. I live at 79 Pine Lane, Villa Rica, Georgia. I'm the Carroll County Republican chairman. We filed a complaint when all this happened. I had three phone calls made to me from registered voters who were trying to vote. They did vote. They felt intimidated. I have been involved with elections a long time. And, usually, if you have a poll watcher, they have got a badge on that says poll watcher. I don't understand why you have to have four people going to one poll, one person to go in and maybe ask a question, how is the voting today? I don't see a problem with that. But when you have four people go in, and people feel like when they are filling out their personal information, that people are looking over their shoulder or when they are voting, they feel like people are watching the way they are voting, there is a problem. I don't want that in Carroll County. I don't care if it's Republicans that are doing it; they're wrong. They're wrong. These are the type of things we don't need to get started. I know that in a federal election you can be a federal poll watcher, but you have got a badge to wear. You are allowed to ask some questions, but you are not allowed to actually stop the process of people trying to vote. This is, you know, there has to be some kind of intent here. People tell me they did feel intimidated. I can bring people in here who felt intimidated. They were scared. They didn't understand what was going on. This never happened before. Why are there people looking over my shoulder when I'm filling out my personal information or watching me vote. These are the kind of things that have to stop before it gets started. I'm from Illinois and I'm going to tell you something, you talking about crooked elections, they've got them up there. And I have seen how bad it can really get. That's why -- Patty Brown does a great job in Carroll County. Everybody has got a set of rules. Democrats and Republicans, we have played by the rules. And it works out real good that way. It works out real good. I was told -- I had somebody call me and they said, do you know if anybody was intimidated. And I said yes, I had three people call me. They felt very intimidated. Did it stop them from voting? I said, no, they were in the process of voting. So they went ahead and voted, but they felt very intimidated. Well, if they didn't stop them from voting, they weren't very intimidated. You know, I don't understand that. You can be intimidated, you know, and still do your duty; but when you vote in this country, when you go in to vote, I don't care who you are or who you are voting for, you



should feel very calm, very positive about what you are doing, regardless of who you are voting for. Everybody should have that right to feel that way. That's all I've got.

**SECRETARY KEMP:** Okay. Thanks. Anybody have any questions?

**MR. WORLEY:** I do. Mr. Agne, these people that told you they felt intimidated, what was it that made them feel intimidated?

**MR. AGNE:** They felt like people were looking over their shoulder.

**MR. WORLEY:** So, having poll watchers in the precinct.

**MR. AGNE:** I will tell you, if they had a badge or something that said poll watcher. You know what, who are these people? Why are they here? Why are they looking over the shoulder? Why are they asking all these questions?

**MR. WORLEY:** Is that what they said?

**MR. AGNE:** Yes, that's what they told me.

**MR. WORLEY:** They said they didn't have a badge, if they had a badge I would have felt okay.

**MR. AGNE:** They said these people came in. They also told me they had the NAACP vest on. Okay. They didn't understand why this was going on.

**MR. WORLEY:** Okay. So, if they hadn't had the NAACP vest on it would have been fine?

**MR. AGNE:** No. I think if it would have been just one person coming in and asking, going up to the head Judge and saying how is the voting today, heavy or light, who can complain about that. I wouldn't be here today if that's what happened. But when you have four people come in they are all just standing mingling around by the judge's table, where you are filling out your information and stuff, by the voting machines, that, to me, would be intimidation. I have a right to privacy when I vote. Everybody in the room does. And if anybody wants to spy on you when their voting, they are breaking the law.

**MR. WORLEY:** The people were standing by the voting --

**MR. AGNE:** They didn't know what --

**MR. WORLEY:** Wait, wait, wait. Let me finish my question. Did they say that these people were standing by the voting machines while they were voting?

**MR. AGNE:** The way it is set up in Villa Rica, on one side you have got the register. And then right over here is the voting machine. These people were mingling around by the judge's table, where people were filling out their personal information. I don't see why anybody has to be looking over my shoulder when have I got my voter ID card out there and my driver's license out there and I'm filling out my information. Unless they are an official poll watcher or they have official business representing a candidate, a party, you know, that's no problem. I mean, if this is

allowed, then I guess the NRA can come in with a group of people. Then you can get the Tea Party people coming in with a group of people. That's not the way it is supposed to work.

**MR. WORLEY:** Does the Republican Party have poll watchers?

**SECRETARY KEMP:** No, we do not have poll watchers in Carroll County. We never have, to my knowledge. I have been involved for years. No. I see no reason for it. I see how the polls work where I go to vote. And all these people are trained by the same people. So, I, pretty well, assume that all the polls are run that way. I have never heard of any complaints at any of the polls. I tell my people. When you get done voting get out of there. You want to talk politics come to my office; we will sit around, talk politics, and wait for the returns. But you are not to be around in the parking lot. You are not to be hanging around there at all.

**SECRETARY KEMP:** Okay. Any other questions?

**MR. WORLEY:** Not from me.

**SECRETARY KEMP:** I have one quick question for you. The three people that you said got intimidated, do you know who they are?

**MR. AGNE:** Yes, I do.

**SECRETARY KEMP:** And can you get in touch with them?

**MR. AGNE:** Yes, I can.

**SECRETARY KEMP:** Okay. Thank you. Any other questions?

**MR. MCIVER:** I have a question of Inspector General LaGrua. Were there monitors at this polling place during the time this happened?

**MS. LAGRUA:** We had monitors going to the polling places. I do not believe there was a monitor actually there when that happened. We started getting calls and immediately dispatched our monitors to the poll locations. By the time they got to the poll location where these folks were, they had left. So, all we could do is a follow up on what had happened and interview the witnesses.

**MR. MCIVER:** No other questions.

**SECRETARY KEMP:** Anyone else wish to speak?

**MR. WALDROP:** Just a few clarifications. One is, the respondents did not talk to any voters. They did not speak with them. (2) They were not allowed. They did not go into the voting areas. They actually talked to the precinct managers. So, they weren't looking over anyone's shoulders. They did talk to the precinct manager, but they are not allowed in the voting area, so they can't see what people are doing, in terms of voting. I just want to make that clarification.

**SECRETARY KEMP:** Any questions for Mr. Waldrop?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you. Last call: Anyone else wish to speak in regard to this matter?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, I'm ready for a motion or discussion.

**MR. WORLEY:** I make a motion to close the case, based on the Attorney General's conclusion that there is not enough evidence to sustain a violation.

**SECRETARY KEMP:** We have a motion to close by Mr. Worley. Do we have a second?

**AUDIENCE SPEAKER:** Second.

**SECRETARY KEMP:** Did we have a second by the Board?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, the motion fails. Do we have another motion to consider?

**MR. EVANS:** I think we are in a quandary, only because when we don't follow our normal procedures, we end up in these situations. Candidly, it is not the job of the Attorney General's Office to make recommendations to us about proceeding. The way it is supposed to work is that we have investigators who investigate. They give us the facts. And then they make a recommendation. We find there is probable cause to proceed. It is the Attorney General's job to present that information to a fact-finder and the fact-finder decides. For the first time since I have been on the Board, we have had the Attorney General's Office decide, before we decided whether our case was meritorious or whether it should be referred. Candidly, it's a great illustration of why that should never happen.

**MR. EVANS:** I never tell my client what they can and can't do. I don't expect my lawyers to do that to me. So we are put in a bit of a quandary because of that, because if we now do that which the record suggests, we already have our counsel who has predetermined that she doesn't believe she can win the case. She has already communicated that to opposing counsel. And that really does limit your options, especially, when you have a record where the investigator, the ones who are actually charged with giving us the information, says during our investigation we found that several voters had called Patty Brown and expressed that they felt intimidated and frightened. We have three members of the NAACP in jackets and lettering and hats. One or two voters said they were intimidated. One voter had to console the elderly voter who said she was scared. We have a direct point-blank question, which was, did you feel intimidate. I don't know how much clearer you can ever get than a yes/no question of that magnitude and the answer was yes, I did. And then later, upon what you clear you can get the answer as a yes upon pressing by Mr. Worley, so, I felt intimidated. And then I have before me a woman who was so concerned, she was trembling all over for two hours. Now, what I'm left with is trying to figure out do I have a case of acceptable intimidation. What is acceptable intimidation? It is that there is, in

fact, intimidation, but it can't rise to the level of what the statute requires. Now, I'm a little reticent to create in Georgia for the first time the idea that there is, in fact, acceptable intimidation, which is that intimidation which doesn't rise to the level of being a violation of state law, but which everybody in the room knows is inappropriate. So, we, as a Board, have our options severely limited. Then, as noted in the transcript the last time, the easiest thing in the world would have been for those who participated, which is the four people who were at the polling place, who were referenced in the record, to come in here and tell us, let me tell you what happened so that we can have some reasonable assurance that this is not a coordinated effort designed to intimidate. We, instead, don't get anything. We didn't get anything at the last hearing. There was a total non-appearance and then today we have, this is the way the system is supposed to work. Well, It is not the way the system is supposed to work. It is not the way the Board is supposed to work. It is not the way our investigation works. It is not the way our counsel works. It is not the way elections work. So, this is just a great illustration of what happens when everybody isn't doing their job. Candidly, I would have been impressed had you come in and said, you know what, I read the report of AG and she said that we were a bit overzealous and we probably were, but we didn't rise to the level of statutory violation. And I would have said, okay, you get it, we get it. This is not where we want to be, but everybody understands this is not what we do. It is very difficult for me, when I have this is the way the system is supposed to work. I, as your lawyer, am not going to prosecute the case because I don't think you can win. And in addition we have an investigative report that says there was intimidation. So we are in the midst of a black hole, if you will, in terms of space, which is where the density of the space gets so great it just pulls everything in it and makes these options very difficult. But I will say, while my expectation is that the result of all this will simply be no action, which is, there will either be a motion to close or there will be a motion to refer, but I will say this: Intimidation is not acceptable by anybody. And while this one incident may go by as a forever-pending case, I can say that until my term expires, my last term on the Board, if we see intimidation, you can rest assure, if there is any way, we will make sure that anybody who attempts to intimidate, whoever they are, is held properly accountable.

**MR. WORLEY:** Can I respond to some of the things that Mr. Evans has said?

**SECRETARY KEMP:** Please.

**MR. WORLEY:** We have a different view of the facts in the investigative report and the transcript. And the evidence that was offered at the last hearing, as Ms. Brumbaugh pointed out when we reconvened, just a little while ago. If you, actually, read the whole transcript and the whole colloquy that I had with Ms. Chambers, what appears and what is clear is that what made her feel intimidated was that she didn't want to ask the Chief of Police, who was had been her friend, to move his car. That is what the transcript says. So I felt intimidate, him, being a personal friend of mine. It was something I needed to do. That is what made -- that's the intimidation. As far as the other intimidation, alleged, there is really no evidence to support that. Essentially, what it says is people felt intimidated because there were three members of the NAACP in jackets with lettering and hats on identifying who they were. You know, the fact is that this was a highly contested election, a huge turnout, a lot of attention on the election. And for the first time in probably ever, I think, was the testimony at the last hearing, people went to the Bowdon precinct and the Villa Rica Precinct, NAACP members, to do this. That made some people uncomfortable. That's unfortunate, but just because people were surprised that there were

black folks coming in, that doesn't rise to the level of the intimidation that is required by the code. That is my only point, is that the evidence that we have and that Ms. Brumbaugh has done further investigation into shows that there is not a violation of code here. That is all I'm saying. And under those circumstances I don't think it's appropriate for this Board to go any further with the case.

**MR. EVANS:** Then there should be no reluctance in having those who were at the poll and the people who were coordinating them to come in and say that. If there is no effort or intent to intimidate, there should be a relative ease to come in and look people square in the eye and say, guess what, here is all we did, but so far we have had one hearing where no one showed and the hearing today where we heard from no one, but I did have this in the record, which you conveniently didn't read. There was the one that left her phone number with me. It was the one whose very concerned about the lady being frightened, trembling all over. I'm sorry, my colleague, but the truth is, if there is nothing -- the best part of innocence is transparency and the light of day helps make it clear, but we don't have any of those folks. We don't have any of what was done that day. But the people we did have come said they were intimidated. And the people who did the intimidating have never come.

**MR. WORLEY:** Based on the evidence we have that anyone did any intimidating, if you had actually listened to Ms. Brumbaugh's presentation, you would have heard that the woman who left her phone number and said she had talked to this elderly person, Ms. Brumbaugh talked to her and she didn't know who that person was. And there was no way to get in touch with that person and find out what was the basis for her feeling of intimidation.

**MR. EVANS:** So we put the intimatedes on trial.

**MR. WORLEY:** The fact is that there is no way for us to figure that out. The other point that I would like to make is that this is the United States of America. You shouldn't have to be hauled before this Board. You should have to be hauled before an Administrative Law Judge and made to defend yourself merely by exercising your right, anyone's right, to go out and observe what is going on in the polls.

**MR. EVANS:** The other issue, my colleague, is to put those who are intimidated on trial. You want people who were intimidated to have to come forward as opposed to those who, in fact, were the ones who were there.

**MR. WORLEY:** Yes, I want someone who makes a complaint to come forward and offer some evidence of that complaint.

(AUDIENCE APPLAUSE AND CHEERS).

**SECRETARY KEMP:** Let's settle down, now. We don't need outbursts from the audience. Obviously, Mr. Evans and Mr. Worley disagree on this. So, I think that we need to just agree that they are going to disagree and move on. Mr. McIver. Mr. Webb, go ahead.

**MR. WEBB:** Before we move on, I would like to disagree with Mr. Worley's characterization that this is all about black people showing up at the polls. If there had not been the incident with the police officer and making the scene, then we wouldn't be in the position we are today. I am

slightly offended by the comment. I think you're painting a picture that I don't think is true.

**MR. WORLEY:** Well, if I could just respond momentarily, the issue with the police officer, it is clear from the colloquy that there is not intimidation involved with that, but the larger picture is I honestly do believe that there were people who were quite surprised that there were officials from the NAACP showing up in their polls. And I say this because I have been to Bowdon. I've campaigned in Bowdon. I was a candidate on the ballot in Bowdon and there are very few black people in Bowdon, to be truthful. And it does not surprise me at all that people would be surprised to have NAACP Officials in their precincts. And that is the impression that I got from the testimony at the last hearing. And that was the impression that I got, based on the evidence that I heard. People, I think, were uncomfortable with that.

**SECRETARY KEMP:** Go ahead, Mr. Webb.

**MR. WEBB:** I think the testimony I heard was there was some surprise, but there was cooperation and it wasn't an issue until the police officer incident. And I don't understand why. I mean, I heard the history lesson, that that was an issue. This is 2010 and I just don't --

**MR. WORLEY:** You are absolutely right. This is 2010. But you have to realize that when I was growing up in this state I went to whites-only schools and black folks went to black-only schools. And there was a long history of segregation. And there are a lot of people my age, younger, older, you know, who know the history that we had and know that there was a period in time when having police at precincts was not designed to encourage people to vote.

**SECRETARY KEMP:** Was the police officer that was there -- he was actually voting right?

**MS. BRUMBAUGH:** Right.

**SECRETARY KEMP:** Obviously there were some people at the precinct that were intimidated because there was a police officer that was voting. I mean, to me, I think that's ridiculous I don't know why we would ever want to have anybody in our society, be upset about a police officer or men or women in military uniform or fire department uniform be intimidated by them standing in line to vote, you know, over I'm sure the time wasn't that long. I don't know. That concerns me, as well.

**MR. EVANS:** I want us to, because we are about precedent, to fully appreciate the boundary that Mr. Worley sets now, because when we go into November, that the burden is on the intimidee, the person who is intimidated, to make their case first.

**MR. WORLEY:** Well, that is, in fact, what the burden in law is. We have to prove it. The Attorney General would have to prove it. The law says that somebody is going to have to prove that somebody was intimidated. And the problem in this case is that there is just not any proof that's been offered to us or put in front of us that people were intimidated in the sense that we can call them as a witness and convince an Administrative Law Judge. If the Board wants to refer this to an administrative hearing, then vote to do that. I am pretty confident that that Administrative Law Judge is going to find that there is not a violation of the law.

**MR. EVANS:** I just want you to live by that burden in October and November.

**SECRETARY KEMP:** Mr. Webb, did you have anything else?

**MR. WEBB:** No.

**SECRETARY KEMP:** Mr. McIver.

**MR. MCIVER:** I have a motion, Mr. Chair. It's a stool with 3 legs. The three things that support this motion for me are one, that our lawyer is not confident about the case. That is terribly probative for me. Secondly, is the representation of the NAACP. I think we have all admired it for a great many years. I do think their cause is worthy. And they have tried hard to do what they've done. And the other is Mr. Waldrop. I found him very, very convincing. He is not a member of my firm. I kind of wish he was. The reality is that I think he made a good case and therefore my motion is going to be that a letter of instruction be issued to the Terrell County NAACP, which advises them of what should be done and what our expectations are and above all, what the standards are in the code and go forward. Like Mr. Worley, I'm not sure this case can be won, for all the reasons that have been discussed here today. So, I would like to move in that direction. That's my motion. I trust I'll have a second.

**SECRETARY KEMP:** We have a motion. Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** We have a second by Mr. Webb. Any further discussion?

**MR. WORLEY:** Well.

**SECRETARY KEMP:** Go ahead, Mr. Worley.

**MR. WORLEY:** Just as a matter of practice, a letter of instruction is a level of punishment that we weed out, once we have decided that there has been a violation of the law. You can't send a letter of instruction unless you have decided that there is a violation of the law. Well, that's the position that I take. That's what I believe.

**MR. MCIVER:** I think we can give them advice. They have it in writing. I think, probably, that their counsel would agree that we appreciate any advice you would like to impart to us, so if we ever appear here again, we will know what the standard is.

**MR. WORLEY:** To me, we only send a letter of instruction when we have determined that there is a violation of the law. And we are determining that that is the appropriate penalty or corrective action to be taken. And I don't believe that there is enough evidence that there was a violation of the law and that our counsel has told us that, I can't support that.

**MR. WORLEY:** I want to be clear for the record.

**MR. EVANS:** Again, let me say, I agree with Mr. Worley. I think you have to have the predicate finding and deciding that we issue admonitions and instructions without a finding of violation is, to me, a very dangerous path. It really does risks due process.

**MR. WEBB:** I thought that during the conversation with Mr. Waldrop that he admitted that there was some interference. They didn't handle it correctly. Maybe I'm putting words in your mouth. I don't want to do that, but I thought there was some acknowledgment that the situation could be handled better. I think there was interference with the poll officer. It may not rise to the standard of a felony, but, definitely there was some violation. And do I think the actions could have been handled better, I do. Do I think that the NAACP should be prevented from going in doing poll watch watching, absolutely not. But, in my opinion, there was some interference with a poll officer.

**SECRETARY KEMP:** We have a motion and a second for a letter of instruction. All those in favor, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed?

**MR. WORLEY:** No.

**MR. EVANS:** No.

**SECRETARY KEMP:** Okay. The motion carries, three to two. We will do the letter of instruction. All right. City of Comer.

**MS. BRUMBAUGH:** Let the record show that Mr. McIver has got to leave us. We wish him safe travels.

**SECRETARY KEMP:** Let the record also show that Mr. Evans stepped out for a minute. We will go ahead and proceed.

**MS. BRUMBAUGH:** The next case the City of Comer. This is 2009-0037. Respondents in this case, were City of Comer as an entity and then Steve Sorrel, who was the election superintendent and then two of his clerks, Missy Queen and Jim Beard. During the November 3rd, 2009 election during early and absentee voting, the election superintendent and the absentee ballot clerks committed a number of violations of the election code. They left the absentee ballot box unsecured. There were six absentee ballots in that box which were vulnerable. They did not follow the requirements for record keeping regarding mailing absentee ballots. They did not note the receipt dates that absentee ballots applications came into the office, and then the mail-out date that they mailed out the actual absentee ballot, they didn't compare the signatures to voter registration cards -- the signatures on the application -- and they didn't keep a master list of electors to whom they sent an absentee ballot. To give a little more context, this was the first contested election in Comer, since 2001, so this is the first time they would have been going through the early and absentee voting. There is no evidence that these violations were done intentionally. The Mayor of Comer, who is new, I believe, had signed a consent order for \$600 admitting to these violations and agreeing to pay \$600. I recommend that the cases as to the individuals, Steve Sorrell, Missy Queen, and Jim Beard be dismissed in light of the, sort of, responsibility the City of Comer has taken for the situation. Stephen Sorrell has since resigned from being on election superintendent and the clerks were simply clerks. They were just very low level in terms of enforcement and authority. And so, in light of a \$600 fine, cease and desist



and public reprimand admitting to the allegations, I would just recommend the Board accept this consent order.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, anyone here to speak on this matter? Seeing none, I will entertain a motion.

**MR. EVANS:** Move we accept the consent order.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We've got a motion to accept the consent order and a second, and does that motion require dismissing of the three respondents?

**MR. EVANS:** It typically operates to the full resolution.

**SECRETARY KEMP:** I just want to make sure we have all that covered.

**SECRETARY KEMP:** All right. We've got a motion and a second. Any discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** Note, for the record -- I meant to note that Mr. Evans stepped back in.

**MS. BRUMBAUGH:** The next case is the City of Sparta. This is 2008-0005. The City of Sparta, there were several respondents in this case, a woman named Hazel Betty Hill, Katina Barnes, and Omar Howell; however, this is simply a recommendation to one respondent, only a woman named Tiffany Evans, who was an elector in the November 6th, 2007 Municipal Election. This is a situation where there will be a couple of other consent orders similar to this, in that, Ms. Evans indicated that she lived in Milledgeville in Sparta, Georgia -- Milledgeville Highway in Sparta, Georgia. She then fills out a change of address and says that she lives on Saint Mark Road in Sparta, Georgia. She goes in to vote on November 6th, 2007 and says, yes, I still live at 131 Saint Mark Road, Georgia and she votes. The problem is that 131 Saint Mark Road, Sparta, Georgia, even though it has a Sparta mailing address is not within the City limits of Sparta. So, she shouldn't have voted. The recommendation -- the problem again, and the allegation was a violation of code section 571 and this is a code section which requires specific intent that your violation be knowing and willful. Since Ms. Evans didn't know that she didn't live in Sparta, she didn't lie about her address. It's difficult to, again, attain this level of specific

intent. So, in this case, as to Ms. Evans, the recommendation is to dismiss the case.

**SECRETARY KEMP:** Against Ms. Evans?

**MS. BRUMBAUGH:** Against Ms. Evans. The remaining respondents, that is still an open case.

**SECRETARY KEMP:** Any questions?

**MR. EVANS:** The difficulty we have is that if what we are being told is true, then the report that we gave that was given to us by our investigators was inaccurate or incomplete. What we are being told is that which you were referred, in fact, was factually wrong. So, I'm just trying to figure out, because I went back to look to see the report in the minutes, which suggested we, in fact, refer this over to the AG's Office. And now, I have the AG saying, no none of that is correct. We need to figure out how we solve that.

**MS. BRUMBAUGH:** Well, I think that, like I said, there is another case. I think it is actually the next one, with sort of a similar fact pattern. In that case, the respondents were not only the voters, but also the poll workers and the Board of Elections. So the recommendation in that case was that the proposed resolution, I should say, was that the Board of Elections and the poll workers had been in violation of the election code for permitting someone to vote who shouldn't have voted, but without evidence that the person knew that they weren't qualified to vote, such as a lie, lying about their address in order to vote, it would be difficult to prove against the individual voter. I don't think that the -- I, personally, don't see any sort of factual problem with the Inspector General's Reports in these cases. I think that they are very thorough and encompass all avenues of consideration and then sometimes those avenues get a little bit refined.

**MR. EVANS:** Well, actually, I think there is another explanation. And the other explanation is that 21-2-571, as to voting in the wrong place does not include scienter requirement. It doesn't have a knowingly requirement; right.

**MS. BRUMBAUGH:** It says that any person who votes or attempts to vote at any primary or election, knowing that such person does not possess all qualifications of and elector at such primary or election --

**MR. EVANS:** Right.

**MS. BRUMBAUGH:** So, to me, that would be a scienter.

**MR. EVANS:** Keep going -- or who votes or attempts to vote at a primary in violation or who knowingly, which is the part that's referenced in your report -- your report references knowingly gives false information. I think what happened was, as I read the report, was that the Inspector General report said the very act of voting was itself a violation. I think you are zeroing in on the knowing that you do not possess the qualifications. Presumably, the qualification is to live in the requisite district as opposed to the qualification being over 18 not a convicted felon, not incompetent. Right. So, we have to figure out how to zero in on it. Okay. I agree with you. It does not appear she gave false information. It appears she voted in the wrong place.

**MS. BRUMBAUGH:** Correct.

**SECRETARY KEMP:** Anything further?

(NO RESPONSE).

**SECRETARY KEMP:** Anybody else wants to speak with regard to this case?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, anything else Mr. Evans?

**MR. EVANS:** I am trying to figure out, procedurally, where we are, because the decision to close or not close is made in the preliminary phase. I thought the Attorney General was the decision maker as to whether or not a case went to the next phase. But I see it is back on our plate to decide whether we dismiss it or not.

**MS. BRUMBAUGH:** I don't take the position that I have authority to close your cases. That is why I bring them all back. If you want to give me that authority, we can leave at 3:00 o'clock, then.

**MR. EVANS:** No. I am actually elated to hear those words, because that is exactly 180 degrees different than what we have been told for 5 years, that we didn't have the decision-making authority. So, I'm good with it. You are saying we have the authority, then we have to make that decision. And that's new-found authority, which we didn't have before, which I'm happy to have. I would move to dismiss.

**SECRETARY KEMP:** We've got a motion to dismiss. Do we have a second?

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We've got a motion and a second. Any other discussion?

**SECRETARY KEMP:** Hearing none, all in favor of dismissing, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, say, no.

(NO RESPONSE).

**SECRETARY KEMP:** The case is dismissed. City of McIntyre.

**MS. BRUMBAUGH:** City of McIntyre is 2008-0063 and it presents, again, pretty much, the same situation, except I tried to resolve the whole case, instead of just one respondent's piece of it. In this case, this was a Mayoral Election which went to three run-offs in 2008. There were a couple of election contests along the way. It was a very close election with a lot of hotly contested situations. But for our purposes, there were several voters who, again, were permitted to vote, even though they did not live within the City of McIntyre. The first two people were the Rouses, Donald and Tiffany. Donald and Tiffany had moved out of McIntyre several years before. They came in to vote that day, for whatever reason, they said, we don't live in the City of

McIntyre anymore, but we are still registered to vote here, can we vote? And the poll workers said, sure, but why don't you fill out a change of address form while you are here. That is exactly what happened. Johnnie Ridgeway was a mail-in absentee ballot. He transferred. He had moved out of McIntyre, transferred his registration, McIntyre had had noticed that his registration -- McIntyre, I think had notice that his registration had transferred and yet they still accepted his absentee ballot, as well. As to that situation, the Wilkinson County Board of Elections has agreed to a \$300 fine, cease and desist order, and reprimand, based on allowing these people to vote who should not have voted. Because, as we discussed in the previous one, this need to be knowing that what you are doing is wrong, I am recommending that you dismiss the case against these individual electors. Terry Currie is a different situation. Ms. Currie assisted her aunt, her elderly aunt and actually signed her elderly aunt's absentee ballot. And she has submitted a consent order for a public reprimand and for a cease and desist without a fine. That is the proposal before you.

**SECRETARY KEMP:** Okay. Any questions?

(NO RESPONSE) .

**SECRETARY KEMP:** Hearing none, does anyone else wish to speak on this case?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, do we have any discussion or a motion?

**MR. EVANS:** Move we accept the consent order.

**SECRETARY KEMP:** Move to accept. Do we have a second?

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We have a second by Mr. Worley, Any discussion?

**MR. WEBB:** A few questions, I'm sorry. A couple of names are scratched out and some other ones are penciled in. Is that replacements on the Board?

**MS. BRUMBAUGH:** Yes.

**MR. WEBB:** Why is Tracey Strange singled out? Is it because he or she was the election superintendent?

**MS. BRUMBAUGH:** Yes, she is on the Wilkinson County Board of Elections. She was listed last and she signed as well. She is listed as an individual respondent that you referred to me. She as well as the Board members have signed the consent order.

**SECRETARY KEMP:** Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, we have a motion and a second. All in favor, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries.

(DISCUSSION OFF THE RECORD).

**MS. BRUMBAUGH:** The next case is 2008-0109, This is Greene County. You may remember this from --

**MR. TAILOR:** Does the Board need to address the rest of the cases. There were two consent orders and a recommendation. I want to make sure.

**MR. EVANS:** My motion was intended to address all, to accept the AG's recommendation.

**SECRETARY KEMP:** Is that the concurrence of the whole Board?

**MR. WORLEY:** Yes.

**BOARD MEMBERS:** Yes.

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

**MS. BRUMBAUGH:** The next case is 2008-0109 Greene County. This is the case that was presented initially at the February meeting. This case involves the Greene County Registrars Office and two altercations that occurred during early and absentee voting for the 2008 Elections. The first was a woman named Dorothy Wright, who came in wearing an Obama pin. She was asked to take the Obama pin off. She initially refused. And there was some level of altercation. She left the Board of Registrars. the Board of Registrars called the police, but no further action was taken. There was no arrest. Some very brief statements were taken. But there has been nothing criminally pursued in that situation. Marion Rhodes was a commissioner in Greene County. He did approach the Greene County Board of Registrars, fairly agitated, concerned about the way disabled voters were being treated. He had a very heated discussion with Mike Malone, the elections supervisor outside, maybe in the doorway, but more outside of the Board of Registrar's office, not in the building. Again, it became very heated. But Mr. Rhodes left and Mr. Malone called the police and, again, a report was made, but there was no follow-up, in terms of a criminal action. Like the previous case, discussing all these problems with interference, I tried to do a lot of investigation into this case to make sure that I really had a good grasp of what had happened. And it appears having talked to Mr. Malone and having talked to Louise Nesbit, and having followed up on these criminal reports that were made and having looked at the criminal reports and the statements that were made at the time, that, once again, there is not enough evidence to rise to the level of a 566 violation; however, especially as to Mr. Rhodes, because he is a County Commissioner and certain amount of decorum and role modeling is expected, I recommend that a letter of reprimand be sent to Mr. Rhodes and I recommend that a letter of instruction be sent to Ms. Nesbit. I have spoken, again, I spoke to

Mr. Mike Malone last week. I told him what I was recommending. Mr. Malone said he agreed with that. He was fine with that. And he told me that Brian Burdette, who was also listed as the complainant here, would also concur with that recommendation.

**MR. EVANS:** So we have reached a level of unacceptable intimidation, neither one of which you can prove, but for which a line has gotten drawn, is that a fair summary.

**MS. BRUMBAUGH:** I don't think I have drawn any lines.

**MR. EVANS:** Here you are recommending a reprimand; correct?

**MS. BRUMBAUGH:** I think that I am making a recommendation. I am looking at the case.

**MR. EVANS:** Did you recommend a reprimand on the earlier case?

**MS. BRUMBAUGH:** I recommended a letter of instruction.

**MR. EVANS:** Did you recommend a reprimand?

**MS. BRUMBAUGH:** In the Carroll County Case?

**MR. EVANS:** Yes.

**MS. BRUMBAUGH:** No.

**MR. EVANS:** So you drew a line there.

**MS. BRUMBAUGH:** I looked at the facts. In Mr. Rhodes case, I think we have pretty good evidence that there was some loud voices, some heightened emotions, some sort of level of frustration.

**SECRETARY KEMP:** Anyone else? Any questions for Ms. Brumbaugh?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you. Anyone else wishing to speak on this case? Yes, ma'am. Come right on up. Name and address please.

**MS. WRIGHT:** My name is Dorothy Wright. I was here earlier and I think y'all have copies of what was going on in Greene County. When the statement was made that I had left the office with the pin. I didn't leave the office with the pin. I walked to the door, towards the door, took off the pin, turned around and came back. I never left the building until I officially left. So when I had taken the pin off and I went back to Mr. Malone and was questioning him about the problems that was going on in the county, he said, well, I can't talk to you because you have that pin on. I said Mike I don't have the pin on anymore. Mike is the type person that if you question him, he is irritated. If you can see, he has called the police twice. Any time you question him, he calls the police. There has got to be a different way to handle the situation other than calling the police. Also I would like to say that with Mr. Brian Burdette. I have a reputation in Greene County Now, to have my name published in the paper as to what happened the last time up here.

To me, that is intimidation, if you all want to talk about intimidation. I've never been in any kind of trouble or had my name put in the paper for anything bad. And that happened, but Brian Burdette, and I kind of question, maybe you all can kind of answer this for me. It really concerns me. I can't understand how Brian Burdette, who is head of the Republican Party in Greene County was not even present during the time this took place, but yet he is the complainant in the case and he stood here that day and made the statement that he was not there during that day. But he is the one who is filing the charges and not the Board of Elections or the Elections Office. And Mr. Malone didn't pursue that. I'm sure what he did was he realized he acted hastily on something that he really shouldn't have done. That is my question, how do you, on hearsay -- because I noticed while I was here today that people coming up, you are saying were you a witness in this case? If they weren't a witness in the case they weren't speaking on behalf of those, but yet a person who was not even there can file a case against me and Mr. Rhodes. I question that. Please, can you explain that to me how that happens?

**SECRETARY KEMP:** Well, there is a couple of things I wanted to ask you. How did your name get in the paper?

**MS. WRIGHT:** He printed it. I have an article.

**SECRETARY KEMP:** When you say, he, you are talking about --

**MS. WRIGHT:** -- Brian Burdette.

**SECRETARY KEMP:** So it was in a letter.

**MS. WRIGHT:** It's an article put in the paper in our county.

**SECRETARY KEMP:** Was there a reporter that wrote the article or was it a letter to the editor? We obviously have no control over what a reporter writes. That's for sure.

**MS. WRIGHT:** It's the one with Brian Burdette's picture on it.

**MS. LAGRUA:** Mr. Chair, it appears that this is an article about the Election Board proceedings and what occurred during the public proceedings here at the State Election Board and what happened during the course of this meeting on this case. I will be happy if Ms. Wright would like to have this entered, if this is an extra copy.

**MS. WRIGHT:** Well, no. I don't have an extra copy.

**SECRETARY KEMP:** It's okay. I just wanted to make sure I knew what it was. Ms. LaGrua, can you address the issue of who can make a complaint?

**MS. LAGRUA:** Whenever we receive a complaint into our division we follow up on the allegations in that complaint. And we have had this question come up, before. I know I discussed this with Mr. Evans. Whoever makes the complaint has historically been listed on our report as the complainant, so that if we have any questions in follow-up or investigators have any questions, they know who to follow up to find out where the information initially came from.

**SECRETARY KEMP:** To address your other question, the precedent here is that we law complainants, respondents and anybody that is, actually, a fact witness to the case to be able to speak to it. That is why, you know, people were speaking earlier that were complainants, even though they may not have been at that event.

**MS. WRIGHT:** That's what I was saying because when Mr. Burdette was here he came up here and spoke as long as he wanted to and he was not a witness in the case.

**SECRETARY KEMP:** Well, he was a complainant though. We allow complainants, just like if you wanted or decided to file a complaint, just like if you weren't there but you heard something from members of your community, you are free to do that.

**MS. WRIGHT:** If I heard something on Mr. Burdette I can come here and just make a complaint? I can do that?

**SECRETARY KEMP:** (Nod.) Yes, ma'am.

**MS. WRIGHT:** To me, that's a person's reputation we are talking about. I think maybe some change, something needs to be addressed on that, on hearsay, because this is hearsay. He was not there. And Mr. Malone and Ms. Nesbit knows they are not the ones that made the complaint.

**SECRETARY KEMP:** Any other questions for Ms. Wright?

**MS. WRIGHT:** I feel like both of these charges should be dismissed. I really do.

**SECRETARY KEMP:** Thank you for being here.

**MS. WRIGHT:** Thank you.

**SECRETARY KEMP:** Anybody else?

**MR. RHODES:** My name is Marion Rhodes and I live at 110 Lawrence Drive in Lawrenceville, Georgia. The zip code is 30642. I have just got a couple of points that I would like to make. I did approach Mr. Malone, he was on a smoking break on the outside of the building. We had a discussion about some ballots that he had tossed out. Again, Mr. Malone, I concur with what Ms. Wright is saying Mr. Malone did not file the complaint, neither did the Election Board file the complaint, but Mr. Burnette filed a complaint, the chairman of the Republican Party who was not even present. And as of today, I have never -- a police officer has never come and talked to me about this whatsoever, because it wasn't anything.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** No questions. Thank you.

**SECRETARY KEMP:** Anyone else wish to speak on this case?

**MR. WEBB:** Ms. Brumbaugh can I ask some questions? It is hard to believe this was just in



February and I can't remember. Ms. Wright's situation was that she just had a pin. Mr. Malone asked her to remove it. She initially refused, then she left, then she took the pin off and came back; is that correct?

**MS. BRUMBAUGH:** That is a version, except that it is Ms. Nesbit she is interacting with, not Mr. Malone. She said -- she clearly left and then the police were called and did not come back after the police were called. Whether she came in -- and she clearly wouldn't take the pin off. And there was some tension there. So whether she left and came back or just left, that part is, there is perhaps some dispute there. We know the beginning of the story and we know the end of the story. I don't think that part is in dispute.

**SECRETARY KEMP:** Mr. Webb, do you have anything else?

**MR. WEBB:** Just trying to remember the facts in more detail. We can move on.

**SECRETARY KEMP:** Okay. Anything else? Yes, ma'am.

**MS. WRIGHT:** May I say something?

**SECRETARY KEMP:** Quickly, please.

**MS. WRIGHT:** I'm sorry. I know you are tired. I'm Dorothy Wright and I reside at 1490 Bowdon Pond Road, Greensboro, Georgia. In reference to having left the building, as I stated earlier, I never left out of the office. I didn't leave. When I left out of the office, I stayed there for a few minutes, waiting on the police to come because the supervisor had asked his assistant to call the police and she had to ask him what for, because she didn't know what to tell the police when she called. So, when I left out of there, I went next door to the Sheriff's Office. I never left, because I didn't do anything.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you, Ms. Wright.

**MR. EVANS:** Mr. Chair, we clearly have confusion here about the process, to be candid. The issues that we are hearing are issues for a fact-finder to decide. We can't issue a letter of reprimand without a finding of violation. Somehow we have gotten to where we have a second preliminary hearing, which is, we hear from our investigator, we decide there was probable cause. And then it comes back to us for a second dismissal, which is not how it works. How it works is we hear whether there is probable cause. And then the Attorney General's Office presents it to a fact-finder. The fact-finder decides there is no violation. That comes back to us. We accept or reject the finding. If they find there is a violation, they can make a recommendation as to whether it is a reprimand, civil penalties, cease and desist or monetary or even restitution. And then we decide what the appropriate penalty is. Somehow we have gotten back to where the idea is that once we refer it, it comes back for us to hear evidence again. And that is not way it works. I don't know how we got cross-ways on this. For example, on this report, the recommendation is we issue a reprimand. We can't do that. We have to have a

fact-finding. We have to have a fact-finder make a decision on the facts and then we make our decision on penalty. I'm not sure it is -- I'm not sure what we are being asked to do here. I know that legally we can't do -- but I am trying to figure out how we got to where we are today.

**MS. BRUMBAUGH:** Mr. Evans, would you like me to respond?

**MR. EVANS:** Sure. I don't understand how we are back to deciding whether or not to dismiss a claim based on lack of evidentiary basis.

**MS. BRUMBAUGH:** If that is the position the Board wants to take going forward, that is the position we will take. As I tried to explain in my earlier statement, I went back and I did additional work. I verified for myself, exactly, how much tension or whether the facts would support a violation in this case. And I am simply bringing it back to you. If your response is no, I think we need to have a hearing in this, that is within your decision to reject my recommendation. I do think there are some things that come up once the case comes to my office that maybe haven't been looked at or haven't been questioned. Sometimes it is evidentiary. Sometimes it is logistical, like can we find the witness, things like that that weren't covered initially. In order to save the Board time and money and resources, I simply present a position, but it is, as I stated earlier, ultimately the Board's decision and if the Board would prefer to have this case go to a hearing that is certainly within the Board's authority.

**MR. EVANS:** I am saying something different. You are recommending punishment. We can't meet out punishment unless we have one of two things, a stipulation of facts, which is what, if you went back, historically what could happen is the Attorney General's Office would investigate and say here is what we, in fact, determined the facts to be. We know what you referred it based on, but we have met with the respondent. Here are the facts. Here are the stipulated facts. And based on the stipulated facts, you need to decide the appropriate punishment or we could have a consent decree. But what we can't do is impose punishment without having the facts established. So, a reprimand, being a statutorily listed penalty is one -- they think we can agree on a letter of instruction. I don't think we can do a letter of instruction. I think there are others on the Board that think we can. That's gray area, but on the reprimand part, I think it's one level beyond what we can do.

**SECRETARY KEMP:** The letter of instruction in Mr. Wright's case, that would be addressing wearing the campaign pin in the poll location.

**MR. EVANS:** Well, there is two things. A letter of instruction is a thing that was created in an effort to avoid having to reach a fact-finding without having to reach the issue of whether there is or isn't a violation. It's actually a here-is-how-you-do-it thing, whereas a reprimand is, you, in fact, violated the statute. And we are telling you violated it. And I think to do the latter we have to have a stipulation of fact or a consent decree or an Administrative Law Judge tell us what the facts are. Do you disagree?

**MR. WORLEY:** No, I actually agree with Mr. Evans. It seems to me that the respondents are entitled to a hearing before we punish them. And I can see why someone on the Board might think that a letter of instruction would be different, because that is just might not be considered a punishment, but a reprimand is a punishment. And it seems to me they would have to have a

hearing before an Administrative Law Judge or before us, if we did such things, but we normally don't, before they could be punished. There is no problem at all with it going to the Attorney General's Office and you all negotiating a settlement and stipulating to the facts and having them consent to anything; but unless they are consenting, I don't think we can do it.

**MS. BRUMBAUGH:** I appreciate the direction and I will follow it. Just so you know, when you look at the statute on 33.1, the only thing that is required, in terms of giving due process and following the APA are the civil penalties. I think the Board -- I will follow the direction and I appreciate that.

**SECRETARY KEMP:** I personally think, from my viewpoint, it is probably a good thing to move towards. It is just like in some of the other case, you had one group saying, no, this didn't happen and the other group saying, yeah, it did. How are we supposed to figure out what happened when we haven't had a true hearing and they're not sworn in. That concerns me, as well.

**MR. EVANS:** Yeah. The only thing I would note is 22 -- 21-2-33.1-3 is the public reprimand. It is in the list of civil penalties.

**MS. BRUMBAUGH:** No. I don't disagree with that. When you Look at (b), (b) is where it talks about the Administrative Procedures Act. As I stated, I am happy to have this direction.

**MR. WORLEY:** It seems that there are sort of two things that we can do here, at this point. One would be to refer it to the Attorney General's Office with instructions to have an administrative hearing or given the fact that the evidence, at least in the Attorney General's eyes, is not enough to prove a violation of the election code, we could dismiss at that point.

**SECRETARY KEMP:** Well, Ms. Brumbaugh, from your perspective, I mean with your suggesting a letter of reprimand for Mr. Rhodes, do you feel there is enough fact there to warrant that?

**MS. BRUMBAUGH:** I think that if the Board wishes to take this to an administrative hearing that is a perfectly acceptable course to take.

**MR. EVANS:** To give you guidance, which is the way we have done it before, is we reach out to respondents and say, can we agree on the facts, so we don't need a hearing. And you know what you can prove and not prove, and if somebody says not, we can't agree to that and you know you can't prove it, that doesn't get in the stipulated facts. In terms of making your world more manageable, given the volume that we have, you could constantly be saying what are all the facts we can agree on and then what can I prove. From there you create a universe of stipulated facts.

**SECRETARY KEMP:** All right. Do we have a motion?

**MR. EVANS:** From my perspective, given the position we took in the Carroll County Case, which is that there is acceptable intimidation, I don't know how we are doing, but I was in the minority on that.

**MS. BRUMBAUGH:** The original recommendation from the Inspector General was a letter of instruction against both of these respondents and perhaps that is something the Board would feel comfortable with.

**SECRETARY KEMP:** I move we do a letter of instruction to both of the respondents. Do we have a second?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. My motion fails. Have we got any other motions?

**MR. WEBB:** Here is what I think: I know we are not the fact-finding group, but I think there was some disturbance, but I think when you go back and look at 21-2-566 paragraph 2 and then look at Mr. Malone's comments that are in the record, I don't think there is enough to warrant any punishment. And I, therefore, make a motion to dismiss the case against both Ms. Wrights and Mr. Rhodes.

**MR. WORLEY:** Second that.

**SECRETARY KEMP:** Mr. Webb has a motion to dismiss Mr. Worley seconds. Any other discussion? All in favor of dismissing, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed?

**SECRETARY KEMP:** No.

**MR. EVANS:** No.

**SECRETARY KEMP:** We have two ayes and two nos. Yours failed too, Mr. Webb.

**MR. EVANS:** May I just call on the AG to try again.

**MS. BRUMBAUGH:** Yes. Maybe the motion is, you know, to accept this and clearly no one is going to vote for it and it will come back to me. Is that a motion, Mr. Evans. I don't think we need a motion.

**MR. WORLEY:** It goes automatically back to Ms. Brumbaugh.

**SECRETARY KEMP:** Wish y'all had told me that before I made my motion.

**SECRETARY KEMP:** The next case is 2009-0008 Schley County.

**MR. EVANS:** We heard that matter before. I would just move that we accept the consent order in Schley and Franklin County.

**SECRETARY KEMP:** Well let me ask this. Is there anybody that would wish to speak on this matter?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, we have a motion to accept the consent orders from on case No. 2009-00028 and case No. 2009-000008, I believe I got that right.

**MS. BRUMBAUGH:** In Franklin County, there were three respondents and there was one consent order for one respondent. Do you want to discuss the other two respondents?

**MR. EVANS:** I thought we would deal with the consent orders.

**SECRETARY KEMP:** Motion to accept the two consent orders on the two separate cases we just mentioned. We have a motion. Do we have a second?

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Second by Mr. Worley. Any discussion?

**MR. WEBB:** Just for clarity, the two cases are 08 and 28.

**SECRETARY KEMP:** Schley and Franklin County. Okay. All those in favor of accepting the consent orders and approving the motion, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** Oppose, no.

(NO RESPONSE).

**SECRETARY KEMP:** Okay. The motion carries. Now we need to address the other respondents, Ms. Brumbaugh. And that is which case?

**MS. BRUMBAUGH:** 2009-0028 Franklin County. The other two respondents are Ludwig Medlin and Judge Eddy Fowler.

**MR. EVANS:** The question is whether or not we have a statute to bar solicitation as to election fraud?

**MS. BRUMBAUGH:** -- as to Mr. Fowler. Would the Board like a little factual summary?

**SECRETARY KEMP:** Yes.

**MS. BRUMBAUGH:** Mr. Medlin is a legal alien not a citizen. And in 2004 he came to the Courthouse in Franklin County and was going to take his wife's name, which is Medlin. How this happened is of great dispute and is -- I will skip over the disputed part for now. But he ended up registering to vote. He registered to vote without saying he was a citizen. Excuse me. He registered to vote and marked, I am not a citizen. His registration was nonetheless accepted. That is why Ms. Wilkinson submitted a consent order, which you have accepted. He then voted in one election, which was the July 2004 Primary on which Judge Fowler was on ballot. Mr. Medlin's explanation is that when he came in to change his name to his wife's name,

Mr. Fowler came out of his office and said, oh, you should register to vote. And Mr. Medlin said, but I am not a citizen and Judge Fowler said you don't have to be a citizen because you can be a non-citizen and vote in local elections. And that is, in fact, exactly what Mr. Medlin did. He didn't lie on the registration. He wrote he was a non-citizen. It was accepted anyway, and he then proceeded to vote, again, just for this Judge Fowler. Of course, Judge Fowler totally denies all this happened. Again, going back to some of the other cases we have addressed a few minutes ago, when you register to vote you have to know that you are not qualified. And Mr. Medlin's story, which we don't have any proof against is, I thought I couldn't register. He told me I could. I submitted a voter registration truthfully. It was accepted. And I did do this one vote. So, because we don't have any evidence to refute Mr. Medlin's story, again, we are stuck not being able to prove the knowingness part of registering to vote when you are not qualified.

**MR. EVANS:** But if we believe Medlin, Fowler told him that he could register and vote, even though he was not a U.S. Citizen and that she should do so.

**MS. BRUMBAUGH:** And that is exactly what he did.

**MR. EVANS:** Why wouldn't we make Fowler show up in front of a fact-finder and let them figure out who is telling truth; Medlin or Fowler. Why wouldn't we do that as opposed to you deciding that we can't prove either one is lying? We don't have to. We have two people telling, one saying heads and one saying tails, but we know there is one coin.

**MS. BRUMBAUGH:** Judge Fowler is not going to be able to give us the specific intent that we lack. We have to provide affirmative proof of the specific intent.

**MR. EVANS:** Let's do this: You get the fact-finding and if Medlin shows up testifies that Fowler told him to vote, notwithstanding the fact that he knew he was not a U.S. Citizen, we will deal with what the punishment is. If you can just get us the facts we can handle it from there. All we really need is the Administrative Law Judge to give us fact-finding.

**SECRETARY KEMP:** Okay. Any other questions from Ms. Brumbaugh?

(NO RESPONSE).

**SECRETARY KEMP:** Anyone else wishing to speak?

**MR. LUDWIG:** Yes, sir. My name is Ludwig Medlin. I am living at 856 Nelms Road, in Carnesville. What the DA (as stated) said is correct except I said, very clearly to Mr. Fowler, I cannot vote because I am a resident and not a citizen. And he said but you know the difference. The difference is on a state level you are allowed. Since you are a resident -- I became just a resident -- of Georgia this authorizes you to vote. On a federal level you are not allowed. This is the difference. He accompanied me out of the courthouse and pointed across the road to the building and said please go there and vote there. And I filled in the registration card correctly, not a citizen. I still voted. And nobody was in my way, because I believe completely what Mr. Fowler said.

**SECRETARY KEMP:** Any questions for Mr. Medlin?

**MR. EVANS:** No. Thank you.

**SECRETARY KEMP:** Okay. Thank you for being here. Anyone else wish to speak in regards to this case?

**MR. SAMUELS:** Good afternoon.

**SECRETARY KEMP:** Good afternoon.

**MR. SAMUELS:** My name is Bubba Samuels. I'm the County Attorney in Franklin County. I had not anticipated and it is not my desire to be here today to talk about this case. I was here on behalf of, in support of the consent order in Ms. Wilkinson's matter. I would, I feel inclined, though, as the County Attorney on behalf of Probate Judge Fowler, to point out, I guess, that the Attorney General, I guess, in here recitation said, that of course Judge Fowler disagreed with everything Mr. Medlin said. So, Mr. Evans, as you pointed out you have got a factual dispute that if you believe Medlin, then Fowler committed a crime. If you believe Fowler, then Medlin committed a crime. Well, I don't know that that situation is dissimilar from a car crash in which somebody ran a red light. And of course the police are not going to charge both parties and say, y'all prove your innocence. There is a probable cause determination that needs to be made. And if you can't make a probable-cause determination as to either party, I would submit that you can't move forward with a referral.

**MR. EVANS:** Actually we have already -- this is not a probable-cause hearing. That is why we have kind of gotten turned on our heads. We have already made a probable-cause determination. This is, in fact -- I don't know what it is to be honest with you. I defer to the Chair, but I think, at this point, all we need is, we need a factual determination. We need somebody to tell us what the facts are. Obviously, if it turns out that Fowler made statements that are untrue or told somebody, then we will deal with that. I'm sure it could be as simple as a referral to the JQC, but we have many options that are available to us. The option that we can't have is we're sucked into deciding who is telling and who is not telling the truth.

**MR. MEDLIN:** There is a witness. My wife was there, too.

**MR. EVANS:** We appreciate that and I'm sure the Attorney General will be glad to hear that.

**MR. MEDLIN:** She will support it.

**SECRETARY KEMP:** Any other questions. Anybody else wish to speak?

(NO RESPONSE).

**SECRETARY KEMP:** Any thoughts from the Board?

(NO RESPONSE).

**MR. SAMUELS:** Mr. Secretary, if I could make one more point. I was not under the impression at the October hearing that a referral was made with regard to Judge Fowler. Ms. LaGrua suggested that she does remember that. I would beg reference to the minutes, I

guess.

**MS. LAGRUA**: I would have to check the minutes.

**MS. BRUMBAUGH**: In the initial report by the Inspector General's Office, Mr. Fowler was not listed to be referred to the AG's Office. In the midst of the meeting the Board made the decision to go ahead and refer him. So I think that is where the confusion lies.

**MR. EVANS**: If a notice issue is raised, then we should just repute it back on the agenda. Judge Fowler says I didn't have an opportunity to participate in a preliminary hearing, then we would just bring it here and we deal with it then.

**MS. BRUMBAUGH**: Well, he should have received notice. He was listed to receive notice. He just wasn't listed as someone who was in violation of anything. I don't think there is a notice issue here, but there may have been some confusion, based on way -- between the written words and the verbal presentation that he was, in fact, referred.

**MR. SAMUELS**: Well, he was certainly not on notice of any statute that he was alleged to have violated.

**MS. BRUMBAUGH**: Right, but he was listed as a respondent. So, he should have known that this case involving him would be here.

**MR. SAMUELS**: And I believe, on his behalf, that he was aware of it.

**SECRETARY KEMP**: Have you got a motion?

**BOARD MEMBER**: Let it go back.

**SECRETARY KEMP**: Let it go back.

**SECRETARY KEMP**: Douglas County.

**MR. EVANS**: I move that we accept the consent order. We've got a motion to accept the consent order on Douglas County. Is there anybody here that wishes to speak on this?

**MR. QUARTERMAN**: Most definitely.

**SECRETARY KEMP**: Let the record show that --

**MR. QUARTERMAN**: Excuse me, sir. Wait a minute, sir. Since I'm the complainant, can you, at least, tell us first -- my name is James Quarterman, 8880 Dornoch Circle, Winston, Georgia, 30187. Tell us what it is that you are accepting in the consent order, so we will know. We don't know. You just said consent order.

**SECRETARY KEMP**: Let the record show that Mr. Worley stepped out for a minute. Mr. Evans, do you want to address that question?

**MR. EVANS**: Sure. We have a proposed consent order that was presented to us by the



Attorney General. That's what it is.

**MR. QUARTERMAN**: What is it? It has to have a fine or a letter of reprimand or something.

**SECRETARY KEMP**: Let Ms. Brumbaugh go through the consent order.

**MR. EVANS**: Yeah sure.

**MS. BRUMBAUGH**: This consent order is for a thousand dollar fine. Cease and desist order, public reprimand. There were originally seven violations that the Board considered. Two of them the Board declined to refer to my office. Two of them involved a pending Supreme Court case between Mr. Quarterman and the Douglas Board of Elections, which was decided in favor of Douglas Board of Elections. It should be in the materials.

**MR. QUARTERMAN**: Excuse me. The Supreme Court has nothing to do with this hearing.

**SECRETARY KEMP**: Sir, just let her finish. Go ahead.

**MS. BRUMBAUGH**: The final three violations, basically, there were two subject areas. One was the fact that there was a month's delay between the notice of the LNA Testing that was published and the actual testing and then a subsequent issue that was raised by the Board of elections once the investigation got under way, that they had misplaced 67 absentee ballots and they had to go back. They had not accounted for those 67 ballots appropriately. So the consent order is a thousand-dollar fine to cover the violation regarding the LNA Testing and the improper procedure regarding the absentee ballots.

**SECRETARY KEMP**: Any questions for Ms. Brumbaugh?

(NO RESPONSE).

**SECRETARY KEMP**: Okay. Thank you. Anyone else wishing to speak on this matter?

**MR. HAMPTON**: Good afternoon. My name is Melvin Hampton. I am a resident of Douglas County. 3092 Cobble Drive in Douglasville. I am a retired Deputy Sheriff of the Fulton County Sheriff's Office, who did the initial investigation that started right here at the Secretary of State's Office with a big box that was presented to the Secretary of State from Douglas County that contained elections materials, which I discovered on that particular day that the election itself was never certified, and that the name of the candidate, Derrick T. Broughten, the Sheriff was incorrect on the ballots. In count 1, that was that Mr. Broughten's name was misrepresented on the November ballot in the general early and absentee, in-person voting and that his name, as he certified he wanted his name presented from the very beginning was Derrick T. Broughten, not Derrick Broughten, therefore, when Ms. Laura Fulton contacted Mr. Wes Taylor to see if this was going to be a problem, it was a problem that they had to create two servers. To Mr. Taylor's advice to Ms. Fulton not to create a second server, she did, in fact, create a second server which threw this election into limbo. Upon me looking in the box, I discovered that there were only 30,008 votes counted in the card-cast position and over 55,000 votes was cast according to Ms. Fulton, in December, on December 15th, 2008, which was represented to Ms. Ann Hicks. I wrote them a letter asking Ms. Hicks to please accept our certified votes. Up until January of

2009, Mr. Tailor had been asking Ms. Fulton for their certified votes in this case. Now, I don't understand how you can only fine Douglas County \$1,000 when you charge Fulton County \$4-million for just leaving votes unaccounted for while they went to lunch in 2007. Now, this is called a miscarriage of justice when you are going to charge one county a numerous amount of money for minor doing what I call a minor infraction, when all seven of these infractions, which you should have sent to the AG's office were all major infractions. If you say that you have problems with what happened with the NAACP, I find that you should have problems with the entire process that you just went through with Douglas County. Thank you.

**SECRETARY KEMP:** Any questions?

**MR. EVANS:** Did you know that there were 10s of thousands of private voter information that was left in dumpsters in Fulton?

**MR. HAMPTON:** Yes, I did.

**SECRETARY KEMP:** Okay. Thank you. Ms. Brumbaugh. Hold on just one second, sir. I will let you know when we are ready for you.

**MS. BRUMBAUGH:** If I could just briefly respond, the issues with Derrick Broughton, names, databases. This gentleman seems very concerned about the issue with Derrick Broughton and the databases and this was extensively discussed when the case was brought before you in the fall and those were the two -- that issue regarding his name and the databases, the Board specifically declined to refer to my office. So, just for your understanding of how we ended up, with the proposed consent order -- and this is a consent order today.

**SECRETARY KEMP:** What about the amounts of the fines? How did you go about, is that consistent with what we have been doing in the past? I did look. I never seen anything with the LNA and the notice not being done timely and then in terms of the absentee ballots, I went back and I looked, and certainly there are cases in which there have been more fines and there are cases when there have been fewer fines. There seemed to be only one discrete problem, so whether there were five ballots or a hundred ballots, they were simply put in a drawer. There wasn't an issue of signatures not being validated or dates not being noticed. And quite frankly, this is a consent order. It is the product of negotiation, so that factored into it, as well.

**SECRETARY KEMP:** Thank you. Any questions of Ms. Brumbaugh?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Go ahead.

**MR. COLE:** Thank you. My name is David Cole. I'm with the Law Firm of Freeman, Mathis, and Gary, 100 Galleria Parkway, Suite 1600, in Atlanta. I represent the Douglas County Board of Elections and Ms. Fulton. In light of the hour and the time we have been here, I will keep my comments brief and just say, on behalf of the respondents, we agree that the consent order reflects the facts correctly. And the remedies that are appropriate. I will just say that the reason the remedies are imposed are appropriate is that the issue about the absentee ballots was not even included in the initial allegations made in this matter. That was something that they voluntarily

disclosed to the IG during the course of this investigation. They have adopted written policies and procedures to ensure that doesn't happen again. We have been cooperative during the process and there are just no disputes about the facts, so we submit that it is an appropriate remedy. We thank you for all your time.

**SECRETARY KEMP:** Thank you, Mr. Cole. Any questions for Mr. Cole?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, does anyone else wish to speak? Thank you.

**MR. QUARTERMAN:** My name is James Quarterman, I stated before my address is 8880 Dornoch Circle, Winston, Georgia. If you will turn in your little blue book there to your 21-2-file 603, 603 says it is a conspiracy. A person commits the offense of conspiracy to commit election fraud when he or she conspires or agrees with other person to commit a violation of this chapter. O.C.G.O. (as stated) 21-2-495, says when you have an election and the results change from the original results in a recount or subsequent thereafter, those results have to be certified. In your report, written by your own investigator, you have got a copy of that. He says in response to the question of not certifying the election, Ms. Fulton said that the Board made a decision not to certify the election. The Douglas County Board of Election does not make the decision. The legislature in Georgia made a decision how elections are to be certified. the Board of Election in Douglas County is bound by 21-2-70, to certify the election, not to decide whether or not they certify the election. Mr. McIver is a lawyer and this other gentleman is a lawyer. They have been throwing this legal talk all around. So, what you are doing today is you are establishing precedence. You are saying Mr. Taylor testified. He stood up and said, I told Ms. Fulton not to make a second database, but she did it anyhow. So, now you can create your second database. And let's go back to your document here, the second page. And it says here, on Day 1 the premier came in to do the testing and they didn't like the results. So I came back a second day. I made another spreadsheet. When it was all done, we were sent home so John could take the report with him. Now, this gentlemen just talked about Fulton County \$4-million for information in a dumpster. How much are you going to charge them for him taking the spreadsheet home? Anybody with a computer can change a spreadsheet. Then it came back. It says right above that, John, who described himself as President, was not satisfied with some of the results. So, we agreed to come back. Who said he gets to decide whether or not he is satisfied? The results are the results. Now, y'all are selling the people of the State of Georgia votes. We, the tax payers, pay you to be on this Board to be fair and understanding. Now, since we done brought up the issue of black and white, this is about race.

**AUDIENCE MEMBER:** Amen.

**SECRETARY KEMP:** No, this is not about race, sir. We are not going to allow that. Let me tell you something. I'm running this meeting. These gentlemen that are serving up here are serving at their pleasure. They are not getting paid a dime. We don't need to be calling out people that have been serving this state for a long time in a good way. Now, let me tell you. We are going to have these hearings in a fair and equitable manner. And if you can't be respectful to the Board, because we are going to be respectful to you, then we are going to remove you. As long as we understand that, we will move forward in a way that we will get to a resolution. And

we will be able to hear what you want to say, but that is how we are going to handle the meeting.

**MR. QUARTERMAN:** Well, then let me finish. I said this was about race, because she brought up the Supreme Court lawsuits and all of that, which was built on race and racial filing and profiling and all that built in the lawsuit. So, if you will give me a chance to finish my sentence -- if you want to throw me out, throw me out, but the fact of the matter is the law says an election has to be certified. You have got in writing, here, an official document, under your seal that says the election was never certified by this gentleman that you hired to be the Director of Elections for the State of Georgia. He testifies in here and he also says Ann Hicks, his assistant, that the election was never certified. I have listened all day long to y'all be legal and to the point. If you are going to hold one person legal, then you have to hold everybody. If an election has to be certified for one county, it has to be certified for every county. Not only that, you can't go back and certify one race. You got the documents right here. And I want to give you something that was given to me by Shawn Ridder, who is your Attorney General. I don't have a copy that you can keep. He sent it to me in color to keep the Secretary of State from having to come testify. And I want you to look at these documents. It is the only one they had in color. These are the recordings from the voting machine on a day-to-day basis. On the same day they wrote in the same red ink pen. On the same other day they wrote in the same blue ink pen. On 3 or 4 days on there, there is no closing time. That document has to say what time the machine was opened, what open seal was put on it, closing seal was put on it. Those documents have none of that. We have more documents here to show that there were votes, these were certified documents that certified this election, where they wrote in the votes and crossed out the numbers. There is no initial, no anything. You can't have a certified document marking out numbers and then writing in new numbers and call them official certification documents. Now, the fact of the matter is this. They state, in this document, that the Board of Election decided not to certify on election. the Board don't have that authority. That is a conspiracy when one or two people conspire to violate the election code and the exact code on that that they violated would be 495-603, the conspiracy, and then that will take you to 21-2-590, refusing to let voters who are qualified to vote, vote. The 62 ballots that she talked about was fine. First of all, that's against the law. That's illegal because when those ballots go out, they are supposed to be labeled. When they received those ballots back in from the people, they are automatically written down and tagged so that you can show that they have been received. So these people violated the law because they never showed that those ballots were received, because if they had wrote it down like the law requires, then they would have known that these ballots were unaccounted for when they tallied the results on election night, so that when you went back and those 62 people's votes were not counted, that means that the poll registration in Douglas County refused to allow registered voters' votes to be counted and for them to violate the election. Douglas County can't decide whether these 62 people's vote or not. Those people voted and their votes have to count and they were never counted. And still to this day they have not been counted. So now if we want to just set precedence --

**SECRETARY KEMP:** Mr. Quarterman, try to wrap up, because your time is up.

**MR. QUARTERMAN:** If you want to talk about precedence, talk about what you are setting right now, that you don't have to certify an election, that you don't have to account for every absentee ballot, that you can get together and conspire not to certify elections, that you can do all of these other things and what, you are going to pay \$1,000 in the State of Georgia. So, forget

about elections, because now, for a thousand dollars the Board of Election and these people can put whoever they want in office because the most you are going to do is what; fine them a thousand dollars, and I will have my papers back and I thank y'all for your time.

**SECRETARY KEMP:** So, you don't want to submit these, for the record?

**MR. QUARTERMAN:** If you want to color copy them and mail them to me, you can. You can submit those.

**SECRETARY KEMP:** Do we have a motion to accept the papers?

**MR. WORLEY:** So moved.

**MR. EVANS:** Second.

**SECRETARY KEMP:** We've got a motion and a second. All in favor, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you. Do we have any questions from Mr. Quarterman?

(NO RESPONSE).

**MR. BELL:** Mr. Chairman, I know it has been a long day and I do appreciate your service to this State. And your job is very important. Frankly, I'm upset. I'm very, very upset. The voting system in Douglas County. This is not the first offense we found.

**SECRETARY KEMP:** Excuse me, sir can we get your name and address.

**MR. BELL:** Yes. James Bell, I live at 6334 Ansley Circle Lithia Springs, Georgia. I'm a life-long resident of Douglas County and I'm a voter and I'm very upset. Mr. Chairman, in Douglas County we are threatened with jail time and a thousand-dollar fine for having our grass too high. And we see these gross violations of law in Douglas County repeatedly over and over. And thanks to Mr. Quarterman -- I know he is abrasive at times, I have had to work with him. We have butted heads, but he has exposed some very bad things in Douglas County. We expect action. These are not you may or shall or you may want to do these things. The law says you shall do these things. When they are not done it undermines the voting system in our county. And I wish I could walk you through the streets of my town and see the people that don't trust the voting system. I can go on and on about it, sir, but when we hear that our votes have been taken home and manipulated at somebody's kitchen table, somebody needs to go to jail in handcuffs. I have seen plenty of people in Douglas County go to jail for less than what has been committed here, sir. Even if you throw the book at them, today, I don't think it's going to be good enough frankly. And when I go back home to my elected representatives, our commissioners, I'm going to demand that these people be replaced and we can install somebody

in our county that has some integrity and that we can trust in these election results.

**SECRETARY KEMP:** Okay. Thank you, sir. Sir, are you a fact respondent, complainant, or a witness, fact witness?

**MR. FLEMMING:** I'm a witness, yes.

**SECRETARY KEMP:** Give us your name and address and explain to us, up front, what you witnessed.

**MR. FLEMMING:** John Flemming. I am a resident of Douglas County. I live at 2390 Fairburn Road, Lot 21 30135 and I'm here to continue on what Mr. Quarterman was saying about these elected officials. I voted in my County and I went to Douglas County in '06 because I heard that the school system was great.

**SECRETARY KEMP:** Okay. Sir, could you tell me what you witnessed, specific to this case. If you are not a specific witness, we don't need to have you addressing the Board.

**MR. FLEMMING:** I witnessed that seen the results from the election Board that I've gotten that these people are not really certifying our votes out there in our county.

**SECRETARY KEMP:** You didn't, in fact, see them writing. You just saw the paper, like we have done.

**MR. FLEMMING:** Yes, I saw the paper.

**SECRETARY KEMP:** Okay. We understand your concern. Is there anyone else that wishes to speak as a fact witness? Sir, you have already spoken.

**MR. QUARTERMAN:** Sir, you have to let other people come back and make additional comments afterwards.

**SECRETARY KEMP:** You let me run the meeting.

**MR. QUARTERMAN:** Just treat me the same way you treated them.

**SECRETARY KEMP:** I'm treating you the same way. I'm going to let everybody that wants to speak first and then I will get back to people that have already spoken. Are we clear on that?

**MR. BELL:** I didn't finish speaking, though, sir.

**SECRETARY KEMP:** I know, sir. But like I said earlier in the meeting you, had to be a respondent, a complainant or a fact witness.

**MR. BELL:** Sir, I live in Douglas County. I just told you I was a citizen.

**SECRETARY KEMP:** I know you live there. You needed to see something that happened in this case. Yes, sir.

**MR. FAVORITO:** Mr. Chairman, Garland Favorito. I just wanted to point out one quick thing.

**SECRETARY KEMP:** Mr. Favorito, are you complainant, a respondent or a fact witness, because if you are not, you don't need to be at that podium. Thank you. Is there anyone else that would like to address the Board who is a complainant, respondent, or a fact witness?

**MR. EAVES:** My name is A. Reginald Eaves. I live at 1158 Cardinal Way, Atlanta, Georgia 30311. I'm a fact witness. I have 40 parents to come to my house and complain about some of the people who are still serving in office in Douglas County because they were not certified and they are sending their children off to jail for 10, 20, 30, 40, years and they should not be serving in office. How in the world can you not certify somebody and let them stay in office. I don't know the power that you have, but whatever power you have, you need to exercise it, because you are taking advantage of the lives of a lot of young people. And that is so wrong.

**SECRETARY KEMP:** Thank you, Mr. Eaves. We need to try to hold this to people that actually saw the complaint that was going on. Does anyone else --

**MR. EAVES:** I saw the results or the complaints, sir.

**SECRETARY KEMP:** Okay. I'm not talking about the results. I'm talking about the action of the case and when it was happening. I appreciate your comments and I'm glad you're here today. Anybody else wish to speak as a fact witness?

**MS. WILLIAMS:** I would like to speak as a fact witness, because I am representing the people of Douglas County and they have given me --

**SECRETARY KEMP:** Please state your name and address, for the record.

**MS. WILLIAMS:** I'm Jody Williams. My address is 2559. I live in DeKalb County.

**SECRETARY KEMP:** Okay. And how are you a fact witness to what happened on this specific case?

**MS. WILLIAMS:** Because I come representing the people of Douglas County.

**SECRETARY KEMP:** How are you representing them? Are you their attorney?

**MS. WILLIAMS:** No. I represent them, because I speak with them and to them and they tell me of their complaints.

**SECRETARY KEMP:** Well, I understand that, but did you actually see what happened or are you just hearing what they said or did you see?

**MS. WILLIAMS:** I have read the material. I have read the correspondence.

**SECRETARY KEMP:** That doesn't constitute a fact witness. So we are going to have to get you to step down. Anyone else that would like to speak? If you would, please, state your name and address for the record. And if you are a fact witness, complainant or a respondent.

**MS. BROWN:** I'm Christine Brown and I am a fact witness. My address is 131 Dunning Keep, Covington, Georgia. I have been working with the people of Douglas County, as well, organizing a petition to recall the candidates.

**SECRETARY KEMP:** Okay. Now, just because you are going to recall the candidates, how does that make you a fact witness to what happened?

**MS. BROWN:** Well, the voters feel like they have been disenfranchised, so they want me to help them organize a petition to do something about the whole election.

**SECRETARY KEMP:** I understand that and I appreciate that, but as far as getting to the facts of this case, I don't think you can give us anything more than we have got. But we appreciate you being here.

**MS. BROWN:** Any time.

**SECRETARY KEMP:** Okay. Anybody else?

(NO RESPONSE).

**SECRETARY KEMP:** Mr. Quarterman.

**MR. QUARTERMAN:** Yes, I have one little comment. Secretary Kemp, get used to seeing me because at your next Election Board Meeting, Investigator Bobby Conway, who had to leave, we filed a complaint in 2009. He got more charges to bring against them for violating the 2009 election. So, now, this is a pattern. This is a pattern, sir. Sir. Sir. Let's be real.

**SECRETARY KEMP:** Now, Mr. Quarterman, I can't let you go through your whole spiel again. If you've got a point you need to make, make it and we have got to move on.

**MR. QUARTERMAN:** Can the Secretary of State of Georgia, who serves at the Chairperson of the State Elections Board, who is required to certify election results to the Governor, who the Governor is then required to certify election results to the Federal Election Commission, certify -- because in order for the president, the senator have to certify to federal election commission and all that stuff -- can you honestly say that --

**SECRETARY KEMP:** Mr. Quarterman, I don't need you asking me question. You said you wanted to make a comment or a point. You need to make it. I'm going to give you 30 seconds and then we are going to move on.

**MR. QUARTERMAN:** What good is it to vote if it don't count? What do we have a Constitution for? What do we have a legislature -- if each and every individual can decide the law, when they want to create the law? The law says an election has to be certified. Do what you want to do, man.

**SECRETARY KEMP:** Thank you.

**MR. AKEEL:** I want to say something.



**SECRETARY KEMP:** Are you a fact witness to this?

**MR. AKEEL:** With them, yes, sir.

**SECRETARY KEMP:** No. I didn't ask you that, sir. I asked you if you are a fact witness? Do you have specific knowledge of what happened when this incident --

**MR. AKEEL:** All I can say is this.

**SECRETARY KEMP:** What is your name and address?

**MR. AKEEL:** My name is Thomas Ali Akeel. I am a Muslim, and Muslim only means one who wants to do what God says. We don't have no racism in our religion, but Douglas County is a racist county and that's the --

**SECRETARY KEMP:** Sir, sir, that has nothing to do with the specifics of this case. And I understand what you're saying. Thank you very much.

**MR. AKEEL:** I understand what you're saying. I just want to say that. Thank you for letting me say what I wanted to say. It's a racist county.

**SECRETARY KEMP:** Thank you, very much.

**MR. FAVORITO:** Mr. Chair, I have a point of clarification. I'm a little bit confused about your procedures. We have heard a lot of hearsay evidence. We did have a lot of people in Douglas, I believe, they were victimized. According to the facts of this case, outside of Douglas County other voters could have been victimized by the manipulation of an election off site and then the reinstallation of the votes on site. I don't quite understand the procedure, because it seems there is a double standard here. I listened to hours of hearsay evidence. Now, you are saying we only have to have fact witnesses. Would you please clarify?

**SECRETARY KEMP:** All right. Does any member of the Board have any comments or questions for Ms. Brumbaugh?

**MR. MCIVER:** Ms. Brumbaugh, did the consent order have to do with 67 absentee ballots and the one-month lapse; is that correct?

**MS. BRUMBAUGH:** Yes.

**MR. MCIVER:** Thank you.

**MR. WORLEY:** If I could just follow up. Are there any other charges that we referred to you that are not included in those two?

**MS. BRUMBAUGH:** There were charges regarding when the 67 ballots were found, did that affect any races and what did you do, as a result of that? And the decision was made that there was only one race, the Tax Commissioner's Race, which needed to be recounted. Part of the frustration, I think, is that the rest of the races were not recounted and recertified.

**MR. WORLEY**: No. I don't think I made myself clear. What I'm really trying to get at is when we considered this case before, we referred a number of charges to you.

**MS. BRUMBAUGH**: Yes.

**MR. WORLEY**: And you have negotiated this consent order with Douglas County.

**MS. BRUMBAUGH**: Yes.

**MR. WORLEY**: Were there any charges, other than the two that are referenced in the consent order that we referred that have not been dealt with in this consent order?

**MS. BRUMBAUGH**: Well, that is what I was trying to explain, which was there were charges -- should they have recounted and recertified all of the votes. That was the other, sort of, topic that you all discussed. And at the time it was brought up, there was an election challenge. It was going to go before the Supreme Court. The Supreme Court would decide these issues. That is one of the reasons it has taken until today to present this consent, because I was waiting for the Supreme Court Decision to see what they said. In fact, the case is Quarterman versus Board of Elections. The cite is 286 Georgia 528, just for future reference. You have, sort of, the slip opinion or the opinion that they give out when they first publish it. At the bottom of page 6 of that opinion it says furthermore, the election code does not provide that a mandatory recount and recertification of the results in one race require recertification of the results in other races and a second opportunity to conduct such other elections. So based on that part of this case, which you all had already made the decision that the Supreme Court was going to really answer that question and then, in fact, they did -- so that is not reflected in the consent order, because it was decided in favor of the Douglas County Board of Elections. There is nothing else --

**MR. WORLEY**: There is nothing else other than those three issues.

**MS. BRUMBAUGH**: Yes.

**MR. QUARTERMAN**: That's not true. It was five charges.

**SPEAKER**: Mr. Chair, there were, in fact, 5 charges, here.

**MS. BRUMBAUGH**: There were five charges covering three different topics.

**SPEAKER**: The only thing the Supreme Court was supposed to have been clarify was their time, that's all. Did we file the election challenge on time? That was the only thing.

**MR. QUARTERMAN**: This thing about what they said about the votes was, what the Supreme Court said was, and they met and they talked with me, the election of that Tax Commissioner's Race is what Ann is speaking about. But with the electronic voting machine, you can't single recount a race. You recount the whole entire ballots. And when the votes change, period, they have to be recertified. The county only recertified that one race, which was the Tax Commissioner's Race. I can show you that document, that there was a change in numbers.

**MR. FAVORITO**: Can I just have a point of clarification?

**SECRETARY KEMP:** No. No, you cannot. Ms. Brumbaugh, can you address that for us?

**MS. BRUMBAUGH:** Well, I am not sure I entirely understand his comment. What I can say is if you go back and you look at the report and I have the transcript from that meeting too, if we need to go through it. There was extensive discussion on this. No. 6, the facts in this case indicate that Douglas County Election Supervisor Laurie Fulton and the Board of Elections violated 21-2-495(c) and that they failed to certify the recounted votes that had been changed and submitted to the Secretary of State's Office on December 16th, 2008. Issue 7. The facts in this case indicate that that Douglas County Election Supervisor violated 596, which is, you know, a criminal violation, based on the same facts, in that they willfully neglected to certify the recount of the election, after they knew the vote totals changed in almost every race. You go back to the part of the Supreme Court decision and they reference the same code section 495(c) and they say, no, you didn't have to do the recount of every vote of every race. You just had to -- because you have to recount and recertify one doesn't mean you have to recount and recertify the others.

**SECRETARY KEMP:** Mr. Worley, do you have anything else?

**MR. WORLEY:** No. That's very clear.

**MR. FAVORITO:** Point of clarification, sir.

**SECRETARY KEMP:** We have heard from everybody. We are going to let the Board ask questions.

**SPEAKER:** I ask that this case be moved to an Administrative Law Judge.

**SECRETARY KEMP:** Sir, that is what the Board is here to do, to decide --

**SPEAKER:** I'm simply asking that it be moved to an Administrative Law --

**SPEAKER:** Excuse me. May I be heard?

**SECRETARY KEMP:** No, sir. You can't right now. Mr. Webb, do you have anything further?

**MR. WEBB:** I do not.

**SECRETARY KEMP:** Did you want to speak, sir. Are you a fact witness to this specific case? I don't want to hear your opinion or other things. If you saw something that went on that night that you can bring more evidence to us, then we will be glad to hear from you. If not --

**SPEAKER:** No more than what was brought to us, as a Board member, concerning the type of tactics that were used in Douglas County. I can attest to that. And if you allow me to speak, I will. I will explain. You did something I found was very interesting. And I appreciate the way you handle yourself. I don't know your name, but you tell James that this won't be a race thing. But you see, from the very beginning, up to a point concerning, you said that some people panicked because there were so many black folk that showed up. You opened the door for a discussion of race. You opened that up. We didn't.

**SECRETARY KEMP:** Sir, that wasn't my comment.

**SPEAKER:** I'm not saying you.

**SECRETARY KEMP:** If you have something that you can bring specific to this case, we will be glad to hear from you. If not, we have got to move on.

**SPEAKER:** All right. I can stand here and talk. I'm loud enough. I'm a minister. I can preach. So, I can speak loud. Now, what we were all saying here is that the election was not done fairly.

**SECRETARY KEMP:** Sir, I understand your opinion. I need a fact. Thank you. We have got to move on.

**MR. HAMPTON:** This shows where I was speaking on earlier. It says.

(SPEAKER TALKING OUT OF TURN DIRECTLY TO CHAIR, NOT AUDIBLE).

(DISCUSSION OFF THE RECORD)

**SECRETARY KEMP:** Why don't you go up there and give me your name again.

**SECRETARY KEMP:** My name is Melvin Hampton.

**MR. HAMPTON:** That document shows where there was only 30,008 votes originally counted by the card-case machine when they allegedly certified the election. This is the recount.

**SECRETARY KEMP:** Okay. Give that to Mr. Taylor, if you will.

**MR. HAMPTON:** This is a recount where all of the votes in that race, all the races changed. Those are the original results.

**SECRETARY KEMP:** Do we have a motion to accept that?

**MR. WORLEY:** I move that we accept the document.

**SECRETARY KEMP:** Okay. I'll second. All in favor, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** The motion is adopted.

**MR. HAMPTON:** Also, it was never determined and it never charged where Mr. John Lawrence illegally took home the votes. This was also in IG report.

**SECRETARY KEMP:** Okay. Let me ask you this. Was Mr. John Lawrence ever a respondent?

**SPEAKER:** Yes, he was. He was a Board of Elections member.

**SECRETARY KEMP:** Was he a respondent, Shawn?

**MS. LAGRUA:** Yes.

**SECRETARY KEMP:** What did we decide to do about it? Did we dismiss him?

**MS. LAGRUA:** He is one of the respondents that's agreeing to the consent order.

**SECRETARY KEMP:** Okay.

**MR. HAMPTON:** That particular section changed the entire scope of the election. I have always been in courts on civil and criminal cases. Without the preponderance of the evidence you cannot go forward with a decision. You see what I'm saying? There was probable cause that was done in the case. The probable cause was criminal negligence, tampering with the votes, all types of violations of the election code, both states and national. I am appalled at this Board, if you please, don't charge these people more than just one thousand dollars for these criminal acts that they committed.

**MR. WORLEY:** Mr. Secretary?

**SECRETARY KEMP:** Yes.

**MR. WORLEY:** Can I ask, Mr. Hampton, what, in your opinion, is an appropriate penalty in this case?

**MR. HAMPTON:** The appropriate penalty for this case is the same as you handed down in the 2007 case against Fulton County for leaving votes unattended while they went to lunch and votes being found in the garbage dumpster of all of these people's information will be \$5-million.

**MR. WORLEY:** That's not what we fined them.

**MR. QUARTERMAN:** Since I'm the complainant, can I answer that question for him?

**SECRETARY KEMP:** No.

**SPEAKER:** Mr. Chair, who pays this fine, the individual or the county, the tax payers? Who will pay this fine, sir, if I may ask?

**SECRETARY KEMP:** Sir, if you will just hold on. Did you have anything further? Ms. Brumbaugh, did you want to address any of that?

**MS. BRUMBAUGH:** Just briefly and maybe not completely on point, but just so the Board understands, this is the transcript for the first time we had this case. It's 40 pages long, spaced. This was extensively discussed at the preliminary phase. All of these issue were extensively discussed and the Board made very, very specific findings about which things to refer and which things not to refer. So, to the extent that we are, sort of, revisiting some of those issues, I think it is somewhat unnecessary. Additionally, the summary of investigation, which, as we all know, is usually about 2 pages or 5 pages, runs probably more than 10 pages. Again, single-spaced, very

extensive discussion as to all these issues. And so revisiting some of these things they have already been thoroughly discussed. They have already been thoroughly covered. And it seems that the appropriate question is whether the Board feels comfortable accepting the consent order.

**SECRETARY KEMP:** Mr. Tailor, do you have anything to add to the information we have received.

**MR. TAILOR:** I think you have everything.

**SPEAKER:** Mr. Chair, would you please clarify who pays the fines, please, the individual or will the tax payers ultimately end up paying these fines? We don't want the tax payers punished. We want the individuals involved in this case -- the dollar amount, if the tax payers are paying fines, you are punishing us, because we pay out of our pockets. We want the individuals who committed these acts, crimes, whatever -- violations of law, punished. We don't want the tax payers punished. Thank you, sir.

**SPEAKER:** Well, I would rather have them terminated.

**SECRETARY KEMP:** You know, you are going to need to talk to your local folks. We can't terminate people that work in Douglas County from the State Elections.

**SPEAKER:** This whole thing, this Board of Elections -- we haven't had an election superintendent in years. The primary was in July. They created a Board that took office in June of 2008. And in Section 8 of that document by Georgia General Assembly that created that Board of Elections it says all decision is by this Board must be by a unanimous consent of the Board. In the election certification document that they submitted to Wes Tailor, they only had one signature. the Board cannot meet and decide that the chairman can sign for the rest of them when the General Assembly has said that the act creating this Board required a unanimous consent.

**SECRETARY KEMP:** Okay. Thank you. Mr. Cole, would you like to respond to any of this?

**MR. COLE:** I will, just briefly. And I appreciate the opportunity. I guess I just want to say that, obviously, there is lot of strong feelings about this. And I think I can speak on behalf of the Board of Elections and Ms. Fulton that although we sometimes disagree, that we appreciate the concern and the interest that all these individuals expressed for the elections process and welfare of Douglas County. So, although there is disagreement, I want to publicly state that we respect that and appreciate your concerns and your efforts. But the fact of the matter, Mr. Chairman and the Board, is that, as Ms. Brumbaugh indicated, all these issues were discussed and presented to the Board previously. There were specific findings made. The narrow issues referred over to the AG's Office and those two issues are fully reflected in the consent order. the Board of Elections and Ms. Fulton do not dispute the facts. They never have. As I mentioned, before, they voluntarily disclosed these facts as part of the investigation. So, that is why it is appropriate for the Board to accept the consent order and the remedies therein. Thank you.

**SECRETARY KEMP:** Thank you. Any questions for Mr. Cole?

**MR. WORLEY:** Mr. Cole, would the Board accept a \$5,000 fine instead of a \$1,000 fine.

**MR. COLE**: I do not have the authority to accept or reject a fine. We have consented to the \$1,000 fine, but any change to the consent order, I believe, requires consent and approval of the Board, which I just don't have right now. That is what was prenegotiated.

**SECRETARY KEMP**: Thank you. Any other discussion among the Board?

(NO RESPONSE).

**SECRETARY KEMP**: Do I hear a motion?

**SPEAKER**: Mr. Evans motioned to accept the consent order.

**SECRETARY KEMP**: Oh, very good, an hour ago. Sorry. Thank you, Chris. All right. We've got a motion to accept the order. Do we have a second?

**MR. WEBB**: Second.

**MR. QUARTERMAN**: Excuse me, sir. Mr. Evans made the motion, but he's no longer here, so if there has been any changes, he would not be here to address any changes made to the original motion made.

**MR. WORLEY**: But there haven't been any changes made to the original motion.

**MR. QUARTERMAN**: You just asked him if he would accept \$5,000.

**MR. WORLEY**: He said, no.

**MR. QUARTERMAN**: That's a counter-offer.

**SPEAKER**: He said he did not know.

**SPEAKER**: He didn't have the authority.

**MR. FAVORITO**: He wasn't here for the hearing. How can he --

**MS. LAGRUA**: Mr. Kemp, the reporter can't take any of this down when people speak out of turn and are not recognized by the chairperson of this Board.

**SECRETARY KEMP**: Thank you. Ann, do you see a problem with us accepting Mr. Evans's motion?

**MS. BRUMBAUGH**: No.

**SECRETARY KEMP**: All right. We've got a motion. Mr. Webb, you seconded.

**MR. WEBB**: I did.

**SECRETARY KEMP**: Any further discussion?

(NO RESPONSE).

**SECRETARY KEMP:** If not, we'll vote. All in favor, say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** Motion carries.

**SECRETARY KEMP:** All right. Richmond County.

**MS. BRUMBAUGH:** The Richmond County cases and the first five Fayette County cases, A, B, C, D, and E can, kind of, be grouped together. I am really asking, at this point, for the Board's direction. I want to present a legal problem. And, you know, apprise you of the situation and then I will take your direction on it. The four Richmond County cases and the five Fayette County Cases, are all, somewhat, what we saw earlier today, Athens-Clarke where somebody is going in and giving false information to get a VIC card, Voter Identification Card or some sort of voter identification. In all the cases they give false information. They give false addresses. In most, if not all of these cases, the Inspector General's Office went out to the address that was presented to the voter -- to Richmond County or to Fayette County and it was an empty lot, vacant. Nobody lived there. I think these are very serious cases. I think they are actually broader than just a narrow election charges. You've got serious identity theft and identity fraud going on here. As an attorney who is limited to presenting civil administrative cases, I am constrained by the due process requirement of notice. These people have to have notice that we are going to have a hearing against them. The problem is they gave a false address, and we don't have a way to give them notice. The APA requires that the notice be either done in person or by mail. So noticing by publication is not lawful under the APA. So, if I send this in to OSAH and I put down the address that all the women gave in the Richmond County case, for example, they won't show up. And I will not be able to prove good notice and the case will be dismissed against us. And so because this is the situation, we have got four cases here, well, nine cases here, plus a 10th one you just referred to me, the Athens-Clarke case; my proposal is to -- some of these have already been sent to the DA's Office. I think you all referred the Athens-Clark case to the DA's Office this morning, if I remember correctly. A District Attorney can issue bench warrants. They can directly indict. They can pick somebody up and arrest them if there is an outstanding bench warrant. I don't have that power. The civil administrative process doesn't give me that power. So, my suggestion is that we send these all to the District Attorney's Office and recognize that until we find these people, best case scenario, we are going to send it in to OSAH. Nobody is going to show up. We are going to say that this is the address that they gave, which we knew was false. OSAH will dismiss it against us and then I suppose we can start some of the litigation that way, but if you know the address is false, it is not going to be a real sympathetic lawsuit. I am at the Board's pleasure on this. As you can see, we now have 10 cases with the same problem and we need to know how to handle them and what the proper procedure we should take is.

**SECRETARY KEMP:** Thank you. Is there anyone here that wishes to speak on any of the



Richmond County cases, No. 30, 31, 32, 33?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Is there anyone here that wishes to speak on the Fayette County case, No. 14?

**MS. BRUMBAUGH:** A through E.

**SECRETARY KEMP:** A through E?

**MS. BRUMBAUGH:** A through E, Ashley Patterson, Christal Lanettra Holley, Chandra Underwood, Chad Underwood, and Dennis Dean.

**SECRETARY KEMP:** What about the rest of them?

**MS. BRUMBAUGH:** Those involved different issues, not this.

**SECRETARY KEMP:** Okay.

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, what's the wishes of the Board?

**MR. WORLEY:** I would make a motion as far as Richmond County Cases, And the Fayette County Cases A through E be referred to the District Attorney as Ms. Brumbaugh suggested with (inaudible-not using mic.).

**SECRETARY KEMP:** We've got a motion. Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** We've got a motion and a second. Any more discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of Mr. Worley's motion, please say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, nay.

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Motion carries. We will refer it to the DA.

**MS. BRUMBAUGH:** Do I have the authority to close the administrative portion of this? I can re-open it if the DA's Office fines them.

**MR. WORLEY:** Yes. That was the intent.

**SECRETARY KEMP:** Let the record show that the Board agrees that that was the intent. Okay. The rest of the Fayette County.

**SECRETARY KEMP:** The rest of the Fayette County Case we have (F) and (H). We have consent orders. (G) and (I) were dismissed and we have (J), which presents another legal issue. Let's start with (F), is Lance Reed. Lance Reed voted twice. Lance Reed, you would not know that Mr. Reed is cognitively impaired. To look at him, he presents very normally. He tends to give monosyllabic answers to questions. He, sort of, avoids extended discussions with people. And I think he, kind of, fakes -- I don't know what his problem is, but he fakes not having any cognitive impairments most of the time. He, initially, voted with his mother and then he went back later with his cousin and voted a second time. When his mother found out what had happened she was absolutely appalled. And I went out to meet her and Mr. Reed and talk to them to see exactly what the situation is. At that point I was able to verify, in asking Mr. Reed more extended discussion questions that he really was not cognitively complete. Mrs. Reed, his mother, presented me with a Power of Attorney, which I included in the packet of materials. Based on the power of attorney we negotiated a consent order, which she signed as power of attorney over him, admitting that he had voted twice. As I told her, either you aren't capable of voting and shouldn't be registered, or you have to follow the rules. You don't get a free pass. She understood that. And she has signed a consent order for a cease and desist, a public reprimand; she has written you all a letter, which is enclosed in materials. I have to say, she was incredibly upset about this, takes it very seriously. When this happened, they were in Fayette County. They have since moved to Clayton. She has not reregistered him to vote. He is not eligible to vote now. And as a result of this I would recommend that you accept this consent order for a cease and desist and a public reprimand. I guess I'm not sure if we can vote or not.

**MR. WEBB:** Can I ask you a question, please?

**MS. BRUMBAUGH:** Sure.

**MR. WEBB:** You said he voted twice. Did he vote once and then attempt to vote a second time. He didn't, actually, vote twice, did he?

**MS. BRUMBAUGH:** He attempted to vote twice. You're right. He got caught the second time. I'm sorry. I can go on to the second case. The second case is another person who voted twice, you know, more like the case we saw this morning, the Bleckley County Case. Not having the benefit of your opinion in the Bleckley County case, which was to refer it to the DA's Office, I negotiated a consent order for a hundred-dollar fine. My impression of number (H), which is Christopher Asbury, is that it is very similar to the Bleckley Case, in that Christopher Asbury, like the Bleckley respondent, was a college student who got an absentee ballot and then ended up voting down at college as well. You know, I called, you know, your decision in the Bleckley case this morning, you know, I just want you to be consistent -- and I'm really tired.

The last case is the Nicholas Adam Garrett Case. And this is like these other cases regarding people who are registering to vote and aren't living in the County. In this case, Mr. Garrett was moving in between Clayton and Fayette and his wife was giving him some paperwork. And he

thought he lived in Fayette, but he actually had moved to Clayton by the time that this happened. In October 2008 he was moving from Fayette to Clayton. On October 6th, 2008 his wife registered him to vote in Clayton County. So, she registered him. His voter registration was transferred from Fayette to Clayton. And on October 23rd, he appeared in Fayette and attempted to vote absentee in person. Since he thought he was still living in Fayette, didn't realize he had been reregistered to vote in Clayton, again, with the requirement of the knowingness and the willfulness it seemed like a difficult case to successfully prosecute.

**SECRETARY KEMP:** Do we have any questions from the Board for Ms. Brumbaugh?

**MR. WEBB:** I did have a question. How did his wife register Mr. Garrett to vote in Clayton County?

**MS. BRUMBAUGH:** You know what, that is question. That was sort of, in terms of trying to sort it out, he was registered at a voter-registration mall and his explanation was that his wife must have done and it maybe he was there and he just, kind of, signed it. There wasn't any evidence about how this happened, except for his story.

**MR. WORLEY:** His wife could have filled out a form and signed his name to it and no one probably would have noticed it.

**MS. BRUMBAUGH:** The case was caught at the end, when he appears in Fayette and attempts to vote absentee in person and then we are, kind of, working backwards.

**SECRETARY KEMP:** Anything else for Ms. Brumbaugh?

(NO RESPONSE).

**SECRETARY KEMP:** Anyone here that wishes to speak on this case?

**MR. WORLEY:** Mr. Secretary, I would make a motion that we accept the consent orders in the cases of Lance Reed and Christopher Asbury, presented by Ms. Brumbaugh and dismiss the case against Mr. Garrett or close the case against Mr. Garrett.

**SECRETARY KEMP:** That will get us covered, right, Ann?

**MS. BRUMBAUGH:** Excuse me.

**SECRETARY KEMP:** Mr. Worley's motion to accept the two consent orders and then dismiss or close with Garrett, that would take care of the rest of this Fayette County case.

**MS. BRUMBAUGH:** Yes.

**SECRETARY KEMP:** Okay. We've got a motion by Mr. Worley. Do We have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** Motion and a second. Any other discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor of the motion, signify by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries unanimously.

**MS. BRUMBAUGH:** Next case is the Wilcox County Nursing Home, 2009-0013. The respondent in this case, Wendy McGlamry, works in the nursing home and she assisted eight residents of the nursing home with their absentee ballots. She did sign as assisting, but she marked elector requires assistance due to physical disability. This case came to the Board on a different respondent and the Board, or Inspector General's Office wasn't able to sustain any violations. In the process of looking into that, we came across Ms. McGlamry. She was interviewed as to why she had assisted these people. And in the interview she didn't even bother to give explanations of physical disability for five of the residents, five of the eight. She did offer a reason, a physical disability reason for the other three. The investigator did not notice a physical disability when he was down there. Given that we could have -- but that wasn't conclusive proof, I suppose, that there wasn't any physical disability. It was just evidence that there might not have been; but based on that, I felt that there were five of these eight electors, which there was clearly no evidence of any physical disability. She was in violation of the code sections on those five electors and I negotiated with her a \$500 consent order.

**SECRETARY KEMP:** Okay. Any questions for Ms. Brumbaugh?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, anyone wishing to speak on this case?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, do we have a motion?

**MR. WEBB:** I'm sorry. Who is getting fined here?

**MS. BRUMBAUGH:** This is Wendy McGlamry. She works at the nursing home.

**MR. WEBB:** Where is Wilcox County?

**MS. BRUMBAUGH:** Somewhere far away.

**SECRETARY KEMP:** Okay. Mr. Worley, we heard about the consent order that we have with the Wilcox County Nursing Home and I was ready to entertain a motion, \$500 fine, cease and desist, public reprimand.

**MR. WORLEY**: One question, Ms. Brumbaugh, you said that Ms. McGlamry came to light in the investigation. Was she -- she is the person that we referred the case though correct.

**MS. BRUMBAUGH**: Yes. Oh, yes. No, in the Inspector General's investigation.

**MR. WORLEY**: I would make the motion that we accept the consent order in the McGlamry case.

**SECRETARY KEMP**: Do we have a Second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: We've got a motion and a second, any discussion?

(NO RESPONSE).

**SECRETARY KEMP**: Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP**: Motion carries.

**MS. BRUMBAUGH**: The next case is the City of Washington and the respondent is Nathaniel Cullars. You may remember this case because Mr. McCullars (as stated) has been here before and has been rather voluble. The original recommendation from the Inspector General's Office was a letter of instruction against Mr. Cullars and I would concur with this. Mr. Cullars, I think, has done himself no favors in some of the comments he has made to this Board, but the facts seem to be that a woman named Ms. Fanning attempted to vote on October 19th, 2009. She was neither illiterate nor disabled and did not qualify for assistance. At some point Mr. Cullars arrives and wants to assist her, although she has already completed the paperwork, because, as we went over in excruciating detail, in the last few meetings, Mr. Cullars did not sign as assisting. At the end of this interchange where Mr. Cullars wanted to assist her, the Board -- I can't remember which county it is, the Board wouldn't let Mr. Cullars assist because Ms. Fanning wasn't disabled or illiterate. Ms. Fanning leaves. Mr. Cullars files a compliant against the Board. That is presented at the December 16th meeting, and the Board dismissed the case filed by Mr. Cullars against the Board because the Board was correct, Ms. Fanning couldn't be assisted. the Board then requested additional investigation. Additional extensive investigation was done. The witnesses were re-interviewed, Ms. Fanning was re-interviewed, everyone was asked what happened and nobody could recall that Mr. Cullars had assisted Ms. Fanning. So, we have no evidence of Mr. Cullars assisting Ms. Fanning, he didn't sign the voter certificate. Nobody remembers it. Even Ms. Fanning, when she was re-interviewed, said I don't remember that he tried to assist me. And based on that, the Inspector General recommended a letter of instruction. Mr. Cullars fought that. So, it was referred to me. Again, having re-reviewed the case, it seems that a letter of instruction is appropriate.

**SECRETARY KEMP:** Questions.

**MR. WORLEY:** Ms. Brumbaugh, wasn't there some question about the veracity or the accuracy of the document that was presented? Didn't we need --

**MS. LAGRUA:** I can give you a quick clarification.

**MR. WORLEY:** We needed the original document.

**MS. LAGRUA:** That was the first time, Mr. Worley. The first time the case was here, there was an allegation that he had assisted and had not signed as assisting. We pulled the documentation. He did not sign as assisting. She could not legally be assisted; however, the reason, the Board, as I recall, referred this back to the AG's Office is, as Ms. Brumbaugh said, Mr. Cullars keeps telling us he did assist her. So we have his own admission that he assisted her, even though the folks in this Clerk's Office say he didn't sign. And they don't recall allowing him to assist, he keeps saying that he was allowed to assist, and he came in to assist her, which is why the letter of recommendation for the letter of instruction was part of our recommendation.

**MR. WORLEY:** Is part of either the investigation or your work, Ms. Brumbaugh, did you look at the original document?

**MS. LAGRUA:** Yes, and he did not sign.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE).

**SECRETARY KEMP:** Anyone else wishing to speak on this matter?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, I will take a motion.

**MR. WEBB:** I will make a motion that we issue Mr. Cullars a letter of instruction.

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

**SECRETARY KEMP:** We have a motion and a second. Any discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor signify, by saying, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE).

**SECRETARY KEMP:** The motion carries unanimously.

**MS. BRUMBAUGH:** The next case is Wilkes County 2008-75. This case involves an election for sheriff. There were several individual respondents and then the Wilkes County Board of Elections was an additional respondent. The four individual respondents were Jontue Cofer, Tia McWilliams, Brian Brown and a woman, I think her name is Tawanna Turner. That case is still open. But Jontue Cofer and Tia McWilliams were actively assisting a campaign for Sheriff Mark More. They were actively involved in his campaign. And they went out and they took unlawful possession of two absentee ballots. Mr. Cofer asked Ms. Williams to do this. And Ms. Williams did that. They have both submitted consent orders for cease and desist, a public reprimand, and a \$200 fine. And they have both sent in checks for the \$200. In contrast, Brian Brown, who was another individual respondent, was not affiliated with the campaign. He was a deputy sheriff. And he assisted two elderly neighbors with getting their votes voted. He didn't sign as assisting and then he took possession of their ballots for the purpose of mailing. Because there seemed, to me, a difference between getting a vote voted, your elderly neighbor's vote voted and getting a candidate elected, when you are working for someone who is running for office, you are taking the ballots of people you don't know and you are talking to other people about it, there seemed, to me, something of a fine line between those two things. So, because Jontue Cofer and Tia McWilliams were trying to get a candidate elected, I recommended fines. And they have paid them or submitted them. And Mr. Brown, who is simply assisting his elderly neighbors, he has just submitted a consent order for a cease and desist and a reprimand, then the final consent order is the Wilkes County Board of Registrars. They accepted an application and a ballot for a woman named Luneal Walton. She was known to them, personally, and had had a stroke. So instead of signing her name, she just marked an X. Because the signature was not consistent with what was on her voter registration card, the Board of Registrars really shouldn't have accepted her ballot. They did anyway. As a result, they have submitted a consent order for a \$100 fine.

**SECRETARY KEMP:** Any questions?

**MR. WEBB:** In the latter case, if the signature doesn't match, you don't accept their absentee ballot. They have to come to the poll in which they would show ID and they would have to sign. If she couldn't sign, she could make an X, and that would be acceptable?

**MS. BRUMBAUGH:** I didn't think it through that far. I suppose, if she had photo ID.

**MR. TAILOR:** If you have a -- the answer is that's correct. And that is part of the reason why you have the verification in absentee balloting on the signature, and why it is so important on the signature matching, because you don't have an ID, like you do at the polls. So if she would have an ID, she could update her signature at that point, at the polling place, so that if she wanted to vote absentee; or she could submit an updated voter-registration application with an updated signature, which does occur, as well.

**MR. WEBB:** Do we give the counties any guidance from the Election Board, any guidance in this area?

**MR. TAILOR:** We do talk about those different -- yes.

**MS. BRUMBAUGH:** This came up in Schley. There was another one where there were six or eight absentee ballots and they hadn't verified signatures. Now, in this case, it's a little more -- there is a little more compelling human story to it, but the rules are the rules.

**MR. WEBB:** I just want to make sure that there is a way, in this case, for Ms. Walton to have her vote counted. Of course, if she can't make it to the polls, being handicapped, she wouldn't be able to vote. I don't have an answer. I am trying to think it through.

**SECRETARY KEMP:** Any other comments?

(NO RESPONSE).

**SECRETARY KEMP:** Is there anyone here wishing to speak on any of these matters?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Hearing none, do we have a motion?

**MR. WORLEY:** I would make a motion that we accept the four consent orders in the Wilkes County Case. 2008-0075, as proposed by Ms. Brumbaugh.

**SECRETARY KEMP:** We have a motion. Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** We've got a motion and a second. Any discussion?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing none, all in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed, same sign?

(NO RESPONSE).

**SECRETARY KEMP:** Motion carries.

**MS. BRUMBAUGH:** The last consent orders of the evening are Chattooga County. We had some, sort of, follow-up to Chattooga County Case in the Inspector General's Report this morning. This is eight of the original respondents in the Chattooga County Case. For the benefit of the two members of the Board who are new, I will briefly recite the facts, which is that after the 2006 General Election, Ralph Wright, who was the Republican Party Chairman went and looked at some of the absentee ballots. He submitted a complaint to the Inspector General's Office and an investigation commenced. When the investigator for the Inspector General's Office went up, he realized that there were multiple absentee ballots, where the signatures were wildly different from the voter registration cards. He began trying to match, well, whose signature is this. He was able to track down two women, Canduis McCutchins and Tommy



Cheryl Eskew. And their consent orders are presented. Ms. McCutchins was working with a man named Sidney Johnson and Ms. McCutchins signed the names of Shanda (phonetic) Johnson, Defaria (phonetic) Johnson, and Jeffrey Covington on those three electors absentee ballot applications. And then she went ahead and signed the names for Shanda Johnson and Defaria Johnson on their absentee ballots. Tommy Cheryl Eskew did the same thing, but she did it for her sons. In course of talking about this with Ms. Eskew and Ms. McCutchins, Ms. Eskew said, well, I was working with a guy named Steve Chappellear. And Candice McCutchins said, well, I had this guy named Sidney Johnson approach me. It was at that point that it became clear that this was a much bigger case than just two isolated people. It turned out that the candidate for State Court Judge, Carleton Vines, was attempting to win the election and, in fact, did win the election, through absentee ballots. And he had recruited four people, Steve Chappellear, Sidney Johnson, Lois Reed and Toney Sparks to go out and get absentee ballots for him, which, in fact, they did. They got these absentee ballots. Most of them were friends and relatives of them. They took possession of the absentee ballots and they brought them to Mr. Vine's law office. At Mr. Vine's law office, they either gave them, the ballots, to his secretary, Dorothy Gilreath, or they gave them directly to Mr. Vines. Ms. Gilreath then put postage on the ballots and mailed them. Mr. Vines, it appears, took his ballots to his friend, Albert Palmer's law office, who had a postage meter and ran these ballots, these envelopes, through Mr. Palmers postal meter machine. This case was referred for criminal investigation and went to jury trial a little over a year ago, and a jury deadlocked. It was a hung jury. It was 11 votes to one, to convict Carleton Vines. Carleton Vines was the only person put on trial. The runners, Lois Reed, Steve Chappellear, Anthony Johnson and Toney Sparks and Ms. Gilreath all testified on behalf of the State. You have before you three different consent orders. The first is from Candice McCutchins, who helped Sidney Johnson and forged three different people's names for a \$300 fine. The second is Tommy Eskew, for simply a cease and desist and public reprimand because it was her son's ballots that she was manipulating. The last is a consent order signed by Carleton Vines, Dorothy Gilreath, Steve Chappellear, Sidney Johnson, Lois Reed, and Anthony Sparks, all admitting the violations of unlawful possession of ballots. All, you know, all the consent order issue as public reprimand and a cease and desist order against all six of the signatories and then Carleton Vines and Carleton Vines alone agrees to pay a \$15,000 fine. You will notice that Mr. Palmer, there is a line for his signature at the back, on page 10 of the consent order, which he did not sign. So, there will still be an open case against him, you know, after this evening, but I spent a day in Chattooga County in April. I tried to meet all these people. I saw where some of them lived. And with the exception of Mr. Vines, these people are very poor. I think a \$15,000 that Mr. Vines can and will pay is an efficient and effective resolution to this case, as opposed to a much greater fine against people who literally -- they live in Section 8 housing. They live in junk-filled trailers. It was an education. I will be honest. So, those are the consent orders that are before you. Like I said, there is still an outstanding case against Albert Palmer and the registrars of Chattooga County were also listed as respondents. And I will be, hopefully, presenting something on those four people at the next meeting.

**MR. WORLEY:** Ms. Brumbaugh, do you know why Mr. Palmer has not signed the consent order? Did he agree to it?

**MS. BRUMBAUGH:** No, Mr. Palmer does not agree that he has done anything wrong. Yes.

**MR. WORLEY:** Okay. Could I get the Inspector General's view of this, of these three consent

orders, if she has one, given her extensive involvement in the case?

**MS. LAGRUA**: I think this was my first case and, as it turns out, will be the last one I comment on. It was my first one when I started in this office, I believe. This case was exhaustively tried, as the members of this Board may remember. The prosecuting attorney's counsel and the attorneys that tried these cases gave some qualified immunity to the runners in exchange for their testimony during the trial of this case, against Mr. Vines. I completely understand and agree with Ms. Brumbaugh about the potential, I think, ability of some of these respondents in terms of their financial situation. This has been a problem in Chattooga County for some time. As you heard earlier today, we had yet another case. The same thing is going on in Chattooga County with other folks and other elected officials. This is one of the most serious cases I have seen come before the Board in my 3-and-a-half years. With that said, as I recall early cases that were egregious with DeKalb County and even Fulton County, this is an individual consenting to a \$15,000 civil penalty. Should he be exposed to more, I think there is an argument that can be made that the fine can be higher. At the same time, I think that by acknowledging the violations and I would remind the Board that he has also signed an agreement with the Judicial Qualifications Committee never to seek election as a judicial officer again. I think, if the Board finds it so, an appropriate remedy -- I could understand if the Board were to say they wanted a greater civil penalty than this, but again, I think some credit, for lack of a better word, I don't know if that's a great legal term, should be given to the fact that he is consenting and agreeing to sign the consent order that he is in violation. I think arguments can be made all over the Board on what an appropriate fine or civil penalty or whatever you want to make, could be.

**MR. WORLEY**: To your knowledge or Ms. Brumbaugh's knowledge, have we ever had a consent order with an individual with a fine this large? I don't recall it.

**MS. LAGRUA**: Not to my recollection. The largest fine that I recall, and I defer to all the folks that have been around long before, me, I think it was an Atkinson County case, but that came after a long contested hearing in front of an Administrative Law Judge.

**MR. WORLEY**: After a hearing.

**MS. LAGRUA**: After a long contested hearing in front of Administrative Law Judge. My recollection is this is the largest individual penalty that this Board has encountered, at least, since I have been here.

**MS. BRUMBAUGH**: There was a large penalty that you all ordered, I think it was against the City of Jackson respondents, but again, it wasn't a consent order. It was stipulated facts. So, in terms of this particular posture, with no more appeal, the case is done, there is nothing comparable that I'm aware of.

**SECRETARY KEMP**: What would be the status of getting the payment for the \$15,000 fine.

**SECRETARY KEMP**: We are working on establishing some procedures. Certainly if 30 days or 60 days went by and there was no payment, y'all could, really, Wes could-send the case to a different part of my office, which handles collections and we could initiate elections proceedings.

**SECRETARY KEMP:** Okay. Any other questions from the Board for Ms. Brumbaugh?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Is there anyone here wishing to speak on this matter?

**MR. WEBB:** I'm sorry. I do have a question on this matter.

**SECRETARY KEMP:** You can go ahead and ask your question.

**MR. WEBB:** Mr. Palmer, the consent order that was asked for him was just to not participate, right? There as no fine. There was no --

**MS. BRUMBAUGH:** That it was offer that was made to him. He declined it. So all bets are off. I am hopeful that we can resolve the case against Mr. Palmer on motions for summary determination before OSAH, because he did testify at this criminal trial, as well and the admitted, I knew exactly what Carleton Vines was doing. Based on that testimony, my first strategy will be just to send in the transcript with a motion, and hopefully that will be all that it takes. This consent order does not extend in any way to Albert Palmer, and if we get some sort of favorable decision or given the evidence, you will be free to impose whatever fine you see fit against Mr. Palmer.

**SECRETARY KEMP:** Yes, sir. State your name and address for the record, for me. Sorry to keep you so late.

**MR. WRIGHT:** My name is Ralph Wright. I'm the person who wrote the letter reporting what we had discovered in the case. I would like to thank the Board for its quick response and the ensuing investigation which has turned up this much. I have gotten to know Ms. Shawn, here, and had a meeting with Ms. Brumbaugh, here. I heard so much about this case by rumor. Of course, I am not one to believe rumor. There seems to be reason to believe that this fine was going to be more severe than this. I have heard as much as \$5,000 per ballot found in his possession, which I understand would have been something like \$200,000. I am not out for blood here. And I don't feel adequate to determine what is a just penalty for this kind of crime, but I will say that for years there has been a large number of people in Chattooga County that believe there has never been a fair election in Chattooga County. Maybe this will do something in that regard. I'm nervous, so, I need to see if I can get my thoughts together. I had heard that there was going to be a civil trial against Mr. Vines. Can I get some kind of report on that. Or can I ask a question in that regard?

**SECRETARY KEMP:** Yes, sir.

**MS. LAGRUA:** Ms. Brumbaugh may be better to respond, but it is my understanding that the consent order would take the place of the civil proceeding.

**SECRETARY KEMP:** This consent order?

**MS. LAGRUA:** Right. If the Board were to reject the consent order and a consent not be agreed to, it would then proceed to an OSAH hearing in front of an Administrative Law Judge.

**MR. WRIGHT:** Well, I know everybody is tired, and it's late. Can I just burden you for one more minute. This case that the prosecution, as most of you are probably aware, Mr. Bobbie Lee Cook is the defender of Mr. Vines and he started his case several weeks before the trial in this papers, disparaging the investigators and Mr. Buffer and, at one point, Ms. Cook, well let me state her name: Ms. Kristina Cook-Graham now, who had recused herself from the case, reinserted herself and gave reprimand -- am I telling you stuff that you all are aware of and I should just forget about? Anyhow we just feel like that the jury pool in Chattooga County had been corrupted and that a fair and impartial jury would not be possible there, even in a retrial. So, I guess I'm just sad and I feel what is occurring here with this consent is inadequate to properly punish what has gone on, according to reports, for decades in this county. And having resulted in elections that, in many cases, were not, did not render the desires of the people. So, if you can accept this consent order and all of you feel that this is adequate to really make a statement and stop voter fraud in Chattooga County, then I will try to be happy with that myself.

**SECRETARY KEMP:** Mr. Wright, let me, first of all, thank you for your courage to stand up and be involved in this. We need more citizens that will do that. We appreciate your willingness. One question I had for Ms. LaGrua would be, if there were a civil trial where would that be held?

**MS. LAGRUA:** That would be held in Chattooga County. It would be, however, in front of a judge assigned by the Office of Administrative Hearings from the pool of Administrative Law Judges, out of here in Atlanta. Is that correct, Ms. Brumbaugh?

**MS. BRUMBAUGH:** Uh-huh. (affirmative).

**MR. WRIGHT:** I might say the whole voter-fraud issue is, of course, another case that has already been mentioned here. It must be infectious, because there reports that it is going on in the whole area. And, of course, I know you get those reports everyday, but I just can't feel -- and I'm not, as I said, I am not inclined to be a person that is vengeful and has a desire adverse desire to see people punished for anything. But I am just not sure that this will be an adequate penalty for this crime. That's pretty much my position.

**SECRETARY KEMP:** Thank you, Mr. Wright. Any other questions?

**MR. WORLEY:** If I can ask Mr. Wright a question. You do realize that if this goes to a hearing before and Administrative Law Judge, it is possible that a Judge can impose a lesser penalty than \$2,000. That would still come back to us, but there are judges that impose, at least, in some of the cases we have seen before us, imposed a much lesser penalty than the Board would have thought appropriate.

**MR. WRIGHT:** What you are saying is the Judge assigned to this particular case may not be as inclined to award punishment of such a crime as you or I might appreciate.

**MS. BRUMBAUGH:** If I can interject and remind everyone that we could have a hearing and it does come back to you, just like the NACA case did this morning, but Mr. Vines will have appeal rights and he will be able to appeal a final decision. And that is, I think -- I can't even think anymore -- one of the good points about a consent order is he is admitting, he is promising to pay \$15,000 and there is no more on this case.

**MR. WRIGHT:** I don't think I gave my address and all that, did I? I can't recall.

**SECRETARY KEMP:** You can go ahead and give it to us again. Sorry about that.

**MR. WRIGHT:** Ralph Wright, 3255 Shinbone Valley Road Menlo, 30731.

**SECRETARY KEMP:** Thank you, sir. Any other questions for Mr. Wright?

(NO RESPONSE).

**SECRETARY KEMP:** Okay. Thank you. Appreciate you being here. Anyone else wish to speak?

**MR. WORLEY:** Mr. Secretary, I appreciate what Mr. Wright has said about his concern about the amount. This is a very important case at this point. It is a case that I know Mr. Evans and Mr. McIver have been very, very interested in over the years and given all of that and given the lateness of the hour and our natural desire to bring the day to a close, I would rather defer consideration of this until the next meeting of the full Board, so that we will give Mr. Evans and Mr. McIver a chance to participate and weigh in on it. I think that would be a better course to do.

**MR. WORLEY:** I don't want to force Mr. Wright to come back again, but I just think that that would be a better thing to do.

**MR. WEBB:** Second.

**MR. WRIGHT:** May I say one more word?

**SECRETARY KEMP:** Yes, sir. Well, let me get you to come back to the microphone one more time, if you don't mind.

**MR. WRIGHT:** I may forget what I was going to say; I'm so nervous.

**SECRETARY KEMP:** That's why we make you come back to the microphone. No, I was just kidding.

**MR. WRIGHT:** I feel like that the full Board would be a grand idea to make this decision. Let me say this: I'm not here, as I said, for blood. And I don't come here every time just because it's a treat and a delight to sit here, especially, today has not been that experience at all, but I come here out of respect for to Board, having reported the crime. And I feel like I need to represent myself here, as being still interested in the cause of justice as far as elections are concerned in Chattooga County.

**SECRETARY KEMP:** Thank you. Mr. Webb, did you second that motion?

**MR. WEBB:** I did.

**SECRETARY KEMP:** If we do defer, we don't have a time limit or anything on the consent, do we? It just remains open. Would Mr. Vines and other respondent have the opportunity to

back out, or are they done?

**MS. BRUMBAUGH**: They can always back out, until you all sign off on it, but I don't see that happening.

**SECRETARY KEMP**: I mean, I agree with Mr. Worley. I think, especially, with me coming in when I did, wasn't involved on the front end of this case, I know a lot of people have worked mighty hard on this and it is very serious. And I certainly appreciate Mr. Wright's comments.

**MR. WORLEY**: Mr. Chair, I don't mean to imply that this is not a good settlement either. I just think it would be better if everyone on the Board weighed in on this one.

**MS. BRUMBAUGH**: I think that's best.

**SECRETARY KEMP**: Any other discussion? All right we have got a motion and a second to defer, I guess, is that your motion, Mr. Worley?

**MR. WORLEY**: To table this until the next full Board meeting.

**SECRETARY KEMP**: Table until the next full Board meeting.

(DISCUSSION OFF THE RECORD).

**SECRETARY KEMP**: Do you want to restate the motion?

**MR. WORLEY**: I move to defer any action on this until the next full Board meeting.

**SECRETARY KEMP**: Second, Mr. Webb?

**MR. WEBB**: Yes.

**SECRETARY KEMP**: We have a motion to defer to next meeting and a second. All in favor say, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed, same sign.

(NO RESPONSE).

**SECRETARY KEMP**: Okay. The motion carries. Very quickly, I wanted to just run over a couple of things real quickly. I have spoken to the Board about doing a consent calendar on the Inspector General Reports and on the Attorney General reports at our future meetings. And, basically, the way that would work is we would take a lot of the non-controversial cases that are either going to be closed or are pretty cut and dried. And they will be voted on in blocks, sometimes like we have done, lumping cases together. It would help us speed up, getting rid of our case load a little bit. And the way this would work is it would be part of our agenda at the front. We would have the cases listed. The Board members will still get all the information on them, just like before. And when we would go to the consent calendar to move to vote those in

block, we would ask any Board members if they have any of those cases that they would like to discuss or want to pull off of the consent calendar, because of concerns or questions that they may want to ask. Even if one member wants to do that, we will pull it off and put it at the bottom of the calendar and that case will be heard. If no Board members have any cases that want to be pulled out, or after we hear from the Board members, we will ask the public if anyone is here to speak on behalf of those cases and they would object to moving to dismiss or whatever the case may be, we would also pull those cases out, because we want to make sure that anybody that's coming here that wants to be heard will be heard. But for those cases where we have no evidence, we have no respondents, we have nobody showing up, and it is clear that we're going to dismiss them, instead of just having to go through the same monotony on every case. We will try to lump those together to speed us up. It will help us get rid of some of the cases and be able to move on to more high-profile cases quicker. So we are going to institute that at our next meeting as long as the Board members have no objections. As I said, I have spoken to them before and I just wanted to mention that and see if there are any comments from the Board in that regard.

**MR. WEBB:** I think it's a good idea.

**MR. WORLEY:** So do I.

**SECRETARY KEMP:** All right. Mr. Taylor you want give us an update on a few of your things that we had talked about.

**MR. TAILOR:** Yes, sir. I only have about an hour-and-a-half of material. (kidding).

**SECRETARY KEMP:** You're fixing to lose a quorum (kidding).

**MR. TAILOR:** I don't have very much, Mr. Secretary. I can talk about this more at the next meeting. The SEB, the Board asked this office to survey the County Election Officials, regarding the administration of oaths in their duties. And I do need to inform the Board that the following counties have not responded to the survey, despite repeated attempts to get their cooperation: Those include Banks, Ben Hill, Bullock, Candler, Long, Monroe, Quitman, Seminole Towns, Upson and Wilkes. Before the next Board meeting we will following up with all of them, as well as summarizing the responses. If y'all would care to know, the number of votes cast so far in the July 20th early voting is 6843 votes as of the end of the day yesterday. So we are already in the throws of our next election. And if you have any questions about anything, I am happy to respond.

**SECRETARY KEMP:** Do you want to address the nursing home training videos real quick, too.

**MR. TAILOR:** Sure. I learned today that Georgia Public Broadcasting is a little behind on their delivery schedule. We worked with Georgia Public Broadcasting to produce two training videos, one designed, specifically, for poll workers, poll managers, election officials on how to set up accessible polling place, specifically, with folks with disability and how to interact with folks with disabilities and that will be on our website. It will also be produced on DVD. The other video that we have done is a nursing-home administrator and nursing-home resident video. And the design of it, I think it turned out really neat -- is to educate both the nursing home

facility workers as well as the people who reside there as to what you can do when you register to vote, what you can do when you apply for an absentee ballot, what you can and can't do when you vote an absentee ballot, as well as voting on Election Day. That is available, right now, actually, on our website. If you want to go to our website it's "www.sos.ga.gov/electionconnection" It's under the nursing home administrator tab on that. And it's really pretty cool. It turned out real well. We also have manuals that we've provided. We have done six training sessions at conferences around the state, specifically, to nursing home staff and personnel during their conferences, during the past year.

**SECRETARY KEMP:** I think that will be something good, too, that we can have as a tool for training when we have folks that come before us that need training, as well.

**MR. TAILOR:** Yes, sir. I'm sorry. We are getting -- I think we contracted for 600 DVDs. We are going to be mailing one DVD per facility. I know we have at least, just under 400 nursing home facilities. That will leave us extra to provide to the election officials, as well as interested groups, as well as assisted-living facilities we have around the State, as well as, like I say, it's available on our website.

**SECRETARY KEMP:** Wes, give us just a quick update, too, on the bar-code scanner project. I think the Board would be interested in that.

**MR. TAILOR:** We started looking at bar code scanners and one of the things that the Secretary Kemp talked about when he came into office is looking for e-government solutions to do things better and more efficiently. And what we have found is we can attach bar code scanners to the express poll units. It is not -- it doesn't change how people check in, other than when you show your photo ID, especially, your driver's license, which most people use, rather than the poll worker having to find your name and type it in to the express poll unit, they can just flip it over to back, where there is a bar code, and it will read the driver's license number and it will automatically find you an express poll. It takes, like, a second versus the 10 to 15 or more that it takes to actually find somebody an express poll. We held two pilot projects for that, so far; one in Bartow County, during the May 11th race. And we just completed one yesterday, in the 9th Congressional District in Catoosa and Hall Counties. We are in the process. We have a vendor. That vendor has been selected. We are in the process. We should have about 3700 units ordered and hopefully delivered before the general primary that we will be able to roll out throughout the State. And then we will be able to supplement that and actually roll out a full complement. We have 6,000 express polls that the state Owns and we intend to have one bar code scanner per express poll unit. We should have that all in place before the general election.

**SECRETARY KEMP:** Also cutting out a lot of error, pulling up and clicking the same name but the wrong person, so it should be pretty good and certainly speed up the voting process.

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

**SECRETARY KEMP:** Anything else?

**MR. WEBB:** Can we get Google Maps to hook in, so we can find vacant lots.

**MR. TAILOR:** Right. Actually, I will take this one opportunity, since I've got the mic. It's a



MVP, My Voter Page, on our website, another example of this. It is really cool. It will show you everything from your polling location on Election Day to your specific early voting sites in your county to your specific sample ballot that you will see. In addition, it will show you the candidates that are specific to your race, where it's already the information on our website, but it's specific to your ballot. And most of those have websites attached. So, it's a good way to actually be able to find information about a candidate without having to do a lot of research. You can go to one place and find all the info you need.

**SECRETARY KEMP:** Anybody else got anything? Board members?

(NO RESPONSE).

**SECRETARY KEMP:** Hearing and seeing none, we will move to adjourn and wish Shawn the best in her future endeavors. Do we have a motion?

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

**MR. WORLEY:** Second.

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

(WHEREUPON THERE WAS A CHORUS OF AYES) .

(MEETING CONCLUDED AT 7:15 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  
5th FLOOR, WEST TOWER, ROOM 512  
ATLANTA, GEORGIA 30334  
WEDNESDAY, FEBRUARY 24, 2010  
10:00 A.M.

PRESIDING OFFICER: BRIAN KEMP  
SECRETARY OF STATE

## **BOARD ATTENDEES**

**SECRETARY KEMP**

**MS. LAGRUA**

**MR. HARVEY**

**MR. WEBB**

**MR. MCIVER**

**MR. WORLEY**

**MR. EVANS**

**MS. BRUMBAUGH**

Secretary of State (Chairman presiding)

Inspector General

Deputy Inspector General

Board Member

Board Member

Board Member

Board Member

Attorney General's Office

**SECRETARY KEMP:** Good morning. Let me go ahead and call the meeting to order for the State Elections Board for February 24th. I welcome you all here. We are going to start off with our invocation by Mr. McIver.

(PRAYER-INVOCATION)

(PLEDGE)

**SECRETARY KEMP:** Let me go ahead and also acknowledge that we have everyone on the board for the call of the role. Let the record reflect I would like to remind anyone who does have a public comment to please come forward. We have some chairs up front, so we can keep everything going. I did want to make a couple of announcements at this meeting. First of all, to the Board members, I just want to say publicly that I am looking forward to working with you. I know I've had a chance to speak to all of you. The State of Georgia certainly appreciates your service on this board and all that you do and the time that you give up. It is, obviously, very important. So, I am looking forward to working with all of you. I know we have a lot of local elections officials in the room today and Board Members. And certainly, I'm looking forward to working with you also. My door is always open. If you have concerns or things you would like to discuss with me. I hope you will call on me. We are really excited about the opportunity to work with y'all on the local level and be partners in our elections process. I also did want to announce today that the meeting, transcripts, beginning with this meeting, the full transcripts of the SEB meetings, as well as the summaries will be available as soon as possible on the website at [www.ga.seb.org](http://www.ga.seb.org). So, that's something that's a little bit new. I know a lot of folks are interested in getting the transcripts. As soon as we get them back from the reporter we will be putting those on our website to hopefully make a little easier access for you. Also, one other thing we are working with, with the Inspector General's Office is to make sure that we have procedures for handling all our complaints and kind of have a process for how that is done. Certainly, on Election Day it is a little different than other days, but just know that we are working on that and we want to make sure that we have a process for that. So, people understand when they make a complaint how it's being handled, how it's reviewed and hopefully part of that will be that we are getting back to you and letting you know what we do with those complaints and kind of where they end up going, so you are not left, after you file a complaint, knowing whether it is ever acted on or not.

Now, I would like to go to the public comment agenda. I would like to remind the public that they need to sign up. I think I have asked for that. If there is any last minute sign-ups, please do that now. Also public comments do not include comments on individual cases. Comments on individual cases should be made at that time, when the matter is presented and please strictly adhere to our two minute time limit. With that, I will move forward with public comment. Our first participant, Jennie Hodges, are you here?

**MS. HODGES:** I am.

**SECRETARY KEMP:** You can come forward and address us for 2 minutes.

(INAUDIBLE)

**MS. HODGES:** I didn't expect to be No. 1.

**SECRETARY KEMP:** Congratulations.

**MS. HODGES:** It is an honor and a privilege to be able to be a part of the citizens of Georgia that have representative government in our state and -- (unclear)

**SECRETARY KEMP:** Ms. Hodges, can you move a little closer to the mic. And I apologize for this. If you would state your name and your address for the record.

**MS. HODGES:** Does that mean 2 minutes is being recalculated?

**SECRETARY KEMP:** We will recalculate it.

**MS. HODGES:** I appreciate that. My name is Jennie Hodges. Did you want my title?

**SECRETARY KEMP:** Sure.

**MS. HODGES:** I'm a mom, home schooler, house wife and a strong patriot that believes in the Constitution and republican government.

**SECRETARY KEMP:** And your address, please.

**MS. HODGES:** 4901 Ascott Bluff, Acworth, Georgia 30102. Shall I now commence my remarks?

**SECRETARY KEMP:** Absolutely.

**MS. HODGES:** Thank you.

**SECRETARY KEMP:** You're welcome.

**MS. HODGES:** It is a privilege to be here today to be able to take an active part in representative government. Anarchy is when you have mob rule. An elitist anarchy is when the mob are the elite, certain people who hold the reins of power. I find it very disgruntling that our Diebold voter system is not verifiable apart from the machines. It doesn't really matter what all the side issues are. Ultimately, you must have respect for law and the rules of law. And if our voting system is the fabric of our republic -- I would actually say, it is the Constitution that is the fabric of our republic, that in a republic we have to have representative government. So what ought to be secured is our voter system. We have a bill now in the house, HB 1215, to change our voter system in Georgia away from Diebold voter machines. As I understand it, we are the only state in the union to still have those voter machines. Maryland was the last state. The Attorney general filed a lawsuit against Diebold. The legislature voted overwhelmingly to replace the machines. In 2004, the Free Congress Foundation graded Georgia dead last for having secure voting systems. It is nice enough that our education ranks on the bottom, but then

to also have our voter systems rank on the bottom is unacceptable. I also find it alarming that we have a republican government. The republicans are in control. If we truly are republicans and espouse the issues of representational government, limited government, and having confidence in our government, as republicans I think you need to definitely, aggressively address this issue. Stop brushing it under the rug and boldly move forward to remove the Diebold voter machines from our system of Georgia. And I think that pretty much concludes my remarks.

**SECRETARY KEMP:** Thank you, very much. Appreciate you being with us today. Our next speaker was Michael Opits. He has referred his time to Garland Favorito. So now we will call on Garland Favorito to come forward. You have four minutes.

**MR. FAVORITO:** Garland Favorito. Voter GA. 220 Telebites Drive in Roswell, Georgia 30076. I apologize. I'm a little bit horse today. Mr. Chairman I know most of you were not present for the December 16th meeting, in which case where Mr. Jeff Rayno was referred for a felony investigation before you petitioned without any evidence. So, I wanted to just briefly, from the public transcript of that meeting, summarize for you exactly what happened, since most of you were not present. Inspector General stated that others and Mr. Rayno had submitted petitions that contained forged signature, quote, unquote. Mr. Rayno replied, I will state under oath that I did not forge any signatures. I took an oath as a County Commissioner to uphold both the U.S. Constitution and the Georgia Constitution. I am held accountable to God to tell the truth. God as my witness, here, today, I did not forge any signatures on any of those petitions. Mr. Worley then asked the key question. It says in the investigative report that there was a forgery on the petition, presented by Mr. Rayno. What is that based on? The Inspector General and the investigator were unable to find any signature or substantially answer that question. Mr. Rayno replied, 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 this office will not give me the information. Helen Stone, the alleged victim in this said, I would not like to see any of these people eliminated from this case until it can be proved that they have nothing to do with these forgeries. Mr. Worley correctly replied, 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. This motion passed. They continued to discuss Mr. Rayno. Mr. Worley said, I think we need to have something more than just a statement, here, since we have had Mr. Rayno come and specifically say that these people did not forge. Former Secretary and former chair of the meeting says I don't feel like I have enough evidence at this point to dismiss him from the case. Now, I thought this was America and you were given the presumption of innocence, but apparently not. Mr. Webb says, I concur. I think he seems to make a good case. I don't think we have all the facts and I don't think that's our jurisdiction to do that. I'm not sure why it is not your jurisdiction to have facts. Former Secretary made a motion and instructed Mr. Webb to make a motion, which I find that kind of strange from the procedures. And Mr. Webb said, I make a motion that we include Mr. Rayno as part of the group that is being referred to the Attorney General and the District Attorney. That motion passed 2 to 1 without any evidence of a forged signature. I know Jeff Rayno personally. He does not forge signatures, as he testified. So, nevertheless he was referred for a felony investigation without any evidence. Legally that's a violation of his 6th Amendment rights of the United States Constitution and I do, as well. So again, this is an example of why petitioning

should be eliminated, just as it was eliminated in Florida. It is unfair. People are being falsely charged with information, with charges that just aren't true. And this is not the only example of a case where this happened. Thank you, very much. I appreciate it. I will leave an excerpt of these hearings with you.

**SECRETARY KEMP:** We need a motion to accept the excerpts.

**MR. MCIVER:** Motion.

**BOARD MEMBER:** Second.

**SECRETARY KEMP:** We have a motion and a second. Any discussions?

(NO RESPONSE)

**SECRETARY KEMP:** All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** The motion passed unanimously. Thank you. Our next speaker is Ricardo Davis. Welcome and please state your name and address for us, sir.

MR. DAVIS: Thank you, sir. My name is Ricardo Davis. I live at 206 Hunters Mill Lane, in Woodstock. Mr. Chairman, Members of the Board, I would like to extend upon Mr. Favorito's statement with regard to the issues surrounding Jeff Rayno and the bigger problem of our process of allowing certain candidates on the ballot. I, personally, am involved with a related -- I shouldn't say related -- but a citizen initiative in Mississippi where 130,000 signatures were gathered to place an initiative on the ballot. One of the things that the Attorney General's Office is dealing with right now is that the law gives the petitioners a particular amount of time to gather the signatures. However, the individual counties, in particular, the circuit clerks, are not able to do their duty to certify those petitions and get them to the Secretary of State in a timely manner. They already have, actually, two active statewide petition efforts going on in Mississippi.

And it is a strain on the personnel at the county level and, quite frankly, given that that initiative had such wide ranging support, what we are hoping is that the Attorney General will give the latitude to the counties to finish the work. One of the problems that I see with our situation, here, in Georgia, with regard to allowing candidates on the ballot is that, for instances, if somebody is going to do that here, in Georgia, they have to circulate and get one percent of the registered voters here in the State of Georgia. Again, in a climate where our counties are strained for resources --

**SECRETARY KEMP:** Mr. Davis, your time is up. Thank you for being with us today. Pastor Johnson. Glad to have you with us today. Please remember to state your name and address for us.

**MR. JOHNSON:** My name is Roy Johnson. I am the pastor of The New Springfield Baptist Church, Post Office Box 12, Highway 15 Siloam, Georgia. Gentlemen, I rise to express my dismay and discontent at the systematic, deliberate, and devious effort of voter suppression in Greene County, Georgia, for reasons of class and of color. Citizens who have sought to comply with the law have been denied, have been discount and have been disrespected, not only at the registration office, but also at the polling place. Those same citizens who have been historically denied have sought to comply with the statutes of the State of Georgia, even those that we might not agree with, we have complied with. Such is not the case for all citizens of Greene County. We believe that the Preamble to the Constitution, where it says, we, the people, does not mean we the rich people over the poor. Certainly, it does not mean, we, the republican people over we, the democrat people. It does not mean, we, the tall people over, we, the short people. And it certainly does not mean, we, the white people over, we, the black people. It does not mean, we, the affluent people over those who have faced adverse economic circumstances. That latter group has, indeed, been locked out as poll workers, locked out as process participants. If the 14th and 15th Amendment to the Constitution has meaning, and they do -- if the women suffrage movement and the Civil Rights Movement and the Voting Rights Act of 1965 has meaning, and they do -- if indeed this very tribunal has integrity, and you do, then when the case relative to Greene County comes before you our expectation is a favorable result.

**SECRETARY KEMP:** Thank you, Pastor, appreciate you being here this morning. That will conclude our public comment portion. Now, I'm going to move on to approval of the minutes. We have actually got three sets of minutes that we need to approve members. With that, I will ask if there is a motion to approve the minutes of the December 10th meeting.

**MR. WEBB:** I make a motion that we approve the minutes of the December 10th meeting.

**BOARD MEMBER:** Second.

**SECRETARY KEMP:** Mr. Web motions and we have a second. Any discussion or changes? All those in favor of approval of the minutes, please aye. All opposed?

(NO RESPONSE)

The motion passed unanimously. The second set of minutes we have are from our Wednesday, December 16th meeting. Do we have a motion to approve the minutes?

**MR. WORLEY:** I will make a motion to approve the minutes.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Mr. Worley makes the motion Mr. Web seconds. All those in favor say aye.



(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Let the record show that motion was approved unanimously. And then the last set is from our special teleconference meeting, which was basically a procedural meeting on February 12th. So, do we have a motion to approve those minutes?

**MR. EVANS:** Mr. Chair, can I interject here regarding the minutes of February 12th? I think under 15-13-41(e)2 we were required to set forth, with particularity, the compelling circumstances that made it impracticable to complete the review during the initial 30 day period. So, in order so that those specific references are included in the minutes and order, I would amend those minutes to reflect, with particularity, the specific basis for an extension of a 30 day period under 50-13-41(d)2. And, as I recall from the meeting, the specific circumstances -- and I will defer to Ms. LaGrua if I get this incorrect, that we had a decision by an Administrative Law Judge that involved a procedural termination on jurisdiction, which we had questions about, in order to fully assess the impact of the jurisdictional rulings and whatever impact it might have on the case. We determined that we could not do a hearing within the 30 day period and will instead hold that hearing today, so there will be a full and complete opportunity for the Inspector General to complete her analysis of the jurisdictional issues so additional facts can be presented and so that the Board will have a full and complete opportunity to consider those issues. And I think that will then meet the particularity requirement of the statute, which then justifies the extension of the 30 days. So, if we could ask to take the transcript of what I just recited, add that to the minutes and then maybe submit those minutes again at the next meeting when we have them in front of us. But given that the statute was so specific about that we had to recite with particularity the circumstances, I thought it was important to do that.

**SECRETARY KEMP:** Absolutely. Ms. LaGrua.

**MS. LAGRUA:** Chairman Kemp, if I could, if you can reflect on that, that I think that analysis is being done by Ms. Brumbaugh with the Attorney General's Office versus myself. Otherwise, I would agree with everything Mr. Evans said.

**MS. BRUMBAUGH:** And Mr. Chairman, we do have an order that was signed on February that does state -- Mr. Evans did a better job, but he does try to do this in writing, citing the circumstance, and he could, perhaps, use that and accept it into the minutes, as well.

**MR. EVANS:** Absolutely. I completely agree.

**SECRETARY KEMP:** Okay. If we do that, do you want to vote on it now or should we wait?

**MR. EVANS:** This is a subject of a petition of appeal we should get every duck in a row.

**SECRETARY KEMP:** If we do wait until the next meeting, it won't affect our 30 day period since we have an order.

**MR. EVANS:** Correct.

**SECRETARY KEMP:** Okay. Anybody else have any comments with that?

**MR. WORLEY:** Mr. Evans, can I get that cite.

**MR. EVANS:** Sure. 50-13-51(D)2(A) that is just to request that we got a revised set of minutes.

**MR. MCIVER:** I would also move that we accept the order into our record, as well.

**MS. BRUMBAUGH:** So, this will extend this.

**MR. EVANS:** All we are doing is making amendments with the order.

**SECRETARY KEMP:** So, is that a motion, Mr. McIver?

**MR. MCIVER:** Yes, it is, please.

**SECRETARY KEMP:** Do we have a second?

**MR. EVANS:** Second.

**SECRETARY KEMP:** Mr. Evans seconds. Any other comments or discussions?

(NO RESPONSE)

**SECRETARY KEMP:** All those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Let the record show that that motion was approved with a unanimous vote. Okay. Now, we are going to move on to the Inspector General report. I did want to make a few comments before we begin. I wanted to make sure that if you are party to one of the cases on the agenda, when your case is called, if you will please move forward and sit in the empty chairs at the front. It will help us move these cases along. We have a lot to do here, today. And I know everybody is busy and wants to keep the meeting moving. So if you can help us with that, we would appreciate it. Also be mindful that your case is listed on the Inspector General's Report. You are not here for a final determination on your case, but the Inspector General's Report is a report on findings of the investigation and is equivalent to a probable cause hearing. In other words, the Board will only decide whether there is enough evidence to refer a particular

case to the Attorney General's Office for further investigation and prosecution. The IG will have 15 minutes to present their case and each respondent will have 5 minutes to present any evidence or other facts in dispute to the Board on this specific case. If you do not wish to speak, that's fine also. Please notify us when your case is called, so that we may have you on the record. Finally, if you are a respondent in a case presented during the Inspector General's Report, please be advised that although you may present evidence today, this is not the time for respondents to argue their respective cases. If your case is referred to the Attorney General's Office you will be provided with an opportunity for a hearing and to present evidence during that hearing. Thank you and I hope that clarifies things for you. We want to hear from all sides of these cases. We just want to make sure that we go through an orderly process. With that, I would like to call the first case No. 2008-000038 Gwinnett County. Ms. LaGrua.

**MS. LAGRUA:** Thank you, Chairman. This case involved a 2008 primary election. We received a complaint, actually, from Lynn Ledford, the director of Gwinnett County Board of Elections and Registration, both DeKalb and Gwinnett County had been noticing numerous irregularity faxed absentee ballot applications that they had been receiving. The applications appear to have potential white-out on them. They had numbers that had appeared to be written over and handwriting on numerous of these applications, appeared to be the same handwriting. There was also a similar address on many of these applications. Mr. Harvey and one of our investigators actually went out to that address and contacted Ms. -- And I'm not positive on the pronunciation here, but Nguyen -- I'm not sure. This woman worked at a church in Gwinnett County. She had applied for voter registration cards and absentee ballot applications on behalf of her congregation there. And she admitted this to our investigator. She said that she helped everyone on Sunday, in church. She said she had approximately 20 to 30 applications for this election. She said that once she had an application in hand, unless the voter told her not to, she kept sending the application each time and resubmitting it on her own. We attempted to reach the persons involve in this. We went to their addresses. We left business cards, asking them to contact us. We were not able to contact the actual voters in this case. DeKalb County did have one technical violation on behalf of the Board of Elections Registration. They sent some ballots to an address within the county that was not the proper address, instead of out of the county. However, as soon as they noticed that they had done that, they immediately resent correspondence to the voters and asked them to resubmit their information. Based on what we found, it is recommended that the case involving Ms. Nguyen be referred to the Attorney General's Office for appropriate sanctions and fines. And it seems like it might be an appropriate letter of instruction to DeKalb County, in terms of the processing of the applications and sending ballots to addresses within the County that were not addresses on record.

**SECRETARY KEMP:** Do any of the members have any questions for Ms. LaGrua?

**MR. EVANS:** I have a couple.

**SECRETARY KEMP:** Mr. Evans.

**MR. EVANS:** Do we know how many ballots and how many applications are at issue?

**SECRETARY KEMP:** 20 to 30 applications that we found, of those, we found 16 ballots were

actually voting during the Presidential Preference Primary. 20 ballots were not voted. We did go back and check the names that we could identify. We did find that 17 had other voting history outside of Presidential Preference Primary, in this case.

**MR. EVANS:** Is there a list of those maintained somewhere that would contain names or some identification of each separate ballot?

**MS. LAGRUA:** We do.

**MR. EVANS:** The reason I think that is important is given that under our enforcement chapter 21-2-33.1(A)2, where we would assess a fine or civil penalty for each violation, that calculation would be particularly important. As I understand the most the recent ruling from the Appellate Courts of Georgia, in order to trigger the each violation provision each violation then has to be set out separately for purposes of notice. So, I would -- we don't have to do that for purposes of the report, if the report is good, but for purposes of the notice that would follow a finding of probable cause, we would have to desegregate and separate --

**MS. LAGRUA:** We actually pulled all of, not only the names from the counties, but the date of birth, social security numbers and the voter registration numbers as well as the voting history. So we have all of that information that we can provide to Ms. Brumbaugh, if the case is referred to the Attorney General's Office.

**MR. EVANS:** If I do my math correctly, we are talking about, here, a potential civil penalty of \$330,000.

**MS. LAGRUA:** Yes, sir.

**SECRETARY KEMP:** Anybody have any other questions?

**MR. WEBB:** Ms. LaGrua, I had a question where it says corrections were made and 2 were over written with a 7. Was that a month? Was that a year? Was it a date? I'm assuming that is a date.

**MS. LAGRUA:** I believe it was a date. Mr. Harvey, do you recall?

**MR. HARVEY:** They are usually dates for the election, so an absentee ballot that says one election, she would just white out the date 11/4/2004 to 11/4/2008.

**SECRETARY KEMP:** Anyone else?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Anyone else here wishing to speak on this matter? Please state your name and address for the record.

**MS. RASPBERRY**: My name is Brenda Raspberry. I'm an attorney. And I'm representing the DeKalb County Voter Registration and Election Office. I just want to say we are in agreement with the Inspector General's suggestion that the County get a letter of instruction on the matter. That's basically it.

**SECRETARY KEMP**: Thank you, very much. Any members have any questions?

(NO RESPONSE)

**SECRETARY KEMP**: Okay. Thank you.

**MS. RASPBERRY**: Thank you.

**SECRETARY KEMP**: Anybody else wish to speak on this matter? Ms. Hodges.

**MR. HARVEY**: I would like to speak on this matter. May I?

**SECRETARY KEMP**: Are you a witness?

**MS. HODGES**: I can be one.

**MR. EVANS**: Do you have information specific to the facts of this case?

**MS. HODGES**: I can't think of anything, except to reference some other voter fraud issues in the State. Would that be considered --

**SECRETARY KEMP**: I think we really need to keep it to the issues of this case. Thank you, though.

**MS. HODGES**: Okay.

**SECRETARY KEMP**: Anyone else?

(NO RESPONSE)

**SECRETARY KEMP**: Okay. Hearing none, do we have a motion?

**MR. EVANS**: Mr. Chair, I would segregate to -- I believe Counsel DeKalb County, are you still here?

**MS. RASPBERRY**: I am. I'm sorry.

**MR. EVANS**: So, if I understood your statement correctly, you can agree today to a consent decree that involves a letter of instruction as to the compliance, along with a cease and desist if this is a practice of the office that that practice needs to end.

**MS. RASPBERRY**: I'm sorry. I didn't realize I would need to say anything else.

**SECRETARY KEMP**: Yes, please that would be great. Thank you.

**MR. EVANS**: We have two options. One is that we can send to it the AG or finish the DeKalb part today.

**MS. RASPBERRY**: Okay.

**MR. EVANS**: My question is, would you be in a position today to agree to a consent decree that includes a letter of instruction, which is, don't do this. This is a violation of the rules and of our law; would a provision that such violations will not occur again be agreeable?

**MS. RASPBERRY**: If that's the way of this being concluded today.

**MR. EVANS**: Yes.

**MS. RASPBERRY**: Yes, I can agree to that.

**MR. EVANS**: Cease and desist, and the latter part, that will be no further -- you won't do this again.

**MS. RASPBERRY**: Yes. We can agree with that. I am saying that we certainly will not, purposely. I can't say that we won't have another temporary person that might make a mistake, but, certainly, we will agree that we will follow protocol.

**MR. EVANS**: Well, a cease and desist contemplates that you will take affirmative steps to train your personnel to say, "This is not what you can do. Here is the correct way to do it. " We understand that you train people and you instruct them, but sometimes they still sometimes don't follow the instructions. But you will affirmatively take proactive steps to train and to try to make sure that it doesn't happen.

**MS. RASPBERRY**: Yes, absolutely, we can agree to that.

**MR. EVANS**: Subject to that, Mr. Chair, I would move that we adopt a consent decree that contains both the letter of instruction, which is a provision that advises, specifically, how the correct way, where the boundaries are, which, I think Ms. LaGrúa has already kind of set out for us. And second, a cease and desist that instructs on the violation so that they can take appropriate steps without a violation occurring.

**MR. EVANS**: Motion.

**MR. MCIVER**: Second.

**SECRETARY KEMP**: We have a motion and a second? Any other discussion?

**BOARD MEMBER:** Can we just reflect on record that the correct cite of the code section that was violated was 21-2-381(A)1 D.

**SECRETARY KEMP:** Do we need to make that part of the motion? Okay. We will update the report. Okay. We have a motion and a second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** All those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** All right. The motion carries unanimously. Thank you, very much.

**MS. RASPBERRY:** Thank you, for your time.

**SECRETARY KEMP:** We need to have a motion, as well, on the Nguyen part, as well.

**MR. EVANS:** Just a point of inquiry, were we able to confirm notice to the respondent?

**MS. LAGRUA:** Mr. Evans, generally, we send out a letter. I do not believe, Mr. Brown that that letter was returned. I'm informed that if we have a notice returned and it was sent to that address -- obviously, we don't send our notices through certified mail. So, to the extent that it has not been returned, that's what I can tell you. If you are concerned about this, we can assist Ms. Brumbaugh, if we need to hand serve any future notice, we can make sure that that occurs.

**MR. EVANS:** Not at all. All I was going to do is I was going to perfect the record. And the way I was going to perfect the record was to move that we accept it into the hearing evidence, the letter, a copy of the letter reflecting the notice to the respondent. So that that is in the minutes. That seems to be a new favorite technique for challenging Board action. So, I would so move that we accept the notice letter into the record of the hearing.

**SECRETARY KEMP:** Do we have a motion and a second to accept the notice letter? Any other discussion on that?

(NO RESPONSE)

**SECRETARY KEMP:** All in favor say, "aye".

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** We have accepted the letter.

**MR. EVANS:** Now, substantively I would move that we refer the potential violations that are identified in the Inspector General's Report to the Attorney General for prosecution.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Motion by Evans. Mr. Worley seconded. Is any other discussion on that motion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed. Let the record reflect the motion passes unanimously. Our next case is Atkinson County.

**MS. LAGRUA:** Yes, sir. If I could point out at the beginning, Atkinson County involved two different elections, both primary and subsequent elections. As we were investigating allegations that arose during the 2008 primary, we received additional allegations that involved subsequent elections. Judge McGowan, the Probate Judge from Atkinson County was, apparently, on her way here this morning. I received an e-mail just prior to the meeting that she had a health emergency on her way, en route. I don't know if that changes how the Board wants to proceed with this morning or not; but I thought before I proceeded I should let the Board know that.

**SECRETARY KEMP:** Any comments from the Board, on that?

**BOARD MEMBER:** Did she request a continuance?

**MS. LAGRUA:** She did not. Shea Browning, who is also a respondent in this case and is the current Probate Judge in Atkinson County, and was the subject of some of this, actually, is the one that sent an e-mail. Apparently, he received a phone call. Her son was transporting her. They had asked her not to come, due to health reasons. She felt like she wanted to be here and there was an emergency of some sort around the Forsyth area, on her way to meeting, here, today.

**MR. EVANS:** If they make a request for continuance (audience member coughing) first continuance request is granted. I would probably see if there is a way we can just ask if they want it continued. If the answer is yes, they would like it continued, under the rule we would grant that continuance. If they are not requesting a continuance, then they are not requesting a continuance.

**MS. LAGRUA:** If we can table the case for a short time I'm sure we can get an answer to that.

**SECRETARY KEMP:** Do we need a motion to table it?



**MR. EVANS:** No.

**SECRETARY KEMP:** Okay. We will table this case and come back to it. Appling County.

**MS. LAGRUA:** Appling County involved a November 2008 general election. The complainant in this case was, actually, Stephen Kelly, the District Attorney from the Brunswick Circuit that involves the Appling County area. They had done an investigation, because they had a nomination for Eldrin Carter to run as an independent candidate for Sheriff. That investigation, done in connection with the District Attorney's Office and the GBI, did, in fact show that Aushalina Lewis had, actually, forged a number of signatures to that petition. That case involving Ms. Lewis has, actually, been prosecuted by the District Attorney. And I believe -- and Mr. Evans and Ms. Brumbaugh, I'll let y'all lay evidence, if there is a discuss -- but he, actually, pled to two counts of Title 21 violations, unlike, oftentimes when the District Attorney becomes involved in the case and they deal with Title 16 violations, under the criminal code. In this case, he actually pled -- and I have a copy of the indictment here -- pled to two counts of Title 21 violations. So, I think we may have a double jeopardy issue, as it relates to Ms. Lewis in this case. However, during the course of our looking at the case, the District Attorney's Office handled, we found that an Evelyn Williams signed the names of four of her relatives to the same petition in violation of our code, which would be a violation of 21-2-563, which would be improper signing of a nomination petition. I do have a letter here from Ms. Williams, that if I could read it into the record, because it is very short, it is her statement -- and ask for me to give it to you: Statement: My name is Evelyn Williams, I received a letter from your office, informing me that a hearing would be held on February 24th at 10:00 in the Sloppy Floyd Towers. And she gives the location. The letter is to inform you that due to my ill health and the distance involved in attending this hearing, I will not be able to be present. I am sorry that I ever agreed to help Mr. Eldrin Glenn Carter obtain signatures on a nomination petition, in his attempt to qualify as an independent candidate for Sheriff of Appling County. I did, however, at the request of my husband, Carl Williams; my sister, Vivian Hall; and my daughters, Blake Johnson and Donna Van, sign their names on a petition. I did not realize it was wrong to do so. If I had known it was wrong, I would not have done so. And if I could present this to the Board, for inclusion into the minutes.

**MR. EVANS:** Motion that we accept.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We have a motion and Mr. Worley seconded. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries unanimously. Ms. LaGrua.

**MS. LAGRUA**: Based on the violations in this case, I would recommend that it be referred to the Attorney General's Office for appropriate sanctions. And, again, I would move that we close the case on Ms. Lewis, because I don't think that there is anything we can do, based on the prior plea in this criminal case.

**SECRETARY KEMP**: Any members have any questions? We don't need a motion.

**MR. MCIVER**: I have a question. Is Ms. Lewis sentenced? You said she pled. Has that matter been concluded?

**MS. LAGRUA**: It has. It appears to be a five-year probated sentence, felony sentence on two counts.

**MR. MCIVER**: All right. And not appealed. Obviously, with a plea, it's not. I forgot that.

**MS. LAGRUA**: They can always come back and ask to set aside or appeal for lack of counsel or something along that line. So, my experience, generally, is with a negotiated plea in a criminal case, you don't generally have an appeal from that.

**MR. MCIVER**: We can safely conclude that matter has been brought to an end. Therefore we can take action, whatever that might be.

**MS. LAGRUA**: I'm going to have to defer to Ms. Brumbaugh. She and I have talked about this. I am not sure that the Board, because she entered pleas to Title 21 violations, instead of forgery counts, under Title 16, I think you have a double jeopardy issue, because she has been sentenced on Title 21 violations. Now, I don't know if that opens the door to allow a letter of reprimand or public reprimand or something along those lines, but I'm not sure any penalties can be imposed, since she has been penalized under Title 21. Had she pled to forgery counts under Title 16, I think we would be in a different area, being able to potentially go forward on Title 21 violations. It's an unusual case. The District Attorneys, I guess, are starting to become more familiar because of the activity of this Board, over the last number of years, with Title 21, which they are, generally, not familiar with. So, they, actually, went ahead, in this case -- and I was contacted early on in this case -- they actually went ahead with a Title 21 indictment. So, I think there is a double jeopardy, but, Ms. Brumbaugh --

**MS. BRUMBAUGH**: My recommendation would be that, if we have -- in this summary it says that the violation -- she violated 21-2- 563 supp. 5 -- if that's what she pled to, then we do have the double jeopardy issue. 563 is a felony under the code. She is pleading out a criminal court to this. She can't go forward and seek administrative penalties, based on what's happened in the criminal court. It tends to be an element based analysis. So, sometimes you have to line up the elements. So, forgery may have different elements than 563, based on the way the statutes are written; but given the fact that she has pled to this, we are not going to be going forward with anything different. We do have a double jeopardy issue, in this case, and I would agree with Ms. LaGrua's recommendation.

**MR. EVANS:** I move to close the case against Lewis.

**MR. WEBB:** Second that.

**SECRETARY KEMP:** Mr. Web seconds. Any other discussion on Ms. Lewis's case. All those in favor of the motion, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

**MR. MCIVER:** Aye.

**SECRETARY KEMP:** Mr. McIver is opposed.

**MR. EVANS:** I would move to refer it to the Attorney General for further action. (inaudible)

**MR. WORLEY:** Second.

**SECRETARY KEMP:** I have a motion and a second by Mr. Worley. Any discussion on this motion?

(NO RESPONSE)

**SECRETARY KEMP:** Let me back up just a minute. Is there anyone here to speak on this case? We need to make sure. Anyone here to speak on this motion that was just made?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed.

(NO RESPONSE)

**SECRETARY KEMP:** That motion passes unanimously. Thank you. Okay. Case No. 109, Greene County.

**MS. LAGRUA:** Yes, Mr. Chair. This involved a 2008 General Election. We had a number of respondents, Michael Malone, the Election Superintendent, Louise Nesbit, the Deputy Elections

Supervisor, Marion Rhodes a county commissioner and Dorothy Wright. The allegations in this case were that absentee ballots were being improperly rejected and that there were disturbances at the polls. Our investigation shows that there was one application that may have been improperly rejected. And that was a Ms. Barbara Halls. It was rejected for lack of assistor's signature. The problem was this elector, in particular, did not require assistance, but Ms. Nesbit, apparently, knew Ms. Hall, knew she had been ill and had some issues and made the jump that she needed assistance, and so improperly rejected the ballot application. It was fixed and that situation was resolved. That situation, however, led to some problems at the polling location where Mr. Marion Rhodes came into the office and confronted Mr. Malone and Ms. Nesbit about Ms. Halls' rejected application. The situation got to the point where the Sheriff's Department was called, but Mr. Rhodes left the location, voluntarily, before the sheriff arrived. Dorothy Wright came into the precinct during the same time period, with a campaign button on, and became upset when she was asked to remove the campaign button. Words were exchanged the police were called, she subsequently returned without the button. Again, there were some words exchanged and the Police Department was called. She actually left before the police arrived and subsequently returned without the button and conducted her business. Based on -- and so, there are three violations essentially. You have the violation of the improper rejection and then you have the two potential interference with activities at the polls. Candidly, I think this case could be referred or resolvable with a letter of instruction to the three different parties involved.

**SECRETARY KEMP:** Do any members have questions for Ms. LaGrua?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Is anyone here to speak on behalf of the case?

**MS. RUNYON:** Good morning. My name is Andrea Runyon. I'm the attorney for Greene County, Georgia, and, specifically, today Mike Malone, the superintendent and Louise Nesbit, Deputy, in that county. My address is 794 Kirk Street, from the big city of Royston, Georgia. We would be agreeable for those two respondents as to a letter of instruction. This county has 9,700 voters and Ms. Nesbit has been a poll worker for over 10 years, and has been working in her particular capacity for three years. So, yes she knows the people in the county, very well. And she knew that this particular person had had a stroke and she was going just the extra mile to verify that everything is okay and properly done. And she meant no harm. And it was, eventually, worked out. So, there is a subsection, under the one that she was charged with, that gives her the -- or gives the office the ability to seek further information if there is a problem. And I think that certainly falls into this category. Again, if you all deemed that was an improper practice, they are certainly agreeable not to make, or not to do it again.

**SECRETARY KEMP:** Any members have any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anyone else would like to speak on this case?

**MR. MCIVER:** I have a question, Mr. Malone.

**MR. MALONE:** Yes, sir.

**MR. MCIVER:** Mr. Malone, how could she have acted more prudently? She has a question about the status of a voter and she voices her opinion. And it comes to the attention of your Board and you take action. It occurs to me, this was a very appropriate thing to do, under the circumstances.

**MR. MALONE:** Well, we felt so at the time. As it was stated earlier, by Ms. Runyon, Ms. Nesbit is very familiar with a lot of the voters in the County. It was us trying to do our job and take an extra step that, potentially, caused the problem. We thought we were doing the right thing, but if you interpret the code one way, it could be looked at as, we did not. We felt that we did, but if we didn't, we would do it right the next time. Essentially, she engaged a safeguard to protect the integrity of a particular ballot.

I'm Mike Malone and I'm the elections supervisor for Greene County.

**MR. MCIVER:** Thank you, Mr. Malone. Any other questions, Members? Okay. Is there anyone else here to speak, respondent or complainant?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, I'm open for a motion.

**MS. WRIGHT:** I would.

**SECRETARY KEMP:** Oh, I'm sorry. Come forward, ma'am. Please remember to state your name and address for the record. Thanks.

**MS. WRIGHT:** My name is Dorothy Wright. I live at 1495 Pine Road in Greensboro, Georgia. I'm a retired bank employee. I would like to address the Board for the charges that I have got. You know, in fact, I tried to get a tape, because it should be monitored to show that I did have improper conduct in the Voter Registration Office. I was asked to remove a pen. And it was Ms. Malone approaching me so nasty. And then I said, no, I'll just leave. So, I got towards the door. I then turned around and came back. I had taken the pen off, so when I came back to Mr. Malone to gather the information, then Ms. Malone said, I can't wait on you until you take the pen off. I said, I already have the pen off. So, I was still refused service. But Ms. Hall is not the only person that had a problem with voting during that time. I have a copy where this is another rejected application. I have a copy of the ballot log where I ended up calling Ms. Ann Hicks. And she called Mr. Malone in reference to the applications. They demanded that a person who filled out the application, although, the person, the executor had signed it. They were demanding that they have a person sign as assisting them. And, also, when the ballots were returned -- when the ballots came back to the office, although the person did not, actually, help the elector with the ballots, they were asked to sign the oath portion of that. Now, Mrs. Hicks had called Mr. Malone in reference to that. And to say -- in fact, I feel totally disrespected and humiliated to have an officer come to the poll, when I'm simply trying to ask questions. I mean

we got calls coming in every which way from people in the community saying their ballots were either rejected or their applications was rejected. And I think that this could have been handled without calling the police officer. I did not use profanity. I was not vulgar. And I was not loud. Now, there are people in this audience who came here today that can testify that I don't have that character. In fact, I worked 25 years with the bank. And 10 of those years were working with the public. And I think, maybe, if Ms. Malone or the people in that office could, perhaps, take supervisory courses or management courses, then they could better serve the community. Because everybody feels threatened when they come to the voter registration office. And that's why there are several of us who will accommodate those people when they have problems. You know, I just feel totally disrespected for having an officer being called and then there is a Sheriff's Office right next door. There is only one wall in between. During the time they are saying that I left, I went next door to the Sheriff's Office to explain to the sheriff what was going on in the registration building. Now, if I was loud and vulgar, then why would Mrs. Nesbit need to ask Ms. Malone, when he told her to call the police, "Well, what do I tell them?" Now, if she is there and he is being loud and vulgar why would she need to ask him that? It is not in my nature. I have earned respect and I demand respect. And Ms. Malone totally disrespected me by calling the police there. I have never been in trouble with an officer.

**SECRETARY KEMP:** Ma'am, would you like us to have those documents, for the record?

**MS. WRIGHT:** Yes.

**BOARD MEMBER:** Move to accept.

**MS. WRIGHT:** I have a document here where I have tried to get film of that event, but they installed the camera two days later. The film would have shown the truth. And the other problem we were having is any time we request information at County, we have to wait 3 days. I know that it has a day period that they are allowed to give that information, but even if we need a copy of one sheet or something we still have to wait 3 days.

**SECRETARY KEMP:** Let me interrupt you here one second. We have a motion to accept the three documents. Do we have a second. Second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** Any discussion?

(NO RESPONSE)

**SECRETARY KEMP:** All in favor of accepting the document say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** For the record, we've accepted the documents.

**MS. WRIGHT:** My question to Ms. Malone is if I am being loud and vulgar, then they plainly stated there were two people in the office that day, why not have one of those people go right next door to the Sheriff's Office. It is not in my nature to do that.

**SECRETARY KEMP:** Okay. Ma'am, stand by one second. Does anyone have any questions?

**MR. EVANS:** I have a couple. Why do you think the ballots were rejected?

**MS. WRIGHT:** Oh, they were rejected because, let's say, if I fill out the application itself, and the electors sign the application, they were looking at the top part, where it's filled in with the name and address. And if it didn't look like the person that had signed it. I don't know how they are preparing a printed ballot application or signature, but Ms. Hall is not the only one that had been rejected.

**MR. EVANS:** So there would be some objective piece of evidence that they looked at. They thought it didn't look right. So, they then looked into it further.

**MS. WRIGHT:** Right. What they did was, in fact -- I have a copy here -- the top part of the ballot, say, if I printed the information here, and I didn't have assistance, I don't need any assistance, but just because someone else filled in the top part of the application, they are saying that person assisted that person in voting, but Mrs. Hicks had called and told Ms. Malone that anybody can fill out the applications, as long as the elector signs the application.

**MR. EVANS:** Was there a police incident report?

**MS. WRIGHT:** Yes, it was. In fact, when the policeman came out that day, they had told, you know, Ms. Malone had told them everything was resolved. I thought that was the end of it. There was no need for anything else, then I get a letter from here. I'm sorry. That's the only copy that I have.

**SECRETARY KEMP:** Any other questions?

**MR. EVANS:** I want to see the police report. That's all I will have.

**MS. WRIGHT:** I'm sorry. I don't feel like people should have to come in that office and feel threatened that the police is going to be called. And Ms. Malone getting on the defensive side when you try to get information, because the same information I was trying to get from him, I was trying to see if I could get it in a timely manner.

**MR. MCIVER:** Ms. Wright, are you aware that it is a violation of the election code to wear election materials into those polls?

**MS. WRIGHT:** I wasn't at that time, not a button. I know you can't do campaign, like, on the tags, on the cars and signs and all that, but it didn't even dawn on me when I came.

**MR. MCIVER:** So, you were not aware that you were violating the law; is that your answer?

**MS. WRIGHT:** No, absolutely not.

**MR. MCIVER:** Perhaps now you are aware.

**MS. WRIGHT:** No, I will not wear it. I will never wear it again. In fact, I took it off before I got to the door. They are saying I left the building, but I did not leave the building without taking the pen off.

**MR. MCIVER:** When you walked in, originally, you were in violation of Georgia Law.

**MS. WRIGHT:** Yes, and I will not do that again.

**MR. MCIVER:** Ms. LaGrua, she has given us a document that appears to be a rejected ballot involving an Annette Moon. Has that been a scope of your investigation?

**MS. LAGRUA:** I can't tell you, specifically. I can tell you that our investigator reviewed the rejected ballots in this case. There were 14 rejected ballots in the November 4th, 2008 primary. Six were rejected because they did not arrive in a timely manner. 4 were rejected for lack of signature of the elector. Two were returned undeliverable. One as rejected for lack of identification. I would have to pull that, specifically. One was rejected because the signature did not match the voter registration card. That was Ms. Hall, who we previously discussed, that, potentially, was improperly rejected.

**SPEAKER:** May I say something? The sheet that I gave you, the ones where you see approved on, those were the ballots they had rejected and sent letters out to. After Ms. Hicks called the office, they approved them. That is why you see approved on those. There were problems with those.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Mr. Malone, would you like to respond?

(NO RESPONSE)

**SECRETARY KEMP:** Anybody else want to speak on this case?

**SPEAKER:** My name is Marion Rhodes. I live at 110 Rose Drive in Greensboro, Georgia. I serve on District 4 Board of Commissioners. Over the last 3 or 4 years, since Mr. Malone has become supervisor, we have had a lot of problems in the election office. I have been actively



involved in the elections, probably the last 30 to 35 years. There was never any problems until Mr. Malone became elections supervisor. One of the things I was going to say, and Ms. Wright, she has already spoken of, when I got the summary from this office, saying that I had disrupted the early voting out at the office -- I came to the office -- said I came in the office and disrupted the early voting. I came to the office, but I met Mr. Malone on the outside of the office. The only conversation that I had with Mr. Malone that day was outside the office. I never entered the office on that particular day. I saw where Mr. Burdett, he file a complaint. And I wonder how did Mr. Burdett filed a complaint against me, when I have never had a one-on-one conversation with Mr. Burdett. He was not present on that day. So, if I violated, I cherish -- I cherish the right to vote. I don't have to go deep into that, but everybody in here knows what struggle that we have went through, to have the right to vote. And I cherish it. And I cherish the right for anybody else's vote. So, that's what makes me get involved in it. I said occasionally Ms. Hall -- Ms. Hall was a classmate of mine in high school. We have been in the church together for the last 35 years. And I know she had had a stroke. And as I was passing out absentee ballot, she said she needs help sometimes. I gave her the ballot. You will probably see in your inquiry or your investigations where it was denied. It was denied a couple of times, until I signed as the person helping her, before they would accept her ballot. Now Ms. Hall, I know her handwriting. I asked her on Sunday, I said, how you write so many different ways. Sometime she has good days and she has bad days. Sometimes she will write, just the finest handwriting you want to see. Then again, she will, intermittently, write one you can hardly understand. I don't know if that comes from her stroke or -- like I said, you know, she has good days and bad days. This is one of the reasons why I picked her case out of the others. It was many. There were several incidents. To make a long story short, I talked to Mr. Malone that day outside of the office. The very next day I called the chairman of the Board of Elections, which is Frank Moore. He told me he was going to the office to take a look at it. So, he went to the office and took a look at it. And he called me back. He talked to me like a gentleman. And I talked to him like a gentleman and no harsh words were exchanged between either one of us so. He told me, since the signature didn't look the same to him that they could not allow this vote to count. So, I left it at that point. Now, while I was talking to Mr. Malone, I continued to question him. He said, I will call the sheriff on you. Whether the sheriff came, I do not know. I never knew anything about the sheriff being called until I got the summary from this office.

**SECRETARY KEMP:** Anybody have any questions for Mr. Rhodes?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you for being with us today. Anybody else wish to speak? Please state your name and address for the record. Thank you.

**MR. BURDETT:** My name is Brian Burdett 1321 Liberty Church Road, Greensboro, Georgia. I am here today as a representative. I'm the Chairman of the Greene County Republican Party. Mr. Chair and Board Members, I just want to set the record straight. I wasn't going to mention anything about this case until after Rhodes made a few comment. Just to set the record straight, he has been in this thing about 30 years. I have been in it about 15, in Greene County. There have been numerous problems with the elections process in Greene County prior to the Election Board being set up in Greene County. After every election I was in the probate judge's office

complaining about certain precincts, and never once did we ever get anything resolved. It was the same precincts and same complaints and never once did it ever make it to this level. Now, they have an Election Board set up there. And we are seeing a few cases. And there are a few technicalities here. The process is working. Right now it's working. Right now it's fair. Everyone is getting their day in public, if you will. I just wanted to set the record straight that there have been problems. And those problems never got addressed. Now they are getting addressed. It wasn't as the previous speaker mentioned, that everything was just fine and dandy until just recently. The other thing I'm concerned about and I just want to mention is, it concerns me. I am the complainant. No, I wasn't there at the time. But I know that this Election Board, which has got a democrat, a republican, and a chairman and then a superintendent, Mr. Malone is doing a very fair job. They have been harassed ever since the inception of this Board, constantly harassed. That is why I wanted to bring this forward. I think the harassment and intimidation of that Board needs to end. And what really concerns me is that it is the County Commissioner who has the authority over this Board -- it is arguable whether he harassed him or not. There is no video. He says he was outside. Mr. Malone says he was inside. It's irrelevant. It doesn't need to be done in public. When I had problems prior to inception of this Board, I always set up a meeting with the probate Judge and met with her in her office and did it privately. And never once did anyone even know about it. And I just wanted to set the record straight. I think this Board is doing as fair a job as they can. And the very fact that it is here in front of you for you all to make the decision, is all we can ask for. Thank you. I appreciate your time.

**SECRETARY KEMP:** Thank you. Any questions?

**MR. WORLEY:** I had some questions.

**SECRETARY KEMP:** Mr. Worley. Mr. Burdett, we have a few questions for you.

**MR. WORLEY:** And I apologize, to me it is a little unclear from the summary report that we have gotten, but you are listed as the complainant and you said that you are the complainant. So what is it exactly that you are complaining about?

**MR. BURDETT:** My concern was the overall theme, the harassment and intimidation. The specific item, I don't know all the technicalities. We all decided today, Ms. LaGruta made her recommendation. That's fine if that's what y'all end up doing. My concern, here, again, is that I want the harassment and intimidation to end. (audience member coughing)

**MR. WORLEY:** Could you describe what the harassment and intimidation is?

**MR. BURDETT:** Again, this is what I was told. Mr. -- Commissioner Rhodes and Superintendent Malone were in their office and it got heated and Mr. Malone asked him to leave and he wouldn't leave and he had to call the sheriff. And he left before the sheriff got there. Now, if he wasn't intimidating or harassing or wasn't out of control, why didn't he stay? The sheriff showed up. It's in the same building.

**MR. WORLEY:** Do you know if there is a sheriff's report of this?

**MS. LAGRUA**: There is.

**MR. WORLEY**: Can we see that?

**MS. LAGRUA**: Yes, sir. Did you have any knowledge about Ms. Wright's conduct.

**MR. BURDETT**: No, sir.

**MR. WORLEY**: I didn't have any further questions.

**SECRETARY KEMP**: Any other questions? Okay. Thank you.

**MR. BURDETT**: Thank you.

**SECRETARY KEMP**: Anyone else wish to speak on this case?

(NO RESPONSE)

**MR. EVANS**: So, Ms. LaGrua, is the police incident report and the sheriff's report a part of the record already?

**MS. LAGRUA**: Not a part of the record. As you're aware, we release the summaries of our investigations to the respondents; however, the investigation remains not subject to the disclosure until Ms. Brumbaugh brings any cases back or this Board closes any cases.

**MR. EVANS**: So, I would move that we add to the record, on this hearing, the Greensboro P.D. incident report -- the Sheriff's Department report.

**MR. WEBB**: Second.

**SECRETARY KEMP**: We have a motion and second. Any discussion?

(NO RESPONSE)

**SECRETARY KEMP**: All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP**: Any opposed?

(NO RESPONSE)

**MR. EVANS**: I move to close the case against the Greene County Board of Elections and Registration.

**MR. MCIVER**: Second.

**SECRETARY KEMP:** We have a motion and a second to close the case against the Greene County Board of Elections. Any comments or discussion on that?

**MR. WEBB:** Just a point of clarification, this is just in the Barbara Hall matter; is that correct?

**MR. EVANS:** I didn't see anything on any of them the ballots. I went through the log. The log, I think, properly, lists the reason why they did. Ms. McIver pointed out a secondary review. They were all statutory requirements for a secondary review. Witnesses confirmed that, in fact, there was objective evidence. So, I would -- my motion contemplates closing it to the Greene County Board of Elections as to all of the reviewed ballots.

**SECRETARY KEMP:** We do have a motion and a second. Do you need some more time Mr. Worley?

**MR. WORLEY:** No.

**SECRETARY KEMP:** Okay. Any other comments on that motion? All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. That motion carries.

**MR. EVANS:** As to Mr. Rhodes and Ms. Wright, Mr. McIver and I have been here a fair amount of time and have experienced this issue of disorderly conduct at the polls. It is a matter of great concern, especially any time there is a suggestion that it interferes with the normal and peaceful operation of the polls; it is the one area where we have to be extremely aggressive in making sure that we do not have disruption. Because the police reports indicates there are active investigations, because there seems to be evidence to indicate there is factual dispute, which we can't cannot resolve and are not supposed to resolve at this level, I move that we refer both of those matters over to the Attorney General's Office.

**SECRETARY KEMP:** We have a motion. Do we have a second?

**MR. MCIVER:** Second.

**SECRETARY KEMP:** Motion and a second by Mr. McIver. Any other discussion?

**MR. WORLEY:** I just want to make it clear here, that it seems to me that there is some reasonable dispute about what happened there in the office. And it is interesting to me that the people who, in the office, the office workers, Mr. Malone, who were involved in this situation have not actually made a complaint to the Board. It is Mr. Burdett who made the complaint to

the Board, as I understand it. There does seem to be dispute as to the facts. It is our position, has been our position, and essentially our role, that where there is a dispute over the facts at this stage of the proceedings, we, generally, refer it to the Attorney General's Office. I think we also have to be very careful, not -- I appreciate what Mr. Evans has said, but I don't -- I think we have to be very careful not to chill people from making reasonable complaints about the administration of elections offices, by going in and complaining. I think Mr. Rhodes is right, one has a right to go in and complain. And I'm a little troubled that the reaction to those complaints seems to be to call the law enforcement authorities in. I think that sends a signal. But given that there is a dispute over what the facts are, I am going to support sending it over to Attorney General's Office for further investigation.

**SECRETARY KEMP:** Thank you, Mr. Worley. Any other discussion?

**MR. MCIVER:** One comment and that is I believe all of our members are extraordinarily empathetic to election officials in Georgia. These are truly tough jobs. You take an oath. You are trained by Mr. Taylor's department here, or division as it is referred to, and it is difficult. These are difficult positions to take, but, again, you are here to ensure the integrity of the voting process. And, in my judgment, not to do what we are about to do, send a very, very bad message to election officials. We want you to do your best, but when you are challenged and your training reflects that you should take certain actions, such as to call the local authorities to assist with the situation, we certainly want that done. So, we want you to respond to what we consider to be the excellent training you received. I hope our passage of this message resends and reinforces the message to election officials that we are very empathetic to how tough your job is, but there are resources available to you and we want you to access them when you think in your best judgment you should do so. Thank you Mr. Chair.

**SECRETARY KEMP:** Any other comments? Okay. We have a motion and a second to refer these matters to the Attorney General's Office for further review. All those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed.

(NO RESPONSE)

**SECRETARY KEMP:** That motion carries. Okay. The next case is Gwinnett county. No.  
117.

**MS. LAGRUA:** This case involved a 2008 General Election. There were numerous complainants in this case, most of them dealing with rejection or handling of both absentee ballot applications and ballots. Initially, Mr. Travole, Ms. Oglevie, Ms. Cox, and Mr. Douglas all said they made applications or an absentee ballots but never received one. Mr. Petticord said he delivered his absentee ballot, but was not given credit for voting. Ms. Jenkins, when she went to vote, she was told she had already voted, when she claimed they she had not. Timothy Miller, said he didn't get his daughter's ballots and had to re-fax the applications and David Dunn was told he was not in the system. The system did show that Mr. Travole was mailed a ballot, but it

was not timely and he did not vote in this incident. Ms. Oglevie never returned her ballot, but she did end up voting in person. Douglas and Petticord, actually, did receive their ballots and voted. Maybe I should give an explanation here. Oftentimes, as early voting, advanced voting, and absentee voting commence, we start getting complaints during that timeframe, that somebody that sent an absentee ballot application has not received their ballot back. So, they start complaining to us. Or they send it back haven't been credited for voting. Oftentimes, by the time we go to investigate or respond, the situation has been resolved, but we still report those findings back to this Board, which is why the complaint comes in, they said they didn't get something, and then we report that, in fact, they voted, at times. In the Jenkins, John Jenkins situation, the clerk misentered John Jenkins as Lisa Jenkinsville. So, when she first went in, it appeared that she had voted when, in fact, she had not. That was corrected. She did vote. And it was counted. The situation with Barbara Cox, Barbara Cox is disabled and had asked for a series of ballots. The clerk did not check the system and erroneously rejected her application in that manner. The millage ballots, after the reapplications were sent, were sent out FedEx, but one of the addresses was a Post Office Box, and; therefore, undeliverable by FedEx. And in the case of Mr. Duncan, he failed to complete the citizenship question on his voter registration card. When he showed up to vote, he was allowed to complete that portion of the voter registration card and was allowed to the provisional ballot. Ms. Ledford, the Gwinnett County Board of Election Registration, I see, is here, but I would say our experience in dealing with Gwinnett County is they self report when there is an issue. They correct things. And in almost all situations the situation was corrected and remedied prior to anybody not being allowed to vote. And based on all of that, it is recommended that a letter of instruction be issued to Gwinnett County with an emphasis on absentee ballot training.

**SECRETARY KEMP:** Okay. Any questions for Ms. LaGrua.

**MR. MCIVER:** General LaGrua, you indicated Douglas and Petticord voted. By what means did they vote, absentee or in person? Mr. Petticord did vote by absentee ballot. In fact, he sent us an e-mail stating that the website, after we investigated, did show, in fact, he had received credit for voting. What was your other question, Mr. McIver?

**MR. MCIVER:** Brandon Douglas, the manner in which he voted?

**MS. LAGRUA:** Absentee ballot.

**MR. MCIVER:** That would conclude my questions, Mr. Chair.

**SECRETARY KEMP:** Any other questions from Ms. LaGrua? Anyone else here wishing to speak on this case?

(NO RESPONSE)

**MR. STEPHENS:** Yes, sir.

**SECRETARY KEMP:** Board Members, I'm Van Stephens, the attorney for Gwinnett County in the Gwinnett County Board of Elections. My professional address is 75 Langley Drive, in

Lawrenceville. We would accept a letter of instruction from the Election Board. I was with them during a large part of the election cycle that's in question. (cell phone interference - unclear) We have Lynn Ledford, elections supervisor here to address the issue that arose and to also talk about the proactive steps we have taken.

**SECRETARY KEMP:** Any questions, or Lynn, did you want to say anything? Glad to have you.

**MS. LEDFORD:** Yes, my name is Lynn Ledford. I'm the Election Director of the Gwinnett County Board. As Shawn stated, we are a very large county. So, we are constantly looking at ourselves and reviewing ourselves to see what we can do to be more efficient and be better. What happened to us last year was kind of an oddity. We actually ended up losing two key employees. Because our staff was so small, we had never had the opportunity to cross train, to put in place any type of succession plan. The County administration realized that because of multiple issues that we had last year. And, of course, most of them were these type. They were administrative things that we dealt with. So what they do is they perform a performance audit of our Division off year 2009, last year. And what they discovered is that we were operating a very lean system, but our staff was a little too lean. So, since that time they have added to our staff. We have, currently, about a third of our procedures, we are flow-charting those for weaknesses to really create a comprehensive users manual for the staff. Additionally, being able to have the staff in place, to have the succession plan now, will, hopefully, keep this type of stuff from happening in Gwinnett, again.

**SECRETARY KEMP:** Thank you. Does anybody have any questions?

**MR. WORLEY:** Ms. Ledford, how many employees do you have at the moment.

**MS. LEDFORD:** With the addition of the new, it will be 12, counting myself.

**SECRETARY KEMP:** Any other questions.

(NO RESPONSE)

**SECRETARY KEMP:** Thank y'all for being here. Anyone else wishing to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, do we have a motion?

**MR. EVANS:** To me, this is a great example where track records make a difference. Those serving on the Board can echo that we have consistently found Gwinnett County to be one of the counties who has worked the hardest to make sure there is, both, technical and non-technical compliance with directions from the Board. The indications are here that is true as well. So, I would move that we would accept and issue a letter of instruction with regards to the issues that were raised in the Inspector General's Report.

**SECRETARY KEMP:** Thank you, Mr. Evans. Do we have a second?

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Mr. Worley seconds; any other discussion?

**MR. MCIVER:** Yes, please. I'm going to oppose this motion because, in my belief, much like Mr. Evans has said, Gwinnett sets the standard, in my judgment. And when a challenge comes forward of any violation of the code, I look to see what Gwinnett does. That is how really good I think they are in this process. And these appear, to me, to be very innocent mistakes that have clearly been corrected. Again, Gwinnett is famous for self reporting. So, my position is this matter should be dismissed and I don't see any real fault here that I would consider violation of the code, other than occasional human errors. They, in my judgment, no more need letter of instruction than anybody else who just simply just doesn't do it as well as they could on a particular occasion. So, I intend to vote against the motion, for that reason.

**SECRETARY KEMP:** Thank you, Mr. McIver. Any other comments?

**MR. WORLEY:** I have a comment. I agree with what's been said about the good work that the Gwinnett County Office does. But we are not sending a message just to Ms. Ledford and the people working at her office, but we're also sending a message to the county. And maybe the message that ought to be sent is that they need more than 12 people in one of the largest counties in the state. And problems are going to happen. And I think that's the message that we ought to send.

**SECRETARY KEMP:** Mr. Evans.

**MR. EVANS:** I was just going to say that the problem I have is a little different, which is, as we have experienced before, there are strict liability offenses in the code. And the analogy that we always use is a traffic light. If you run a red light, it's a violation. Now, the Judge can take into account whether or not you have an emergency or exigent circumstances, in deciding whether to impose a penalty or what kind of penalty, but the violation itself is dictated by the terms of the provisions and the provisions that are cited here do not involve a Scierter requirement or an intent requirement, but, instead, a strict liability. And as a result, I view it differently. I don't think we really have a choice but to find violations. We can temper the remedy for those violations, by limiting the remedy to a letter of instruction. But if there is a violation, I think it is confirmed by the statements that were made here at the hearing.

**SECRETARY KEMP:** Any other comments? Okay. We have a motion and a second. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed.



**MR. MCIVER:** Aye.

**SECRETARY KEMP:** Let the record show the motion passed. Mr. McIver voted No. All right. We will move on to Clayton County 118.

**MR. HARVEY:** Members of the Board, this case had multiple complaints much like Gwinnett County, we will take them one by one. The first complaint was actually filed by the Fayette County Board of Registrars, involving Mr. Eric Watts, who claimed to have registered on October 5th at a voter drive. His voter registration application somehow ended up in Rockdale County on October 8th. It was then forwarded to Fayette County and they found out he actually lived in Clayton and then it was sent to Clayton County. The Clayton County Board of Elections and Registration held a hearing and allowed him to register and vote well after the October 6th deadline. There is no question, really, that he filled out the form on October 5th. The drive was being conducted by a third-party group. The woman claims she delivered the voter registration card to the Clayton County Registration Office. Clayton County didn't have any record of getting it until middle or late October. So the possible violation is the 21-2-224 (d), in allowing a non-registered voter to vote, when it comes to Eric Watts. The Second case involves 12 absentee ballots that were delivered to the Registrar by a Clayton County Sheriff's Deputy. These were 12 inmates that were at the jail. They voted absentee ballots. They were collected at the jail and delivered to the Registrar's Office by a deputy sheriff. At first, the Registrar would not accept the ballots, because they were not from the (unclear) system. Eventually, they actually took custody of them that night. 6 of the 12 were rejected on their face, for things like lack of signature, incomplete envelopes. Six, however, appeared to be, otherwise, acceptable. The Clayton County Board of Elections and Registration, on November 7th, rejected the six absentee ballots from inmates and then held another meeting on the 11th, where the same Board decided to accept the previously rejected six inmate ballots. The violations that are possible are 21-2-385 (a), for accepting absentee ballots not properly delivered, and a possible violation of 21-2-574, by Sergeant Pitts of the Dade County Sheriff's Office, for having possession of and delivering the absentee ballots. The third case involved a Marciarea Turney. She went with her son to get a voter ID card. Apparently, he came back out of the voter office and told his mother that he was told he couldn't get an ID card because he had a driver's license, although the driver's license was lost. Ms. Turney went back into the office with him, found out that it must have been someone other than an election official that gave him information. They did issue him a voter ID card and didn't have any further issue. In the fourth case, Cybill Shepherd complained that her husband and she had requested an absentee ballot and never received it. The records from the Clayton County Elections Office showed that the ballots were mail out on October 22nd to a post office box in New Mexico. They were, however, returned, by the United States Postal System, to Clayton County, labeled, unable to forward. So, there doesn't appear to be a violation on the Clayton County Board's part in that. The next case Mollie Griffin complained that when she checked the Secretary's website on November 3rd, it did not show their absentee ballot had been counted. After the election, it was properly updated and she did receive credit for voting and her vote did count. The next case involves Stephanie Ifendu. She said that should stood in line and voted on October 28th at Lee Precinct, but when she checked the website, she didn't find any record of it. She then claimed that she went to vote on election day at the Hawthorne Precinct. All the records from Clayton County indicate that Ms. Riffed did, in fact, vote on November 4th at the Hawthorne Precinct and there is no record of her voting

previously at the Lee Precinct. It is unknown what Ms. Ifendu did at the Lee Precinct, but there is no evidence that she voted there. And therefore, there doesn't appear to be any violation. The last complaint involved a Ms. Turner. She went to a Quick Trip Store on Election Day and saw a lottery worker talking to people about the election. She thought that there might have been some kind of quid pro quo or lottery giveaway. The investigation showed that there was a lottery official there. They were, however, conducting normal lottery business. And in the course of just talking to people about what was going on in the news back then, they would mention the election. There is no indication that there was any type of intimidation, coercion, offering or anything. So, there doesn't appear to be a violation there. The recommendation is that this allegation involving Mr. Watts, case (A) and case (B) on the inmate absentee ballots be forwarded to the Attorney General's Office for sanctions and possible remedies and that the remaining allegations be closed.

**SECRETARY KEMP:** Thank you, any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Do we need to take these separately or can we vote on these all at once? Anybody here need to speak on the case; I apologize?

**MS. EVERETT:** Good morning. Pamela Everett, from the law firm of Freeman, Mathis and Gary and I represent Clayton County in this matter. I would ask that these matters not be referred to the AG's Office, with regard to the Mr. Ward issue. There was a conflict in the evidence that was provided to the Board as to whether or not Mr. Ward's documents were received in Clayton County, initially, and then transferred to Rockdale County and then came back, went to Fayette County and then came to Clayton County. There was an issue as to where he was registered because this part of Fayette County or Fayetteville, actually, lies in Clayton County. There is an issue as to where it should have gone. Mr. Ward filled out the application on the 5th. There is evidence, or evidence was presented to the Board that documentation may have come to Clayton County, initially, and then transferred to Rockdale County, and no one understands how that happened. So the board exercised its discretion in looking at the application and determining that he did make an attempt to register on time, and they looked at it and determined that he should be allowed to register. With regard to the inmate issue, I do have here, the Chief Deputy Sheriff for Clayton County. This matter was handled under the previous administration. This deputy that was involved was in charge of the mail carriers. As you know, in an inmate situation someone collects all the mail. What happened was at the end of the day they realized that there were ballots that were still there and the mail had already gone. She was instructed to take them over to the Clayton County Board of Registration's Office. She had no idea that she was permitting any type of infraction by taking those ballots over. I would ask that the case against Ms. Pitts be dismissed for that reason, that there was no intent to, on her part, to commit any crime. I have the Chief Deputy here, who will talk about what they have put in place to ensure that type of matter doesn't occur again. Basically, what they have done is they will ask for absentee ballots to be delivered, initially to the jail, so that anyone who wants them will have access to them. There has been a conversation with Ms. Bright, regarding that matter, what will then happen is the sheriff will try to ensure that all the ballots go out in a timely manner. In this case, it was just an error on the part of the people who were there. There was no

intent to do the criminal act. If you would like to speak to the deputy chief about what care will be instituted, he is here to talk about that.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Anyone else wish to speak on this matter? Anyone else?

**MS. WATKINS:** Good morning. My name is Garland Watkins and I am the Chief Deputy for the Sheriff's Office of Clayton County. My address is 9157 Tara Boulevard, Jonesboro, Georgia 30236. First of all, in reference to the inmate incident, the correctional officer -- she is not a deputy. She is a correctional officer. She was given bad instructions. And I remind you that this incident had taken place with the previous administration. She was given bad instruction by the supervisor to take the absentee ballots over to the election office. What we have instituted is that -- I have spoke with Ms. Bright. We are going to have absentee ballots delivered to the Sheriff's Office. And upon request they will be given to the inmate. It is up to the inmate to place that ballot in U.S. postage and it will be mailed back to the election office, which will alleviate minimal contact, even with our staff. The only thing that they need to do is To collect the sealed postage stamped envelope of the inmate and it will be placed in the U.S. mail. And that will alleviate them having to have hand-to-hand contact with taking the ballots over to the election office.

**SECRETARY KEMP:** Any questions?

**MR. WORLEY:** Actually, just to clarify something, when you said this happened under the previous administration, you mean under the previous sheriff, who was defeated at the last election and is no long there, just for a point of clarification.

**MS. WATKINS:** Yes, the sheriff at that time.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, Deputy. Let the sheriff know we appreciate him getting the process straight for us in the future. Anybody else wish to speak?

**MS. PULLAR:** Good morning. My name is Patricia Pullar at 5929 Clate Court in Ellenwood, Georgia. I'm a Clayton Board of Elections member. I want to indicate that there seems to us there was some ambiguity in the election code for this particular incident and that when we asked for clarification it seemed to us that most of the counties were doing their own thing. So, my request is that that election code be further clarified and that there, perhaps, may be some training in terms of this actual incident when it comes time to voting, what does the inmates do when they haven't been charged with a felony or any other arrest record, so that there is no

ambiguity in time when it comes time the voting? We are supposed to bring the ballots back to the elections office. So, again, DeKalb County was doing something else. Clayton County did what we thought was the right thing to do and we ask others and we have also talked to our legislators and asked them to look at the election code, so we can get some further clarification. That is what I am asking and requesting, that there will be a statewide consistency with the election code.

**SECRETARY KEMP:** Thank you, very much. Any questions? Anyone else wishing to speak on these matters?

(NO RESPONSE)

**SECRETARY KEMP:** Anybody like to make a motion?

**MR. WORLEY:** I will make an additional motion that we dismiss the Turner, Ifendu, Griffin and Shepherd complaints, in accordance with the inspector general finding no violation of the law.

**SECRETARY KEMP:** Mr. Worley, you are referring to (G) Mrs. Turner, because (C) is Turney.

**MR. WORLEY:** Yes, Turner.

**SECRETARY KEMP:** Yes, so motions to dismiss (D), (E), (F), and (G). Do y'all have that in your sheet? Okay. Do we have a second?

**MR. MCIVER:** Second.

**MR. WORLEY:** Not (C).

**SECRETARY KEMP:** Mr. McIver seconds. So, the motion is to dismiss the Shepherd case, the Griffin case, The Ifendu case and the Turner case, which is (D), (E), (F), and (G) on my sheets. Any other comments?

**MR. WORLEY:** To make it clear, that is a motion to close.

**SECRETARY KEMP:** Motion to close; sorry.

**MR. WORLEY:** And then I would also like to make a second motion.

**SECRETARY KEMP:** I tell you what, let me go ahead and vote. We have a motion and a second. All in favor of Mr. Worley's motion say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Mr. Worley's motion carries. You had another motion, Mr. Worley.

**MR. WORLEY:** I have another motion to close complaint 2008-000118 (C) the Turney case, in accordance with the Inspector General's recommendation.

**SECRETARY KEMP:** Okay. We have a motion and a second by Mr. McIver. Any other comments on that motion?

(NO RESPONSE)

**SECRETARY KEMP:** All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

(NO RESPONSE)

**SECRETARY KEMP:** That motion carries. Down to (A) and (B). Any members have a motion on (A) and (B)?

**MR. MCIVER:** I don't think we have any choice but to refer it. It's a shame, because it appears to be a relatively innocent act. I will move to refer it.

**SECRETARY KEMP:** Mr. McIver move that we move cases (A) and (B) to the Attorney General's Office for further review. Do we have a second?

**MR. WEBB:** I'll Second.

**SECRETARY KEMP:** Mr. Webb seconds. Any other discussion?

**MR. WORLEY:** I don't think there is any dispute about the facts of what happened in these remaining cases. It seems to me that this might be a case that would be appropriate for the entry of a cease and desist order and a letter of reprimand to the County regarding this matters. Since their attorney is here today, if they would be willing to agree to that, perhaps, that would be a better way to handle the case.

**SPEAKER:** Yes. We would be agreeable to a cease and desist and letter of instruction.

**MR. MCIVER:** In which case, I withdraw that motion.

**MR. EVANS:** I Mr. Worley, with one notch, is that that would also include a reprimand.

**SPEAKER**: What would a reprimand entail?

**MR. EVANS**: Just that there has been a violation and that you shouldn't do it again. But why it's important is because you get a reprimand and you are back before us, it then becomes the predicate for a pattern.

**SPEAKER**: Okay. We would agree.

**SECRETARY KEMP**: So, we have got the motion.

**SPEAKER**: With respect to the (B) case and the allegations against the Board of Elections and Registration on accepting ballots that were not received by mail, I just want to inform the Board as to the training that has been done in a case that has been decided by the Georgia Supreme Court. And I quoted a Superior Court's finding in 2007 that said that improperly taking ballots from the voters, placing them in the mail, were not irregularities affecting the lawfulness of the ballots to be extended. They should be discounted and thrown out. That was an election contest situation where the Supreme Court held that it wasn't a violation of 385 (A) by accepting otherwise bad ballots because somebody else violated the statute by mis-delivering them or delivering them incorrectly. So, I just want to point that out to the Board. This would be something for the Board to clarify with this situation as to what a Registrar can and cannot do, but that has been more or less in the discretion of the Registrars, up until this point.

**MR. WEBB**: Can I clarify that? Is it in the case -- Was it limited in its holding that anybody could place it in the mail or in this case, anybody could deliver it to the Election Board, Board of Elections?

**SPEAKER**: It is even more narrow than that. It is dealing with whether the ballots that were mis-delivered or should be rejected by the Board of Registrars and what the superior court and supreme court affirmed was that they did not have to be rejected simply because someone miss delivered them or someone who should deliver them mis-delivered them. So, it is really right in line with what the potential violation is stated to be in this case.

**MR. WORLEY**: All right. So, what Mr. Taylor is telling us is that it wasn't illegal for the Board to accept the ballot, even though they were delivered by hand.

**MR. TAILOR**: That's my reading of the case. And it's Kendall v. Delaney at 282 Ga. 482, 2007.

**MR. WORLEY**: Could I ask for some clarification also from Ms. Brumbaugh or Ms. LaGrua? The other potential violation in (B) is that Sergeant Pitts of the Sheriff's Office may have violated 21-2-574, in that she possessed 12 absentee ballots outside of a polling place. That statute 21-2-574 provides that anyone who violates that statute shall be guilty of a felony. In discussions that we've had previously, it would seem that that would require intent in a statute like that. And the indication that we have had so far as the corrections officer was, basically, told to deliver the ballots across the street to the Elections Office from the Sheriff's Office at the jail. And that there wasn't any attempt -- so, is that really a violation that we can send over to the

Attorney General's Office?

**MR. EVANS:** I think we have addressed this before. I think it is a strict liability offense, much like possessing cocaine requires no intent. It is illegal and we have a very strong policy that it is illegal to have ballots, period. And it is because the risks are so great. Now, I think that the appropriate remedy for a violation, in light of all the facts and circumstances, is the one that we have talked about, which is a reprimand to cease and desist with the training of the party that we have already talked about. But I don't think we should retreat from the idea that we dealt with in Chattooga County, which is, it is absolutely illegal for anybody to have in their possession a ballot, except as specifically provided for the handling of ballots. The moment we let somebody have a ballot in the trunk of their car, the Pandora's box is opened. And that is why it has been such a binary proposition that you either did or didn't have possession. That is, kind of, the end of it. You either do or don't have the stolen property.

**SECRETARY KEMP:** Any other comments? Mr. Webb.

**MR. WEBB:** I want to comment that notwithstanding the case that Mr. Taylor has cited, the County doesn't have to reject the applicant. It is still a violation of section 21-2-574 to have unlawful possession of ballots. So, the letter of instruction --

**MR. WORLEY:** Well, are you suggesting then that that County violated that provision of the code?

**MR. WEBB:** No. That would be Sergeant Pitts. It seems that that would be something that you would refer to the Attorney General's Office, as opposed to a letter of instruction.

**SECRETARY KEMP:** Let me ask one question of Deputy Watkins, did Sergeant Pitts work for the Sheriff's office or for the jail or both?

**MR. WATINS:** She works for the Sheriff's Office, which is under the jail. The jail is operated by the Sheriff's Office, as well. Like I said, she is not a certified peace officer. The only thing she was doing was following instructions, bad instructions, but she didn't have any intent to bring about harm.

**SECRETARY KEMP:** So, she was following instructions from a superior.

**MR. WATINS:** Yes, she was. A superior officer gave her instructions to deliver and that is exactly what she did.

**SECRETARY KEMP:** Is that superior still with the department?

**MR. WATINS:** He is.

**SECRETARY KEMP:** Okay. Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you.

**MR. WORLEY:** I would like for either Ms. Brumbaugh or LaGrua to comment on whether the elements of that, if there is no intent, whether the elements of that statute are met, whether Mr. Evans is correct.

**MS. LAGRUA:** Mr. Worley, and I will defer to Ms. Brumbaugh, but my understanding of intent, at least from my background in criminal law, it is intent to commit the act, not a nefarious intent, but intent to possess. In this case, right or wrong, I think that corrective actions have been taken and this has been a problem with some of our correctional facilities that we have been working on education with across the board. So I don't necessarily disagree in terms of how it's handled, but I think the intent is to possess the ballots, not the intent to violate the law.

**MS. BRUMBAUGH:** I would agree with Ms. LaGrua. When I was doing misdemeanors, we didn't have to prove that someone wanted to drive drunk. We simply had to prove that they had been drinking and their intoxication level was too high and they were operating the vehicle. I agree with Ms. LaGrua's analysis of the law. I would point out to the Board that this case, I assume Ms. Pitts would argue that what has been stated on her behalf, which is, I was following directions. And as a matter of fact, for a fact finder to then find someone in violation of what, as stated, was a felony is going to be a challenging case. It is not a case we can't take to OSAH, but, certainly, it is, from a simple factual fairness basis, that will be more challenging than other cases.

**SECRETARY KEMP:** Any other questions or comments?

(NO RESPONSE)

**SECRETARY KEMP:** Mr. Evans, I guess we still have your motion on the table; is that correct?

**MR. EVANS:** Right. I think that's true. It's not important to the motion, but my position was, I think we had a pending motion and a second, which we had discussion, and my thought was that a reprimand accompanied with a cease and desist with an instruction was an appropriate remedy, that I believe that we had violations, but that I thought that was the appropriate remedy, and is, as I understood counsel to say, that would be agreeable so that we could do that by consent decree today.

**SECRETARY KEMP:** Thank you. And Mr. McIver.

**MR. MCIVER:** I have withdrawn my motion. I am prepared to second the motion, which I thought was Mr. Worley's or whomever, I will second the motion.

**MR. WORLEY:** It is still my motion.

**SECRETARY KEMP:** It is Mr. Worley's motion. Mr. McIver seconds. Any other discussion?



**MR. WEBB:** Just for clarification, we're on case (B)?

**MR. WORLEY:** We haven't had any discussion on case (A).

**MR. WEBB:** I would say that with Case (A) that is correct, but with Case (B) I am not sure Clayton County, with the Supreme Court decision, has done anything wrong, under case (B).

**SECRETARY KEMP:** All right. Let's do this. Why don't we -- would you want to rescind your motion?

**MR. WORLEY:** I will withdraw my motion and I would offer a motion that we have a letter of instruction and a letter of reprimand and a cease and desist to the charges in item (A).

**MR. EVANS:** Second.

**SECRETARY KEMP:** Okay. We have a motion on the floor and a second Mr. Evans. Any other discussion on case (A). We will be voting on Case (A) only.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. All in favor of a motion, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. So that motion carries. So now we have (B) left. Mr. Webb, do you have something?

**MR. WEBB:** I am going to make a motion that we offer a letter of reprimand, instructed in the reprimand a cease and desist to Sergeant Pitts related to the possession of the ballots.

**MR. WORLEY:** I'll second.

**SECRETARY KEMP:** Okay. We have a motion and a second. Any other discussion? Let me ask you this --

**MR. EVANS:** I didn't get the feeling that Sergeant Pitts is the decision maker.

**SECRETARY KEMP:** Well, I'll tell you the only reservation I have is that Sergeant Pitts not being here, today.

**MR. WORLEY**: She's here. I take it she probably would rather not come up and talk to us, I'm guessing.

**MR. EVANS**: I just didn't view her as the decision maker. And really, this is about decision making. That's why I thought that having it directed to the County made the most sense. The attorney is agreeable. I would expect the County would then, as most things do, it would roll down hill to the appropriate decision makers and implementers. So, that was the reason why I thought it was appropriately directed to the County.

**MR. WORLEY**: Is it really directed to the County or to the Sheriff's Office?

**MR. EVANS**: The Sheriff's Office.

**MR. MCIVER**: The motion identifies the individual. I need clarification.

**MR. WEBB**: I withdraw my motion.

**MR. EVANS**: Will they just remand it to the Sheriff's Office, rather than to a specific individual?

**BOARD MEMBER**: That would be fine.

**SECRETARY KEMP**: Y'all all right with that?

**BOARD MEMBER**: Yes, sir.

**SECRETARY KEMP**: All right. We've got a motion and a second. Is everybody clear on what we're voting on? Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP**: All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: Any opposed?

(NO RESPONSE)

**SECRETARY KEMP**: Motion carries.

(NO RESPONSE)

**SECRETARY KEMP**: Case 126 Chattooga County.

**MR. HARVEY**: Members of the Board, this case involved the 2008 general election. The

complainants were Caroline Stragins and Jane Ivy, the daughters of Johnny Ivy, who is a resident in the Oak View Nursing Home, in Chattooga County. They went to visit their father. They found that there was an empty absentee ballot envelope that the ballot had been mailed in, in his room. They said that when they had checked him in, they had given instructions that he was not to vote. He has not been declared incompetent. And he voted in July with the assistance of Ms. Bolin. He voted in the runoff with the assistance of Ms. Gaines. Again, Mr. Ivy, although he has dementia, is not illiterate or physically disabled. And it is recommended that this case be referred to the Attorney General's Office for appropriate sanctions and fines.

**SECRETARY KEMP:** Thank you, Mr. Harvey. Let the record show that Mr. Evans had to step out for a minute. Any questions from the Board for Mr. Harvey? Hearing none, anyone else here to speak on this case?

**MR. GARDNER:** Yes.

**SECRETARY KEMP:** State your name and address for the record.

**MR. GARDNER:** My name is Rich Gardner. I'm an attorney with Arnall Golden Gregory on behalf of Respondant Nursing Home. My address is 171, 17th Street Northwest, Atlanta, Georgia 30363. I have with me today, from the nursing home, Joe Reynolds, who is the administrator of the nursing home; Ms. Sally Osner, who was the Director of Social Services; and Mr. (unclear), who is administrator in training. Thank you for the opportunity to speak. The premise of this allegation seems to be that the elector, while he may be mentally disabled, is not physically disabled, and therefore is not eligible for assistance under the election code. Our primary point is to dispute that. He is very much physically disabled. The elector is an 86 year old veteran of World War II, a recipient of the Purple Heart. He suffers from Alzheimer's dementia, which is a neurological disease of the brain, both cognitive and physical manifestations. I'm not a medical expert, but Alzheimer's is a neurodegenerative disorder. You can find that by looking on the internet. It would not be characterized as a mental or emotional disorder. It results in memory loss, but it also results in cognizant deaths that interfere with an individual's ability to conduct daily activities -- activities of daily living and perform simple tasks. And that is very much the case in this situation. He was admitted to the nursing home in April of 2008, just a couple of months before the first election that he voted in, because neither he nor his family could take care of himself. He is ambulatory. So, I suppose that is why the determination was made that he is not physically disabled, but he received what the election code referred to as attended care services, which are defined as services and support furnished to an individual with a physical disability, as needed, to assist in accomplishing activities of daily living, instrumental activities of daily living, and related health care functions. Activities of daily living are defined in the election code as, eating, toileting, grooming, dressing, shaving, transferring and other personal care services. The elector receives this, very, kind of assistance on a daily basis. He needs assistance with eating, bathing, dressing, personal hygiene, and toileting and the medical records are complete with references to receiving those assistance. Now, I believe that when the investigation was conducted the facility was led to believe that the issue was whether he was competent to vote. And so all the questions that they answered had to do with mental competency, although he was never judged mentally incompetent. So, that is really not an issue. They never had the opportunity to talk to investigators about physical

disabilities. I think the investigator probably met with him, interviewed him, but, I assume, did not see that he does receive assistance with so many things that he needs to get through his day. I have selections from his medical record. I wasn't prepared to submit them on this record. I want to look at HIPPA and see the best way -- we can certainly redact that information, but if it is necessary, we can provide that information. They can talk about it. They see him every day. But the bottom line is we believe there is no basis for the conclusion that he is not physically disabled. The other point that I would want to make, and this may not be the proper forum for it, is that both of the elections that he voted in had federal candidates on the ballot. And we believe that section 208 of the Voting Rights Act, which doesn't limit assistance to physical disability would preempt any restriction that limited that sort of assistance to people who, on whatever grounds, the State were determined are physically disabled that would be pre-empted in this case. The bottom line is he is physically disabled. Thank you.

**SECRETARY KEMP:** Thank you. Any questions from the Board?

**MR. WORLEY:** If we could just have somebody from the nursing home offer some testimony about his physical disabilities, for the record, rather than taking any documents.

**SECRETARY KEMP:** Any other questions for Mr. Gardner?

**MS. OSNER:** My name is Sally Osner. I live at 735 King Road, in Summerville, Georgia, and I'm the Social Services Director, at Oak View. Mr. Ivy, in my determination, is physically disabled. As Mr. Gardner said, that the record is replete with that information. He requires assistance every day, on some level, either by hands-on or cueing or demonstration or combination of both. He is able to direct himself to the dining room, which is through the doorway from his room, but he needs to be told to do that. He needs assistance with toileting, wiping, bathing, and these kinds of things.

**MR. WORLEY:** That's sufficient to me.

**SECRETARY KEMP:** Any other questions.

**MR. WEBB:** We discussed physical disability, but what about any mental disability, within his faculties, he understands what he wants to do.

**MS. OSNER:** Yes, sir. In a nursing home setting, people have the same rights as you and I have. And they are given choices. If you ask him if he wants to come to activities, as he is asked daily, if he wants to participate, he is given those options. And if he chooses to do so, we assist him, then said somebody needs to assist him, but he does have those choice. I'm sorry. Was that your question?

**MR. WEBB:** Yes. I understand the point you are making, but my question is how capable is he? Is he making good mental decisions or is he having to be directed?

**MS. OSNER:** He has to be directed, in that, that's on a day-to-day basis too, because he doesn't go outside, because he doesn't know where the door is and he is not able to get there. If he were

to get outside the door, I know that would not be safe.

**SPEAKER**: May I add that a guardian has been appointed by a probate judge, indicating that he has sufficient difficulty making daily decisions; however, he has never been adjudicated mentally incompetent. And the probate code, specifically, says the appointment of a guardian it is not an indication that you are not able to vote.

**MR. WEBB**: I guess the issue that I'm interested in exploring is, is someone voting for him or is he voting for himself?

**MS. OSNER**: I believe that he voted for himself. Actually, when the lady from the Attorney General's Office came, he and his roommate were standing and watching CNN news. She asked him who he voted for. He was not able to give his name, but he gave a description. I don't know that that was the true fact, but he was able to make his needs known. He shouldn't be driving or should he be outside of our facility? No, sir. Does he need assistance daily? Yes. That is why he is there. His daughters brought him in, because they were no longer able to take care of him themselves. That was two of them with their husbands, because they knew that it was more than they could give him, 24/7 care. I'm sorry. In the admission packet itself his daughter indicated that she had prepared a part about voting. When I do an admission I always tell the family that the individual has the right the vote. They have individual rights that our activities people will go to them and ask them if they want to vote. So, I always draw a line through that. Many, many times we have family members that say they know if mama or daddy votes or if they're registered, or if they were, in what county. So, we always go to the resident. And I did draw a line through that.

**SECRETARY KEMP**: Anything else?

**MR. WEBB**: I'm a little troubled. I don't know if there is a bright line here. I want everybody to have the right to vote. But I want that person to be voting for themselves, not to be unduly influenced or anybody using improper positioning at the nursing home or whatever the relationship is -- and I'm not saying you did. But the issue is, can this person use their own faculties to make their own decisions and do so. If they can, then great, we need to proceed with that. But I'm hearing a little wishy-washy on whether or not he had the capability of making those mental decisions I understand physical issues and that he needs assistance in the voting process. And I'm fine with that. And I support it, obviously, but where is the line on, okay, this person is now being directed who to vote for as opposed to really making their own decisions?

**MS. OSNER**: I would say that he made his own decision as those other folks do. We have folks that vote a straight ticket, who their mama's and daddy's taught them to do, and they don't know who the candidate is. They are all democrat or all republican. I would say he is fully aware of who he voted for. And I would insist that none of our staff, nobody would persuade him or direct him in any way.

**SPEAKER**: You make a good point, though, there is a very large gray area. What happens in nursing homes, they have regulations from all sides. And they have State of Georgia Bill of Rights for Long Term Care Residents and federal Medicare conditions of participation that you

have to, in fact, the Georgia Bill of rights says you have to assist every resident in the facility, whereas the election code says only assist those with physical disabilities. So, there is a gray area there. If the nursing home makes the decision and say, I don't think this person knows who they are voting for. They can get in trouble with the Feds, you know, who come in and do nursing home surveys. So, there is a tight rope that they have to walk. I think they do a very good job of doing that.

**MR. WEBB:** Thank you.

**SECRETARY KEMP:** Okay. Anybody else?

**MR. WORLEY:** I don't have any comments. I make a motion that we close this case.

**MR. MCIVER:** I had a question, before you motion, if nobody else wishes to speak.

**SECRETARY KEMP:** Anybody else wish to speak?

(NO RESPONSE)

**MR. MCIVER:** Mr. Harvey, again, what part of the code does the Inspector General's Department rely upon? You cite 409(A)2, which I find not to be all that accurate in the code. Would you again, just state what you are relying upon?

**MR. MCIVER:** There is a 409 (A) and then there is a (B) and then there is a (C). Upon what are you relying?

**MR. HARVEY:** I believe that should be (B) 2. 409(B)2.

**MR. MCIVER:** I certainly share Mr. Webb's concerns. I certainly don't believe I have Alzheimer's, but my wife is convinced I have "Sometimers." So, there may come a day where somebody needs to assist me in that respect. So it's 409 --

**MR. HARVEY:** 409(A)

**MR. MCIVER:** -- and (B) 2.

**MR. HARVEY:** 409(A) where it says no elector shall receive assistance in voting in any primary election unless her or she is unable to read the language or he or she has a disability which renders him or her unable to see or mark the ballot. I think that is what we are going on in terms of marking the ballot, as opposed to -- the mental competence, I, think is beyond our view. He is not declared mentally incompetent. We certainly don't ask our investigators to make a determination of somebody's mental capacity, although we do ask questions and get a feel for somebody's apparent cognitive state.

**MR. MCIVER:** I have no other questions?

**SECRETARY KEMP:** Anyone else wish to speak on this case?  
(NO RESPONSE)

**SECRETARY KEMP:** Any other questions from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** We have a motion from Mr. Worley to dismiss; is that correct?

**MR. MCIVER:** I second.

**SECRETARY KEMP:** Mr. McIver seconds. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** All in favor of dismissal say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

(NO RESPONSE)

**SECRETARY KEMP:** There is none. The motion carries. Thank you. Members of the Board, I have been advised that we have a situation on the case No. 49, city of Arcade, kind of at the end of your Inspector General Report. We have had some issues come up with the attorneys here with us, who has got to leave and would have to ask for a continuation. So, to try to keep from doing that, I would like to request that we move this case up to next on the docket, if you are all right with that. Do we need a motion? Tab No. 22. We will go ahead and call that case, City of Arcade.

**MS. LAGRUA:** This involved a November 2009 Municipal Election in the City of Arcade. The allegations were that the absentee ballots were constructed voters put their names on the actual ballots (audience member coughing - unclear). Instructed to get the ballot in the ballot box and the voters were not given privacy while voting. We found that, in fact, poll workers had written the names on the ballot stubs, but there were no names actually on the ballot, so that was unfounded. The voters were instructed to give the ballot envelopes to the workers so that the date and time received could be put on them prior to them being put in the box. There was nothing to substantiate the privacy issue. There was privacy available for those; however, during our investigation we found that there were not three absentee ballot clerks at the precinct at all times during early voting. So, it is recommended that a letter of reprimand with direction for training in that regard and a direction to enforce the having of three persons at the precinct be issued. Any questions for Ms. LaGrua?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anyone else wishing to speak?

**MR. CAMPBELL:** Thank you, Chair. I'm Jody Campbell, City Attorney for the City of Arcade. Of course, I would like to thank you for your accommodations this morning. As Ms. LaGrua pointed out, none of the allegations were found to be true or in violation were found, based on the complaints that were issued. We acknowledge that there were not three certified poll workers other the location. I think the reasons, quite frankly, aren't material. There weren't three. There's no disputing that. I would like it to be noted, in mitigation of those violations; however, that there has been no allegations that there was not enough poll workers to assist voters. I would also like the record to reflect that during the three week period of early voting there was only one occasion where more than one early voting voter came to the pole. And at no time was there ever more than two. So, in the future, obviously, we have learned that a third will be present at all times. And a third employee was present at the time. They were just not a certified poll worker. The third person was to assist, as needed. In the future a third will be present, will be certified. We believe that because of the facts surrounding the situation, a letter of reprimand is appropriate, with instruction. We would agree to that and consent.

**SECRETARY KEMP:** Okay. Mr. Evans, would you like to be reinstated?

**MR. EVANS:** Sure.

**SECRETARY KEMP:** Let the record show that Mr. Evans is back with us.

**MR. EVANS:** I was hoping you had finished the whole rest of the agenda and the interference had been temporarily stopped.

**MR. MCIVER:** Mr. Campbell, therefore, you are agreeing to accept what we would refer to as a letter of instruction to cease and desist and a reprimand, in order to close the file.

**MR. CAMPBELL:** That's correct. Absolutely.

**MR. MCIVER:** I have no other questions of Mr. Campbell.

**SECRETARY KEMP:** Any other questions from members of the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Any other members wishing to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none; thank you. Members of the Board, any discussion or a motion?

**MR. MCIVER:** I'll make a motion pursuant to the consent for Mr. Campbell, the city attorney that the appropriate letter of instruction to cease and desist and reprimand be issued in this matter.



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

**SECRETARY KEMP**: We have a motion and a second. Mr. Evans, we had moved the case No. 22 on the docket. I'm sorry. The City of Arcade, we had a conflict and needed to move them up, so I apologize for not telling you that.

**MR. EVANS**: Did that include a reprimand? I just didn't hear it.

**MR. MCIVER**: Yes, that was part of my motion.

**SECRETARY KEMP**: Okay. We have a motion and a second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP**: All those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP**: All opposed?

(NO RESPONSE)

**SECRETARY KEMP**: The motion carries. I'm going to go ahead and move for a motion to adjourn for us to go into executive session. I apologize to y'all that your stomach is growling. I have been watching the clock on the wall, but I just realized it's wrong. So, I will go ahead and move for that motion and for us to be back, I guess, at 1:20.

**MR. WORLEY**: I make a motion that we go into executive session to consider the advice of counsel.

**MR. EVANS**: Second.

**SECRETARY KEMP**: We have a motion and a second. Any comment?

(NO RESPONSE)

**SECRETARY KEMP**: All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP**: All opposed?

(NO RESPONSE)

**SECRETARY KEMP**: Okay, the motion carries. We will see you back at 1:20.

(LUNCH FROM 12:20 TO 1:20 P.M.)

**SECRETARY KEMP**: Welcome back everybody.

**MR. MCIVER**: I make a motion that we come out of executive session and reconvene as a Board?

**MR. WORLEY**: Second.

**SECRETARY KEMP**: I have a motion and a second. All those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP**: All opposed.

(NO RESPONSE)

**SECRETARY KEMP**: That motion carries. We are now back on to the IG cases, Case No 132, Montgomery County.

**MR. HARVEY**: This case actually involves the city of Tarrytown, in Montgomery County, November 2008 General Election. The complainant is Mae Warnock (phonetic) and the respondent is a Ruby Sanders, a Probate Judge Runette Coleman and Gary Coleman. The allegations were that the wrong date for the general election was published in the paper, there were no absentee ballots available and that Gary Coleman, the Mayor's husband, and the candidate, city councilman had possession of absentee ballots. Investigation revealed that as far as the date for the election, the day was published with the qualifying announcement. They had the date listed as November 11th of 2008, which was, of course, not the correct date. That was never corrected and was never rebroadcast, never resubmitted. So, that violation appears to be upheld. Absentee ballots were available. They were printed. None were requested by any voters. And the probate judge had them and they were still in the shrink wrap plastic, and she got them back in that condition. So, that allegation was unfounded. And the third Gary Coleman, the mayor's husband, was at the courthouse when Ms. Sanders asked him, sort of, on a whim, without really thinking about it, if he would carry the ballot box and the absentee ballots back to Tarrytown with him to save her a trip. He did. He had possession of the unvoted absentee ballots, took them in the ballot box to Tarrytown where they were turned over to the election officials. None of them were voted. He does appear to be in violation of possessing the ballots outside the precinct. Both Ms. Sander and an attorney for the City sent letters. Ms. Sanders sent a letter, essentially, acknowledging that it was just a spur of the moment decision to ask Mr. Coleman to take the ballot box with the absentee ballots. She realizes this is makes and one that she will never make again and that she always tries to conduct her elections with the utmost integrity. She does also mention that this is the first contested election they had had since 1980. The attorney for Tarrytown responded. And I will submit that to the Board. He disputes the qualifying date and the election date. I don't know how he doesn't see November 11th. We have got a copy of it in the file. As far as allegation No. 2, he concurs with us that

there were absentee ballots available. And No. 3, he also acknowledges that it was sort of a mental error to have the candidate carry the absentee ballots, although there was essentially no harm. My recommendation is that the case be forwarded to the Attorney General's Office for any appropriate sanctions.

**SECRETARY KEMP:** Do we need a motion for those, or is that already part of the record?

**BOARD MEMBER:** I move that we move these copies into the record.

**BOARD MEMBER:** Second.

**SECRETARY KEMP:** We have a motion and a second by Mr. Webb to accept the documents. All those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. That motion carries. Let me remind y'all, too, as we move on through the afternoon, to keep things moving, if you are here to speak, when we call these cases, if you could move to the front, we have got some chairs up here where you can be ready to go. Okay. Any questions from Mr. Harvey from the Board?

(NO RESPONSE)

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

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Seeing none; Members, anybody have a motion?

**MR. EVANS:** Just a point of inquiry, which is one of the issues that we occasionally have to deal with is the idea that nobody seems to have the ultimate responsibility and we end up with a violation and there is no more serious violation than the lawful possession of ballots, because the risk is so great. So, here we have the person who ended up with the ballot saying, I didn't know. Somebody, actually, gave that person the ballots. And so, but I don't see them listed as the respondent. I am just wondering, who is the person who actually gave Gary Coleman the --

**MR. HARVEY:** Ms. Sanders is the respondent. I believe she is listed as the respondent.

**MR. EVANS:** But I thought -- is there not an office involved, as well, or is it just the Probate Judge (unclear - audience noise interference at court reporter table) handed them to her?

**MR. HARVEY**: The probate judge asked Mr. Coleman to take them to Tarrytown. He then turn them over. He delivered them to city hall to the election superintendent, I believe.

**MR. EVANS**: In the past we have named the municipality who had responsibility for conducting the election. Is there a reason not to do that here?

**MR. HARVEY**: We can certainly add them.

**MR. EVANS**: Who would that be? Do they contract with Montgomery County or the City itself.

**MR. HARVEY**: I believe the City itself held the election. Ms. Sanders in her letter says that she was asked by the City for advice with some questions. She provided what assistance she could and then directed them to the Secretary of State's Office for any further assistance.

**MR. EVANS**: But how did the probate judge get the ballots for a City election? The probate judge is a county official. That's why I couldn't quite connect all the dots in my own head.

**MR. WEBB**: Isn't this the November 4th General Election?

**MR. EVANS**: I thought was the municipality. Well, I don't know. What is it?

**MR. HARVEY**: 2008 General Election. There was also a City election.

**MR. EVANS**: Right. I read it as the Municipal General Election, which would suggest then that this was the Tarrytown City Municipal Election. And then the question in my mind, was who, in the City, was responsible for running the election. And how did they let the ballots get out of their control? It appears that's probably what happened was the City either contracted formally or informally with the County to run the City's election in conjunction with the general election that County was otherwise doing. If that's true, then there should be some agreement and it would mean that the County would be responsible for the handling of ballots. And why I am concerned is that the very fact that those questions were all unclear reflects one of the issues that we dealt with at the Board level many times, which is the lack of formality in the handling of municipal elections, which continues to be one of our great challenges.

**MS. LAGRUA**: I would suggest, if you find it appropriate, Mr. Evans, that we table this to the next meeting and send it back to us and let us see what the agreement was and how the arrangements were set up so that we can identify any additional respondents that might be appropriately cited.

**MR. EVANS**: I would so move.

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

**SECRETARY KEMP**: Before we vote, is this, is there anybody here that would like to speak in regards to this.

**MR. HARVEY**: Mr. Evans, the investigator that did the investigation is reporting that there was just, essentially an informal agreement between the City and the county probate judge that she would go ahead and order all the equipment for her and the City. Maybe if we can find out who the municipal people were and cite them with the appropriate response.

**MR. EVANS**: That would be great. My inclination is that both the City and the county are responsible. And the reason is because we want to vest accountability. Somebody somewhere has to be responsible for the handling of ballots. That one of the vulnerabilities of the system, which is, any time anybody else gets to touch ballots -- what worried me on this, candidly, was that we had a municipal election being held in conjunction with the general election, which meant that matters of great consequence, not only greater than a Mayor, but the President of the United States would be on ballots that are unaccounted for. So, we just need to sort through all that.

(CELL PHONE INTERFERENCE)

**SECRETARY KEMP**: We have a motion and a second, any other discussion?

(NO RESPONSE)

**SECRETARY KEMP**: Hearing none, all in favor of the motion please say aye.  
(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed?

(NO RESPONSE)

**SECRETARY KEMP**: Okay. The motion carries. Case No. 2. DDS Cartersville.

**MR. HARVEY**: The complainant in this case is Joseph Kirk. He is the Bartow County elections supervisor. The respondent is Rose Lockhart, who is an examiner with the Department of Driver Services. Mr. Kirk went to renew his driver's license. And due to the number of problems that he had seen with people being registered and not registered through Driver Services, he made a special point, he said, to ask the clerk to make sure he was registered to vote. His registration was renewed. When he went in to renew his license at the Cartersville Branch, he said that the examiner said, that after he made that statement to her, her response was, you will get what I give you. She did not ask him a question, if he wanted to register to vote. And that there was no way for him to affirmatively identify that he wanted to vote. When he got back he checked his system and found that the registration had not been updated and he sent a complaint to the Inspector General's Office. There were some questions about forms that the DDS used that had, apparently, been corrected. It is possible that Rose Lockhart may have violated 21-2-596, by failing to ask Mr. Kirk if he wanted to register to vote, while processing the application for a driver's license and failing to register him to vote after he, specifically, asked to be registered to vote. It is recommended that this case be sent to the Attorney General's Office or a letter of instruction and be issued to Ms. Lockhart.

**SECRETARY KEMP:** Any questions from the Board from Mr. Harvey?

**MR. EVANS:** Did we contact the DDS?

**MR. HARVEY:** Yes, sir.

**MR. EVANS:** Are they here?

**MS. LAGRUA:** Yes, sir.

**MR. HARVEY:** Ms. Lockhart, for her part, said that she didn't have any specific memory of Mr. Kirk. She did a lot of those and that she always did her job to the best of her ability, but she is human and subject to making mistakes.

**SECRETARY KEMP:** Any other questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anyone here to speak on this matter?

**MS. LOCKHART:** Hello.

**SECRETARY KEMP:** Welcome. Please state your name and address, for us.

**MS. LOCKHART:** My name is Rose Lockhart; I live at 24 Brown Drive, Cartersville, Georgia. You will have to forgive me. I never did this before.

**SECRETARY KEMP:** You're fine, just take your time.

**MS. LOCKHART:** From what I understand, Mr. Kirk came into our office. He said that he got me and I'm the person that did his license and stuff. And his one comment that he said that I told him, something to the effect of that I'll give you what you get, or something like that, I don't believe that to be true. First of all, our office is an 8 by 4 area. My supervisor is always right there with me. We have two supervisors in the office. She is always right there with me. If any one of us ever said anything to any customer, she would be right on us. She would immediately apologize to the customer and we would definitely be written up for it. I have never gotten a complaint from any of my customers. Nobody said anything to me in writing. I haven't gotten any letters or any kind of things. And my record's always good. I always give good performance on my job and stuff like that. As for Mr. Kirk, I don't know what happened that day. I go through thousands of customers. I do hundreds every day. I have no idea, but I do know that we are told to ask if somebody is registering to vote. If he was adamant about registering to vote -- I don't know what could have happened. Either he said, yes, I put a (Y) in the space. We have a space we can't go past it. We have to put either a (Y) or (N), yes or a no. If he said, yes, I would put a (Y). If he said, no, I would put and (N), but I could make a mistake. I'm going through the screen. I have no idea what happened. I did not know who he was at that

time. I had no reason to not register him to vote. I have no reason to deny anybody to register to vote. I voted, I think, one time, in my entire life. I'm not politically in anything. I don't go into parties. I am not affiliated with any of that stuff. So, I have no reason to care what anybody votes for. It was not until after that, that I became aware when Mr. McBrayer, I believe that was his name, the investigator, came into our office on February 3rd and informed me that these charges were against me. I sat down with my supervisor. I explained to her, I have no idea what is going on or what this is about. So she went and she got the microfilm. We went over the microfilm, and, apparently, he was in our office on December 12th, '08. So, we went over his file. There is nothing on our form that shows where he wanted to register to vote. I have no idea what he said. Okay. So, I went home. I was very upset about this. I was told that we could be prosecuted and all that. I was told to write a statement about what could have happened, which I did. The next day when I went to work, I was still very upset over this. My supervisor said, Rose, look, try to think, think, think. I said, I don't know who this gentleman is or why this would be happening. Later on that day I realized that Mr. Kirk works with a woman, her name is Jean Cole. They have four in their office. I brought it in here, because it was bothering me. She, apparently, sued me five months before that for a car accident. Okay. She was very hostile. She tried to sue my insurance company. She did not win. Then she took me to court. Then she could not sue me because I was insured. The insurance company went to court with me. She went in front of a Judge and I found out then that she worked for the Voter Registration Board, but I didn't put two and two together. I believe it had something to do with that. She was in our office on the 9th. He was in the office on the 12th. She came there to renew her license. When I seen her, she did not know where I worked, and she said to me, so this is where you work. I immediately removed myself from the situation. My supervisor took over the situation and serviced her and I left the room, because of hostility of her towards me. He came in our office, from the records, 3 days later and now this is happening to me. I have never had a complaint from my customers. I have never been written up for anything. Nobody has made any complaints to me and this is the only complaint that I have gotten like this. I am highly upset about it now. Oh, I'm really upset.

**SECRETARY KEMP:** It's all right. We understand. Is there anything you would like to add that you haven't already told us?

**MS. LOCKHART:** I don't know.

**SECRETARY KEMP:** You're all right. Any questions from the Board?

**MR. WORLEY:** Ms. Lockhart.

**MS. LOCKHART:** I don't know. I talked so fast I can't understand myself.

**MR. WORLEY:** What is the connection between Mr. Kirk and this woman who came into your office?

**MS. LOCKHART:** No, maybe you misunderstood me. I had a car accident on March 3rd. The woman made a left hand turn in front of me. She got out of her car. She was trying to get the policeman to write a ticket towards me. They would not write me a ticket. I was on the

straight-a-way. It was like, this is ridiculous. My insurance company would not even pay her. She went and tried to sue me, personally. Okay. I got the court papers to prove that. She tried to get 10 grand out of me, personally. When she couldn't sue me, she found out she had to sue the insurance company. The insurance company got dragged into it again. We had to go to the courthouse across from where she works and she knows all the judges.

**MR. WORLEY**: My question is, what is the connection?

**MS. LOCKHART**: She works with him.

**MR. WORLEY**: Where?

**MS. LOCKHART**: Directly, at Bartow Voter Registration. I printed it off the website. They work together. There are only four people.

**MR. WORLEY**: So Mr. Kirk works in the Voter Registration Office.

**MS. LOCKHART**: Yes, with her.

**SECRETARY KEMP**: All right. Just hold on. We're going to give everybody a chance. Let's have a motion to accept the document.

**MS. LOCKHART**: You can get it from the website.

**MR. WORLEY**: I'll make the motion.

**MR. WEBB**: Second.

**SECRETARY KEMP**: All in favor to accept the document, please, say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP**: All opposed?

(NO RESPONSE)

**MS. LOCKHART**: This is where she sued me.

**SECRETARY KEMP**: All right. Any other questions from members of the Board?

(NO RESPONSE)

**SECRETARY KEMP**: Thank you, very much. You can have a seat. Anybody else here to speak.

**MS. AMMONS**: Good afternoon, Mr. Chairman and members of the Board. My name is



Jennifer Ammons. I'm the general counsel for the Georgia Department of Driver Services. We are here, today, to address the allegations in the report regarding the application form that our customers fill out when they apply for driver's license. We wanted to explain to the Board the absence of any information to corroborate either Mr. Kirk's version of the events or Ms. Lockhart's version of the events. We were aware of the unavailability of that information for quite some time. It was our intent to make changes to the forms. Unfortunately, those efforts had to be precleared by the Department of Justice, which took quite a while and we have now made the changes to the driver's license application form so that in the future were there to be similar allegations brought to light, we would be able to provide corroborating evidence, one way or the other, as far as what the customer had actually written down on the application, with regard to motor voter question. In the absence of that information, unfortunately, in this case it just comes down to Mr. Kirk's version of the events versus Ms. Lockhart's version of the events.

**SECRETARY KEMP:** Okay. Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Anyone else wish to speak?

**MR. KIRK:** Good afternoon. My name is Joseph Kirk, Election Supervisor for Bartow County, Georgia. To start at the beginning, when I went in and I did my application to renew my driver's license they were moving very quickly that day and I will say they were extremely busy that day. I did not have ample time to proof the form. And when I was called to the window, I wasn't even planning on saying, I want to be sure I registered to vote today. I was just planning on checking the box on the form and that would be it. I don't believe I checked that box, due to the lack of time. That's why the box wasn't checked. I'm sorry. What was I saying? And that's why the box wasn't checked. As far as the situation with Jean goes, I am Jean Coal's direct supervisor. I am aware that she was in the car accident. I had no knowledge of who she was in a car accident with. I knew there was a pending lawsuit. Beyond that, I don't know what was going on. My only focus, here, was the voter registration issues. I was curious, just checking the box what would happen in the system. When I approached the counter and was asked to say (as stated), make sure I register to vote today, the exact response was, Honey, you are getting what I'm giving you. And I thought that was a big enough problem to bring to the State Election Board's attention. To my knowledge, that is all I had to present to you today. I don't know anything else about her work record or anything else. And I thank you for your attention.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you, very much. Anyone else here that wishes to speak on this matter?

**SECRETARY KEMP:** Mr. Harvey, were you aware of the relationship with Mr. Kirk and Ms. Cole, during the investigation?

**MR. HARVEY**: No, sir, not until she just mentioned it. She didn't mention it to the investigator.

**MS. LOCKHART**: It wasn't until afterwards I realized what was going on.

**SECRETARY KEMP**: Any other comments, suggestions, or a motions?

**MR. MCIVER**: Can I ask a questions of Mr. Kirk? Is he still here?

**MR. KIRK**: Absolutely. Yes, sir.

**MR. MCIVER**: What I am looking for is your renewal date. What was the renewal date on your license? Your license was about to expire.

**MR. KIRK**: Actually, it had expired. The renewal date is -- I apologize. I don't even see it.

**MS. LAGRUA**: Issue date 7/21/09.

**MS. LOCKHART**: No. He was in our office on 12 -- What was it? He got another one after that. He was in our office and filed this. It is on the paperwork. He was in our office. It is right on here. It's on your summary report.

**MR. KIRK**: I do think I was in the office that day.

**MS. LOCKHART**: Right. And you got your license on. It's in the summary report. You have it. He was in our office on December 12th '08 she came in our office on 12/9. When is your birthday?

**MR. KIRK**: October 2nd.

**SECRETARY KEMP**: All right. All right. All right. If you don't mind, just let us ask the questions.

**BOARD MEMBER**: Thank you.

**SECRETARY KEMP**: Any other questions? Okay. Thank you, Mr. Kirk.

**MR. EVANS**: I move to close.

**MR. MCIVER**: Second.

**SECRETARY KEMP**: Mr. Evans moves to close. Mr. McIver seconds it. Any other discussion from members of the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all those in favor of moving to close say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries.

**MS. LOCKHART:** Thank you.

**MR. MCIVER:** I have a question to Mr. Harvey that's unrelated, if I might ask.

**SECRETARY KEMP:** Certainly.

**MR. MCIVER:** Mr. Harvey, this one was rather clear cut to me. And it occurred in '08. Why has it taken this long to get to us? Isn't the pipeline delivered...(inaudible)

**MR. HARVEY:** It should. I don't know, specifically, why this took that long.

**MR. MCIVER:** I noticed the investigator is no longer with the department. That may be one explanation, but it does appear to me that these should come directly through and we will deal with them as we need to. Anything you want to add, General LaGrua?

**MS. LAGRUA:** If I could, briefly, Mr. McIver. Unfortunately, we had a huge number of cases in the '08 election. We were requested previously to have a mix of complicated case and civil cases so that the whole calendar did not consist of either very simple or 22 cases that were very lengthy. And so we are at the end of our 2008 cases. We have moved as many of them as we have been able to through, again, with a mix so that we did not tie up the Board with 22 cases that were very lengthy or 22 cases that can be handled quickly. We tried to get the most serious ones, obviously, to the Board as quickly as they are finished, not that any -- And I don't mean to make any elections cases not serious, but, obviously, some of them demand your attention in some respects, maybe faster than others, due to the limited number of meetings we have.

**MR. MCIVER:** I don't want to belabor it.

**SECRETARY KEMP:** All right. Mr. Harvey this is case No. 9, 2009 Fulton County.

**MR. EVANS:** Can I just ask a question? This case involves an unidentified respondent that we can't find.

**MR. HARVEY:** Yes, sir.

**MR. EVANS:** So I would move it close.

**SECRETARY KEMP:** Okay. Is anyone here that wishes to speak on this case?

(NO RESPONSE)

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We've got a move to close and second by Mr. McIver. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of closing say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed.

(NO RESPONSE)

**SECRETARY KEMP:** All right. Case No. 2009-13 Wilcox County.

**MR. HARVEY:** This case involved a November 2008 General Election. The complainant was Becky Rhodes. The respondents were Wendy McGlamry and Stacey Bloodworth, who was the sheriff. There are numerous allegations, including vote buying, improper campaigning, and improper assistance of elderly voters with the Three Rivers Nursing Home. All the allegations of vote buying, intimidation were unsubstantiated. We interviewed numerous people, none of whom could provide any direct knowledge of any type of voter intimidation or improper campaigning by the sheriff; however, at the Three Rivers Nursing Home our investigator found that Wendy McGlamry was a social worker, improperly assisted 60 electorates, voting their ballots. These people were not disabled or illiterate. A similar case to the one we did earlier where people had various conditions, but were not declared incompetent and were not capable of marking their ballot. Some of the reasons that Ms. McGlamry had given for assisting included the voter didn't feel comfortable doing it. The voter had no problems, but I marked it out for her. The voter was nervous. The voter had arthritis. Our investigator interviewed and made contact with these people and found out none of them appeared to be qualified for assistance. Therefore, it is recommended that Ms. McGlamry be bound over to the Attorney General's Office for appropriate sanctions and fines as the Board deems appropriate.

**SECRETARY KEMP:** Any questions for Mr. Harvey?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Is there anybody else wishing to speak on this matter?

**MR. EVANS:** Move to refer.

**MR. MCIVER:** Second.

**SECRETARY KEMP:** We have a motion to refer and that's seconded by Mr. McIver. Any other questions from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all those in favor of moving to refer, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Motion carries. 2009 No. 20 Cobb County.

**MR. HARVEY:** The complainant in this case was Jodi Fleischer of WSB TV. So, you know, the title of the case was originally Cobb County. It came in as several complaints over the course of a couple of weeks. It mainly centered around people in Cobb County, but there is no specific Cobb County connection. The (unclear) response, essentially, the Secretary of State's Office was provided a list of 30 voters, 30 people who registered to vote in Georgia that were believed to have some sort of immigration status, had some kind of contact with ICE, Immigration Customs Enforcement. We did an investigation on all 30 people and what we found was that many of the problems with people registering came from a being registered with the Department of Driver Services. Out of the 30 people, we found that 10 were, in fact, not citizens of the United States. 10 were citizen of the United States and there were several more that couldn't be confirmed or denied as citizens, so we would not be able to locate. Out of all this, we found out that there were two people who registered and voted prior to becoming U.S. Citizens, and that is Quaseem Chiba (phonetic) and Mr. Giadi. They had become American Citizens. Prior to that they registered and they voted. There were 5 people who registered to vote that did not vote prior to becoming U.S. Citizens. Those are: Mr. Chardry, Mr. Hart, Ms. Gallow, Ms. Duncan, and Mr. Kahn. Of those people, four of those five were registered through DDS. Ms. Duncan was also registered through DDS; however, she completed a registration confirmation card that was sent to her by Cobb County. Of the remaining people, 14 were registered to vote and are not currently U.S. Citizens. 12 of these were registered to vote through the Department of Driver Services. One of them completed voter registration application by hand. That is Mr. Stephenson. And one, as I mentioned before, Ms. Duncan, completed a handwritten registration confirmation. The respondents that we were able to contact said that they either did not understand or did not intend to register to vote and they went to the Department of Driver Services. And in all but two cases, they had not voted. So, it appears, when it all comes to pass we have three violations of 21-2-571 -- two violations of voting by unqualified person, with Mr. Chiba(phonetic) and Mr. Giadi (phonetic) and multiple violations 21-2-216(a)2, which is registering to vote without the necessary voter qualifications. Again only two of those individuals, Mr. Stephenson and Ms. Duncan did anything active, other than registering with the Department of Driver Services. It is recommended that all the respondents

be bound over to Attorney General's Office for appropriate action. It should also be noted that six of the people identified have either been deported or been ordered to be deported, by immigration judges. (phone ringing)

**SECRETARY KEMP:** Any questions by the members of the Board?

**BOARD MEMBER:** I have a couple of procedural questions. How did we decide who the respondent would be?

**MR. HARVEY:** The respondents were anybody who was registered, anybody that was identified as being in violation of the Election Board, for example, if you were not a U.S. Citizen and you were registered to vote, you were a respondent.

**MR. EVANS:** It takes two to tango. One is the person applying and the other is the person who registered them. And the last time that we had this, which was the largest fine imposed in the history of the State Election Board, involving Atkinson County, where we had non-citizens registering and voting. Upon further investigation we were able to discern exactly who it was that attempted to get them to vote, if there was someone, and, second, who it was at the Election Department who was, or the DDS, appropriate case, who was not following the rules to make sure that there was appropriate documentation to confirm citizenship. And all I have here are all of the applicants. And it would appear to me that an appropriate respondent, in order to explain to us, exactly on the reverse side, how the folks got registered without the appropriate documentation would be whoever it was that did the registering. Now, there are two possibilities, as I read this. One possibility is the DDS. We should be able to, as we did just a moment ago, in the prior case, determine all the way from the date they were registered, to the person who is actually at the machine at the time of registration, to the screenings, to see, exactly, what information was checked in the appropriate boxes. Given that this appears to be a systemic issue, and not an isolated incident, but, in fact, we have a pattern of conduct where we have multiple violations involving non-citizens registering and, in fact, voting, we would want to take a look at the whole picture. For my purposes. While we have folks who travel here, who are undoubtedly respondents that we have already named (phone ringing) I don't think it would be fair to decide the case in its entirety until we have had a full picture of everything that was involved here. And I think that full picture would involve reaching out to the DDS to find out exactly how this happened, who was involved, when it happened, where it happened, what the screen said, how the information got inputted, and where the failure is in the system that would permit this many registrations of people who are not eligible to vote in Georgia. So that would be the starting point for me. That is the question that I have, which is what is it that we have done so far to figure out who is on the other side of the dance card?

**MR. HARVEY:** We have done a lot of that. I can share some of that with you. We have the dates that everybody was registered. We have got the screen print-outs from Motor Voter, to show whether or not they request to register. In some cases, it is marked, yes, they did request to register. In some cases, it is marked no, they didn't request to register to vote. In some cases we have got people going back and being registered in 1997. Most of these predate 2007, 2003, 2005. There does not appear to be any unifying force. There doesn't seem to be any central figure that is connected to any of these voters that is coordinating or orchestrating this effort.

The people that we were able to contact, when contacted, most cases didn't even know that they were registered to vote. They had not voted. Only two people, like I said, had voted previous to becoming citizens. As far as going back and finding who was operating each terminal when people registered to vote, if that is the Board's desire, we can certainly work with DDS and see if that is something that can be used.

**MR. EVANS:** Wouldn't you think that if you have someone who you named as a respondent, who didn't ask to be registered, but were nonetheless registered, that we probably have the wrong person in front of us? If you didn't ask to be registered to vote; you find, out after the fact, that somebody, in fact, registered you without your permission, and yet you are the one that's a respondent at the state administrative proceeding, that would strike me as fundamentally unfair. It would strike me that the person that I would want to hear from is the person who, in fact, registered somebody who didn't ask to be registered, along with their supervisor, because of the way that DDS operates is that the supervisors are directly on site, along with whoever manages the system. And none of those people are here.

**SECRETARY KEMP:** What were the dates of these registrations, again?

**MR. HARVEY:** The registrations go back -- I think the latest one is 1997, and then it goes 2003, 2004, 2005, the latest date appears to be March of 2007. It appears to be the last date that somebody registered to vote through DDS. That person was not able to be located. That person is actually, was last in the Cobb County Jail, and by his own admission was an illegal alien awaiting deportation to Mexico.

**SECRETARY KEMP:** Did any other members have a question for Mr. Harvey?

**MR. WORLEY:** I do. Mr. Secretary. Mr. Harvey, did I understand you to say that you have screen shots of the application process and these people that show that they did not request to be registered to vote, but they are nonetheless registered to vote?

**MR. HARVEY:** In some cases yes, sir. The shot itself is of the Motor Voter Registration. What it shows is the date registered. It shows the citizenship status. It asks the question, has the person ever registered and then asks did the person want to register to vote at the last time they got their renewal. In some cases you have got where somebody said no when they first got their license. It has a no at the top and then a yes at the bottom. In those cases, we have had cases in front of this Board too, where people have said, I absolutely said I did not want to register to vote. And I believe -- not Karen Horn, but another case where a woman registered without her knowledge. And we, actually, were able to show that she said she didn't want to register to vote. And she was registered without her knowledge.

**MR. WORLEY:** Is that true of the people in the group today?

**MR. HARVEY:** Well, from the screen shot, everybody -- let's see. The people that registered through DDS have a yes response next to the date that they registered. I would have to go through the individual files and match it up. According to this chart, that I believe is accurate in the cases -- I'd have to go back and look at each individual one to give you a definite, yes or no.

I know there were some where they said, no, they didn't want to register to vote and they did register to vote, yes.

**MR. WORLEY:** Can you explain to me why those people would be before us today. If someone says that they don't want to vote, yet they were registered to vote, why are we prosecuting them for some violation?

**MR. HARVEY:** We are bringing it to the Board's attention that the fact is that they are registered to vote and they are not U.S. Citizens.

**MR. EVANS:** The question would be, then, who is the one who, in fact, registered them? This is a systemic issue. This isn't one, two, or three people. This is 21 we have identified, who are not citizens, who are on the registration roll, three of whom voted. I'm only one member of the Board, but I would tend to think that my primary motivating factor would be to figure out how that can happen. That doesn't mean that I am not equally interested in people who know they weren't entitled to vote, but nonetheless registered. I think we have to address those and we have done that as a Board, systemically; but as a system matter, entering into a gubernatorial election with heavily contested primaries and general elections, I would tend to think the highest priorities would be to focus on where is the systemic flaw that permitted 21 people to register, who are none citizens.

**MR. HARVEY:** Part of the answer was what Ms. Ammons said before, is not having something to go back to and having a form where we can go back to these individuals and we can pull back their forms. In previous years they had had that. This time, my understanding is that they did not have any specific form they could go back to. When the clerk asked you if you want to register to vote, you hit yes or no; if you hit the wrong key, I have no way of knowing. I say, yes, I want to vote, you accidentally hit (N), and I am not registered to vote.

**MR. EVANS:** Here is a different question. How about, are you a U.S. Citizen? It seems to me, and that is why I am very interested in hearing multiple tiers of people. I think we need to hear from the DDS to explain to us, exactly, what precautions they have in place to prevent this from happening. We then need to hear from supervisors to hear what are the personnel challenges for monitoring compliance to make sure those systems are met. And then we need to hear from the front-line people that actually did this to hear their explanation of why it is when someone said, I don't want to register to vote, they were, nonetheless, registered or why is it people weren't asked the simple question of, are you a U.S. Citizen. And those multiple tiers need to be named as respondents. And they need to be brought in here. It's not your fault. I am not blaming you. Your work is always good and I appreciate the good work. My frustration is we have been down this path before of non-citizens voting. We have had it at this level before. Our reaction was an \$80,000 fine, because it is that serious. It threatens the very integrity of all the elections. Every election where this is permitted to happen becomes suspect when law abiding citizens find out that people who are not citizens are routinely able to register to vote. That is the issue that we want to address.

**SECRETARY KEMP:** Let me do this. If any members of the Board have any questions of Mr. Harvey that is not kind of going back over what Mr. Evans and others have discussed, we will



take those now.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. If not. Would DDS like to come and give us, tell us what's going on here.

**MS. AMMONS:** Thank you, Mr. Chair, and members of the Board. As noted previously, my name is Jennifer Ammons. I'm the general counsel for the Georgia Department of Driver Services. First, I need to beg your indulgence a little bit. DDS only became aware of this matter this time last week. We have only had a limited amount of time to do any digging or research into what has transpired, with regard to these customers, but we have been able to confirm through computer records, at least, that 14 of the individuals identified by the Secretary of State's Office did, in fact, participate in Motor Voter, through computer records. Additionally, I was able to obtain, yesterday, documentary evidence from the Inspector General's Office, documents reflecting very old registrations, going back into the late '90s. Those are not reflected in our computer records. And so we are still in the process of reviewing that material and trying to determine where those issues took place and what were the circumstances surrounding them. I can address each individual respondent if you would like for me to, or I can turn, instead, to why it is extremely unlikely that anything like this could happen again. And I will just defer to whatever the Board prefers.

**SECRETARY KEMP:** I think we would be interested in hearing, kind of, what is different now than what was and then we can go back and decide if we want to, at some point, address the individual.

**MR. EVANS:** Can I add one thing, Mr. Chair. Candidly, I would like to know whether or not you have been able to take whatever it is that WSB did and forensically do the same thing to make sure there are not another 121 out there.

**MS. AMMONS:** Mr. Evans, I have not had access to what WSB has had access to. I don't even know what they used to come up with this list. So, no, sir, we have not had any opportunity to do that. We certainly would welcome that information and the opportunity to do that sort of research. I think that you will find that as time has progressed and the laws in Georgia have changed, the opportunity for those who are not eligible to participate in Motor Voter, that door has closed, substantially. I can't promise you that it is completely shut, because, as you saw in Ms. Lockhart's case, there is certainly paperwork discrepancies and the potential for there to be typographical errors. Notwithstanding those issues, I think we have done a tremendous job of closing the door, such that those who are not citizen are not going to be able to participate in Motor Voter.

**MR. EVANS:** Have those changes occurred since October 24, 2008?

**MS. AMMONS:** At least two of them have and one is, actually, a perspective change that happens in the future.

**MR. EVANS:** Because, obviously, as of October 24, 2008, when WSB did its search, it wasn't working. So, what I'm really interested in are -- maybe you can just walk us through the two changes and then the prospective change, on a systemic basis. That would be very helpful. Thank you.

**MS. AMMONS:** If you would indulge me, I would actually like to go back to 2006, because what happened in 2006 that impacts these customers is that Georgia law changed and requires us to tie the period of validity for driver's license or identification card for a non-citizen to that person's period of stay as reflected in their immigration documentation. What that meant, from an operational perspective, is that DDS had to change what we record with regard to each customer and, actually, make a notation on the driving record to indicate whether or not that customer was a citizen. Prior to the enactment of House Bill 577 during the 2005 session of the general assembly, once a customer was verified as a lawful resident of the United States, a person who is a documented alien or a citizen, DDS made no further query into whether that person was still here lawfully. And the enactment of House Bill 577 changed that. Beginning July 1st of 2006 we began making a notation on each customer's driving record as to whether or not they were a citizen. One of the remaining holes in that is that this is all self reporting. We only require documentary evidence to confirm that, at this point, of those who acknowledge to us that they are not citizens. A big change in our process came about when we began capturing whether or not each customer was a citizen. In 2009 a very substantial change took place, in that we created new functionality that is viewed by our license examiner that changes the process in which various questions that are necessary (phone ringing) to the issuance process are asked. In this case, the change that took place, to take some of the human element out of it is they have to make an entry as far as the yes or no to the citizen question before they make a yes or no to the Motor Voter question. If the answer to the citizen question is no, they don't even get asked the motor voter question. Now, unless an license examiner makes a data entry error, with regard to whether or not that customer is a citizen, there is not an opportunity for an examiner to make a mistake and offer motor voter question to the customer who is not a citizen.

**MR. EVANS:** What was the date of that change?

**MS. AMMONS:** Mr. Evans, I'm sorry. I don't have the specific date. I can tell you it was in the fall of 2009. And I can supplement that information, if you would like to have a specific date.

**MR. EVANS:** That would be great. Thank you, Ms. Ammons.

**MS. AMMONS:** As we come into 2010, as I mentioned in Ms. Lockhart's case, we have made the changes to the driver's license application form that do, in fact, contain the motor voter question, so that we do have documentary evidence to reflect how the customer has responded to the motor voter question do you want to participate and the qualifications, as well. That was actually placed into use actively this month. So that's a 2010 change. Looking ahead into 2011 and beyond, you may be aware of the law that is going into effect. Full compliance is required by May the 11th of 2011. I'm referring, of course, to the real ID Act. There is language in the real ID Act that will require the DDS to revivify the identities and citizenship and lawful

presence of every customer we have. While we loath the customer service nightmare that that will create, we see that that is a very powerful tool for us to use in preventing situations like this from happening in the future, because we will no longer be relying on our customers to self report their citizenship or their non-citizenship. We will, actually, have documentary evidence that we will capture through our new document imaging system. There will be a behind the scenes validation of that, such that the data entry that is done by the license examiners will be compared to the scanned images of the documents, so that we will be able to compare, yes, this customer said he was a citizen, but here is all the immigration documentation, or, no, this customer said that he wasn't a citizen, but here is a copy of his U.S. Birth Certificate or his U.S. Passport. That is going to help us, not only from a customer service perspective, but it has huge implications from Home Land Security and huge implications with regard to our responsibility, in the context of Motor Voter. So, while I can't tell you exactly what happened with all of the 20 individuals that have been identified as having allegedly and properly engaged in applications for registering to vote through Motor Voter, dating from 1997 through 2007 I can tell you that the potential for this to happen into the future is extremely limited.

**SECRETARY KEMP:** Mr. McIver.

**MR. MCIVER:** Jennifer, you and I know each other from working on photo ID.

**MS. AMMONS:** Yes, sir, we do.

**MR. MCIVER:** Thank you, for all of your assistance. Back in the days of photo ID, y'all convinced me that non-citizens would not be able to obtain driver's license. Are these folks -- do they have driver's license that are not citizens?

**MS. AMMONS:** Mr. McIver, it is possible for non-citizen to get a driver's license. It is not possible for a non-citizen, who is not lawfully present in the United States. It has been the law in Georgia, since the mid '90s, that you must be lawfully present to meet the definition of resident in code section 40-5-1. Because of that, DDS requires documentation when a customer first comes in to us as a new Georgia resident to demonstrate their identity and their citizenship or lawful presence that is something that we have been doing for about 15 years. What we haven't done, what has created the window through which these respondents allegedly went though, is that we haven't followed up on our non-citizen customers to verify that they have not over stayed their immigration status. And with regard to change from House Bill 577 that was all based upon self reporting. So, if a customer told us that they were a citizen and it was a customer that we had had an existing relationship with, we never questioned the information that they gave us. Obviously, as things have progressed and as things continue to progress, that loophole will close.

**MR. MCIVER:** Any idea how many of the individuals have driver's license that were not spoken to?

**MS. AMMONS:** Yes, sir. I have referred five case. As part of my duties as the general counsel, I'm the Division Director for legal and investigative services, so I have a team of investigators that work for me. I referred five of these people for potential prosecution for driver's license fraud. As we continue to research these individuals, I don't have any way of

knowing if that number will increase or decrease. I was able to identify five of them who had told us that they were citizens, or at least we have records showing that they were recorded as citizens. The information that was provided to us by the Inspector General's Office indicates that they are not citizens. What our job will be, now, is to get in touch with those people, have them come in, and let's resolve the issue of whether or not they lawfully obtained their driver's license, notwithstanding the motor voter issue.

**SECRETARY KEMP:** Mr. Evans.

**MR. EVANS:** Just a few follow-up questions. It strikes me that there are four categories of things that they need to focus on. And I'm hoping that you will be able to help me with those four categories. One category is figuring out can the Secretary of State's Office, working with the DDS, conduct a forensic review that will enable it to do what WSB has done, which is to identify those folks who are clearly identifiable, who are registered and capable of voting in the 2010 election. So, to me that's a forensic review. And we need to figure out what are the steps that would be required. I assume this is a matter for the DDS Board, for the DDS to order a forensic review for that determination, because I don't think it is too much to ask that if a local television station can conduct that level of review and make this kind of determination, that an entity as significant and as important as the Department of Driver Services and the Secretary of State's Office can do the same thing. One, is there is a process under way for a forensic review?

**MS. AMMONS:** I would say that there is a process under way where we are researching these that we have become aware of, beyond that, without knowing how this Ms. Fleischer got the information that she has, I wouldn't be able to answer your question Mr. Evans. I apologize.

**MR. EVANS:** I would highly recommend that a good starting point would be to reach out to WSB and Ms. Fleischer and say we need your help, because they, clearly, were able to, in pretty short order, identify, in one county, 21 people. Now, if I do my math correctly, and I don't present to be a mathematician, if I just projected this county out across the state, we are talking over 250 people. If we could just find those 250 people, it would be important. So step one, to me, is to forensic review. I think the first step of the forensic review is if there is way to easily identify -- I don't think WSB devoted its full budget to finding these 21 people. I suspect that did it in pretty short order. If we can apply we could apply those same filters, that would be helpful.

**MS. AMMONS:** Mr. Evans, if you will forgive me, I think that what we probably can do is some sort of the comparative review of the contents of the voter database. I don't know the accessibility of that as far as open records and DDS's access to that. I know that we can make the entire contents of the driver's license database available to the Secretary of State's Office. Their ability to provide information to us is not something I can speak to we will absolutely make our records completely available to them. We can't make them available to WSB, unfortunately.

**MR. EVANS:** I know that. And I'm not suggesting that. On the other hand, I am a firm believer in going with what works. I'm also a believer in you don't have to reinvent the wheel. If they have a system that enables us to do this, there is no reason not to reach out and say, can you

share with us what works, so that we can do it too. We don't want to reveal to them confidential information. We just want to be solution oriented.

**SECRETARY KEMP:** Let me let Mr. Taylor address that while we are on that point.

**MR. TAILOR:** Yes, we can make that voter registration information available and we will work with Jennifer, as we have in the past. For that type of situation, there is a new statute that was passed last year that was put into effect where we can communicate information back and forth through state business.

**MR. EVANS:** I'm actually asking a slightly different question. I know that we can communicate with DDS and they with us. I also know that there is a party that had a phenomenal success rate in identifying 21 people in a major metropolitan county in very short order, who are not eligible to vote, who are non-citizens. I am suggesting that rather than looking internally to always looking at the government solution, look outside to government and say, gee, I think they may have stumbled on something here or in fact did something really good. Let's use it.

**MS. AMMONS:** Yes, sir. I will contact Ms. Fleischer and find out about that.

**MR. EVANS:** And second is, so when is a forensic review? It seems to me that a second is a system modification. You have described some systems, but it struck me that when I looked through this list we have, for example, one registered voter who is being deported. Is there not a system where we could say to INS, if you are deporting somebody who is a non-citizen, let us know so we can make sure they are not on the voting roll.

**MS. AMMONS:** I think that would probably be a question for Mr. Taylor. I don't have access to the vote roll.

**MR. EVANS:** This is where I get frustrated with government. For the very same reason I wouldn't want them to vote, I wouldn't want them to drive. So, you and the Secretary of State's Office have a shared interest in saying to the INS, hey, if you are deporting somebody because they are illegally here, let us know, so that we can yank the driver's license, input it in the system so that if the state patrol pulls them over they know that they are being deported and also identify Wes Taylor, so we get them off the voting list.

**MS. AMMONS:** Yes, sir. I will inquire with U.S. CIS, to find out if they will make that information available to us.

**SECRETARY KEMP:** Are you done with that point?

**MR. EVANS:** Well, I'm just going through the rest of the list here.

**SECRETARY KEMP:** Let me let Ms. LaGrua speak. I think she had a point she wanted to make.

**MS. LAGRUA:** Mr. Evans, we have been working closely with ICE recently on a number of initiatives. And we will immediately reach out to them to see if there is anything they are willing and able to share so that we can address it from that angle, as well as our cooperation with DDS.

**MR. EVANS:** I noticed, here, for example -- and I say this only because and I don't want WSB, for this to go to their head, but they have another news story on non-immigrant students here, who are non-citizens, and how the schools have a system for identifying those folks, and it would seem to me -- I noticed we have voters who has happened in March of 2009 which will be after the six modification seven modification and eight modification, if a school that is a member of the University System of Georgia determines that someone is not here validly, is a Non-U.S. Citizen, and will be kicked out of school, you would think that we could get that information to decide they shouldn't have a driver's license and shouldn't be voting. That is a second tier, which is, my understanding is that information is collected, as well. And then there is finally the ones which deal with pending hearings to determine if they are a lawful U.S. resident, and that who go to your ICE program, Ms. LaGrua. I know if I compliment you on what you have done so far, but I also know that forensically, this would suggest that we have a long way to go. So, it would seem that one is a forensic evaluation. Two is a system modification, on the, as we would say, on the low hanging float, which is the people who are queried subject to being deported, kicked out of the university system, or otherwise having some other public benefit revoked, that notification gets passed on to us. The third is a training session. We can have the best system in the world, but if it is not, actually, happening, it doesn't do us any good. The question was do we have specified training on the issue of verification of U.S. Citizen status.

**MS. AMMONS:** Yes, sir, we do have that. That is part of the training that our license examiners receive. And they are also trained in forensic document review, so that even documents that come in that purport to be legitimate, they are trained to look for anomalies. They are, actually, quite good at it. We get hundreds of cases every year.

**MR. EVANS:** How long has that been in effect?

**MS. AMMONS:** For as long as I have been at DDS, which goes back at least 8 years.

**MR. EVANS:** Well, my only point is that if it has been in effect that long, and yet I have 21 in 2009, it can't be that good.

**MS. AMMONS:** Well, sir, if you will indulge me for a minute.

**MR. EVANS:** Sure.

**MS. AMMONS:** You have to put it into the context of when these events occurred. These individuals may have been lawfully present in the U.S. when they arrived and obtained their driver's licenses and because of what the law was at the time DDS was not responsible for checking, subsequent to that, whether or not they remained lawfully present. That change had already been made. We already verified that with our non-citizen customers. We are already getting that low hand freed. With regard to your suggestions as to those who are subject to

deportation of those who are students, with regard to our customers who are non-citizens, who come in for renewal, we are statutorily obliged to verify their lawful status to a systematic alien verification for entitlement system. While this is reactive, not proactive solution, it certainly does address, at least, a portion of what you have raised with regards to those who are subject to deportation and those who are students, who are no longer lawfully present. We would not renew the license of anyone, who in this country no longer in valid status. We don't have the legal authority, at this point, to revoke the driver's license or cancel the driver's license of someone proactively, should they lose their status for some reason. It would only come up again in the context of the renewal application.

**MR. EVANS:** Well, I want you to think about it from where sit. I am the president of a bank who has had 21 robberies. And they ask me how's your security. And I say it's great, we're doing everything we can. Now, what happens is I don't stay the president of the bank very long. We are five members of the State Election Board. We have 21 here projected over the State probably 250, at least, and we then talk to our staff and you and we are told we are doing everything we can. Everything we can is fine; and no it's not. So, what I'm suggesting to you is that if the training has been in place for 8 years and we still are having the problem, we need to figure out is there other training we can do. If you are saying to me, we can only do something at the time of renewal, even though an immigration Judge has said deport a person because they are not here legally, then we need to fix the system.

**MS. AMMONS:** Mr. Evans, all that I will say to you is that it is important to put these individual customers into the context of what was going on at the time. And I agree with you, what was going on at the time that things transpired is less than desirable, bordering on much worse than that. What I can tell you is that, at least, for 2 and a half years, there have been none identified. So, yes, it is definitely a problem that we acknowledge, that there are people who are on the voter rolls who potentially should not be. What I can assure you of is we have made tremendous strides so that this should not happen -- I won't say cannot, because there are humans involved -- but it should not happen going into the future.

**MR. EVANS:** All I can say is I think you are defending the system way too much. As I see it, it doesn't say 2 and a half years. It says case after case as of March 2009.

**MS. AMMONS:** It's a question of when they participated in Motor Voter, Mr. Evans. It's not a question of when they became citizens. It's a question of when they participated in motor voter and what DDS was doing at the time.

**MR. EVANS:** I know. And I am suggesting something differently to you. If an immigration judge in March 2009 says deport because they are not a U.S. Citizen, there is no good reason why the DDS shouldn't revoke their driver's license. They are being deported for being here illegally. Under what theory would they keep their driver's license?

**MS. AMMONS:** I'm not suggesting they should keep it, Mr. Evans. I'm just suggesting that, at the moment, there is no legal authority that will allow the DDS to take their is not legal authority that would allow DDS to take that action.

**MR. EVANS:** What I need to know is what you need, because the legislature is in session. This the time we fix problems. What is it that you need for us to get to fix the problem. Because just saying there is nothing we can do about it, for me, is not an acceptable answer. So, if you say, Mr. Evans, those are great idea, unfortunately, the law doesn't permit us to do any of your ideas, all we need to do is -- Wes, who is one of the best in the business, at working with the legislature to get laws passed that help us have better elections. We need to tell him, this is what we need.

**SECRETARY KEMP:** Let me answer that question for you. I can tell you the we will begin working immediately to figure out why there is communication breakdown, if there is one, or why we don't have the authority to do this with our office working with ICE and the Department of Driver Services and anybody else that we need to. The Board has my commitment on that. We will begin working on that as soon as we get out of this meeting.

**MR. EVANS:** The four areas that I would recommend to you and our staff at our next Board meeting is to figure out, if we have a follow-up meeting, forensic review, system modification with (genetics) to identify who have had their privileges revoked (phone ringing) immediately, rather than waiting until the next Board meeting. Training, based on the detection of non-citizens who are attempting to register to vote and then enhanced supervision, when that issue is presented. So, if we could get a proposed plan that would be very important when we hear from the respondents, which, I guess, will include a lot of people who aren't here today. And, honestly, this Board came down really hard on Fulton County, because it took us a year to get their attention to understand that we just weren't going to accept, that's the best we can do. We are not going to accept that. So, all of the solutions that will be helpful toward moving toward these four categories are what we would like to hear the next time we meet, because we are on a very short time period. We have a July 20th primary. We don't --

**SECRETARY KEMP:** Let me work on those four questions. We will work on gathering information. Is there any other member of the Board that would like to add a question, as well.

**MR. MCIVER:** I think what would be a 5th leg of the stool, as you know, I'm a lawyer that specializes in employment law, which includes immigration. So I understand, very well, what you are talking about; but any employer in America can access the government database, known as E-Verify.

**MS. AMMONS:** Yes, we use it.

**MR. MCIVER:** Within hours you know whether you have got a legitimate applicant in front of you, properly documented. When I hear, illegal alien, I think about Mars and Venus and things like that that scare me a little bit. But if somebody is truly undocumented, they are not permitted to work in this country. I would certainly add to that -- you say that you are accessing that, if that's the case, I would be very surprised to know how any of the people got their driver's license. You would have known through E-Verify if they were not properly documented.

**MS. AMMONS:** The system that we use, actually, is, actually not E-Verify. It is a parallel system, referred to as SAVE. We have been using SAVE since 2008, January 1st, 2008 when



that special mandate went into effect. When you look at the dates on which each of the alleged respondents participated in Motor Voter, every single one of them predates our use of the SAVE system. So, today we would know the validity of the immigration documents presented by each of these respondents and every other customer, 2 and a half million customers every year, today. We can do that right now. And it's not in a matter of hours. For many of our customers, it's immediate, because it is an electronic connection that is transparent to the customer and occurs behind the scenes as they are standing there. So, what I would say to you in response to your 5th leg of the stool is, your 5th leg of the stool is more than in place right now. And if there were a question about any of these people coming to DDS, we absolutely would know the answer. I can't address proactively, looking at it, today, but we are excited to work with the Secretary of State's office on this leg of the stool.

**MR. MCIVER:** If I walked in today to renew my license, there would be some attempt to verify my documented status to work.

**MS. AMMONS:** It would not be our status to work. It would be your status to be present in this country, notwithstanding your authorization.

**MR. MCIVER:** My business is more on the work side, but it is substantially the same.

**MS. AMMONS:** Yes, sir. Every non-citizen who visits the e-card member services gets a licensed e-card or instructional permit. It is checked through SAVE and we will not issue a license or ID card today and haven't for two years, unless that person's lawful status can be verified through SAVE.

**MR. MCIVER:** You would verify me.

**MS. AMMONS:** Not as citizen, no, sir. There is nothing in SAVE, at this point that would allow us to verify you.

**MR. MCIVER:** You could verify me through E-Verify very quickly, and know if I was born in this country and so forth.

**MS. AMMONS:** Yes, sir. SAVE is actually intended for verifying the lawful presence of a non-citizen, so there is not, in place, at this point, a system that I'm aware of that lets us verify the citizens, but that is certainly something that we are moving toward with the enactment of the real ID Act and/or pass ID, whichever one of those we end up with over the next year and a half. We will be doing that electronic verification of citizens, as well, by the middle of next year.

**MR. MCIVER:** Again, my suggestion is that database is there to access, for anybody.

**SECRETARY KEMP:** Thank you. Mr. Worley.

**MR. WORLEY:** Just a couple of questions, Ms. Ammons. So, the only people whose citizenship you verify are people who say that they are not citizens when they come in to register?

**SECRETARY KEMP:** As far as electronic verification, yes, sir, that is correct. They would present a document showing their lawful presence and then that document would be verified through SAVE.

**MR. WORLEY:** Right. So if someone comes in and says they are citizen, no further checking is done by DDS.

**MS. AMMONS:** At this point, that's correct. Going into next year that will change.

**MR. WORLEY:** And then you mentioned that a change was made in the fall of 2009, so that the order of the questions is that they are first asked if they are citizens and if they say, no, it never gets to asking if they want to register to vote, correct?

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

**MR. WORLEY:** Why was that changed implemented.

**MS. AMMONS:** To prevent inadvertent submissions through Motor Voter, so that there was anyone who is a non-citizen to be asked Motor Voter questions, by accident, by an examiner.

**MR. WORLEY:** What I really meant to ask was, was that required by statute, by regulations, by practice?

**MS. AMMONS:** It was a business decision that we made to prevent people who were not eligible for Motor Voter from participating in Motor Voter.

**MR. WORLEY:** Is that because you had come to find that there were people that were being registered who were not citizens?

**MS. AMMONS:** I am not aware, personally, of specific incidents that gave rise to that decision. I would have to defer to some of the other folks that made the business decision, but it is certainly possible that that led to that decision they made.

**MR. WORLEY:** That's all I have.

**SECRETARY KEMP:** Anybody else?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. I know Ms. Fleischer is here. Would you like to address us?

**MS. FLEISCHER:** If you would like.

**SECRETARY KEMP:** Would love to have our comments. Welcome. I'm sure everyone

knows who you are, but if you would for, for the record, state your name and address, please.

**MS. FLEISCHER**: Sure. Jodi Fleischer and I'm a reporter with WSB television. Our address is 1601 West Peachtree Street, Atlanta, 30309. First, I should tell you that I was not person who did this story; however, I have been furiously e-mailed (cell phone interference) information for you guys as to what how we did peruse that story. First, we took a list of inmates from the Cobb County Jail who are on an immigration hold to be deported and we crossed it with voter records and found dozens of people who were registered, but who had not actually voted. The second, kind of, tier of the investigation, they took Cobb County jury records, people who had signed affidavits saying they couldn't serve on jury duty because they were not citizens, and cross-checked that with voter rolls and found a bunch of people on the list. The bottom line is we tracked down a couple on non-citizens who had voting right. I hope this clears up some of what we did for you. These are certainly public records.

**SECRETARY KEMP**: We certainly appreciate that information. Does anybody have any questions?

**MR. EVANS**: I just have couple. Were these computer comparisons in the available in the data.

**MS. FLEISCHER**: They are. We have been doing a lot more of that lately. You will have another one before you, eventually, that I did, involving people who voted twice in certain elections, but we have been crossing a lot of, kind of, data runs where we take one list of data and match it with another list of data by computer based on name, social, that kind of thing, and see what comes up.

**MR. EVANS**: Are the computer runs from those comparison as available? Could we get those?

**MS. FLEISCHER**: I would need to check on that. I know the ones in the investigation that I did on the double voters, I maintained all of that stuff personally, but as for this one, I wasn't involved in the cross, so I don't know.

**MR. EVANS**: That would be great. The only reason is because, as you probably could guess, until we say, here is how you do it, the push back we get is, it is too difficult. The moment I say, but here it is, it becomes much easier for us to then properly motivate change to do the obvious.

**MS. FLEISCHER**: Well, I can assure you that when we do them, it takes maybe a couple of days. I mean, it's not a very involved process. We do contract out sometimes with people who specialized in those things, because certainly you have to know what you are doing computer wise. I can tell you, when we crossed the voter rules for the entire State of Georgia with the entire State of Florida, it was done electronically and it's millions of records, and it only took a couple of days.

**MR. EVANS**: So, if you could just check with your folks to see if we could get those cross tabulations and cross references.

**MS. FLEISCHER**: The one thing to be leery of is that when he did this, this was in '08 it was

simply a snapshot of the name at the time. So, in order to have an accurate reading, you need to keep doing it.

**MR. EVANS:** I am, actually, not even interested for the results, but just to show that the process, how easily the process can be done and show how you can do it. Half of that was just winning that turf battle of whether it can or can't be done.

**SECRETARY KEMP:** Anybody else?

(NO RESPONSE)

**SECRETARY KEMP:** Thank you, very much.

**MR. EVANS:** You have done a great service to us, for real.

**SECRETARY KEMP:** Okay. Anybody else wishing to speak on this matter? Well, we'll just go in order. Y'all just go right ahead.

**MS. DUNCAN:** My name is Nancy Duncan 2210 (Whitfield) Court, Marietta, Georgia 30062. I'm just here to say that I have never sought to be registered to vote. I got a notice in the mail. And I said, wow, this is the best country. They are so kind. So, then, after several years I received something in the mail to update my information and I just sent it back. The idea was to cooperate with the government. I knew I couldn't vote. I never voted. In fact, I was invited to be part of the jury. I called and answer it. They said no, you have to show up. I missed work. I showed up. I was in front of the Judge. I told him I am not a U.S. Citizen, so he dismissed me. So, I have done everything that I knew to do. It is very unfair that you call me and you say that I broke the law. I tried to help. But I never did break the law. Thank you.

**SECRETARY KEMP:** Thank you, for being here today. Any questions?

**MR. EVANS:** Do you have a driver's license?

**MS. DUNCAN:** Yes, I am a U.S. Citizen.

**SECRETARY KEMP:** Any other questions? Any other respondents?

**MR. PARK:** My name is Sung Park. My address is 3616 (address - unclear) 30144. I got your letter. I didn't know I was registered to vote until I got this letter. I got my citizenship -- I got my license in 2003 and my citizenship in 2007. Over four years and I get the letter saying I need to get a lawyer or something, you know. That's it, I guess.

**SECRETARY KEMP:** Okay. Thank you for being here. Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Anybody else? Yes, sir come on up.

**MR. ROSEN:** Morning. My name the Joe Rosen. I'm the attorney for Adrian Sotres. He is the

next to the last one on the list. I'm an immigration lawyer up in Roswell and I teach immigration law at John Marshall. It is just a really confusing area. One of the common misconceptions is that if you have U.S. Citizen parent, that you are a U.S. Citizen. That is what happened with Adrian. He came to the U.S. in 1988 when he was 2 years old with his mother. He was adopted, a Georgia adoption in Cobb County when he was 13. He has a birth certificate with the Georgia vital statistics as a adoption, stating that he was born in Mexico. He has gotten driver's license for 23 years, enrolled in school. He is enrolled in Kennesaw right now. He has been back and forth to Mexico to show these papers to immigration. They let him back in. He talked to an attorney when his mother got here green card and the attorney said since your father is a U.S. Citizen and he adopted you, you are a U.S. Citizen, so you don't have to apply for it. He is fine. But the general counsel from DDS, she is accurate. It is starting to get better. The only reason he is in immigration court and involved in this is because the way the systems are going now, he happened to run into an ICE agent. The ICE agent said, just because you were adopted by a U.S. Citizen 10 years ago, you still have to go through a process. Attorneys don't know it. He didn't know it. The government didn't know it. He had no idea that he was not a U.S. Citizen. And what we are doing in immigration court, as I mentioned, we are in immigration proceedings is we are going in immigration court. We are going to be providing that information to a judge, justifying why he is here, been here since 1990 when he was 2 years old. He has good moral character. He is in training to be an EMT. Eventually, hopefully, we will get his cancellation of renewal. This kid has been here 22 years as an illegal alien and the system has been incredibly broken, even to the point where an attorney is telling his parents, don't bother applying for him. He is already a U.S. Citizen, so you don't need to apply for a green card for him. That is what I'm asking you to do at this point is, at least, close this administrative case and not refer it for prosecution. We are trying in immigration court to resolve it. And he had absolutely no idea. I have got documents I can submit to you, his birth certificate from the State of Georgia, foreign birth certificate and the adoption documents and he even 6 months ago applied for a U.S. Passport. The U.S. Passport Service sent him a letter that said, we need some additional stuff. What you are submitting to us doesn't seem to show you are a U.S. Citizen. So, he has never tried to hide anything. He has never tried to misrepresent anything. It is just such a broken system, at all levels. And it is starting to get a little better, but he just is caught up in this. His father is here, as a U.S. Citizen. That's his mother in the back, a green card holder. They tried to do everything they could. And everybody just kept telling them, don't worry about it, he is a U.S. Citizen. And they come to me. I teach this stuff. And it is extreme complicated. He was illegally in the country since 1990. And nobody knew and the government kept saying, yeah, it's not a problem. So, what I'm asking you to do, if you could, is if you could close this case administratively, not refer to it to the attorney general. Let me -- Mostly, the case is pro bono -- let me continue with immigration court, let him get it straightened out with immigration court. And he will be able to continue to reside in the U.S.

**SECRETARY KEMP:** Do you want to submit those documents?

**MR. ROSEN:** Sure.

**SECRETARY KEMP:** Do we have a motion to accept those documents?

**MR. EVANS:** So moved.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Motion and a second. All those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP**: All opposed?

(NO RESPONSE)

**SECRETARY KEMP**: All right. The Motion is accepted. Mr. McIver.

**MR. MCIVER**: Professor, how in the world did he get into Kennesaw if he is not a citizen.

**MR. ROSEN**: He started in elementary school in Georgia, graduate high school in Georgia.

**MR. MCIVER**: Anybody can do. He can swim across the river and go to any public school you want to.

**MR. ROSEN**: I probably have 2 dozen clients that all came to the U.S. before the age of 5. If they graduate from high school in Georgia, pretty much, they just waive whether they are here legally or illegally.

**MR. MCIVER**: He was a graduate of a Georgia High School and Kennesaw admitted him.

**MR. ROSEN**: They don't anymore, but yeah.

**MR. MCIVER**: We are being advised that's not happening.

**MR. ROSEN**: That's not true. It's happening. He was admitted, Adrian, a year and a half ago. I have other clients who are freshman there. I have another kid who is 19 who is in deportation who was a freshman at Kennesaw. He got stopped for a speeding ticket in Cobb County and he has been here since he was 5.

**MR. MCIVER**: You can appreciate our sensitivity because one way where folks can, kind of, boot strap the system, is if you can get a voter registration card, that is then proof of citizenship. So what happens is it's game, their efforts really game the system, which is every piece of paper they can get, whether it is voter registration, U.S. Passport, a Georgia Driver's License. They all then start to fulfill the photo ID requirements and other requirements. So, we have to figure out how it is we create checks and balances to detect when the system is kind of being gamed. I am not suggesting the your client did that. I'm just saying that it's why there is a hypersensitivity, on the voter registration card. The voter registration card is one of the most often used indications of U.S. Citizenship, because the very supposition of the voter registration card is that if you are registered to vote, you must be a U.S. Citizen.

**MR. ROSEN:** I'm a former FBI agent. Pro bono, I run a bunch of citizenship drives around the county through and association of (unclear) groups. We must have 20 people every drive come in that are U.S. Citizens and they don't know it, in addition to people because their parents were U.S. Citizens in addition to folks coming in like Adrian who are here illegally 20 years and don't know it, because the government keeps giving them documents and attorneys keep telling him they are here legally. I mean, it is just a god-awful system.

**MR. EVANS:** Yeah, but what we want to do is make sure one of the document they don't get is voter registration. Let me ask a question to our staff. How do you unregister to vote?

**MR. TAILOR:** You would need to contact your county Registrar and let him know. Are you talking in any circumstance?

**MR. EVANS:** No, I am just saying I have got here in front of me 21 people, some of which have been deported, but I have at least one who says, I mistakenly thought I was a U.S. Citizen. I now know I am not a U.S. Citizen. So, I need to deregister, because in order for me to accept -- I'm sorry I forgot your name.

**MR. ROSEN:** Joe Rosen.

**MR. EVANS:** In order for me to accept Mr. Rosen's position, what I would probably required Mr. Rosen, would be for him to offer proof that his client, Mr. Sotres had taken the steps to correct to problem. So, my question to you -- when I was preparing for today's meeting, I was trying to figure out, you know, how does that work.

**MR. TAILOR:** An individual can write or go to Registrar and ask to be taken off a of voter registration. The other option is when evidence like this comes to bear or comes to light, the Registrar can file a 21-2-26, which is a method by which they have to review the eligibility of each registrant. They hold a hearing and if they determine that the individual is not eligible to be registered, they may remove that individual from the registration.

**MR. EVANS:** But rather than create all the paperwork for our local election officials, including a hearing, if there is a recognition, I mean a true recognition that they are not able to be a registered voter, it would seem we would want, and I would suggest to Secretary Kemp, here, that we may want to create a form that literally says, as we educate folks, that if you are not a U.S. Citizen and you register to vote we are going to come after you and when we catch you, we are going to hit you and we are going to hit you really hard with severe penalties. One way you can avoid this is to go unregistered and not vote. Because I don't want us to ever lose sight of the fact that our goal is that only people who are entitled to register are, in fact, registered. There is where we want to get to. And we want to make compliance as easy as possible.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you.

**MR. MCIVER:** Say hello to Dean Lynch, for me.

**SECRETARY KEMP:** Anybody else wishing to speak on this matter? Anybody else?

**MR. HARVEY:** Mr. Chairman, I would like to point out that the people that appeared today, for example, Mr. Sotres, on his DDS form is listed as a U.S. Citizen. He did register to vote. In his last registration did not want to register to vote. Mr. Park, has him as U.S. Citizen and he registered and registered again on his last renewal. Ms. Duncan had a, no, on do you want to register and did she register; however, she filled out a completed voter registration verification card. I hope that helps Mr. Evans understand how some of these people are listed as respondents when we have conflicting information. We thought it was better to error on the side of bringing it to your attention.

**MR. EVANS:** You should not read into any of my questions any dissatisfaction with your great work.

**MR. HARVEY:** I am just trying to give the full response.

**SECRETARY KEMP:** Okay. Anybody got any motions or suggestions on how to proceed?

**MR. WORLEY:** I would make a motion that we close the cases on Sung Park and Duncan.

**SECRETARY KEMP:** Give is the background, Mr. Harvey, just what you just said.

**MR. HARVEY:** As far as Mr. Park goes, Driver services report shows that he is a U.S. Citizen that he did register to vote, that his most recent registration date was 3/17/09 and at that point he did register to vote.

**SECRETARY KEMP:** So he is in compliance with the law then.

**MR. HARVEY:** Except he is not a U.S. Citizen.

**MR. WORLEY:** The record says he became a U.S. Citizen in 2007.

**MR. HARVEY:** Then that's correct. As far as Ms. Duncan, again, she, I understand, has become a U.S. Citizen. She has never affirmatively attempted to register to vote except by filling out to registration card. She has never voted, so she would appear to be consistent.

**MS. LAGRUA:** She was registered through DDS and then was mailed, as I understand it, a voter confirmation card. She affirmatively filled out the voter confirmation card and mailed it back.

**SPEAKER:** Can I say something? That's not quite true.



**SECRETARY KEMP:** Name and address, please, sir.

**MR. DUNCAN:** My name is Pete Duncan 2310 (Westfield Court), Marietta and I'm Nancy's husband. The card doesn't state on it whether there is affirmation or not. It is an information card. And all you're doing is updating your information. She thought that that's what she was doing, updating your name and address and she mailed it back, not a voter registration.

**MS. LAGRUA:** The reason I refer to it, just so -- I don't take any issue with Mr. or Ms. Duncan. I'm just reporting the facts, not make anything decisions on what it is. At the top of this form, it says please update/confirm my voter registration. She may have just been in her mind, updating her information. I am just relying on what the form actually says in its language on form that was signed by Ms. Duncan.

**MR. WORLEY:** But is it clear that Ms. Duncan never made any attempt vote?

**MS. LAGRUA:** That's correct. And Mr. Worley, if I could clarify, one of the reasons we made clear on the investigation, sort of a distinction in the things we found were, because we knew there were ongoing issues with the DDS registration and we have had cases this Board's familiar with in the past, where we had with someone register to vote through DDS and had that individual tell us, well, I didn't know I was registered to vote or I didn't register to vote. Since they are on the rolls, we felt an obligation to let you know that that's a potential violation, that they were registered to vote and the were not allowed to be registered to vote, because they are not U.S. Citizens. That is not a determination on our part that they have affirmatively done anything on their own doing, just the fact that they are registered and not citizens is a problem.

**MR. WORLEY:** I understand that completely. Thank you.

**SECRETARY KEMP:** Any other questions? Thank you, very much. Okay. We have got a motion to dismiss Ms. Duncan and Mr. Park. Do I have a second? Do I have a second?

**MR. WORLEY:** I guess there is a different way.

**SECRETARY KEMP:** Just those two. We have a motion. Do we is a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** Mr. Web seconds. Any other discussion?

**MR. EVANS:** My concern is making sure that the government records accurately reflect what the legalities are. So, for example, if the record reflected that Ms. Duncan was (coughing) registered to vote since her initial registration, that would be inaccurate. On the other hand, I recognize that she is now entitled vote. So the challenge is a system issue, which is to say that as of September 2009 she was registered and before September 2009, whatever date -- when did she become a U.S. Citizen?

**MR. DUNCAN:** '09, but I visited the Cobb County Registration Board two days ago. She is not

registered to vote.

**SECRETARY KEMP:** I tell you what, come on back up here.

**MR. EVANS:** This is a slow process, but we, actually, want to get it right. It's that important.

**SECRETARY KEMP:** Right.

**MR. DUNCAN:** I talked to those people in THE Cobb County Elections Board. She is not registered to vote. She was taken off the rolls, because I think the lady told me you have two election cycles. If you don't vote within two election cycles, your name is taken off the roll. She was picked up as registered voter against her knowledge in 1997. So, in two periods they took her off the list. As of 2009 she was not registered to vote.

**SECRETARY KEMP:** Any other questions?

**MR. EVANS:** And Mr. Park is currently registered.

**SECRETARY KEMP:** Thank you.

**MR. EVANS:** Is Mr. Park currently registered or is he off the roll, because I don't think he's voted?

**MS. LAGRUA:** He has not voted.

**SECRETARY KEMP:** Mr. Park, do you know if you are registered to vote.

**MR. PARKS:** It says I am.

**SECRETARY KEMP:** It says you are.

**MR. HARVEY:** He is inactive.

**MR. MCIVER:** I intend to oppose to motion not that I question the veracity of Ms. Duncan or Mr. Park, but it seems to me that that is really not the per view this Board to conclude whether individuals are citizens or not. That can be demonstrated in a number of different ways. My view is this investigation needs to go forward in its totality and we should not eliminate anybody.

**MR. WORLEY:** Well, I don't think there is any question or I don't think the investigators have question that Mr. Park and Ms. Duncan are now citizens, correct?

**MS. LAGRUA:** We verified all or our information through ICE on the current status of these individuals.

**MR. WORLEY:** Okay. So ICE now says that Mr. Park and Ms. Duncan are citizens.

**MR. WORLEY**: Correct. The only thing that is going to happen if this goes forward is that the attorney general is going to hear the same thing that we just ask them. The same thing that we just asked them and they are going to hear the same testimony, which is very credible, that they are never attempted to vote, that God knows, based on what we hear from the DDS, why people are listed as being registered to vote when he are not citizens. And I just I don't think any further referral is going to do anything different than what we have learned and heard here today, other than cause the two people who are now citizens further inconvenience. And I think the best course is to close their two cases and I hope they will go on from this and register to vote and participate in our Democracy and feel completely welcome as citizens of this country.

**SECRETARY KEMP**: Anybody else. We've got a motion. Mr. Web, do you second it?

**MR. EVANS**: There is issue that's Mr. McIver and Mr. Worley raised. And then there is a separate issue, which is the legalities of 21-2-216. We have referenced 21-2-216(a). I read 21-2-216(a) as being a prohibition against voting as opposed to registering. There are prohibitions in the 21-2-216(b) and (c) against registration, but they do not appear to apply here. So, I'm trying to actually figure out -- and my worry here is that as I was preparing for today's hearing I became concerned, Mr. Taylor, that we may have another issue we need the legislature fix, but maybe I'm missing something.

**MS. LAGRUA**: I have to get credit here, candidly, to Mr. Evans, to Mr. Duncan, who raised that exact point with me when I spoke with him last week. And I spoke with him and Ms. Hicks and did some research and looked at the Constitution looked at the annotations. And, at least, as I read the annotations and the Constitution, the taking of the oath, which would be the registration, said that registering is an oath and therefore puts you in violation by taking the oath, being very articulate.

**MR. EVANS**: So, what is the other code sections, because 21-2-216... (trailed off)

**MS. LAGRUA**: The annotation that is actually in here has to do with a school district case. But it says that the fact that one's name was signed to the oath and the voter vote will be prima facie evidence that the oath was administered as required and substantial compliance therewith with submission. And in the Constitution of the State of Georgia it, specifically, says that you have to be a U.S. Citizen, I believe, to register to vote. I thought I brought that with me.

**MR. EVANS**: Well, that is what I need to see, because if there is a provision that deals, specifically, with registration -- although, I'll be candid, I don't recall us ever holding a violation of the Constitution -- but there is always a first. I couldn't figure out how that works when I tried to sort all through this last night.

**MS. LAGRUA**: In article 2 section 1 paragraph 2, it is the right to register and vote. Every person who is a citizen of the United States and a resident as defined by law, who is, at least, 18 years of age and not disenfranchised by this article and who meets residents requirements as provided by law shall be entitled to vote. So, it's a violation of the Constitution to register if you are not a U.S. Citizen, as I read it.

**MR. EVANS:** Where is the prohibition. In other words, I hear you. That's an entitlement. It's a privilege under the Constitution. You have a right to register if you meet those qualifications. The question is where is the prohibition. I'm concerned. I became very concerned last night because we don't have a specific prohibition, which would be a major flaw in our law. One of monumental consequences. It is hard to punish somebody for violating a prohibition when I can't cite to a prohibition. Actually, I thought I was tired and it was late and I just couldn't find it.

**MR. TAILOR:** Mr. Evans I can only point you to two other things. In addition to what Inspector General LaGrua has mentioned, and that is on the oath itself, that the voter registration application, you do have to actually swear that you are eligible, that you are a citizen of the United State and the State of Georgia.

**MR. EVANS:** Does that happen when you register as part of the driver's license process.

**MS. LAGRUA:** Yes.

**MR. HARVEY:** Yes.

**MR. EVANS:** Okay. So, where is that?

**MR. TAILOR:** It's on the application.

**MR. EVANS:** Can you hand me a sheet of paper and show me where it is. If somebody could hand me the oath that is taken when you register to drive. That would be a different issue that would go to Mr. Worley's point, which is for oath and for a violation of the oath you do have to have...(trailed off)

**MR. HARVEY:** In addition to that, while you are looking at that, Mr. Evans, is that the Help America Vote Act also requires that any individual being a United States Citizen can answer that question on any mail in voter registration application and that that be included on a mail in voter registration application, which also then is included on all other applications that we have.

**MR. EVANS:** So, where would be the oath code section?

**MR. HARVEY:** Are you asking whether there is a code section that says what the oath should say?

**MR. EVANS:** No, no. I see the oath. Honestly, it will be something that we would be happy to have (them) (unclear - low) address. The question is, I don't think we can cite 21-2-216(a)2 as the violation. I'm trying to figure out where the oath violation is.

**MS. LAGRUA:** You also potentially have a violation of 561 or 562 (audience member coughing). Again, that's going to go, though, to at least in the situation of Mr. Parks and any of the individuals that were registered through DDS and there is no other information, except for the DDS registration to some degree, a swearing contest, as we saw in the Bartow County Case

of the person that actually entered the information and these individuals that were registered that are not U.S. Citizens.

**BOARD MEMBER:** I think 21-2-561 is the one that most applies, I think.

**MS. BRUMBAUGH:** I would point out that 561 has more of a Scientist, the knowing. That will change the burden, I believe, the burden of the Board.

**MR. EVANS:** How does it work on the signature on the oath, when you register or when you get your driver's license, how does that work? Just for logistics, you are there. You are getting your driver's license. You apply. They ask you all the questions; you, then, finish up. And then you sign the pad.

**MS. AMMONS:** The questions are asked verbally or they were asked verbally, up until the change that we made this month with the document, adding the question to the actual application, it was all verbal.

**MR. EVANS:** That's, actually, a slightly different question. When you sign the oath do you see the oath?

**SPEAKER:** No, sir, the actual pad itself, you would not see the oath. The signature pads would not actually have the verbiage printed on there in the same location as what you are signing.

**MR. EVANS:** That is a really big point.

**MR. WORLEY:** For instance, Ms. Ammons, if you can come look at this document that has been submitted to us. It's a form with Ms. Duncan's signature on it, dated April 3rd 1997, which has her signature underneath language that says I swear or affirm under penalty of perjury. What you are saying is that she signed electronically, somewhere, but she didn't see that language above her signature at the time she was signing the signature.

**MS. AMMONS:** It would not be on the signature pad. Depending on when it happened, it is possible that it was posted or printed somewhere on the counter there where she was, but, no, as far as what's visible to customer that was signing on the signature pad, that language would not be there on the screen where they were making the signature with the stylus.

**MR. EVANS:** I have a question for Ms. Duncan and Mr. Park. If we ask that you deregister, and then if you want to register to vote, you apply again, now that you have satisfied the requirements would you have any trouble with that?

**SECRETARY KEMP:** Ms. Duncan is not registered, correct.

**MR. EVANS:** I'm proposing a different solution. I'm proposing a different solution, which is intellectual consistency, which is that if Mr. Taylor prepared a letter that Ms. Duncan and then Mr. Park both signed that said, this is confirmed, never my intent to register and I ask that any registration that existed before to the extent it hasn't been already stricken, be stricken. And then

if they want to reregister, they reregister. That way we have intellectual consistency, which is, there is no validity to the registration that existed up to this date, now that they are legally qualified. And going forward, they can apply.

**MR. EVANS:** I think, under that context, I would be supportive of the idea of closing the case, subject to that provision. The motion you have before you is a straight motion to close.

**SECRETARY KEMP:** So we have a motion and a second, correct, Mr. Webb?

**MR. WEBB:** Yes.

**SECRETARY KEMP:** Mr. Worley, do you have any thoughts on Mr. Evans' proposal?

**MR. WORLEY:** Well, if it's the only way I can get three votes, I'm happy to take it. If Ms. Duncan and Mr. Park would not feel that is necessary. I can certainly understand why they wouldn't feel that that was necessary, but that is up to them. I think their cases should be closed.

**SECRETARY KEMP:** Would you be willing to withdraw your motion?

**MR. WORLEY:** Yes. I will withdraw my motion.

**SECRETARY KEMP:** Okay. Mr. Evans.

**MR. EVANS:** Yeah, I'll just move that upon receipt, a letter that I just described, which is, earlier registration, no good, and if you want to register now, you can, but the case would be closed. That would be my motion.

**MR. PARK:** Basically, it is like restarting the process.

**SECRETARY KEMP:** That's correct.

**MR. PARK:** But I -- Okay.

**MR. WORLEY:** But I would like to make clear that once you sign that letter you are free to go register again. And I would hope that you would please go register.

**SECRETARY KEMP:** Ms. Duncan does that suit you?

**MS. DUNCAN:** Yes.

**SECRETARY KEMP:** Okay. We have got a motion by Mr. Evans. Do we have a second?

**MR. WORLEY:** I'll second.

**SECRETARY KEMP:** Seconded by Mr. Worley. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Now on to the rest of the case. Thank you very much.

**MR. EVANS:** I would move to table the rest so that it can resubmitted to us with all the appropriate respondents. I would ask that when we hear this again that the DDS have for us nothing different than what we requested from Fulton County when we dealt with Fulton County, and that is a plan that addresses how to address the problem.

**MR. WORLEY:** Before we continue with that motion, is the Board's wish that we also deal with Mr. Sotres' case, because he is someone who thought he was as a citizen, registered to vote. I would like to close his case if he agrees to withdraw his registration as Mr. Evans was suggesting earlier.

**SECRETARY KEMP:** Is that a motion?

**MR. WORLEY:** I don't know if I can do that.

**SECRETARY KEMP:** I'm sorry. Let me do this. Mr. Evans you had a motion. Do you still want to keep that motion on the table?

**MR. EVANS:** I'll withdraw it.

**SECRETARY KEMP:** Mr. Worley.

**MR. WORLEY:** I make a motion that we close Mr. Sotres' case upon his agreement and sending a letter to the voter Registrar withdrawing his registration.

**SECRETARY KEMP:** Okay. We have a motion from Mr. Worley do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** And a second. Do you believe that Mr. Sotres would be amenable to that?

**MR. ROSEN:** On his behalf, we will do that within the next 10 days?

**SECRETARY KEMP:** Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** We have a motion and second. All those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP**: All opposed.

(NO RESPONSE)

**SECRETARY KEMP**: Motion carries. Thank you, very much.

**MR. ROSEN**: Thank you, gentlemen.

**SECRETARY KEMP**: Mr. Evans.

**MR. EVANS**: I move that we table. I am going to retract that because I don't want to have to have a motion and take it off the table. I move we defer consideration of the balance, so that the additional respondents can be identified and name and so that we can consider, at the next Board meeting, whatever the proposal plans, that a joint collaborative plan between the Secretary of State's Office and DDS submits to us to address the issue.

**SECRETARY KEMP**: Have a motion. Do I have a second.

**MR. WORLEY**: Second.

**SECRETARY KEMP**: Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP**: All those in favor of the motion say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP**: All opposed.

(NO RESPONSE)

**SECRETARY KEMP**: Okay. The motion carries.

**MR. WEBB**: Before we move on, we verified with Cobb County that the people would be heard from the voter records. Is there anyone from Cobb County here.

**SECRETARY KEMP**: We can check up on that for you, Wes. Case No. 21, Greene County.

**MR. HARVEY**: The complainant in this case is Mr. Charles Copelan. Mr. Copelan has had an unusual saga with the Greene County Board of Election, starting in 2004. He was a registered voter in Greene County. In May of 2004 he was removed from the list of eligible voters in Greene County, by then Deputy Registrar, Mike Malone. The reason cited was moved out the



county. At the time Mr. Copelan reported that he had temporarily taken a job in Hall County, but he had never changed his residence and he had never requested to be taken off the rolls and register in any other county. He was not notified of the fact that he was taken off the rolls. In November of 2004, Mr. Copelan says that he sent in an absentee ballot for the general election. He never heard anything back from the ballot. The Greene County Board of Election and Registration has no record of ever sending him a ballot, or receiving a ballot or accepting a ballot or rejecting a ballot. And up until June of 2006, his voter history did not show any voting in the general election in 2004. In 2006 Mr. Copelan went to vote in an election and, again, found he was not on the list of registered voters. He got with Mr. Malone. Mr. Malone allowed him to vote. And he should have been added to the list of voters at that time. Three weeks later, 2006, there was a run-off election. He, again, was not on the list of voters and was, again, allowed to vote by Mr. Malone. He started making complaints with Secretary of State's Office in 2006 or 2007. He was dealing with Francis Jackson in the Elections Division. Mr. Copelan didn't believe Mr. Malone when Mr. Malone said, essentially, this was all human error. He doesn't understand how he kept getting left off the list, how he got taken off the list the first time. Mr. Copelan believed there was another motive unknown motive for doing this to him. June 19th, of 2007 his voter history was updated by, then Deputy Registrar in Greene County to show that he did, in fact vote in the 2004 election. There is no obvious basis why that change was made. We know who did it. The deputy Registrar did it, unfortunately that deputy Registrar is in the last stages of a terminal illness and isn't able to provide more reasons as to why that is done. He attempted to vote in April of 2007 and when he showed up at the polls, he was told that he had already voted. He was adamant that he had not voted and he was given the possibility the maybe his father voted in his place and they had checked the wrong name on the express poll. He confirmed that his father had not voted and, again, was incredulous that he was not on the voter's list. He was allowed to vote in that case and at this time is currently registered and is eligible to vote in Greene County. The violations that are listed 21-2-234, that he was never given any confirmation notice when he was removed from the voters list, 21-2-411, by failing to keep a list of supplemental voters who voted in the July 18, 2006 election. 21-2-407 failed to correct the elector's registration after he voted and was registered in July of 2006, 21-2-215(i) the Board gave him credit to Charles Copelan for voting in November 4, when there really isn't evidence that he did, other than his statement that he did. Again, depending on what side you come down on, with the absentee ballot for 2004, if you believe they sent him one and he sent it back, it was, apparently, rejected because it was never counted. He was never given notice that. That would be 21-2-386(a)1(c). The 2004 absentee ballot is disputed and there is simply no evidence whether or not it was sent in and whether or not it came back. It is recommended that this case be forwarded to the AG's office for appropriate sanctions and training or fines.

**SECRETARY KEMP:** Okay. Any questions for Mr. Harvey.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you. Anyone else wishing to speak?

**MR. COPELAN:** I'm Charles L. Copelan, Jr., 3321 Lake Oconee Parkway. (cell phone interference) Georgia. 30642. I did want to clarify that in my correspond with Francis Jackson of the Elections Division, she did go back and in her letter to me, dated June 29th, she says she

contacted Judge Lavern Ogletree, the elections superintendent, who provided the numbered list of voters that confirms that my absentee ballot was received. And she said accounted for that election; however, credit was not entered on my voting -- on my voting record that had been updated since then.

**SECRETARY KEMP:** What was that date again, the date of the incident what she was telling.

**MR. COPELAN:** Absentee ballot of November of 2004. When I got this from her. I went to see the probate judge, Lavern Ogletree. She took me and showed me the numbered list that she referenced here, and my name was on that numbered list that the absentee ballot had been received. But in that election, when my dad went to vote, I was in Hall County at the time, working a temporary job. When my dad went to vote, he was told that he had already absent voted, and that couldn't be true, because I was the one that absentee voted. He had not early voted or absentee voted. So, he was required the vote provisionally. My parents told me about that. I said how could they have messed that up. I didn't know it but the only name they could check off the list in November of 2004 was my dad's name, because I was not on the voter registration list and I didn't know it. For two years there was that void there. So, apparently, the absentee ballot, even though it was on the numbered list and in the courthouse, it could not have been counted, because I was not a registered voter at that time, due to errors that had been made by the voter registration office in Greene County. So, on the absentee ballot, they have documentation that it was received, but obviously, according to my voting record that Ms. Jackson pulled on May 3rd, it was never counted. I don't see how it could have been counted, but I wasn't a registered voter at that time, due to no fault of my own. I wanted to clarify that.

**SECRETARY KEMP:** Thank you. Any questions?

**MR. MCIVER:** Are you related to Jessy Copelan?

**MR. COPELAN:** Yes, sir. He is a cousin of mine.

**MR. MCIVER:** No furthers questions.

**SECRETARY KEMP:** Any other questions?

(NO RESPONSE)

**SECRETARY KEMP:** Any other person wishing to address the board?

**MS. RUNYON:** Again, I'm Andrea Runyon with Runyon and Greene. I'm a Greene County Attorney. Runyon and Greene is not associated with Greene County 794 Church Street, Royston, Georgia. Just for a little bit of information for you all, in April of 2004, respondent Mike Malone was a part-time register. At that time the probate judge was in charge of elections. So, he was merely an employee at the time and just new for the July election. Then in December of '06, he resigned from his position to be qualified to run for an office. Between December of 2006 and July 2007 we had Jerry Wisdom and Paul Cobb who both served as part-time

Registrars. And they were, from my knowledge -- and I don't like to accuse people that are deceased or very ill, that they were not, I am told from several persons that they were not quite up on the system. Gary Wisdom, unfortunately, is deceased and as they said, (name unclear - deputy Registrar) is terminally ill. Then in July of 2007 Greene County created the Board. And that's when Mike became full-time. The first election, after that Board, obviously was in July of 2000. So, this is all simultaneous. As far as Mr. Copelan saying he felt like he was targeted or he felt like, maybe, someone was after him or that there was perhaps something afoul, we have different players in this entire action. One of the things I did notice when I was talking with members of the County and looking through some of their documents, I came across his name and address form that was filled out in April 18th, '07. I will pass this down. If you want to add it to the minutes, that will be fine. If you will look where it says current name, I have circled where it says, I am presuming it is supposed to be, Jr. that I'm presuming was filled out by him. If you look at it one way, you can't tell. The "R" in Jr is and "R" and the "J" kind of looks like one of the Os somewhere else, or it could be an "S." So, I'm quite frankly wondering if it was the writing that perhaps confused people over this time period.

**SECRETARY KEMP:** Motion to accept the document?

**MR. EVANS:** So moved.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We have a motion and a second. All those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. Anything else?

**MS. RUNYON:** You will have to excuse. I tore off the corners. I paper clipped it back on there.

**SECRETARY KEMP:** Okay.

**MR. MCIVER:** Mr. Chairman, if I might, perhaps this is a good time to mention it, but Mr. Copelan's cousin who is an attorney in Eatonton, Jessie Copelan has represented me in various real estate transactions in that county. And I would be pleased to recuse myself if any member of the Board thinks that that would present a conflict for my participation in this case. Again, I will entertain anybody's comments on that anybody. And if anybody objects to my participation I will stand down.

**SECRETARY KEMP:** Members of the Board, anybody have a problem?

**MR. EVANS:** No.

**SECRETARY KEMP:** I don't. Let's go ahead and proceed. Anything else?

**MS. RUNYON:** What I would ask the board is, obviously, with these different changes in 2004, it is my understanding that there has not been any issue since July 2007. It is confirmed that he is registered to vote. Perhaps it may be the confusion between father and son and how some of the forms were filled out that perhaps this case could be dismissed or the County would be agreeable to the a cease and desist order.

**SECRETARY KEMP:** Any other questions, members of the Board. Okay. Anybody else wish to speak. Hold on just a second. Anybody else wish to speak on this case. Okay. Thank you, very much.

(NO RESPONSE)

**SECRETARY KEMP:** Would you like to respond?

**MR. COPELAN:** Yes. I didn't on April 17th, 2007 she indicated I made a change to my voter registration card. I didn't change anything. On April 17th, 2007 was when I went to vote and I was told that I had already absentee voted. This is another problem. This is 2007, not 2004. On April 17th I was told that I had already absentee voted. And I said that I hadn't absentee voted or early vote or anything, neither had my dad, so there was no point of confusion about that. So, there was nothing that I changes. I used "Jr." from day one, when I registered. It is on a copy of my voter registration card that it was clearly, Jr. And before I had went to the polls to vote, I think my dad and I went together. Our names were right together. This was early 2004. I was the Jr. he is the Sr. and we have a different date of birth, so there was never any confusion there. Once my name was removed on July the 19th, 2004, by Mr. Malone, his name was the only name that could had been checked off when my absentee ballot was received. Obviously, it was, because he was told that he had voted absentee ballot, when he had not. I tried to revolve this within the County. I wrote a letter to Byron Lumbar, who is the county manager. I took the letter to him. I took copies of the letter to the Voter Registration Office. I handed one to Mr. Malone and Ms. Nesbit. I left copies with other members that were employed there at that time. I asked that they meet publicly with me. Mr. Lumbar called me and said it really wasn't his place the call such a meeting. I gave copies of the letter to my representative and to the County Commissioner. He said that I should redirect the letter to Mr. Moore or Ms. Lumpkin, I think, and Mr. Smith, who are the three county panel and ask them to call the meeting. I hand delivered the letters to Mr. Moore at his place of business and provided copies for the other two that were on the registration Board, chairman at that time. I never received a response. I never heard from them. I never got an explanation. They just would not meet with me to allow me to discuss the publicly and then in 2008 I found out about this process. And I began to pursue this. So, I had given them many chances to resolve this with me at the local level. And I didn't know it would ever wind up here, but this seemed to be my only avenue and I couldn't get an explanation or an apology or anything out of the local county board of registration.

**SECRETARY KEMP:** So what were you doing with this change of address form.

**MR. COPELAN:** I didn't change my address on April 17th.

**SECRETARY KEMP:** Have you ever seen this?

**MR. COPELAN:** This is when I -- this was in April 18th to avoid any confusion I guess I went in and told them, to be sure, I changed it from my street address to my Post Office Box, so, there wouldn't be any confusion, so would have an address different from my father, I guess is what I did. I switched it from Lake Oconee Parkway to my P.O. Box in no Greensboro, Georgia.

**SECRETARY KEMP:** Any other questions.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Thank you, very much. Anybody else wishing to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Hearing none, members of the Board anybody have a motion or suggestion?

**MR. WEBB:** I would like to make a motion for letter of instruction to be issued to the Board of Elections and registration, including a cease and desist.

**SECRETARY KEMP:** Mr. Webb has motion. Do we have a second?

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Mr. Worley seconds. Any other discussion?

**MR. EVANS:** How many times has Greene County been in front of us.

**MR. MCIVER:** We dismissed them on the last complaint.

**MR. EVANS:** I'm just curious. I'm getting ready. I went back to look to see how many cases we had involving Greene County. And might have missed my mark, but than one, more than two. The Question in my mind was if there is there a point in which some additional consequence beyond just cease and desist. So, maybe what we do is get Ms. LaGrua or the AG's office, because it could be that they have been vindicated. Just when I looked back at it, it looked like a fair number of times.

**SECRETARY KEMP:** I think it is good to remember too, from the testimony today, that the Board was created July 2007.

**MS. LAGRUA:** As best I can tell from our sanctions and fines, I go back to, it looks like about

November '06. I do not see any sanctions or fines levied against Greene County. I can tell you that I, specifically, remember they have been here on an occasion before. I can't tell you exactly about what. I do remember them being here. It does not appear to me, unless it is something that is currently pending at the AG's office that has not come back to us. There are no previous cases with sanctions and fine that I show here.

**MR. EVANS:** Actually I show the same thing, and that was my worry, which is that there is a pattern of being here, but always kind of dodging the bullet. At some point it has to be, don't come back, because the next time, there will be more action, no matter what. You have to be more careful. And I am fine with this being, going to your point Mr. McIver, I am actually borrowing this from something you said three or four meetings ago, which is to say, okay, this is it. If we see Greene County, again, and if we find a violation, there will be more than just a cease and desist and a reprimand. Do you agree Mr. McIver. I think you were the one who started me on this path.

**MR. MCIVER:** I am not sure.

**MR. EVANS:** It wasn't Greene County, but it was another county and you said --

**MR. MCIVER:** I'm just not sure this fact situation applies. I will tell you why. I am from a neighboring county. And by way of extra judicial remarks, Mr, Evans I know that this transition from the probate style over to the Board's style has been particularly difficult in Greene County. I think perhaps we heard some of that from Mr. Burdett. Some real genuine struggling, with trying to perform their duties, as well as resist pressure to do it the old way, and I am very, very sympathetic to that. So, for that reason, I don't think that that kind of ammunition should go here. I would like to hear more about the motion from Mr. Webb, because in the particular instance it seems to me that Mr. Copelan could have done more than he did. We have the valiant efforts of the election officials trying to do their jobs as best they can, and perhaps not quite achieving what would have been an ideal result.

**MR. EVANS:** Let me, as opposed to speaking for the Board, let me speak just speak for one board member. I don't think you want to come back. I don't think you want to be back in front of the board again. So, I think there should be a renewed effort so say to everybody, you know what, we have really got to be like 110 percent, because if we end up with a violation that we know there is probably going to be one vote already, to say that we have used up our last strike. Okay. With that said I will support the motion.

**MR. MCIVER:** Mr. Evans, I just hope your remarks don't innocentize those who have been eternally critical of this Board to come forward with what might be less than meritorious complaints. That's troubling to me.

**MR. EVANS:** Well, that's why I said it has to be a violation. If it's a false or groundless accusation, I think we have been pretty good today at really parsing out. And that's the reason it takes so long, is because we want to get it right and we don't just roll everything over. We don't automatically refer anything. We don't automatically dismiss. We have been taking the time to take the scalpel out and carefully slice out. I try to do that every time, try to prepare for meetings

and if I see the same out over and over and it's a pattern.

**SECRETARY KEMP:** Okay. Mr. Web you made the motion.

**MR. WEBB:** I did, a letter of instruction and be sure to include a public reprimand and a cease and desist. I concur that think Greene County seems, in just my short tenure here, here a few times. I don't think the facts of this case warrant it. As their attorney has pointed out, a lot of things that happened in the past are really beyond the current Board's control. But as Mr. Evans has pointed out, you are in the spotlight, so you want to try to make sure you keep it as clean as you can.

**SECRETARY KEMP:** Was that a second? I want to make sure, for the record. We have a motion and a second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor of Mr. Webb's motion say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

**MR. MCIVER:** Aye.

**SECRETARY KEMP:** Note Mr. McIver votes no. The motion passed. And Mr. McIver.

**MR. MCIVER:** I understand that at some point a break might, at some point, be good. I must take my leave. I have a previously scheduled 4:00 o'clock engagement across the street that I feel compelled to make. I would like permission the leave early, if that might be your ruling, Mr. Chair.

**SECRETARY KEMP:** That's good with me. Let the record show that Mr. McIver is leaving us. The way thing are looking, you may be able to come back after your meeting. Let's take a quick minute break and we will come back at 10:00 to till 4:00.  
(afternoon break at 3:43 P.M.)

**SECRETARY KEMP:** We're back in session.

**MS. LAGRUA:** As we discussed. I e-mailed Shea Browning the probate judge that had been in touch with me. He indicated via e-mail that Judge McGowen had not requested a continuance when he spoke to her, so we could proceed. This involved both to July 2008 primary election and subsequent elections we received complaints about while we were investigating the initial complaint. There is a Mistake in the summary. It indicates the complainant Paula Waldron, was a candidate for probate judge. She was, actually, an employee of Marge O'Brian, who was a candidate for probate judge. The allegations in this case were that Shea Browning, who was running for probate judge was inside the probate office, which as a precinct, after he qualified to

run for judge and also that poll workers were campaigning for candidates by using the candidate's names as examples to explain write-in votes. What we found was, Shea Browning is actually an attorney. He has since been elected as probate judge, and, in fact, sent correspondence to this board that I will have Mr. Harvey pass down. He is not here today. But he did send some responses, and I will address those as best I can. Shea Browning was an attorney and he was, in fact, in the probate office at times during this election. However, at least on its face, he had a legitimate reason, as an attorney, for being in the probate office. We interviewed numerous witnesses in this case, two different investigators have been involved, and could find no one that give us any definitive evidence that he was doing anything improper like campaigning the office while we was there. The other allegation is one that poll workers were campaigning candidates by using the candidate's name to explain how to do write-in votes; that may be substantiated in case. What we found was that, according to the elector, Judge McGowen asked the elector when the elector was leaving if the elector had voted the way the Judge would have wanted the elector to vote. I believe the response was, I voted the way I felt I should. Now, Mr. Browning's letter indicates that he was around at the time and he didn't hear -- Ms. McGowen and Mr. Browning say that if it happened, it was in a joking manner; however, our interview with the elector, the elector says the question was, did you vote the way I would have wanted you to, or you should have. The other situation was that Ms. Gillis, who was a pole manager, when an individual came in to vote -- I believe it was Ms. Levens, but when an individual came in to vote, without a request for any explanation as to how to do a write-in vote, showed the elector how to vote for someone, using a specific candidate's name as the example of the write-in vote with no request to even show how to do a write-in vote. Essentially, you have, potentially, a couple of potential violations here. Violation 413(d) asking a voter if they voting the way she would have wanted and a 410 violation by suggesting potentially Linda Gayle as a write-in candidate. So, as the allegations relate to Shea Browning, I would recommend that that case be closed or dismissed because there is no substantiation. And as for the other two, I would recommend that they be forwarded to the Attorney General's Office.

**SECRETARY KEMP:** Any questions.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anybody else here to speak on this case? Anybody else?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing None.

**MR. EVANS:** Motion to close as to Shea Browning.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** I have a motion to close as to Shea Browning and a second by Mr. Worley. Any discussion?

(NO RESPONSE)



**SECRETARY KEMP:** Hearing none, all in favor of the motion say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. The motion carries.

**MR. EVANS:** Motion to refer the others to the Attorney General's Office for further action.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Mr. Evans moves to move to the Attorney General's Office.  
Mr. Worley seconds. Any discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none the motion carries.

**MS. LAGRUA:** Next case is 2009-24 Randolph County. This is real simple. Lee Jordan is the complainant. The respondent is Henry Cook, again. This case has been heard by this Board numerous times. It is yet another challenge to Mr. Cook's residency requirement the represent the school district where he resides. This has been decided by both the superior court and the Department of Justice and Mr. Jordan, the complainant could provided no additional information. It is recommended that the case be closed.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else here to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, do we have a motion?

**MR. EVANS:** Most to close.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Motion to close and a second. Any discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, the motion carries.

**MS. LAGRUA:** The next case is Morgan County, 2009-34. This involved a November 2008 general election.

**SECRETARY KEMP:** Ms. LaGrua, I'm going to recuse myself because of some personal relationships in this case and let Mr. Evans chair the meeting at this point.

**MS. LAGRUA:** The allegations in this case were that Mr. Milliken, who was the Chair of the Morgan County Board of Election and Registration spoke in a threatening voice to poll watcher. The second allegation was that Steve Burch, who is a member of the Morgan County Board of Elections and Registration wrote letters to the editor that were malicious and partisan. As it relates to Mr. Milliken, Mr. Milliken received a call from a precinct that poll watchers were speaking with voter. He responded and requested -- and the poll watcher, I believe, was Christopher Murray -- requested that they stop. He left the location. He was called back to the location, because apparently the poll watchers were, again, continuing to speak to voters. Mr. Milliken responded and indicated to the poll watchers that they could be removed if they continued to talk to the voters. There was some allegation that Mr. Milliken invited, quote, unquote, Mr. Murray to step outside to discuss it. What we were able to determine to the best of our ability and it is somewhat of a he said she said, but the request to step outside was that he could use his telephone so he could call into the headquarters to clarify what he could do as a poll watcher. I don't believe, at least, as to that allegation that is substantiated. In response to Mr. Burch's letters, there were two different letters. One letter was sent to the Morgan County Citizen and in the letter, there was written, in part; I think maybe the Chair and Vice chair of the democratic party are running a two person game to defame your Board of Elections and Registrations. Poor old democrats against suffering old skull dugary (phonetic) by nasty republicans, oh, my. The letter in that particular case was signed, Steve Burch, Board of Elections and Registration, Board Member, (R) in parenthesis. The second letter, which was published in the Morgan County Citizen in April contained this language, in part. Neither the

public nor the Board of Election and Registration should be subjected to the continued childish snapping at the Board of Elections and Registrations by Ms. Harris. This letter was signed simply Steve Burch with no reference to his position or any affiliation. I think this could either be handled by a letter of instruction, letter of reprimand, or referred to the Attorney General's Office as Mr. Burch's one letter, where he makes representation in his capacity. I think Mr. Burch indicated that he was just citing who he was. That is a question for the Board to decide, at what point the line crosses. But in the one letter he did identify himself as a member of the Board of the Elections and Registration. In the other he did. And, I think, the case involving the poll watcher acting inappropriately speaking to voter, again could be handled at the Board's discretion with either a letter of reprimand or be forwarded to the Attorney General's Office.

**MR. EVANS:** Any questions for General LaGrua?

(NO RESPONSE)

**MR. EVANS:** So is anybody here to be heard?

**MR. DUBOSE:** Mr. Chairman and members of the Board, my name is Wilson DuBose. I am here on behalf of Steve Burch as his personal attorney. He has asked me to appear as his personal attorney, not the county attorney to appear on his behalf. He does not feel like anything he did was done in his official capacity as a former member of the Board of Elections and Registration for Morgan County. Mr. Burch was appointed to fill an expired term on that Board after the November 2008 elections. We are here today because Mr. Burch wrote two letters to the editor commenting on the situation when the complaint was lodged against the chairperson.

(LOW SOUND - SPEAKER WAS ASKED TO SPEAK LOUDER INTO THE MIC.)

**MR. DUBOSE:** I do apologize. I have a voice disability. I am speaking as loudly as I can. If anyone cannot hear me let me know. We are here today because Mr. Burch wrote two letters to the editor of the local paper, the Morgan County Citizen, commenting on the complaint that was filed against the chairman, by the gentleman here Mr. Murray, as a result of what took place at the elections precinct on November 2008 General Elections. Mr. Burch was not a member of the BER at that time of that particular election. The allegation is that Mr. Burch violated code section 20-1-2-214(c) by making a communication in his official duties that is critical of the democratic party.

Now, there are potential problems with that code section in terms of Constitutional issues, but I will not get into that. On the face of it, Mr. Burch it's clear, was not acting as part of his official duties in writing letters to the editor. That code section clearly does not prohibit a member of the BER from writing a letter to the editor -- his official duties to do so. In fact, the Inspector General does not complain about his second letter that Mr. Burch wrote. (audience member coughing - audio unclear)

**MR. DUBOSE:** -- because he did not put it that letter, by his name, he is member of BER. So, this means that the only way that Mr. Burch could be construed to be acting in his official duties in writing that first letter is simply by virtue of putting down his affiliation with the Board of

Election and Registration. If you will look at what the official duties are to be a member of the BER, they mirror those of the County Election Superintendent. If you look at code section 21-2-170 you will not see any mention of the use of the election superintendent from anything that Mr. Burch has done that has been complained of here. His official duties under 21-2-170 do not include writing letters to the editor, does not include making any public comments about matters involving the Board of Elections and Registration outside of official meeting. There is nothing that he has done other than express his First Amendment Rights to comment on matters of public interest. So, for that reason, I think it is clear that Mr. Burch -- (words inaudible) -- should be dismissed by this Board. The section he has not violated the section he is accused of violating.

**SECRETARY KEMP:** Any questions?

**MR. WORLEY:** I had a question. When Mr. Burch said neither the public, nor the BER should be subject to the continued childish (reading). It is your contention that that was not part of his official role as a board member?

**MR. DUBOSE:** He was not carrying out his official duties as a board member by commenting on the effect of those communications. These communications were read as part of an older meeting. Nothing that Mr. Burch has said came as a result of his being a member of the BER through some closed executive session. Everything that he commented on was part of discussions at open board members. He is merely exercising his First Amendment Right to comment on that. So, as a member of the Board defends an action of the Board that not part of their public duty.

**MR. DUBOSE:** Sir.

**MR. WORLEY:** If a member of the board, say I'm a member of the State Election Board Division and I defend the action of the State Election Board has taken, that is not part of my public duty?

**MR. DUBOSE:** It is not part of the statutory duties, I don't think, to be responsible for what duties that are not specified in the statute. The letter you are referring to, by the way, is not the letter the inspector general is complaining about.

**MR. WORLEY:** I understand that. I don't feel the same way about that letter. It seems to me that if he is saying that the Board should not be subjected to attacks, then he is acting in his capacity as a Board member, is in my opinion.

**MR. DUBOSE:** I respectfully disagree. Dealing with statutory duties require the Board member to continue to write letters to the editor commenting on actions involving the Board. I also question whether that statement could be construed as a criticism.

**MR. WORLEY:** You don't think the phrase "childish sniping" is criticism.

**MR. DUBOSE:** I think it is a statement of opinion.

**MR. WORLEY**: A critical statement of opinion.

**MR. DUBOSE**: Again, that is subject to interpretation. I do not believe that Mr. Burch gives up his First Amendment Rights to comment on matters related to the Board.

**MR. WORLEY**: It seems to me --

**MR. DUBOSE**: Otherwise code section 21-2-214 would not have in his official duties. Any statement he made regarding the Board, I think that the statute clearly tries to distinguish between statements made during a meeting of the Board or when he is authorized to make a statement on behalf of the Board. The statement was not made at the request of the Board. It is simply just a statement of a private citizen. It also requires there be a statement made on behalf of another party or question or group and there is no indication in the second letter you are referring to that Mr. Burch was making that statement on behalf of a party or group.

**MR. WORLEY**: I thought it was making it on behalf of a party, but that he was making it when it was directed.

(reading -- volume too low)

**MR. DUBOSE**: Requires that it be made of (low volume - unclear)

**MR. WORLEY**: It seems to me there are two different issues. One is whether the action falls within the statute. The other is whether the statute itself (volume too low) Are you taking a position on that.

**MR. DUBOSE**: Very problematical issues. I will not argument (unclear) I think it is very fair to retrospectively determine who is acting with sufficient duties with (can't hear speaker) so it is very problematical to try to hold him to a violation of the statute when the statute itself does not say what he did was part of his official duties.

**MR. EVANS**: Any other questions? Anybody here to speak on this case?

**MS. HARRIS**: Yes.

**MR. EVANS**: Go to the podium.

**SECRETARY KEMP**: My name is Patsy Harris. I live at 1801 Sugar Creek Trail, in Buckhead, Georgia in Morgan County. And I'm Chairman of the Morgan County Committee. I'm the one that wrote the two complaint letters. I would like to talk first about the complaint letter concerning Steve Burch's behavior. One of the things that we mentioned in our initial complaint to the local Board of Elections and Registration about this matter was the fact that his letters in the public newspaper were taking the Board in very distressing way. That anybody that wanted to make a complaint to the BER in Morgan County was going to have to wonder if they were going to have to be land blasted in the local newspaper. That is going to happen. Now people are going to wonder, what if I complain. One of those members are going to write a letter

in the newspaper, telling lies. And let me tell you the letter that he wrote to the editor, the first one, had this long drawn out lie about the Chairman, which is me, and the vice chairman, who is a member of BER, being in cahoots. And he came up with this huge story that was a total lie and then ran with it the rest of the letter. And he signed it as a member of the BER. The second letter, you should have a copy of it. Please tell me if you don't, because I can give you a copy of it. Although it is just signed Steve Burch, Buckhead, to me, that second letter, being on the same topic, the same land blasting comments and lies, the first letter set the precedent of who he is. The second letter, all it said was Steve Burch. People knew he was a member of the BER. He didn't have to say it in his letter that he was a member of the BER. They knew it. He was the one making it public. He was responding to an official complaint in both of those letters he sent, he was responding to our two complaints. The first letter he put in the paper was our first complaint against John Milliken. The second letter to the editor was our response to our second complaint against him. He was responding to an official complaint sent to the BER that was supposed to remain in the BER. It would have been great if it had stayed locally. I'm sorry it had to come to Atlanta. He was responding in an official position. Also, in my complaint about Steve Burch to y'all, I mentioned too that in March of 2009 at a county republican meeting he spoke to the group about the first complaint that was lodged with the local Board of Elections and distributed not only copies of some of the correspondence which pass between this democratic committee and the BER, but also one draft letter which bore little resemblance to the official response letter sent from the Board to the Democratic Committee. He was working in his -- he is a member of the republican party maybe the republican committee. I don't know. But he was working with the republicans at a party meeting, distributing this information as one of their members of the BER. That's all I have to say about that particular complaint. I will come back to the others. Thank you.

**MR. EVANS:** Any other comments on the matter?

**MR. MURRAY:** My name is Christopher Murray and I live at 465 East Washington Street, Madison, Georgia. I would like to state on the day in question, November 4th I was a poll watcher working there and that I did not speak to any of the voters who were waiting to vote. I was a poll watcher. My job was to speak to the people who had been rejected and didn't get a chance to vote, for whatever reason, after they were rejected and left the building, then I spoke to them. But, unfortunately, I was accused of speaking to the voters and that is why we are here. Does anyone have any questions?

**MR. EVANS:** Any questions?

(NO RESPONSE)

**MR. EVANS:** Thank you, very much. Anyone else who would like to be heard on this matter.

**MR. HENRY:** Thank you, Mr. Chair and Mr. Secretary, Inspector General. My name is Christian Henry. I'm a Morgan County Attorney. I'm here on behalf of the Board of Elections and Registrations and, as a part of that, on behalf of Mr. Milliken, a board member acting in his official capacity. I want to apologize for being the complainant to bring this matter to you, but I was asked to do it to try to get some resolution to disputes that were taking place within the

Board of Elections and Registration. Based on the report done by the Inspector General's Office, I would ask that you would dismiss or close the file on the allegations against Mr. Milliken, and against the Morgan County Board of Elections and Registration. And as a side note, regarding Mr. Burch's, I'm not here on Mr. Burch's behalf. In my review of the allegations against him, I did not believe that his comments were done in his official capacity as a board member. Now, that is obviously, for you to decide. I may be wrong, but I am not here on his behalf, but I would ask this Board not to issue a reprimand or a cease and desist letter to the Morgan County Board of Elections and registration regarding private comments or statements made by individual members in their private capacity. I don't think this Board would do that, but that is what I would like to ask. Thank you, again. Any questions I will be happy to answer it.

**MR. EVANS:** Anyone else here to be heard?

**MR. BURCH:** Yes, sir.

**MR. EVANS:** Come on up.

**MR. BURCH:** I'm sorry I'm standing before this Board. I'm sorry this got to this point. The Board has heard me called a liar. I wouldn't address the Board that way, but that is what -- I'm sorry. My name is Steve Burch. I live at 1020 Franklin Court, Buckhead, Georgia. I am a past members of the Morgan County Board of Elections. My first meeting with the Board was January 8th. On the afternoon prior to that first meeting Ms. Harris delivered by hand a letter to the office of the Board addressing a complaint, charging Mr. Milliken with being physically and verbally abusive to Mr. Murray, a democratic poll watcher. During the course of that meeting the recommendation by two of the board members were to respond with a letter, and that's it. The Morgan County Board construct is two members appointed by the republican, two appointed by the democratic party and one neutral, appointed by the commissioner. Mr. Milliken is a republican. Mr. Milliken, in the capacity as chair, is not in a position to make a motion or second motions. So the actions of the Board are tilted. They can be construed out of sequence if things aren't dealt with on an intellectual basis. With no communication from time of the November 4 election until the afternoon prior to the board meeting on January 8th, we didn't know anything about the accusations that were forthcoming. The letter that Ms. Harris wrote, included the members of the Morgan County democratic Committee. Ms. Harris is the chairperson. Avery Jackson is the vice chair. Avery Jackson Appoint is a democratic committee appointee of the Board. So one assumes as a matter of fact, from my notes, confirm they discussed what was going on. We get there we have the meeting and John and a bunch (unclear) takes us into executive session to discussion the charges. So, the press and the media, in our area, was unaware of the charges that had been made. The Board, at that time decided that Bobby (audience member coughing) would draft a letter in response to Ms. Harris's letter. And I have, in my possession and I can supply it, I think I supplied it to the AIG -- I need to interrupt myself. I have sat here all day. And I am delightfully impressed with the attention the Board gives these matters that I consider very important. I appreciate it. I would also like to say to the Board I hope never to be a customer of the IG again. But if I ever am, I hope that I am treated with the same professionalism and courtesy and follow-through as I have at this time. They did an excellent job. To continue, Bobbie draft's the letter. The letter stipulates the fact that when the Board takes the charge seriously, we have a member particularly a chairman who is verbally

abusive and physically abusive to anybody at the poll, particularly a poll watcher, we need to take that seriously and it needs to be investigated. The democratic members of the board squealed. Helen Butler, right there, a member of the Board, I have an e-mail from her that says she never agreed to having anything like a letter, as a matter of fact the letter looked like it was written by the republican party. She objected seriously to having an investigation. So came the February meeting and none of the media was there. And we were faced with this charge leveled by Ms. Harris and democratic members who did not want to investigate to charges. They simply wanted to write a letter of and say we received the letter and laid it down. And that amounted to a slander of a man who is a real benefit and asset to our community. It shouldn't be done. So we insisted. And as a compromise Avery Jackson, Vice Chair of the Morgan Democratic Committee, wrote the language that says the Board finds no evidence to support your charges. You have the vice chair. Her charges are bogus. And they compromised on that in lieu of moving an investigation policy. Our position was that the Board did not investigate (audience member coughing) and it should go forward. We compromised. We wrote the letter. We said okay, if you will review your letter and retract it, then we will let it die. But if not, then we think this is an important issue and somebody other than the Morgan County Board of Elections ought to investigate it. In response to that February 11th. Ms. Harris brought forth two affidavits, one from Mr. Murray and one from a poll worker who is on site. The affidavit allegedly supported the charges against Mr. Milliken. Ms. IG do you have those?

**MR. EVANS:** Mr. Burch you're a couple of minutes over your time. I am going to give you another minute. We start the meetings with. So, I will give you another minute here and we will ask you to wrap up.

**MR. BURCH:** Well, the conundrum, and I have each of these reports, this is the April 9th Morgan County Newspaper BER meeting. Its confrontational. And this piece here, is a quote from John Milliken. It says from day one I have been asking the Board to send it to the State for investigation. Day one was January 8th. This is April 9th. April 9th the Board voted unanimously to send to it the State. The republicans on that board wanted to do it on January 8th. They wanted to bury it, and I ask you why. There is a disconnect. It's down the rabbit hole and through the looking glass. There is a charge. And the people who make the charge obstruct an effort to investigate.

**MR. WORLEY:** So, Mr. Burch are you telling us that you want us to refer this to the Attorney General's Office for investigation?

**MR. BURCH:** Well, the other point that I would like to make --

**MR. WORLEY:** Just yes or no.

**MR. BURCH:** I appreciate it, but it is just a hair deeper, if you will indulge me 15 second.

**MR. WORLEY:** Okay.

**MR. BURCH:** There was no mention of this event running in any Morgan County meeting prior to the first letter. The reason I signed the first letter the way I signed the first letter is full



disclosure. I wanted the reader to know that I am a republican and that I was on the Board that I was not speaking for the board. That was not my intention. I have been in this system for about 60 days. Was now through two meetings. If I have run afoul of the law, I apologize. I didn't mean to. I thought I was on firm grounds. I have completed the term I was appoint to do. I'm no longer on the Board, but the point is that we have got a drive by (coughing) of democrats of this gentleman and should be prevented.

**MR. WORLEY**: I'm afraid you didn't answer my question. Are you saying then that you now want this referred to the general's office.

**MR. BURCH**: Would you describe this.

**MR. WORLEY**: This whole matter. You said the Board wanted it up here for a full investigation and do you want us to send it to the Attorney General's Office.

**MR. BURCH**: Now, I understand the question perfectly. It's a three-part question. The first has to do with allegations against Mr. Milliken and the IG has found those allegations to be fraudulent, which is true. The second is whether or not Mr. Murray committed any acts that need attention and I would hope that you would forward that. The third one is against me and I plead ignorance of the law. What you see is exactly what I wrote. The facts are not in dispute. The only thing that I would add is that the motivation for what you find at the end of the first letter is the same thing that you hear when a news reporter or GE or they say the parent company of -- I simply wanted the reader to know who I was. So, they can take what I said with whatever grain of salt they wanted to do this. A function of full disclosure on a statement not on behalf of the Board. Thank you.

**MR. EVANS**: Thank you, so much. Anyone else?

**MS. BUTLER**: I do. Good afternoon to the Board and to the Chair, Mr. Evans and board members. I am Helen Butler and I live at 1240 Reads Ferry Road, Buckhead, Georgia. I am a member of the Board of Elections in Morgan County and I am appointed by the Democratic party. I want to set the record straight to what Mr. Burch just said. The reason we, as democratic members, suggested that we send a generic letter back to Patsy is because we did not have the affidavits of the particular individuals involved at the time. And, secondly, I asked that Mr. Christian, there, would investigate whether we had any authority, under the statute, to reprimand a fellow board member. So, without having that and to also clarify as to whom do we get redress from if it is not technically a voting matter, which I didn't feel this was a voting matter, did we refer it to the Morgan County Board of Commissioner or does it come back to the Secretary of State and State Elections Board. So the democratic party was in no way shunning our responsibility for an investigation. As a former professional in HR the person that does something that know you have to get two sides of the story and you have to know what your responsibilities are, and what you legally can do, we decided to send a generic letter until we get answers from our county attorney as to what responsibilities we, as board members had with regards to the sanctioning other board members if we were to investigate and find that person was in violation. So, that was the reason that the generic letters were, as well as, we didn't have any formal affidavits from the individuals referenced in Ms. Harris's letter. That was the reason.

And so the party did not, and we, as board members did not shirk from our responsibilities. We wanted to have all of the facts and wanted to make sure that we were acting legally.

**MR. EVANS:** Thank you. Is there anyone who has not spoken who wants to be heard?

**MR. EVANS:** Okay I will give you 2 minutes.

**MS. HARRIS:** Patsy Harris, again, I wanted to speak about our first complaint to the Board of Elections concerning John Milliken's threatening behavior to one of our poll watchers. We train our poll watchers very well. And I must say knowing, how poll workers are trained in Morgan County, they really don't know what poll watcher cans and cannot do. In a summary it mentions in here that there are no supporting statements to Mr. Murray's claim and Milliken's contact with him, but there is. There is a second affidavit, Baps Johnson. Georgia State Professor who said John Milliken went directly to where Chris was sitting on the chair behind me. I was shocked and appalled when I heard John speaking in a very threatening manner. And then she goes on to say some of the things that is he said. And she said it was just the tone of John's voice that got my attention. I felt like he was trying to intimidate Chris, trying to frighten him. And I know that bad behavior is not a criminal offense, but when you are talking about BER members they need to behave ethically and professionally with everyone, even when they disagree with them. And that's all.

**MR. WORLEY:** Ms. Harris do you have a copy of that affidavit or do we have a copy of that affidavit?

**MS. LAGRUA:** I misspoke. We do have that. I apologize, Mr. Worley, a witness described his voice as intentionally trying to intimidate.

**MR. WORLEY:** Can I see that.

**MR. EVANS:** Anyone else want to be heard? Mr. You have one minute.

**MR. BURCH:** I wanted to respond to a couple of comments that were made since my initial presentation.

First of all, Mr. Burch said he pleaded ignorance of the law. I am here to say that there was no violation of the law. Whether Mr. Burch understands it or not, there was no violation of the law BY Mr. Burch. Going back to (unclear) comment regarding to second letter (can't hear him) if anything that Mr. Burch had said that as critical of the democratic party actionable those words while conducting your official duties nothing that they could say in official duties and established.

**MR. WORLEY:** When Mr. Burch spoke he seemed to indicate that the purpose of his sending the letter to the Paper was as a part of his official duties. I got that impression. What's your view of that?

**MR. BURCH:** I don't think he specifically said that. I think he wanted the public to know what was going on. The meetings in which these thing were discussed were open meetings. He could

just as well have been there as a Public citizen. He decided the public needed to know about that. He decided to inform the public by way of a letter to the editor. Anything he said or did I am not aware of any action in the conduct of his official duties.

**MR. EVANS:** Anybody else?

**SPEAKER:** Thank you, Mr. Chairman. My address is 204 Thompson Street, Suite B, Madison, Georgia 30650. The allegation against him, if you accept them as true, Mr. Milliken disputes that he raised his voice in a threaten manner or any of these things. If you accept them as true, they are merely someone spoke rudely to someone else. This not a violation of criminal law; therefore, again, I would just ask this Board to concur with the Inspector General's findings to close the file. Thank you.

**MR. EVANS:** Lasts reply.

**SPEAKER:** I state categorically that Mr. Milliken got in my face and took his finger her and threatened me. And asked me to come outside, so he could take care of me. That was not a lie. It was not a misquote. I hope that this Board does not simply take this he-she thing and just sweep it under the rug. Maybe he didn't violate any particular law, but he, being a Commissioner of the Board of Commissioners in my county to accost a citizen who is simply doing their job and then to try to have this whole thing swept under the rug is absolutely shameful.

**MR. EVANS:** Thank you. You haven't spoken yet so if you want to speak.

**SPEAKER:** Thank you for indulging me. I'm John Milliken. I was chairman of the BER for Morgan County. I did not know Mr. Murray. As a matter of fact, I thought, perhaps, he was a state poll watcher because he was not included in our list of local poll watchers. He was added late in the process. I went because our poll manager complained that he was talking to the voters. I went in. I spoke to the poll manager. I talk with her about 15 minutes. When I got around to asking about that, she said it stopped the moment you walked in. I said I will talk with the gentleman. I didn't know his name. So, I went over and asked him if he was talking to the voters and he denied it. I told him that that is not permitted. He denied that he was doing it. I said, well, fine. If you are not doing it, it is not a problem. Just don't do it. And I went back to the poll manager and said I don't think you will have any more problems and I left. Sometime later another call came in from the poll manager said it resumed. I went back and said I got another complaint you are talking to voters. He denied it. And in the meantime I had gotten a cell phone calls from our elections supervisor saying a voter came into our headquarters complaining about that precinct and a poll watcher talking with her and I don't know to what extent. I told him I had two complaint, two different people, then he admitted that he was, in fact, doing that. I told him that he needed to stop. He told me that he was following his training he had been given. I told him that he needed to stop or he needed to leave. And he sat there. I said, I will do this much for you, we will step outside and you can use your cell phone to call your controllers. I didn't know what to call the people that he might be reporting to, because I thought he was state. And he just sat there. And I said, well, I presume you will not be talking to voters any further. And I went back over to the poll manager and said please let me know if it

happens again. About two hours later I got a telephone from somebody that identified himself as being Fulton County. He talked like an attorney. He sounded like he -- he told me was representing the democratic party and he wanted to know if I was going to bring charges against Mr. Murray. I asked who that was. He told me it was the poll watcher I had spoken to. I said I have no reason to, if he doesn't do it anymore. He said so you are not going to bring charges. I said I have no reason to and he said that is all I wanted to know. And that was the end of it. That was all I knew until the letter arrived from Ms. Harris speaking for the democratic party. Thank you, very much.

**MR. WORLEY:** Mr. Milliken, you said that Mr. Murray admitted doing that. Is that speaking to voters.

**MR. MILLIKEN:** Yes.

**MR. WORLEY:** Did he admit to doing that inside the polling place or outside the polling place?

**MR. MILLIKEN:** My impression was that perhaps it was going on inside the polling place on the first occasion. This is after talking to him the second time. I left with the impression maybe it was first time and maybe was outside after I -- between my two visits. And I don't know if this enters into y'all consideration, outside the case, would have been somewhere in the neighborhood of 15 to 20 feet of the building and the entrance to the voting place. So, my thought process was that was part of the jurisdiction for polling activities. He did not make it clear to me that it was outside. So, I did not make a decision on that point at that time. Thank you.

**MS. BRUMBAUGH:** I just wanted to address the Constitutional issues to the Board. There is extensive case law regarding administrative bodies sanctioning people for exercising their speech, the right to free speech in this situation is not completely unfettered. There are limitation. I would recommend the Board. I am your attorney, to refer this, at least this part of the case over to me. I will do further research as to whether or not there is a Constitutional issue here. And, certainly, if I find that his speech was protected I will bring that back to the Board and recommend dismissing the case. I have done research on this for other cases. For example, there was a case with the District Attorney and there was an assistant District Attorney who disagreed with the position on a case. He spoke out in public about his disagreement with the boss. The Court's upheld that yes, his boss could sanction him for that kind of speech. There are limitations in these kinds of situations. I just wanted to make the Board aware of that and offer my services for further research in this area.

**MR. EVANS:** Thank you. We have before us, this matter. I will say that as Mr. Worley knows that my position under 21-2-214(c) is pretty well documented, which is unless you use official resources, such as the letterhead, free speech, you can write all the letters to the editor you want. I am one who frequently writes letters to the editor. With that said, we can take this up. And I will entertain any motions.

**MR. WEBB:** I will make a motion that the charges again Mr. Milliken be dropped, case closed.

**MR. EVANS:** Second.

**SPEAKER:** I need to comment about this because we have had today, we have had Mr. Murray say that Mr. Milliken threatened him. We have had Mr. Milliken say that he didn't threaten him. Our job here is to determine whether there is a dispute over the evidence. If there is a dispute over the evidence, to refer him over to the Attorney General's Office. I don't see how we can do anything other than send it on under the testimony we have today. We have one person saying Mr. Milliken those were his exact words. Mr. Milliken says, essentially, no, I didn't. I don't see how we can't pass that on.

**MR. EVANS:** Any further discussion?

(NO RESPONSE)

**MR. EVANS:** All those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**MR. EVANS:** All those opposed say, no.

**MR. WORLEY:** No.

**MR. EVANS:** The ayes have it. Is there another motion on this matter?

**MR. WEBB:** Make a motion that the charges or case against Mr. Burch be referred to the Attorney General's Office.

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

**MR. EVANS:** Any discussion?

**MR. WORLEY:** I may be inclined to side with Mr. Evans' view about the appropriateness about the lack of the illegality of making the comments that Mr. Burch did, but I want to get the Attorney General's view on that.

**MR. EVANS:** My position's no different. We have had this issue before us six or seven times and every time prior to today we have closed the case. And never referred it to the AG a single time. The first amendment part is too big. So, any other discussion?

**MR. WEBB:** I would add, Mr. Evans, I don't have that history, but I think the bad judgment was used.

**MR. EVANS:** If bad judgment were the test we would refer them all. All in favor of the motion say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**MR. EVANS:** All opposed to the motion say no.

**MR. EVANS:** No.

**MR. WEBB:** No.

**MR. WORLEY:** Wait a second.

**MR. WEBB:** Would you like me to withdraw my motion?

**MR. WORLEY:** I just want be clear about this. You made the motion. Now, you are voting against your own motion.

**MR. WEBB:** I am. Any other motions to this matter? Hearing none I give the chair back to Secretary Kemp.

**MR. WEBB:** I will make a motions the case against Mr. Murray be closed.

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

**MR. EVANS:** Any discussion.

(NO RESPONSE)

**MR. EVANS:** All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**MR. EVANS:** All opposed?

(NO RESPONSE)

**MR. EVANS:** Hearing none, the ayes have it. Mr. Kemp, it's back to you.

**SECRETARY KEMP:** Thank you. Okay. I know Mr. Evans is going to have to leave here, shortly. And there are some other things that we need to try to get done. Is there anybody from Treutlen County here today for their case? Or Crawford county? Ms. LaGrua, would you mind if we took the Crawford County case up real quickly. I think we can dispose of that fairly easily.

**MS. LAGRUA:** Yes, sir. No. 24 This involved the complainant (name unclear) We got a complainant that there was a potential felon working in the Registrar's Office. Someone saw him in the office of the chief Registrar. The person was someone that was identified who was in the office, but not as employee was related to someone who was there to get lists. We recommend the case be closed.

**SECRETARY KEMP:** Any questions. Anybody want to comment on this case?

**MR. EVANS:** Move that it be closed.

**SECRETARY KEMP:** Motion, do we have a second.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** We have a motion and a second. Any other discussion? Hearing none all in favor that the close the case say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Opposed?

(NO RESPONSE).

**SECRETARY KEMP:** Motion carries. Okay. Let's go to City of Washington No. 19.

**MS. LAGRUA:** This case was before the Board previously. It involved Mr. Cullars and Ms. Fanning. Mr. Cullars indicated that he assisted Ms. Fanning. The SEB asked us to do a follow-up. Mr. Cullars and Ms. Fanning both say this Mr. Cullars did assist her. All of the poll worker were interviewed. None can remember Mr. Cullars as assisting. Part of the voter certificate was completed by Ms. Fanning, Mr. Cullars did not sign as assisting, but admits that he assisted and apparently she did not need assistance. I'd recommend that a letter of instruction be issued to Mr. Cullars to make sure if he going to assist he is promoting the qualifications needed to assist.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wishing to speak on this matter.

**MR. CULLARS:** Good even, my name is Nathaniel Cullars senior. 312 Old Shoals Road, Washington, Georgia. I heard about the instruction on my signing the affidavit. I am absolutely sure that I signed the affidavit to help Ms. Fanning. Whether they changed it or did whatever they did, I know I signed it. I went to the poll to help her vote because she couldn't vote in advanced voting. I brought the case back because of the situation that we have at voter registration office. We have the mother, the daughter and the son-in-law working there, which, is a nepotism policy to me. If anything needs to be done. I hope this Board would send a letter to Wilkes County advising that it is surely not correct to have people in same household working in that office. This is what we have got right now. It's 3 against 1 to say what is going on in the office. That is not right. I have been on the election 6 years. The last time I went for an election I sent in a complaint letter that the other area to vote against me. That letter never did reach up here. Why, I don't know. I gave it to the investigator to show that I had filed it with the Board of Election. I am positively, absolutely sure that I helped Ms. Fanning. I also signed the bottom

of that statement. I'm positively absolutely sure that what they are doing at the voter registration office is totally nepotism. And they are the only three up there and that shouldn't be. I hope this Board will send a letter to Wilkes County advising that they should change their policy of whoever they need to send it to. I did help Ms. Fanning to vote. She was there was a witness. Why my name wasn't on there I don't know.

**SECRETARY KEMP:** Thank you. Any questions? Anyone else wishing to speak on this matter?

**MS. ANDERSON:** Debbie Anderson deputy Registrar. 559 North Alexander Avenue, Washington, Georgia. My question was, in the original summary from the December meeting, there was a motion to close the case. The charges were made against me. I wondered where that stood?

**MS. LAGRUA:** Closed.

**SECRETARY KEMP:** Anyone else wishing to speak on this case?

**MR. EVANS:** I want to make sure I understand the narrow issue, which is Mr. Cullars is alleged to have assisted but not signed the requisite affidavit.

**MR. WEBB:** I think that is correct. You weren't at the last meeting. The situation was that there was a claim brought and then it was Mr. Cullars definitively saying he helped and signed is card. We only had a photocopy of the front of the card and the back. We asked the investigator to go back and review to determine whether the card had been signed and the investigation determined the card had not been signed.

**MS. LAGRUA:** I have a copy in the file.

**SECRETARY KEMP:** Yes, sir.

**SPEAKER:** I hate to say this. You might have a card in file, but the lady that I assisted is an elderly lady. They could have got another card and took it back to her to sign, but I know for a fact and I state on my life that I signed the bottom. I wouldn't have to do if I had did advance voting, which they wouldn't let me do. That's why I say, when you have got three people in the office doing the same thing, they cover for each other, in the same family.

**SECRETARY KEMP:** Any questions?

**MR. WEBB:** Make a motion to close.

**SECRETARY KEMP:** Motion to close.

(NO RESPONSE)

**SECRETARY KEMP:** Don't have a second. We have another motion?



**MR. WEBB:** Motion to refer.

**SECRETARY KEMP:** Motion to refer. Have a second? I'll second.  
Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** We've got a motion to refer and a second. All those in favor, say aye.

**MR. WORLEY:** Can we just clarify on the record exactly what it is that we are referring.

**MR. EVANS:** My motion was relating to a factual dispute regarding whether we have the objective evidence, which is the card that says not signature. We have testimony that said there was a signature. And so that needs to get sorted out.

**SECRETARY KEMP:** Is there any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** All those in favor of the motion say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

**MR. WEBB:** No.

**MR. WORLEY:** Aye.

**SECRETARY KEMP:** 3 ayes and one no; the motion passes to refer.  
Case No. 37 City of Comer.

**MS. LAGRUA:** The allegations in this case were that there was only one coworker who was present during the early voting. In the ballot box was found outside. The envelopes in the ballot box were not secure. We found that, in fact, there were three absentee ballots clerks, but they weren't always there. They were doing other business. None of the ballots in the ballot box had outside envelopes. The ballot box had a lock on it, but was not locked. I understand the attorney, Jim Roberts admitted to the allegation. So, if there are no question for me, I will defer to the attorney in that regard.

**SECRETARY KEMP:** Any questions for Ms. LaGrua? State your name and address, for the record, please.

**MR. ROBERTS:** Thank you Ms. LaGrua. My name is Jim Roberts and My address is 28 East Robert Toons Avenue in Washington Georgia. I do represent the City of Comer and Mr.

Secretary and members of the Board we are here to admit to these allegations. I believe there were 12 mistakes made. We regret those mistakes very much. The outcome of the election wasn't altered one width. Still, there were mistakes made. We have begun arrangements to make -- and the Clerk, Mr. Steve Sorrells is here to give just a brief explanation of the mitigating circumstances in this matter. He retired at the end of the year and we will be hiring a new clerk. We have an acting clerk now, who will be signing up for the certification program via the internet. We have got some really good corporation, not only from the Inspector General's Office, but Chris Harvey and Ms. LaGrua, but also from Michelle Simmons, in the Elections Division of the Secretary of State's Office. And she has given us some guidance as to what we need to do. We plan to do that. If the Board would like to hear the retired clerk, Mr. Steve Sorrells, who served faithfully and excellently for 24 years, he is here to give an explanation.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Would the Board like to hear from the Clerk?

**MR. EVANS:** I think we need the refer it over and, you know, see if they can negotiate. It doesn't sound like that there are matters or dispute, but matters of remedy. Obviously, we look to two things for remedy. One is we look for the appropriate corrections and remedies based on past conduct (unclear not using mic) So, that will be my motion.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Is there anyone else that would like to speak with regards to this.

(NO RESPONSE)

**SECRETARY KEMP:** We have a motion and a second. Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed?

(NO RESPONSE)

**SECRETARY KEMP:** No motion carries.  
Case No. 40 City of Broxton. Thank you, gentlemen.

**MS. LAGRUA:** There were two allegations in this case, one that James Bobbie, Robert Bobbie Brown offered money to people to vote and then his daughter Tracey Lot had assisted three

voters. What we found was, at least, according to Mr. Arnold.

(BRIEF INTERRUPTION)

**MS. LAGRUA**: According to Kenneth Arnold and Sheila Arnold they say that they were each paid by Mr. Reynolds \$10 and then transported by Tracey Lot, the daughter, to the polls to assist those voters. Mr. Reynolds denies paying any voters, but admitted having possession of several ballots from voters so that he could mail the ballots. According to Ms. Linda Nettles Mr. Reynolds also influenced her by opening her ballot, showing where to vote, telling her she had made a good decision and Ms. Lot, apparently, assisted a number of folks, but was not eligible to assist any voters because of her relationship to a candidate. We request that these be forwarded to the Attorney General's Office for appropriate sanctions and fines.

**SECRETARY KEMP**: Questions for Ms. LaGrua?

(NO RESPONSE)

**SECRETARY KEMP**: Anyone else wishing to speak on this matter, your name and address for the record, please.

**MR. REYNOLDS**: James Robert Reynolds, Washington, Georgia, 31519. I received this letter from the Secretary of State. I don't know what day it was, but the complainant, Angela Potts, address unknown. Well (phone ringing can't hear) last weekend. I went out to see her once I found out -- y'all excuse me. I'm emotional, right now. But anyway (phone ringing) he came to my house me called on the cell phone. She was at my house when I got back where I lived. We sat outside in the swing. I asked Angela why she called the Secretary of State or wrote a letter, why she did that? And she told me the Chief of Police, Hayward English -- this lady was on probation. He promised to get her out of a. -- I have it docketed here.

(SPEAKER WAS ASKED TO SPEAK UP)

**MR. REYNOLDS**: Her address is 512 Sugar Brook Road, Broxton Georgia 31519. He has two tickets on the docket, continued every month they were continued last Wednesday. I made a special point to go where I could see whether she was telling the truth or not. She was. She had a failure to stop at a stop signal and no insurance. This is the Chief of Police advising this lady as to what to do. I have already called the police officer training standards and talked with their investigator. And they are sending an investigator down to investigate some of this. But she did write me the statement and she did sign it, admitted that she lied. Once I found out what was going on I got a little busy. And you have to understand the chief of police is already under investigation. I think his certification was revoked, working under appeal now. I think he made false statements and false reports. So, in the meantime, anyway I went on and talked with some more people, the County Commissioner -- the chief and I don't see eye to eye. This particular boy had a DUI. He had a failure to maintain lane and charges of open container. They told Mr. Clark he and Chief English would take care of that, just don't vote for Bobbie Reynolds, vote for my opponent and he will take care of the ticket. And sure enough it was dismissed. That gets me to digging a little deeper. As we speak, today I have had the clerk searching court documents

back and back, to find out how many have been continued and how many never showed back up on the calendar.

**SECRETARY KEMP**: Mr. Reynolds, your time is up, do you want to submit that letter you have there.

**MR. REYNOLDS**: That's the only copy that I have.

**MS. LAGRUA**: I will have an investigator make a copy.

**SECRETARY KEMP**: Motion to accept the copy of the letter, for the record.

**SECRETARY KEMP**: We have a motion and a second, all in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP**: All opposed.

(NO RESPONSE)

**SECRETARY KEMP**: Motion carries. Is there anyone else that would like to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP**: Any questions from the Board?

**MR. EVANS**: Move to refer over to the Attorney General's Office for further action.

**SECRETARY KEMP**: Ms. Brumbaugh, quick question, if we move to refer and there are other persons that end up with allegation, can you pursue those or do we have to open another case.

**MS. BRUMBAUGH**: You would have to have another hearing.

**MR. EVANS**: Act on the new respondents.

**MR. WORLEY**: Can I follow up, Mr. Secretary?

**SECRETARY KEMP**: Yes.

**MR. WORLEY**: Ms. Brumbaugh if we referred it to you and you discovered violations that weren't violations of the election law, you wouldn't need to come back before us to continue that investigation, would you refer it to the appropriate authority.

**MS. BRUMBAUGH**: I think I could do that.

**SECRETARY KEMP:** Okay. Mr. Evans, you made a motion, is that correct, to refer; is that correct. Did anybody second?

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

**SECRETARY KEMP:** We've got a motion and a second, any other discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor or referring, please vote, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed, no.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries. Okay. No. 24 Treutlen County.

**MS. LAGRUA:** Yes, sir. This was an allegation that a representative on the school Board of Education was not in the proper district. As it turns out, that person did resign from the Board, the School Board, the Board of education when she was married and moved to –

**SECRETARY KEMP:** Ms. LaGrua. Excuse me one second. Let me clarify something on the last vote. I wanted to make sure you had me voting aye. I think I said, any no's? And I wanted to make sure I wasn't on the record for voting, no. Okay. Sorry about that. Go right ahead.

**MS. LAGRUA:** On April 29th of 2008 the declaration of candidacy and affidavit was submitted. November of 2008 the respondent was re-elected to the Treutlen County Board of education. June 18th, the respondent got a marriage license in Toomes County, which is next door. And on August 26th resigned from the Treutlen County Board of Education District 4 seat. So I would recommend that this case be closed.

**SECRETARY KEMP:** Any questions? Anyone else wish to speak?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, we have got a motion to close. Do we have a second.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Mr. Worley seconds, any discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor to close say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, the motion carries. We are going to now move to the attorney general reports.

**MR. EVANS:** Mr. Chair, I would move that we accept the proposed consent decrees in the Josh Lewis, Heather Milam and Karen Horn matters.

**SECRETARY KEMP:** Which numbers are those Mr. Evans?

**MR. EVANS:** They are 2009-030 for Josh Lewis, 2009-25 follower Heather Milam and 2008-137 for Karen Horn.

**SECRETARY KEMP:** Okay. We have a motion. Do we have a second.

**MR. WORLEY:** Second.

**SECRETARY KEMP:** Do we have any discussion or anyone wishing to speak on these mattering before us. Seeing none, we have a motion and a second, any further discussion from the Board?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, the motion carries. I will now call, let's see, Lowndes County. Let me just say Ann -- come on up, Ms. Brumbaugh, sorry. I just want to make everybody clear, with the attorney general's reports here, if you are a party to one of the cases, please come forward. All respondents were mailed a notice of this hearing and the Board may decided to make a final determination on your case, at the conclusion of the hearing. You will be able to speak if you would like when the attorney general conclusion her report. If you do not wish to speak or if you have executed a consent order pending the Board's approval, please still come forward, to front, so the Board will know that you either do not wish to spoke or that you have signed the consent order, so that we can have it on the record. Thank you, very much. Go right ahead when you are ready, Ms. Brumbaugh.

**MS. BRUMBAUGH:** Good afternoon. We are here to consider three different respondents on two different cases, both involving the Lowndes County Board of Elections, the 2008 election and the same factual scenario, which, essentially, boils down to a series of mistakes and violations by all three respondents in these cases. The respondents in cases are Lowndes County Board of Elections, which is a respondent in both the 2008 and the 2010 case. Laura Gallegos, who is a respondent in the 2008 case and the complainant in the 2010 case and Deb Cox who was the complainant in the 2008 case and respondent in the 2010 case. Deb Cox is the supervisor of the Lowndes County Board of Elections. She is not a member of the Board. She is an employee, but she runs the show down there. Laura Gallegos was, until December of 2008 an election custodian, hired to, among other things, test election machines. That is where these cases begin. Laura Gallegos was assigned to test the election machine for the early and absentee voting. She was supposed to go through a series of, I think, it's 96 steps, logic and accuracy testing. She was then supposed to fill out what is called a logic and accuracy certification form, which states, yes, I went through these steps. This was all done well prior to the November election, because it was done for the early and absentee machines. Ms. Gallegos did not fill out -- she did not do all the steps she was required to do and she did not fill out the certification form. However, these issues were not either noticed or of concern to either Deb Cox or the Board at the time. Fast forward to November 4th 2008, the election polls have closed and the Board is trying to upload all the votes into the gem server. There was a card. It was card No. 17. It had gone through the pretesting with Ms. Gallegos. It got put aside. Someone uploaded the card into the gem server that night. Unbeknownst to everyone, that card had 947 test votes on it. So, that when people ran list between the number of voters who had voted and the number of votes that had been counted by the machines, there was a 947 vote discrepancy. This was not caught, initially, by the Lowndes County Board or by Deb Cox. It was a couple of weeks into the month, after the election. It was actually The Secretary of State's Office who, in comparing the list that Lowndes County had sent up, they were the ones who said, hey wait a minute, there is a very serious discrepancy, 947 votes is certainly not minimis. An investigation ensued. James Long from the center for elections in Kennesaw, who is an elections, who knew the machines, went down and looked at it. He was the one that realized the paperwork had not been filled out and at his behest the paperwork was filled out late in mid November by Ms. Gallegos. It was still filled out incompletely and it was still filled out incompletely at that point. Deb Cox made a complaint to the Secretary of State's Office. It was investigated and the 2008 case was presented to this Board in June of last year, June, 2009. It was referred to my office. I made the decision to send the case, as it was referred to my office with the Board and with Ms. Gallegos being respondents. I made the decision at that point to send the case to the Office of State Administrative for a Hearing as to Ms. Gallegos. That still left the Board pending. There was no resolution done regarding the Board. In about December of 2009, as we were preparing for our January 2010 hearing Ms. Gallegos made her complaints to the Board, which is the subject of the 2010 case. There are essentially the same facts, the same issues. There were two different investigators. One did the 2008 case. One did the 2010 case. The investigator on the 2010 case took a few extra steps and came up, it was at that point that issue of certification and why had the votes been certified when there was a discrepancy that came up. And so that is the one different between the 2008 and the 2010 case is that Ms. Cox is now a respondent in the 2010 case. We proceeded to our hearing on January 14th in Valdosta, Georgia. We were able to put up Mr. Long, which is a good thing, because he was from out of state. At the conclusion of Mr. Long's evidence, the Judge, whose name is John Gatto, he works for the Office of State

Administrative Hearings, found that this Board, the State Elections Board lacked jurisdiction over Ms. Gallegos because the Lowndes county Board had rewritten the oath that she was supposed to take. Ms. Gallegos was hired pursuant to 21-2-379.6 (b), the last sentence of that statute states that a custodian shall take an oath prepared by the Secretary of State. When Judge Gatto heard the testimony that she had not taken the oath as it was precisely prepared by the secretary of state, but, in fact, had taken an oath that had been rewritten, he found that that was a jurisdictional issue and dismissed the case. So, we are here today to do things. Since then we have negotiated a consent order with the Lowndes County Board of Elections that covers both the 2008 case and the 2010 case. So this afternoon we have three different respondent in three different procedural postures, and we need to make three different decisions. The First would be whether you accept the Lowndes County consent order. The second would be how you handle Judge Gatto's order dismissing the case against Ms. Gallegos. You have three choices. You can remand the case back to OSAH. We can go back down to Valdosta. And we can finish the record and complete this case. I would recommend doing that if it is your intention to sanction Ms. Gallegos, because if we do end up sanctioning Ms. Gallegos, she will have appeal rights. And we need to have a full record in order to defend whatever sanction we issue against Ms. Gallegos. The second thing we can do is we can let the judge's order stand. It is not precedent. It is not binding. Certainly, a judicial court, should this issue ever come up and we appeal it Judge Gatto's order in this case would have absolutely no weight to future cases. The third thing we can do is we can issue a final order, and write new findings of fact and conclusions of law which states that this boards interpretation of its statutes are that Judge Gatto was wrong, that 379.6 (b) is not jurisdictional as to this Board. This Board did have jurisdictions and make that clear, for the record. And not sanction Ms. Gallegos. Last, we have Ms. Cox and her case is new. I'm not sure if she is here today or not. I don't see her. And we need to decide whether you refer her over to me, you close her case, or you issue some sort of letter of reprimand or letter of instruction. My only advice or recommendation, as we go through this, is that we are consistent. I'm not sure there is one party, but each party violated different sections of the code. Of each party made mistakes, was negligent, was irresponsible. There is no evidence that one party or another acted from malicious intent. There is no evidence that Ms. Gallegos deliberately decided not to test the machines in hopes of throwing the election. There is no evidence that the Board refused to provide training for Ms. Gallegos so that she couldn't do her job correctly. This is really a case about three different groups of people who all did a really, really bad job in their capacities. I would just recommend that we treat them all fairly consistently. If you want, we can start with the consent order, since that is a complete document.

**SECRETARY KEMP:** We need the make sure we give ample opportunity when you finish talking about the consent order for somebody to respond to it if they want to.

**MS. BRUMBAUGH:** I know that Mr. Elliot, the attorney for the Lowndes County board of elections was not able to be here. He did give me his phone number, which I think is good for about 5 or 10 more minutes, if we want to call down to Valdosta, but he had another commitment and he could not be here. The consent order is found, I think behind tab 30. It's a consent order for a reprimand and cease and desist. In that consent order the Board, as I said, it covers both the 2008 case and the 2010 case. It acknowledges that Ms. Gallegos did not do the testing. It takes some responsibility for that. It acknowledges that Ms. Gallegos did not fill out the paperwork correctly, takes some responsibility for that. It also acknowledges that the votes on November



4th were certified, despite the fact that there was this 947 vote discrepancy. And it also covers the fact that Ms. Gallegos was instructed to kind of redo the paperwork in mid November, once an investigation had begun. Like I said the Board has agreed to this. There is one member of the Board who was not on the Board in 2008 when incidents occurred. And there is no, again, there is no additional evidence regarding to Board this they didn't provide Ms. Gallegos proper training, that there was any malice, that there was any knowledge in November, maybe not November, but in September of 2008 that they were aware that Ms. Gallegos had not done her job efficiently and proficiently. This is simply the Board taking responsibility for the fact that they are ultimately responsible for the issues.

**SECRETARY KEMP:** Okay. Does this clean up the oath issue.

**MS. BRUMBAUGH:** The oath issue would be recording Ms. Gallegos.

**SECRETARY KEMP:** But the county rewrote the oath.

**MS. BRUMBAUGH:** The consent order doesn't include anything regarding the oath. It wasn't a violation of the -- it wasn't listed on the reports as a violation. It was something that sort of came up about 5 days before the hearing, I realized that this had happened, and it never became sort of a subject of negotiation between myself and the Board.

**SECRETARY KEMP:** Okay. Any questions for Ms. Brumbaugh?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone wishing to speak on the consent order?

**MR. FAVORITO:** Mr. Chair, as a point of order, I think that Ms. Gallegos and I both have testimony in regards to the consent order (unclear) close to her. I think it would be important to hear all of that before voting on other subsequent consent orders, since the normal line of business is the open ones first and then the new. I want to make sure you have all the facts before you make any decision.

**SECRETARY KEMP:** Hold on. We have got to make sure y'all are speaking in the microphone. Let's do this. If we don't have any questions, I guess to do all that you are going to have to go ahead with the other two parts of this, wouldn't you agree? Does the Board agree with that? Okay. Just go ahead and give us the whole thing and then we'll take speakers.

**MS. BRUMBAUGH:** Also behind tab 30 is the order of dismissal in Ms. Gallegos's case. That is, Ms. Gallegos is the only respondent who there is a pending Office of State Administrative Hearings case at the moment. So, the order of dismissal was signed on January 15th, 2010 and Judge Gatto lays out both oath Ms. Gallegos took and the oath that is in the State Election Board rules that she should have taken and finds that this is a jurisdictional issue. As to the merits of Judge Gatto's order, certainly, not only myself, but every lawyer in my office who has discussed this finds that Judge Gatto was just wrong about this. First of all, as I state, the agency is entitled the great deference in the interpretation of its own statutes. To construe the statute

jurisdictionally would just lead to and incredibly absurd result. What if the 947 votes had swayed the election. What if we had an election contest and somebody was saying I should have been voted in and those 947 votes that was the difference in my election. Certainly a Superior Court Judge would never say, well, because she took the wrong oath, therefore this contestant can't prevail on the election contest, So there is all sorts of Judge permutations to Judge Gatto's order which simply do not make sense and lead to an absurd result. Third, in Title 45, that concerns OSAH, other officers, and it very explicitly states that, you know, actions taken by someone who is subject to an oath will not be void just because the oath was improperly given or not given at all. There is a specific statute that addresses that in Title 45. Fourth, I forgot what fourth was. When you just look at 379.6 sub (b), just on its own, without referring to anything else, there is nothing in that statute that says this is jurisdictional. There is nothing that says that. So, for Judge Gatto to draw that conclusion was simply Judge Gatto's idea. There is no case law. There is nothing to support Judge Gatto's conclusion in this situation. And, in fact, later on in the code there is another point in the State Election Code which says if you give an oath incorrectly or if you fail to give an oath to someone, you will be guilty of misdemeanor. So, the election code anticipates oath problems and provides a different remedy. The code, itself, says it is not a jurisdictional problem. The code says it is bad on the people who screwed up. But it says it is not a jurisdictional problem. So Judge Gatto's order really has no foundation. It has no logical application and, in fact, there are statutes in this election code which would suggest a completely different remedy for this situation than jurisdiction. The question becomes, do we want to just make that a finding of fact and conclusions of law, sort of perfect the records here and issue our opinion. Do we want to say, you know what, it is not binding, so, it's not that serious. Or do we want to actually sanction Ms. Gallegos. If we want to sanction Ms. Gallegos, we need to go back down to Valdosta. We need to finish this hearing. But as is stated, once we do sanction Ms. Gallegos, she does have appellate rights. She can take this all the way to the court of the appeals and at that point we do get binding law. So, just sending it back to Valdosta and issuing a sanction would not be the end of the fight or the issue in this case. It would continue to go on. We don't know what kind of issues would be raised once we get back there. We have a judge who, really, this order was not to most egregious thing, but there were many motions and issues that were raised in the hour hearing that we had. He construed it almost a hundred percent of the time against the State, very narrowly. So, we I just want to make the board aware of all the things we would be taking on should we go back to Valdosta.

**SECRETARY KEMP:** Anything else?

**MS. BRUMBAUGH:** Again, as to Ms. Cox, I just think that whatever we do with her should be consistent with whatever we do with the other people. If we want to seek sanctions for these other people we seek sanctions for Ms. Cox. If we want to accept the consent order, issue a final order, which disputes Judge Gatto, but doesn't sanction Ms. Gallegos, then, perhaps, a letter of reprimand or letter of instruction Ms. Cox is the most effective.

**SECRETARY KEMP:** Was Ms. Cox aware that this may be a final ruling today? Or it would be a referral, I guess.

**MS. BRUMBAUGH:** She was aware that it could be referred. She has been on the Board of Elections, not the board, but she has worked in elections for a long time. She has been up here a

lot of times. She is aware of the procedure.

**SECRETARY KEMP:** Okay. Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. Anyone else wishing to speak? Ms. Gallegos, sorry to keep you so long. I was trying to get you out of here earlier. If you would please state your name and address for the record. Thank you.

**MS. GALLEGOS:** Hi. My name is Laura Gallegos. 2435 (unclear), Valdosta, Georgia, 31609. I will give a short story. When I was hired, I started as a clerk. So, I never signed any oath. I was hired in 2000. The year 2000. I have always acted correctly, to the best of my knowledge and as instructed by the superintendent, which was Deb Cox. Regina Lofton and myself were the two individuals that tested machines in the office. Deb Cox as supervisor of elections did not write the board accusing me until after the State notified the office that we had a discrepancy of 947 votes. A case against me was created by Deb Cox, the supervisor in Lowndes County only after she needed a scapegoat to her mistakes. First, Deb Cox, as supervisor, instructed me. She instructed me, as the person testing machine 17 to put the card in the gems room, which is the room we had. So, I followed her instructions by leaving the card with those votes on there. I followed her instructions, because he was my supervisor, secondly, I was held up at a precinct 21 the night of election. So, how things usually work, I was there over 8 years. I took care of absentee machines election night. Since I was held up, I was not able to do it. When I returned to the office, which was well after 8:00 o'clock, the job was already done by Deb Cox and Susan (Mowhan - phonetic), which was the assistant supervisor. These are two individuals that have no computer knowledge on the gem system. So, you have got two people using the system that did not know what they were doing election night. That is how the 947 votes got put in. In this hearing it came out that the time exactly was nineteen thirty-nine hundred hours, which was 7:39 P.M. a job duty I did for years I was not there, Sue and Deb did it. The Board certified the elections, signed off on the results the Friday after without matching the results, so the Board nor Deb did their part. My job, after the election, was to do payroll for about 500 people. The State called Lowndes County out to notify us that were 947 votes off. I was the one that found the mistake and the discrepancy because we had no printed tapes, machines for none of the tapes in absentee. So when I was doing that is when I found how we were 947 votes over. I took that to my supervisor and told her exactly what I had found. After that, I'm told that she is going to call Kennesaw to come up and check everything. I'm never mentioned, again, what happened until two weeks later. She claims that I malicious inserted the 947 votes, yet Ms. Brumbaugh claimed there is no malice, yet said worded I malicious did this and deliberately covered it up. This is all false. I was the one who located the 947 votes, only after the supervisor had made a comment that she had located 500 people and she was fixing to give people credit for voting that had not even voted. Deb Cox said she had asked James (Launt - phonetic) of Kennesaw to come down and check. Two weeks later, Deb Cox, without the approval of the Board, suspended me with pay. When I questioned, was not given anything to sign, I questioned why she was doing this, I was not even given a reason. She claimed she could not go into details. When I showed up for the run-off at 6:00 in the morning on December 2nd I was suspended, not given any paperwork to sign. I was not even given a reason. When I asked

Deb, she told me exactly that. She could not go into details. Two weeks later the Board and the County attorney meet with me. I wait for 2 hours and 45 minute in a lobby, I walk into the room when I am finally involved and I am told I have two options, one resign to resign and I would be paid two months pay with benefit if I resigned on my own and signed the paper. And the second option was that I would be terminated, effective immediately. When I questioned the Board why this was happening I was not given a reason. They claim they couldn't go into details because of legalities. I came before the State Board in June 2009. So, between the months of December to June 2009, I have no clue. I receive a letter claiming that I'm the respondent. I have never been into things like this, so I had no clue that I was actually the one being accused. So when I came up here in June I had nothing with me to prove. I actually thought I was just a witness, which is what some of paperwork actually says I was witness. So, I came before the State Board in June 2009. I had no clue as to the charges I was being faced with. The Board referred my case further. Here we are now, I had to hire an attorney to represent me. Which the hearing was held, just like Ms. Brumbaugh said, January 14th. The Judge dismissed my case. I stand here before you today, respectfully. I have worked with Lowndes County Board of Elections since 2000. I loved my job. I enjoyed working at the elections office. I have been wrongfully terminated. This whole case, there is more into this case. I wrote a complaint letter on this supervisor, Deb Cox on the way she treated me, as an employee. And then the Board claimed that they were looking into it. And with it being the 2008, biggest election in history, that investigation took from June to November and all of a sudden it goes away and I'm terminated. But nothing gets said on that.

**SECRETARY KEMP:** Okay. Ms. Gallegos, your time is up. Is there anything else you would like to add that pertains, specifically, to your case, not other allegations?

**MS. GALLEGOS:** Yes, had I not brought it up, before the State, Deb Cox, today, would not even be facing any charges. Yet I would have been the only one. I would have been the to goat to take the whole fall. Nothing would have been up further. Something about this election system, this happened in 2002 in another county. So where is the State's responsibility on this. It happened in 2002 over 3,000 votes were put in over, certified by mistake, so this system is flawed. It is flawed and the State has not done anything to fix and still uses these machines.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Anyone else wishing to speak?

**MR. FAVORITO:** Garland Favorito 220 (Telebox) Drive, Roswell Georgia. One of the things I have known and have been working for you folks for quite a few years. I know some of you are concern about being left in the dark. So, what I'm going to try to do is shed some light on this case as absolutely as fast as I possibly can. Assume Ms. Brumbaugh is correct that Judge Gatto was wrong, which I don't believe he was -- but let's just assume that -- I want to quickly notice that the consent order that you have before you essentially says that Laura Gallegos --

**MS. BRUMBAUGH:** Your Honor, I'd like to --

**SECRETARY KEMP:** Hold on, just a second. Go right ahead, Ann.

**MS. BRUMBAUGH:** Mr. Chairman, I am not sure what Mr. Favorito's relationship to this case is. It is my understanding that he is not Ms. Gallegos's attorney. If he is going, therefore, I don't believe he is competent to come before this Board and make comments regarding the legal issues in this case. I would ask that unless Mr. Favorito can explain to Board what with his relationship is that makes him competent, that he not speak.

**SECRETARY KEMP:** I think that's fair.

**MR. FAVORITO:** Let me state my qualifications, okay. I have 30 years in the computer business, 8 years of voluntary work in these specific machines.

**SECRETARY KEMP:** Wait just a minute. We are not here to discuss the machines. We are here to discuss the case. Now, if you can explain -- hold on just a minute -- if you can explain to us your relationship to the specifics of the case and the Board is comfortable with you testifying on this case, we will accept that, but if you are up to talk about machines or anything else we are not going to allow that.

**MR. FAVORITO:** Ms. Gallegos asked me to be an expert witness in her case. I traveled to Valdosta and I spent a hundred personal hours volunteer on her case.

**MS. BRUMBAUGH:** Objection. Sorry. Mr. Favorito was never qualified as an expert, did not testify, and we never even reached the issue of Mr. Favorito's testimony.

**MR. FAVORITO:** And the reason was because the case was flawed and dismissed.

**MR. EVANS:** Mr. Chair, I think, unless we have fact witnesses or counsel of record, really that's who we are looking to. So, if it's a fact witness or if it's counsel of record representing a party before us, I think unless you fit one of those two roles, that my personal opinion, I'm not the majority of the Board, but my personal opinion is the objection is well granted.

**MR. FAVORITO:** As a fact witness I reviewed the entire DVD of the trial and have that prepare for you today, if you want a copy of it.

**MR. EVANS:** We can review the record, as well. It would just be if you need something where you were a personal witness something you saw, heard, smelled.

**SECRETARY KEMP:** Let me ask you this? Are you acting as Ms. Gallegos's attorney.

**MR. FAVORITO:** I don't think I am qualified to act as attorney. But what you need to understand is the technical ramification.

**SECRETARY KEMP:** I am not worried about -- I understand about the technical ramifications, but if you don't have direct knowledge of things that went on during the case

besides other testimony and other SEB meetings, I'm afraid that we are not going to be able allow that unless any other members of the board do not agree with that.

(NO RESPONSE)

**SECRETARY KEMP:** Okay. I'm sorry Mr. Favorito. I probably should addressed that before you got up there. But I'm not going to be able to allow you to testify. I apologize to you for that.

**SECRETARY KEMP:** Okay. Is there anybody else who would like to speak on behalf of this case?

**MS. BRUMBAUGH:** Mr. Chairman I would ask that this gentleman explain his competence as fact witness.

**SECRETARY KEMP:** I'm fixing to do that. Name and address for the record.

**SPEAKER:** My name is John Fortson. I'm here representing Defenders of Democracy. And my address is 1002 Dancing Fox Road, Decatur, Georgia.

**SECRETARY KEMP:** Do you have direct knowledge of this case, as the facts to it that you can explain to us.

**SPEAKER:** Yes. I did extensive discussions with Laura Gallegos. I made copies of the SEB meeting, in which, Ms. Gallegos was charged and I'm very sorry to report that the way in which that June 2nd case was handled after reviewing the DVD --

**SECRETARY KEMP:** Let me stop you right there. I am not concerned about what happened with the judge and the other matters. I think the Board will address that shortly.

**SPEAKER:** I'm talking about the Board here.

**SECRETARY KEMP:** I'm not talking about the facts in what happened at the SEB Board meeting. I'm talking about the facts about what happened in this case in Valdosta Georgia. And board members, y'all have a lot more experience than I do, but tell my if I'm wrong, if you don't have direct knowledge or witnessed something that was going on during the time period that that case was going on, I don't think we need to allow to you testify.

**SPEAKER:** I witnessed something that was wholly false that happen just a few minutes ago and that was when Mr. Brumbaugh stated the June 2nd case included the Valdosta or the Lowndes County Election Board, as well as Deb Cox. To only person who was being charged at that point was Ms. Gallegos. And that DVD has been distributed. Many people have seen it and the spinning of the case is Truly unfortunate.

**SECRETARY KEMP:** Ann.

**MS. BRUMBAUGH:** Your Honor -- Sorry, Mr. Chairman. The presentation before the Board

on June 2nd was mostly related to Ms. Gallegos. Ms. Gallegos did get up and speak. However, the paperwork that I received included both Ms. Gallegos and the Board. The minutes will reflect that they were both listed as respondents. I have obtained a consent order from the Board on this case. So, to the extent that the Board was not a respondent in the 2008 case, there may have been some misperception. Based on the transcript, it was more viewed towards Ms. Gallegos, but certainly the documentation, both then and now shows that they are respondents.

**SECRETARY KEMP:** I agree with you. Mr. Fortson, I am going to ask you to step down. Is there anybody else that would like to speak with regards to this case that has direct knowledge to the case.

**MR. FAVORITO:** Mr. Chair, I do have one fact that I think is relevant to the case.

**SECRETARY KEMP:** You tell me what it is I will decide.

**MR. FAVORITO:** The fact that Ms. Gallegos referenced in her testimony about previous time (unclear).

**SECRETARY KEMP:** Okay. I think Board has enough information to move forward. Does anybody on the Board have any questions for Ms. Brumbaugh or Ms. Gallegos?

(NO RESPONSE)

**SECRETARY KEMP:** Is there anyone else here that wishes to speak on this matter?

(NO RESPONSE)

**SECRETARY KEMP:** Okay. The way I see it, we have got 3 issues before us that we need to take up. The first one, I think we should take up would be Lowndes County. Ms. Brumbaugh if you don't mind, if you would make and just cite the case numbers for the record that we are dealing with, to make sure that we know exactly what we are voting on.

**MS. BRUMBAUGH:** These would be 2008-0133 and 2010-0007.

**SECRETARY KEMP:** Okay. Does anybody have any questions on the consent order? The only concern I have, I'm fine with accepting the consent order. I am a little concerned about the oath, but I guess the way the law reads it shouldn't really, I don't know how we would addressed that with Lowndes County, but hopefully they will straighten their oath out to get it back to what we need it to be. In that regard. I will move on. If anybody has comments or a motion?

**MR. EVANS:** I move we accept the consent order.

**MR. WEBB:** Second.

**SECRETARY KEMP:** I have a motion and a second, any further discussion.

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none. All in favor of accepting the consent order please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, the motion carries.

**MR. EVANS:** Mr. Chair I would move that our staff, Secretary of State staff audit the oath being administered by each county any that any county who is not using the requisite notice be given notice in the event their failure to comply within 30 days be brought before us as a respondent in a matter that we can then take into consideration.

**SECRETARY KEMP:** Is that a motion?

**MR. EVANS:** That's a motion.

**SECRETARY KEMP:** Do we have a second?

**MR. WORLEY:** Second.

**SECRETARY KEMP:** I have a motion and a second, any discussion? Anybody here like to speak to that motion? Hearing none, we have a motion and a second. All in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed, no.

(NO RESPONSE)

**SECRETARY KEMP:** The motion carries.

**MR. EVANS:** Mr. Chairman, I vote that we reject Judge Gatto's order in which he determines that there is no jurisdiction, based on the failure to properly administer an oath.

**MR. WEBB:** Second.

**MR. WORLEY:** I have a question. What do you want to do at that point?



**MR. EVANS:** I think we then have to take up whether we send it back or whether or not we exercise our power under 21-2-33 to schedule our own hearing, or whether or not we give the Attorney General until the next meeting to see if she can negotiate a consent decree with the respondent and, at which time, if a consent decree can't be negotiated with the respondent then we will take it up and reconsider pick between options 1 and 2.

**SECRETARY KEMP:** How does that affect our ruling from the Judge.

**MS. BRUMBAUGH:** If we had another meeting within 30 days.

**MR. EVANS:** I don't agree with you. I think if we reject there is no more --

**MS. BRUMBAUGH:** Well, if you remand the case back --

**MR. EVANS:** I am not going to remand. I'm just going to reject.

**MS. BRUMBAUGH:** We have to -- if we reject then we need to issue findings of fact and conclusions of law.

**MR. EVANS:** No we don't. If you look at the statute, it's actually the black hole of the statute, which we have navigated a few times before, which is, if you reject and the matter, basically, is reinstated before us, because we will have rejected the ruling of the Administrative Law Judge, we can then exercise our right to conduct a hearing ourselves, under 21-233 or in the alternative, we can then revoke the remand. Generally, what we do is to say can't we work this out and we assume that the other respondent is willing to content to an opportunity to work it out. At then at end of the 30 day period if it can't be worked out we can either have our own hearing, administer oaths, take testimony have witnesses or we can send it back.

**MS. BRUMBAUGH:** Mr. Evans, I appreciate that you have been on this Board and are much more knowledgeable about election law than I am.

**MR. EVANS:** Not true.

**MS. BRUMBAUGH:** However, I would have to give my legal advice, that to basically take this from OSAH and just have the hearing before the Board would cause more problems than it would solve.

**MR. EVANS:** If we get to that, that would be a good argument to reject option 2, but I think holding out that there will be a hearing. If two of you can't agree on a consent decree, there will be a hearing. The only question is where.

**MS. BRUMBAUGH:** As long as the Board understands that if we do Mr. Evans's option, even if we issue a letter of reprimand or a letter of instruction at the conclusion that hearing, it is still appealable. Once you go into the APA you don't get to say, you know what, I don't like it. I want out, so Ms. Gallegos, there was a case that kind of narrowed this thing and they didn't the exact same thing. And whatever you do at the conclusion of that hearing, if it involves a hearing

against Ms. Gallegos, she can appeal it. I want to make sure that everyone recognizes that that path doesn't allow you to give what is typically a unilateral order, like letter reprimand or letter of instruction. It doesn't allow you to do that in this case.

**MR. EVANS:** I agree. And that is not one of the 3 options. I am saying to you at the end of the hearing there will be one of two you. We will either remand it or we will do the hearing ourselves.

**MS. BRUMBAUGH:** At the end of this hearing there will be one of two options.

**MR. EVANS:** No. At the end of this hearing we will reject Judge Gatto's conclusion of no jurisdiction. It's a procedural ruling that we can do a no vote. At that moment we then have three options, one of which I am not putting on the table. One is we can have our own findings of fact and conclusions of law; however, we can only do that after an evidentiary hearing.

**MS. BRUMBAUGH:** We can have findings of facts -- it depends on what you want to do Mr. Evans.

**MR. EVANS:** Just work with me here. Okay. We are all trying to get to a resolution hear. We can't make findings of fact without resolving evidentiary issue. We can't do evidentiary issue without taking testimony and administering oaths and giving the respondent an opportunity to cross examine witnesses, which we have the power to do under 21-2-33. I am postponing that decision as to whether we remand it for a hearing in front of the judge or whether we do the evidentiary hearing ourselves until our next meeting. So what will happen is, the procedural ruling on jurisdiction will have been vacated. We will be back to where we were before to give you and the respondent an opportunity the negotiate a consent decree. If you can great, you come in, we vote on the consent decree and it's done. If you cannot, then at that point we will choose one of two. Both will involve an evidentiary hearing where you get your record. Both will involve witnesses where you get your fact witnesses, testimony under oath and documents. Does that make sense to you, Counsel?

**MS. BRUMBAUGH:** It does make sense to me. I think that we need to, if the Board votes on Mr. Evans's recommendation we need to have a written order stating this, with the date.

**MR. EVANS:** Correct.

**MS. BRUMBAUGH:** I would, as an abundance of caution, recommend that we return within either by March 17th or by April 16th, I believe, so there is no issues.

**MR. EVANS:** Unless the respondent consents. If the respondent says that works, we will take it up at the next hearing and we will have consent on the record. Do you agree to us taking it up at the next hearing. Is that a yes. You have to say it verbally. You don't know?

**MS. BRUMBAUGH:** Mr. Evans, Ms. Gallegos is represented by an attorney.

**MR. EVANS:** But he is not here today and that is not my problem.

**MS. BRUMBAUGH**: Well, you are asking her to consent to a legal issue.

**MR. EVANS**: I am, because she is here.

**MS. BRUMBAUGH**: So, you are asking her to waive any issues regarding 15-13-41(e) 1 and 2.

**MR. EVANS**: I am asking her to consent to taking this up at the next hearing. She can say no.

**MR. FAVORITO**: As a point of clarification, how (unclear - not near mic).

**MR. EVANS**: The same way you qualify if we have an evidentiary hearing. Right now, we are just purely in a procedural limbo. We are dealing with a jurisdictional issue.

**MS. BRUMBAUGH**: The final thing I would like to say is that if I agree with Mr. Evans, in that, if we want to take sanction against Ms. Gallegos, we need to finish the record. If the only goal of the Board is to issue a rejection of Judge Gatto's order and establish there is jurisdiction and we do interpret the code section diametrically opposite to him, then we have sufficient record now, just so the Board thoroughly understands what was the choices are. We don't have to take further findings of fact. We don't have to take further testimony to issue a final order, which is purely legal, as to jurisdiction 379.6.

**MR. EVANS**: The motion is on the table to reject Judge Gatto's order.

**SECRETARY KEMP**: Okay. We have a motion to accept Judge Gatto's order. Do we have a second?

**MR. WEBB**: Second.

**SECRETARY KEMP**: Any other discussion?

(NO RESPONSE)

**SECRETARY KEMP**: Let me ask one question. So if we reject this we are telling the Judge we reject and then we would take this back up at our next meeting, after the attorney general and Ms. Gallegos have discussions.

**MR. EVANS**: Mr. Chair, that is exactly correct. All we are doing is vacating the jurisdictional decision, which is a legal device. It then brings back to say, how do you do an evidentiary hearing. How we can have an evidentiary hearing, by sending it back, or we can do an evidentiary hearing ourselves, what I was going to suggest to Ms. Gallegos and to our Counsel is to take 30 or 40 days, see if you guys can work it out. If you can't work it out, come back. Say we didn't work it out. Nobody is prejudiced in either any way. We will either decide to do the hearing ourselves or we will send it back to the Administrative law Judge, but we will have in place a consent decree with Lowndes County. We will provide a nice framework and we will have dealt with the jurisdiction.

**SECRETARY KEMP:** Any thoughts, Ann.

**MS. BRUMBAUGH:** With all due respect, Mr. Evans, I have to respectfully disagree. I think that this case, as we have just seen, we have lots of people who are very interested in this case. We are totally on the right track right now, procedurally, factually, legally. If we start doing things that raise questions we will have to answer them. My recommendation would be to stick to the APA. Remand the case back to OSAH. We can go what Mr. Evans suggested and have the hearing here, but let's have it within 30 days, issue findings of fact. That's (A) remand the case back to OSAH or have a meeting in 30 days, so there is never, ever, ever a 15-14-31(e)2 argument to be made.

**MR. EVANS:** Well, you know what. It's not that big of a deal. I will withdraw my motion and I will give counsel what he wants. I don't think it's what she wants, but we are going to test this theory, which is what I have done for many years on this Board, so I will move that we reject Judge Gatto's order and we remand it back to further evidentiary hearing in front of the administrative law Judge. I think that is a the lasts place she wants to be, but sometimes you have to let them.

**MS. BRUMBAUGH:** Mr. Evans, my only issue with your choice is that we stay within 30 days. That's all I'm asking.

**MR. EVANS:** We don't have to stay in the 30 days if we do your option, which is to remand. So I move to reject and remand.

**SECRETARY KEMP:** We have a motion to remove, reject, and remand. I believe I'm saying that right. Do we have a second.

**MR. FAVORITO:** A point of clarification when it is remanded what will happen down there given that the judge has already dismissed all the charges. I don't understand the concept.

**SECRETARY KEMP:** We don't know what the Court will do.

**MR. EVANS:** It just goes back.

**SECRETARY KEMP:** We have a motion. Do we have a second?

**MR. WEBB:** Second.

**SECRETARY KEMP:** I would like to state, for the record, that I don't think we need to send the case back to the law Judge. I agree with Mr. Evans that we need to reject the findings of Judge Gatto. I believe that he is wrong on the jurisdiction issue. And I'm all for rejecting, but I also think that with everything that has gone on in this case and with Ms. Gallegos, that it may be better at this point just to tell the Judge, look we are rejecting your ruling, but then take no further action in this case, which, in my opinion, and I have been told this by legal counsel, that that would basically put an end to the part of the Gallegos case. I am worried about setting a

precedent with the Judge. I am also concerned about some of the things that Ms. Gallegos was alleged to have done or some people said she did, but I think too under the circumstances that she has been in and been through, I believe this is a way to send the Judge a message that he was wrong in the case, but also put an end to the part of the case and then forward with the consent order, which have already done with Lowndes County and then also pursue the Deb Cox issue.

**MR. WORLEY:** I agree with the Secretary of State.

**SECRETARY KEMP:** Any other comments. Okay. Those in favor of Mr. Evans's motion say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Those opposed?

**SECRETARY KEMP:** No.

**MR. WORLEY:** No.

**SECRETARY KEMP:** We have a tie, which I assume the motion fails.

**MR. WORLEY:** I would make a motion, Mr. Secretary, that we reject the administrative law Judge's decision, but take no further action in this matter.

**SECRETARY KEMP:** I'll second. Any discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none all in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** All opposed.

**MR. EVANS:** No.

**SECRETARY KEMP:** That was 3 to 1; is that correct. The motion passes. Thank you. All right. Now, we have got the Deb Cox issue.

**MS. LAGRUA:** I can be brief. The facts have not changed. After Ms. Gallegos presented a statement to this Board, I believe it was in December, we opened another investigation to make sure that we followed up on Ms. Gallegos's allegations the same way had followed up on allegations made in this case previously. We did not find any real difference in facts, but we did noted that Ms. Cox should have been cited initially for failure to certify -- she certified the election improperly before it came up to us, and she should be sanctioned in that regard. So she was cited as a respondent in the 2010 case. And we would ask that that case be referred to

Attorney General's Office for consideration, as the other parties in this case were already referred.

**SECRETARY KEMP:** Any questions?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, anyone else wish to speak on the Deb Cox issue.

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, do we have a motion.

**MR. WORLEY:** I would make a motion that we refer to attorney general for the purpose of being consistent how we handle both cases.

**SECRETARY KEMP:** Mr. Worley moves. Do we have a second.

(NO RESPONSE)

**SECRETARY KEMP:** I'll second. Any discussion?

(NO RESPONSE)

**SECRETARY KEMP:** All in favor of moving the case on to the attorney general, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES).

**SECRETARY KEMP:** All opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, the motion passes. Let me ask a quick question to the audience, because I know Mr. Evans has to leave. And I'm not going to be able to vote on the name change because it would affect my name being on the ballot, so I need to recuse myself. Is there anyone here to speak or make public comment on the public hearing portion dealing with the name change rule?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, Mr. Evans -- let me do this. Let me call a motion to close to general meeting and enter into a public hearing for the rule.

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

**SECRETARY KEMP:** Mr. Worley moves. Do we have a second.

**MR. WEBB:** Second.

**SECRETARY KEMP:** Any discussion?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, all in favor, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Opposed.

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none, that motion carries, Mr. Evans, I would like to recuse myself on the rule change due to my name being on the ballot. And I would ask that you chair this portion of the meeting.

**MR. EVANS:** So we have before us the proposed rule change. You have a copy in the file. A copy of the rule is noticed for the record. Are there any motions?

(NO RESPONSE)

**MR. EVANS:** This is a rule change regarding the appearance of the name on the ballot.

**MR. WEBB:** Just for a quick historical account, the rule was originally posted. Did we get any comments?

**MR. TAILOR:** No.

**MR. WEBB:** It came back for a vote. It was amended. As it stands today it is in the amended form to determine whether to post or not.

**MR. WORLEY:** I would make a motion that we adopt the rule.

**MR. EVANS:** Is there a second?

**MR. WEBB:** I'm going to second.

**MR. EVANS:** Okay. You have heard the motion. You have heard the second. The rule is before us. Is there any discussion?

(NO RESPONSE)

**MR. EVANS:** Hearing no discussion, we will take to vote. All those this favor of the rule vote, aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**MR. EVANS:** All Those opposed say, no. No.

**MR. EVANS:** The ayes have it. The rule is adopted. Is there any further for the purpose of a public hearing none, I will entertain a motion to having -- hearing none, is there a motion to adjourn the public hearing.

**MR. WORLEY:** I move that we adjourn to public hearing.

**MR. EVANS:** Is there a second.

**MR. WEBB:** Second.

**MR. EVANS:** All those in favor say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**MR. EVANS:** Opposed, no.

(NO RESPONSE)

**MR. EVANS:** We are out of the public hearing.

**SECRETARY KEMP:** Turn it back over to me. Let the record show Secretary Kemp is back chairing the meeting. I know Mr. Evans has to leave. Thank you. I, unfortunately, need to leave. I have to be in a joint budgets hearing right now. Mr. Underwood, I apologize. I have a written statement. I am happy to rest on that. That is a long statement, but due to the lateness of the hour, I came to summarize that at Mr. Tailor's suggestion, but I am happy to rest on the written record.

**SECRETARY KEMP:** Okay. Are there any other comments from the Board?

**MR. WORLEY:** I just would like to officially put on the record my congratulations to the secretary of state for the appointment. And I'm sure after today he has some second thoughts. We are very happy to have him on the Board.

**SECRETARY KEMP:** Maybe I should have voted on that name on the ballot thing. (laughing.)

**MR. WORLEY:** We are very happy to have him on the board.

**MR. WEBB:** I second that.



**SECRETARY KEMP:** Well, thank you very much and I know we will make Mr. O'Sullivan available to any of the board members that want a legislative update. I apologize for not getting that in, as well. With that I will entertain a motion to adjourn.

**MR. WORLEY:** So moved.

**SECRETARY KEMP:** Mr. Webb will you second the motion to adjourn.

**MR. WEBB:** Second.

**SECRETARY KEMP:** We've got a motion and a second to adjourn. All in favor of adjourning, please say aye.

(WHEREUPON THERE WAS A CHORUS OF AYES)

**SECRETARY KEMP:** Any opposed?

(NO RESPONSE)

**SECRETARY KEMP:** Hearing none we are adjourned.

(Meeting conclude at 6:10 P.M.)